

18.1 Parliamentary precincts have been defined as ‘any place *de facto* occupied by Members for their parliamentary duties’.<sup>1</sup> The Commonwealth Parliament’s precincts were not defined in a statute until 1988, with the move from the Provisional Parliament House to the current building.<sup>2</sup> Prior to that time, the precincts were taken to be the provisional building, its annexes, verandahs and entrances. Similarly, the precincts of the Houses of Parliament in Westminster are not defined in statute.

18.2 As *Odgers*’ makes clear, the definition of the parliamentary precincts is ‘an administrative matter, which has no connection with the operation of either the ordinary law or the law of parliamentary immunities’.<sup>3</sup> Essentially, the parliamentary precincts, whether defined in a statute or defined by convention, are those areas over which the Presiding Officer(s) exercise administrative authority.

18.3 Section 15 of the *Parliamentary Privileges Act 1987* makes it absolutely clear that any law in force in the ACT applies within the precincts of the Commonwealth Parliament. The ordinary criminal law applies within the precincts of parliament and equally the immunity of proceedings in parliament applies wherever those proceedings occur. For example, parliamentary committees frequently meet in a variety of venues and locations away from parliament buildings.<sup>4</sup>

18.4 It is, however, a long-established practice that:  
... police do not conduct any investigations, make arrests, or execute any process (eg, search warrants) in the parliamentary precincts without consultation with the Presiding Officers.<sup>5</sup>

18.5 The Legislative Assembly precincts are governed by similar principles. The Clerk of the Assembly has advised the ACT police not to serve a summons on a Member within the Assembly building<sup>6</sup> and police investigations have been conducted within the Assembly at the invitation of the Clerk and after consultation with the Speaker. On 6 March 2002 the Speaker made the following statement to the Assembly:

As indicated in the letter [to all Members], certain actions have been taken following the receipt of information by the Clerk on Wednesday, 27 February. Arising out of a complaint, subsequent investigations and consultation with me, a matter was referred to the Australian Federal Police by the Clerk.

A police investigation was commenced and is still in progress. Two search warrants were executed this morning within the Assembly building. The matters relate to computer security.

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1 *House of Representatives Practice*, First edn, p. 156.

2 *Parliamentary Precincts Act 1988* (Cwth) expanded the traditional definition to include adjacent parks, gardens and car parks.

3 *Odgers*’, p. 76.

4 An element of some minor contempts is that they occur within the precincts—for example, the service of a summons on a Member of parliament on a sitting day.

5 *Odgers*’, p. 76.

6 In the First Assembly police entered the building with the intention of serving a summons on a Member but after discussions with the Acting Clerk did not do so.

As stated in my letter, I can assure members that the Australian Federal Police are aware of the situation in regard to the privileges and immunities that this Assembly and its members enjoy. Suitable arrangements have been put in place in relation to police access to this building.<sup>7</sup>

**18.6** This statement summarises the practical situation with regard to the precincts of the Assembly. The police were advised of the grounds for suspecting that a criminal offence may have occurred in the Assembly building. An investigation was commenced in full consultation with the Presiding Officer. The police were thoroughly briefed with regard to parliamentary privilege and the immunities of Members, and processes were put in place to deal with any issues of privilege that might arise during the investigation.

**18.7** A protocol between the Australian Federal Police and the Legislative Assembly was tabled by the Speaker on 29 May 2007.<sup>8</sup> It essentially formalises the arrangements that were developed on an ad hoc basis to deal with past incidents and sets out how the police will operate in the Assembly precincts in the conduct of investigations, the execution of warrants and the seizure of documents.

**18.8** The ACT Legislative Assembly's precincts were not defined statutorily until 2001. After the establishment of self-government in 1989 the Assembly met in temporary accommodation in a converted office building. The precincts of the Assembly were taken to be that part of the building occupied by the Assembly, its Members and supporting services.

**18.9** In February 1996 (the Assembly having moved to its new building in 1994) the sittings of the Assembly were suspended on two occasions because of disorder in the public gallery.<sup>9</sup> Arising from these incidents, various questions with regard to the Speaker's powers and responsibilities in maintaining order were referred to the Standing Committee on Administration and Procedure. That committee's report considered the legal position of Assembly officials directed to remove a person from the Chamber and stated:

The Committee therefore recommends that Parliamentary Precincts legislation be enacted by the Assembly to clearly define the precincts and make appropriate provision for their control and management.<sup>10</sup>

**18.10** In response to the committee's report, the government introduced the Legislative Assembly (Privileges) Bill 1997. It defined the precincts of the Assembly and created certain offences in relation to failure to comply with a direction to leave the precincts. This bill lapsed with the expiration of the Third Assembly but the provisions in relation to the precincts were reintroduced in largely the same form in a private Member's bill—the Legislative Assembly (Privileges) Bill 1998—in the Fourth Assembly.

**18.11** This bill was, in turn, referred to the Standing Committee on Administration and Procedure. That committee's report endorsed, with minor proposed amendments, those parts of the bill relating to the precincts of the Assembly. However, other parts of the bill which sought to define certain of the Assembly's privileges and immunities did not meet with its

<sup>7</sup> Assembly Debates (6.3.2002) 593. The police inquiry did not find that an offence had been committed. However, the circumstances revealed by the inquiry did result in the Legislative Assembly establishing a privilege inquiry. (See Chapter 2: Immunities and powers of the Assembly (Privilege) and paragraphs 17.42 to 17.72 on the conduct of privilege inquiries.)

<sup>8</sup> MoP 2004-08/1017, *Memorandum of Understanding between the Speaker of the Legislative Assembly for the Australian Capital Territory and the Chief Police Officer for the Australian Capital Territory*, dated 9 November 2006, together with an ACT Policing Practical Guide entitled *Execution of search warrants where parliamentary privilege may be applied and execution of search warrants and interviews with Members of the Legislative Assembly*, June 2006.

<sup>9</sup> MoP 1995-97/259.

<sup>10</sup> Standing Committee on Administration and Procedure, *Standing Order 207*, February 1997, p. 8.

approval.<sup>11</sup> The bill was then passed by the Assembly, having been heavily amended, and was retitled the *Legislative Assembly (Precincts) Act 2001*.<sup>12</sup>

### ***LEGISLATIVE ASSEMBLY (PRECINCTS) ACT 2001***

18.12 The Assembly precincts are defined in section 5 of the Precincts Act to be:

- (a) block 3, section 19, division of City, Canberra Central District; and
- (b) that part of Civic Square under the public entrance canopy; and
- (c) that part of section 19, division of City, Canberra Central District under the members' entrance canopy.

The Speaker may also declare that other Territory land can be treated as being part of the Assembly precincts.<sup>13</sup> To date no declaration has been made.

18.13 Section 7 of the Act gives the Speaker responsibility for the control and management of the Assembly precincts and empowers the Speaker to take any action necessary subject to any resolutions of the Assembly which give directions for the discharge of that responsibility. The Speaker must comply with any such direction.

18.14 Under section 9 of the precincts Act, the Speaker may direct a person (other than a Member) to leave the Assembly precincts, or not to enter the Assembly precincts. The Speaker may use any necessary and reasonable force and assistance to enforce such a direction. In 2003 the Speaker exercised these powers to have a person who was disrupting the proceedings of the Assembly removed from the public gallery and in a subsequent statement provided the following advice to Members:

I wish to inform members that, following the removal of a person from the public gallery on Tuesday during question time for disorderly conduct, I have ordered that the person concerned not be readmitted to the precincts as that person has disturbed Assembly proceedings on three occasions.

I have instructed that she not be readmitted until she signs a written undertaking to abide by the relevant standing orders and not create disorder in the precincts. The person attempted to enter the precincts today, but was refused entry. In the event that the person attempts to contact members or their staff for entry, I ask that they abide by my order.<sup>14</sup>

18.15 The Speaker's authority under the Act is confirmed in standing order 209 and encompasses the meeting of any committee of the Assembly. Under this standing order the chair of a committee may 'require a person to leave ... the place of meeting of the committee and may authorise the removal of the person'.

18.16 The Speaker, and anyone acting under his or her direction, does not incur civil or criminal liability for an act or omission done honestly and without negligence pursuant to the Act. The Speaker's functions under section 9 have been delegated to the Serjeant-at-Arms and the Principal Attendant.<sup>15</sup> Contravention of a direction given by the Speaker under this section constitutes an offence punishable by a fine or imprisonment.

<sup>11</sup> Standing Committee on Administration and Procedure, *Legislative Assembly (Privileges) Bill 1998*, Report No. 9, August 2001.

<sup>12</sup> MoP 1998-2001/1827. See Schedule 2 to the minutes for the amendments adopted by the Assembly.

<sup>13</sup> *Legislative Assembly Precincts Act 2001*, subsection 6(2).

<sup>14</sup> MoP 2001-04/866; *Assembly Debates* (21.8.2003) 3035.

<sup>15</sup> *Legislative Assembly Precincts Amendment Act 2002*, section 4 and Notifiable Instrument NI2003-162.

18.17 The Legislative Assembly building, in common with many Australian parliaments, includes offices for the members of the ACT Executive. The executive area is defined by a written agreement between the Speaker and the Chief Minister. The Precincts Act requires the Speaker to exercise his or her powers with regard to the executive area subject to any 'limitations and conditions' contained in a written agreement with the ACT Chief Minister.

18.18 The current agreement, which has been in force since 2002, defines the executive area to include Ministers' offices and those of their advisers and officials but not adjacent corridors or other 'general areas'. The security arrangements and rules governing access to the executive area are the same as those applying in the rest of the Assembly building and the Speaker is responsible for procedures to manage any emergencies within that area.

18.19 Pursuant to the agreement the Speaker undertakes to provide a range of services to the executive area, including ordinary building maintenance; curatorial services in relation to artworks; sound and vision, including Assembly and committee broadcasts; access to radio and television services; and mail services. The funding of these services is taken from the Legislative Assembly's appropriation. Minor works within the executive area require the approval of the Speaker.

18.20 In 2006 the Precincts Act was further amended to clarify the Speaker's authority over the precincts.<sup>16</sup> Included in the Assembly building are two areas frequently made available to individuals, organisations and groups for meetings, exhibitions, etc. Prior to the passage of the amendments the use of these spaces and the fees to be charged were the responsibility of the Minister responsible for the management of Territory property. The Speaker now has the authority to grant a licence for the use of any part of the Assembly building and to set the conditions and fees which will apply to any such use.

## PLACE OF MEETING

18.21 The Legislative Assembly first met on 11 May 1989 in shared and rented accommodation in the ACT Administration Centre. The time and date for the meeting was set by the Commonwealth Minister for the Arts and Territories pursuant to paragraph 17(3)(a) of the Self-Government Act.<sup>17</sup> The notice did not specify in detail the place of meeting, which was merely described as 'Chamber of the Legislative Assembly, Canberra, Australian Capital Territory' in the *Commonwealth Gazette* notice.<sup>18</sup>

18.22 On 9 April 1992 the Assembly agreed to refer the provision of new premises for the Legislative Assembly to the Standing Committee on Administration and Procedures for inquiry and report by the last sitting day of the 1992 Autumn sittings.<sup>19</sup> The committee's report *Provision of New Assembly Premises* was presented on 8 September 1992 and was adopted by the Assembly on 10 September 1992.<sup>20</sup> The committee's first recommendation was that the South Building<sup>21</sup> be modified and refurbished as the new Assembly premises. Work began

16 *Legislative Assembly Precincts Amendment Act 2006*, sections 7A and 11A.

17 This section provides that where the office of Presiding Officer is vacant, the Commonwealth Minister shall, by notice published in the *Commonwealth Gazette*, convene the meeting of the Legislative Assembly.

18 *Commonwealth Gazette*, No. S 158, Monday, 8 May 1989.

19 MoP 1992-94/22.

20 MoP 1992-94/137.

21 The South Building was one of two government office buildings flanking Civic Square in the centre of Canberra. It had previously housed the Commonwealth Department of the Interior, which had had responsibility for the administration of the ACT prior to self-government. Its central location, potential for redevelopment and availability made it an attractive option for a permanent Assembly building.

on the refurbishment in April 1993 and the first meeting of the Assembly in the new premises occurred on 12 April 1994.<sup>22</sup>

**18.23** The Legislative Assembly building includes, in addition to the Chamber, office suites for all Members, including Ministers of the ACT Executive and their staff, committee rooms and public areas. The Assembly Secretariat (the procedural and administrative staff that support the Assembly and its committees), and a library are also housed in the building.

## CHAMBER

**18.24** The South Building, which was originally constructed in the late 1950s was adapted for the Assembly's use by the addition of a legislative chamber placed diagonally across the internal courtyard of the building. The Chamber of the Legislative Assembly is thus a modern structure. The furniture is made from Australian timbers and the carpet decoration is based on *Wahlenbergia gloriosa* (Royal Bluebell), which is the floral emblem of the ACT. The Assembly has not adopted the traditional green colour scheme of 'lower' houses.

## Seating

**18.25** The Chamber was designed to accommodate up to 22 Members (there are only 17 at present) but allowance was made at the planning stage for space for another six Members if the need ever arose. The Chamber's seating follows contemporary practice, with Members seated around a horseshoe-shaped arrangement of desks. Members, including Ministers, have individual seats behind their own desks and do not sit on open benches, as is the practice for the 'front benches' in the Australian House of Representatives and the British House of Commons.

**18.26** The Speaker sits at the head of the Chamber at a raised desk; to the right are seated government Members and to the left opposition Members.<sup>23</sup> Members of minor parties and independent Members sit on the curve of the horseshoe—the crossbenches.

**18.27** For the first meeting of the First Assembly, initial seating arrangements were determined by ballot and were not regarded as permanent. The Speaker subsequently wrote to each party leader indicating allocation of seats to party groups once the composition and groupings within the Assembly became clear.

## Table

**18.28** The Clerk and Deputy Clerk are located at a desk immediately in front of the Speaker at the head of the Table of the Assembly. The Clerk sits to the right of the Speaker and the Deputy Clerk to the left. A speech timing clock is located on the Clerk's desk and is connected to two digital timing clocks located on opposite walls of the Chamber, thus allowing them to be seen by all Members. These indicate to Members how much speaking time is allocated to them and how much remains. When two minutes remain, a chime lets Members know they are near the end of their time allocation. Copies of all ACT legislation and the Assembly debates are kept on the Table.

22 Standing Committee on Administration and Procedure, *Provision of New Assembly Premises*, September 1992, p. 15.

23 This traditional seating was transposed for a period in the original temporary accommodation because the structure of the Chamber made access for Ministers to and from their offices more convenient if they were placed to the left of the Speaker.

**18.29** The Deputy Clerk controls the ringing of the division bells from the Clerk's desk. Bells are rung in the Assembly for the following times and reasons:

- for five minutes before the time fixed for the commencement of each sitting and the resumption of a sitting after a suspension; and
- for four minutes:
  - when a ballot is to be taken, for example, for the election of Speaker, Deputy Speaker or Chief Minister;<sup>24</sup>
  - to summon Members to the Chamber for the purpose of a vote of the Assembly;<sup>25</sup> and
  - to summon Members to the Chamber for the purpose of obtaining a quorum.<sup>26</sup>

**18.30** The broadcasting and audio reticulation buttons are also located on the Clerk's desk. These buttons control the broadcasting of proceedings throughout the building and to ACT Government agencies. Hansard staff are located at the rear of the Chamber in a booth to the right of the Speaker. The microphones on each Member's desk and sound reinforcement in the Chamber are also controlled from the booth.

## Mace

**18.31** Originally the mace was a weapon. By the 14th century the mace carried by the Serjeants-at-Arms of the English King's bodyguard had become a symbol of Royal authority. As the Monarch's council evolved into the parliament so the mace became identified with the authority of the parliament. Since the 17th century the mace and the position of the Serjeant-at-Arms have become exclusive to parliament. Today's mace is a symbol of the authority of the Speaker.

**18.32** Australian colonial parliaments did not generally adopt the use of a mace at their establishment. The Victorian Parliament was first to adopt the practice in 1857,<sup>27</sup> followed, over the years, by the Commonwealth and other state and territory parliaments. The mace is obviously part of the traditional trappings of a parliament, not something necessary for its actual functioning. However, by 2004 the Legislative Assembly for the Australian Capital Territory was the only mainland legislature without a mace.

### Mace of the Legislative Assembly for the ACT

**18.33** The Assembly's mace was a gift from the Australian Region of the Commonwealth Parliamentary Association and was officially presented to the Speaker of the Legislative Assembly on 9 July 2004 at the 35th Presiding Officers and Clerks Conference held in Melbourne.

### Ceremonial use of the mace

**18.34** Traditionally the Serjeant-at-Arms is custodian of the mace. The Speaker is preceded by the Serjeant-at-Arms, bearing the mace upon the right shoulder, when the Speaker enters and leaves the Chamber at the beginning and end of each sitting. When the Speaker is in the Chair the mace is placed on brackets on the Table, with its head pointing to the government side of the Chamber. The mace remains in its position on the Table during all suspensions.

<sup>24</sup> Standing orders 2, 3 and 266.

<sup>25</sup> Standing order 158.

<sup>26</sup> Standing order 33. The four-minute sandglass is also located on the Clerk's desk and is used in addition to the bells when a division is called. Members have that amount of time to make their way to the Chamber for the vote.

<sup>27</sup> The Victorian Legislative Assembly's mace was stolen in 1891 and never recovered.

## Bar of the Assembly

18.35 The Bar of the Assembly is situated at the rear of the Chamber between the public gallery and the Chamber proper. When the Assembly is sitting, only elected Members or Chamber Support Staff may venture beyond the Bar, thus excluding the entry of 'strangers'. The Bar is also the place to which persons may be brought to be addressed by the Speaker or to address the Assembly (see paragraph 17.2).

## Public gallery

18.36 Visitors may view proceedings in the Assembly Chamber from the public gallery at any time when the Assembly is sitting. The public gallery has seating for approximately 80 people. The public gallery provides an opportunity for public observation of Assembly proceedings, not participation. Though visitors are welcome to watch proceedings of the Assembly, they must not interject, attempt to communicate with Members, display notices or cause a disturbance. It has been necessary on several occasions when disturbances have occurred in the public gallery for the Speaker to direct that those involved cease their actions or be removed from the gallery altogether.<sup>28</sup> On 13 May 2004 during debate on a bill, the Speaker suspended the sitting for approximately 14 minutes after an incident had occurred in the public gallery.<sup>29</sup>

18.37 The first two rows of the gallery are usually reserved for Members' advisers to enable them to provide advice quickly to Members should the need arise. At the back of the gallery is the 'press box'. This area may be used only by representatives from newspapers and radio and television stations to report proceedings of the Assembly.

## Visitors

18.38 Standing order 210 states that while the Assembly is sitting Members may not bring any visitor into, nor may any visitor be present in, any part of the Chamber appropriated to the Members of the Assembly. On 13 March 2003 the standing order was amended to clarify that the word 'visitor' did not apply to an infant being breastfed by a Member.<sup>30</sup> In March 2008 the standing order was further amended to include the words 'other than a nursing infant'.<sup>31</sup>

18.39 Distinguished visitors, such as delegations from other parliaments who wish to view Assembly proceedings, are invited to sit in the Chamber, usually in chairs placed in front of the seats reserved for Members' advisers. As in other parliaments, proceedings are interrupted at a convenient time to allow the Speaker to draw Members' attention to the fact that the visitors are present. Visitors are then welcomed by the Speaker on behalf of the Assembly.

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28 For example on 23 June 2004 the Speaker asked an individual in the public gallery to stop filming as that was not allowed. On 19 August 2003 the Speaker ordered that a member of the public leave the gallery as they were holding a sign and making a protest.

29 MoP 2001-04/1333.

30 MoP 2001-04/634-5.

31 See standing order 210.

## **Lobbies**

18.40 Doors on either side of the Chamber lead to the government and opposition lobbies. This is where Members may make telephone calls, send facsimiles and meet with staff and/or departmental officials while still being able to view proceedings in the Chamber by television. The opposition lobby is also used by crossbench Members. In the First Assembly the Speaker considered a proposal to make telephones available at Members' desks but rejected it as inappropriate in a debating chamber. Mobile phones are not permitted in the Chamber.

## **Dress code**

18.41 The Legislative Assembly does not have a dress code for Members while they are in the building precincts and in the Chamber. Male Members are permitted to remove their jackets in the Chamber.

## **Computers**

18.42 In June 1998, after consideration by the Standing Committee on Administration and Procedure, permission was given to the Chief Minister to trial the use of a laptop computer in the Chamber for a week during questions without notice. The outcomes of that trial were reported to the committee by the Chief Minister in a letter dated 24 August 1998. The Chief Minister indicated that she would not be seeking to use the laptop computer during forthcoming sittings and suggested that other software options be investigated. Since then no further trials have been undertaken.