



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Standing Committee on Administration and Procedure

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The Operation of the *Legislative Assembly* *(Broadcasting of Proceedings)* *Act 1997*

June 2000

Terms of Appointment

In 1995, the Legislative Assembly for the Australian Capital Territory ('the Assembly') adopted Standing Order 16 which established the Standing Committee on Administration and Procedure ('the Committee'). The members of the Committee for the Fourth Assembly ('the Members') are:

The Speaker (Presiding Member)
Simon Corbell MLA
Harold Hird MLA
Trevor Kaine MLA
Paul Osborne MLA
Kerrie Tucker MLA

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

Terms of Reference for Inquiry

On 11 March 1999, the Assembly resolved:

'That the Standing Committee on Administration and Procedure inquire into and report on the operation of *the Legislative Assembly (Broadcasting of Proceedings) Act 1997* with particular reference to:

1. the authorisation of broadcast for Assembly committee proceedings including the provision of file footage;
2. the continued restriction on the broadcast of debates other than those determined to be of "landmark" significance; and
3. the authorisation of broadcast of Assembly and committee proceedings to locations other than government offices.'

For further information on this and other inquiries by the Committee contact the Committee Secretary on (02) 6205 50191 or by email at committees@act.gov.au. Alternatively view the Committee's website at www.legassembly.act.gov.au.

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Summary of Recommendations

Recommendation 1

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to authorise the audio and/or visual recording and broadcast of all public proceedings of the Legislative Assembly and its committees subject to any conditions or guidelines specified by resolution of the Legislative Assembly. (paragraph 50)

Recommendation 2

The Standing Committee on Administration and Procedure of the Legislative Assembly have an ongoing statutory obligation under the *Legislative Assembly (Broadcasting of Proceedings) Act 1997* to consider and report to the Assembly on any conditions or guidelines for the audio and/or visual recording and broadcast of the public proceedings of the Legislative Assembly or its committees. (paragraph 50)

Recommendation 3

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to enable the Legislative Assembly, by resolution, to withdraw the right to record or broadcast the public proceedings of the Legislative Assembly.

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* also be amended to enable the Legislative Assembly, to determine processes, by resolution, by which the right to record or broadcast the public proceedings of committees can be withdrawn. (paragraph 51)

Recommendation 4

The draft guidelines for the recording and broadcast of public proceedings of the chamber of the Legislative Assembly at Attachment B of this report be adopted by the Assembly. (paragraph 56)

Recommendation 5

The Legislative Assembly authorise investigation of the options and costs associated with:

- **installing and operating its own cameras to televise the audio and visual proceedings of the Assembly and its committees for recording and broadcast;**
- **cost recovery from organisations that may wish to broadcast recordings of these proceedings; and**
- **providing an audio and visual broadcast of the public proceedings of the Assembly and its committees on the Assembly's internet home page. (paragraph 60)**

Recommendation 6

Part II of the *Legislative Assembly (Broadcasting of Proceedings) Act 1997* dealing with the Broadcasting of Proceedings to Government Offices be deleted. (paragraph 62)

Recommendation 7

Access to an audio (and later visual) broadcast of the public proceedings of the Legislative Assembly and its committees via landline should be made available to any interested party on a full or partial cost recovery basis. (paragraph 63)

Recommendation 8

The Legislative Assembly authorise investigation of the costs and technical requirements associated with providing a live audio only broadcast of the public proceedings of the Assembly and its committees on the Assembly's internet home page without necessarily waiting for an accompanying visual broadcast. (paragraph 65)

Recommendation 9

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to empower the Legislative Assembly, by resolution, to delegate to its committees the authority to withdraw the right to record or broadcast their public proceedings. (paragraph 68)

Recommendation 10

The draft guidelines for the broadcast of the public proceedings of Committees of the Legislative Assembly at Attachment C of this report be adopted by the Assembly. (paragraph 69)

Section One - Introduction

Background to Inquiry

1 In May 1995, a private member's bill was introduced into the third Assembly to establish procedures for the broadcast of Assembly proceedings.¹ The Assembly referred the bill to this Committee for review. It was largely on the basis of the Committee's recommendations that the current legislation – the *Legislative Assembly (Broadcasting of Proceedings) Act 1997* ('the Act')- was drafted and subsequently enacted.² A copy of the Act is at attachment A.

2 To some extent the Act was a trial and a number of administrative difficulties have emerged. These difficulties prompted the Assembly to request the Committee to review the Act. This report is the result of that review.

Report Outline

3 This section of the report concludes by outlining some of the issues Members considered when conducting the inquiry.

4 Section two of the report outlines the principle provisions of the Broadcasting Act and the guidelines for authorisation and conditions for broadcasting that have been adopted by the Assembly under ss. 4 and 7 of the Act. Section three of the report then describes the difficulties that have arisen in administering the Act.

5 Members were keen to see if the Assembly could learn from the broadcasting practices of the other Australian parliaments. Accordingly, the next section of the report outlines some of the different approaches used to regulate the broadcasting of chamber and committee proceedings through the Commonwealth.

6 In section five of the report, the Committee brings together its arguments and makes recommendations to amend the Act. Members were very conscious that broadcasting is part of the rapidly developing information industry and that emerging technologies may produce new opportunities or, alternatively, greater pressures on the Assembly's broadcasting practices and policies. For this reason, the Committee has made recommendations to enshrine broad principles in the legislation while providing the more detailed administrative provisions in guidelines that require a resolution of the Assembly to update.

7 Finally, in section six, the report discusses some of broadcasting opportunities that may be available to the Assembly in the future.

¹ Legislative Assembly (Broadcast of Proceedings) Bill 1995.

² Standing Committee on Administration and Procedure, *Legislative Assembly (Broadcasting of Proceedings) Bill 1995*, February 1996.

Scope of the Inquiry

8 References in this report to ‘proceedings’ apply only to public proceedings of the Assembly or its committees. In the context of committees, this is a reference to public hearings only as deliberative meetings and in-camera hearings are not open to the public.

9 In addition, the report does not address the implications for the Assembly’s non-legislative powers, privileges and immunities of broadcasting proceedings beyond the boundaries of the Australian Capital Territory (ACT). The application of privilege beyond the ACT is an issue best examined in the context of the Committee’s inquiry into the Legislative Assembly (Privileges) Bill 1998.

Setting the Context

10 While considering the Act, Members found it helpful to draw out some of the definitions and distinctions made in the legislation and in the wider debate about parliamentary broadcasting. Consideration of these issues helped the Committee reach its conclusions.

11 As a first distinction, Members noted that recording and broadcasting proceedings are two separate processes. The two processes can happen at the same time, as in a live broadcast, but they may not necessarily be done by the same people. The Assembly retains greatest control when it is responsible for the recording and broadcast of proceedings. It has least potential for control when it undertakes neither.

12 As a second issue, the Committee acknowledged that the broadcasting issues facing the plenum of the Assembly differ from those facing the Assembly’s committees. In particular, Members were conscious that committees have a special obligation to consider the interests of witnesses at public hearings. Thus, the Committee wished to consider the extent to which differences between the proceedings of the Assembly and its committees should be recognised in the legislation and associated guidelines.

13 The Act distinguishes between broadcasting to government offices and to the public, although the legislation refers to both as “broadcasting”. The Committee believes that this distinction between a restricted and an unrestricted audience needs to be more explicit. Accordingly, this report refers to ‘narrowcasts’ which are to a restricted group or groups of recipients and ‘broadcasts’ which are to an unrestricted audience (the public).

14 The Committee also considered the necessity of distinguishing between audio and/or visual broadcasts in the Act. The Committee is aware that media outlets take visual footage of committee hearings but rarely sound recordings. Should the controls governing audio broadcasts be different for those of visual broadcasts? In a further twist, should photographs of proceedings appearing in

a newspaper be considered a broadcast? Of relevance to these questions, the Committee noted the convergence of audio, text and visual information in broadcast technologies.

15 Finally, the Committee discussed whether certain groups and not others should have special access to audio or visual broadcasts of the Assembly and committee proceedings. This discussion was particularly relevant to the third point in the Committee's terms of reference as it helped Members reach conclusions as to whether Assembly and committee proceedings should be broadcast to locations other than government offices.

Section Two - The Act, Broadcasting Principles and Conditions

The Act in Summary

16 In short, the Act allows the Speaker to authorise the broadcasting of proceedings of the Assembly or its committees to government offices and or to the public. The Act also allows the establishment of guidelines and conditions under which the authorisations are to be granted. There are currently three separate sets of these guidelines or conditions and they are described below. Before examining these, however, it will help to briefly describe the main features of the Act.

17 The preliminary part of the Act includes an interpretation of the key ideas used in the legislation. Two definitions are particularly significant: "broadcast", which means 'to transmit sound or visual images by radio, television, landline or any other electronic means'; and "government office" which means 'a place where officers or employees of the Public Service perform their duties'.

18 Part II of the Act empowers the Speaker to authorise the broadcast of proceedings of the Assembly or a committee of the Assembly to government offices, subject to conditions specified in the authorisation. This is the Speaker's authority, using the Committee's terminology, to allow narrowcasts.

19 Part III of the Act applies to the broadcasting of proceedings to the public. The Act requires the Committee to report to the Assembly on the principles on which broadcasting to the public of proceedings of the Assembly or one of its committees should be authorised ('the Broadcasting Principles'). The Assembly may adopt these Broadcasting Principles with or without modification. If the Speaker considers that certain proceedings of the Assembly or a committee are 'of sufficient significance to warrant broadcasting', then he or she may authorise the proceedings to be broadcast under the conditions imposed by the Broadcasting Principles. The Speaker must advise the Assembly after an authorisation to broadcast has been granted or altered.

20 Part III of the Act also extends privilege to the authorised broadcast of proceedings.

Conditions for Narrowcasting

21 Section 4 in Part II of the Act empowers the Speaker to authorise the narrowcast of Assembly or committee proceedings to government offices, subject to any conditions specified in the authorisation. The Speaker has adopted two sets of conditions for the receipt of narrowcast transmissions: the first relating to the proceedings of the Assembly chamber and the second to committee proceedings.³

22 The two sets of conditions are essentially similar. Both sets limit receipt of narrowcasts to those authorised to receive them and prohibit the rebroadcast of the signals. The Speaker has the authority to cease narrowcasts, although in the case of committee proceedings, only after consultation with the relevant presiding member. Witnesses before the Assembly or a committee are to be given a reasonable opportunity to object to the narrowcast of their evidence and state the grounds to their objections. In the case of witnesses before committees, the witnesses are to be given at least 3 days clear notice of the intention to narrowcast proceedings. The Assembly or committee is to consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings. Witnesses are to be informed if narrowcasting is to go ahead despite their objections.

23 Each agency authorised to receive narrowcasts is responsible for any costs associated with the transmission of signal.

The Broadcasting Principles

24 The Broadcasting Principles contain four principles to be considered by the Speaker in determining whether to authorise the broadcast of Assembly or committee proceedings to the public and the conditions under which a broadcast can be made.⁴

25 Section 8 in Part III of the Act empowers the Speaker to authorise broadcast of Assembly or committee proceedings that are 'of sufficient significance to warrant broadcasting'. This caveat is reflected in the first principle which requires the Speaker to consider 'the possible interest in the debate within the community' before he or she authorises the proceedings to be broadcast.

³ 'Conditions Relating to the Broadcast of legislative Assembly Proceedings' and 'Conditions relating to the broadcast of Legislative Assembly Committee proceedings to Government Offices made pursuant to section 4 of the *Legislative Assembly (Broadcasting of Proceedings) Act 1997*'. The conditions were established in July 1998 following meetings between the Speaker and the presiding members of committees.

⁴ 'Principles to be used by the Speaker in Determining Whether to Authorise the Broadcast of Assembly or Committee Proceedings to the Public and the Conditions under which a Broadcast can be made', Resolution agreed to by the Assembly on 28 August 1997.

26 The subsequent Broadcasting Principles outline the conditions under which a broadcast can be made. The second principle notes that any broadcasting must cease at the direction of the Speaker in the Assembly or the Presiding Member of a committee. The third principle governs who and what can be filmed and how, while the fourth principle stipulates, among other things, that the broadcast of proceedings should be done in a fair and accurate way and not used for satire, ridicule, electioneering or party political purposes.

Section Three – Administration of the Act

27 The main impetus for this inquiry has been the practical difficulties associated with administering the Act. This section of the report outlines the way the Act has operated and the difficulties that have arisen.

Narrowcasting Proceedings

28 People filling some 40 positions in government departments have been regularly authorised to receive narrowcasts of Assembly and committee proceedings.⁵ The authorisations are updated from time to time as the positions are created and abolished.

29 The single narrowcast signal from the Assembly transmits either the proceedings of the Assembly when it is sitting or the proceedings of a committee taking evidence in one of the two Assembly committee rooms. To date the narrowcasts have been audio signals only, although visual transmissions are not prohibited by the Act.⁶

30 One concern with the Act is that recent public sector reforms have led to an unintended restriction on the government offices that can receive narrowcasts. As described above, the Act defines “government offices” as those places ‘where officers or employees of the Public Service perform their duties’. However, with the commercialisation and corporatisation of departments, there now exists a range of government entities whose employees can no longer be strictly classified as employees of the Public Service. This led to one instance where a Territory Owned Corporation had to be denied access to the narrowcast of proceedings, solely on the grounds that the corporation no longer fitted the definition of a government office.

31 An audio and visual signal of Assembly proceedings and an audio only signal of committee proceedings is also narrowcast to offices throughout the Assembly building. Several media organisations also have offices located in the Assembly building. By virtue of their location, they too receive narrowcasts of proceedings – a privilege not shared by other media organisations. In fact, it is

⁵ In the following departments: Chief Minister’s Department and the departments of Education and Community Services; Health and Community Care; Justice and Community Safety; Treasury and Infrastructure; and Urban Services.

⁶ There are no cameras located in the committee rooms.

unclear under what authority the proceedings are narrowcast to any office in the Assembly. There are Assembly offices receiving narrowcasts which are not government offices for the purposes of s. 4 of the Act and there is no authorisation for those offices located in the Assembly building receiving narrowcasts that are government offices.

Broadcasting Proceedings

32 The number of requests per year to broadcast proceedings of committees in particular has grown steadily since passage of the Act, as the following table indicates:

Authorisations Granted to Broadcast Proceedings

Year	Of the Assembly	Of Committees ⁷
1998	14	7
1999	8	24
2000 (to 22 June)	4	21

The vast majority of these authorisations are made to allow local media organisations to record proceedings and use excerpts in news and current affairs programs. However, interest groups have also sought permission to video tape committee proceedings to replay to other members not able to attend proceedings.

33 A consequence of the requirements of the Act is the amount of time needed to process authorisations. Presiding Members or the media need to seek authorisations in writing, which have to be considered and formally approved by the Speaker and then subsequently tabled in the Assembly. The time consuming nature of this process is highlighted when requests to broadcast come at short notice - often just before or during public hearings. Delays associated with obtaining an authorisation can lead to missed opportunities and frustration, particularly if a committee is willing for its proceedings to be broadcast.

Landmark Debates

34 The Act and Broadcasting Principles require the Speaker to determine whether a debate is of sufficient significance to warrant broadcasting before he or she gives approval for broadcasting to take place. This places a burden on the Speaker to determine in advance the likely significance of Assembly proceedings or, more commonly, the significance of a committee's public hearing. After all, it may be the very presence or not of the media to record proceedings for the public that helps determine 'the possible interest in the debate within the community'.

⁷ Some authorisations have been for more than one public hearing.

35 In the case of Assembly proceedings, it has been relatively easy to anticipate which debates are likely to be of sufficient significance to warrant broadcasting. Film crews have been routinely allowed to record budget speeches and the associated Address in Reply, while authorisations to broadcast debates over particularly controversial legislation have also been given from time to time. The public significance of these debates has often been identified by the media organisations themselves as they initiate requests to film Assembly proceedings.

36 Deciding whether particular committee proceedings are of sufficient significance to warrant broadcasting has, however, often been more problematic. As committees (and, in cases, witnesses) have become more confident with the presence of media at public hearings, Presiding Members have sought authorisations for broadcasting on a regular basis. Presiding Members have also begun requesting single authorisations from the Speaker that cover a number of public hearings. It is clear that it is the committees themselves, rather than just the media that are seeking media coverage for committee activities. The Committee recognises that there is now a general expectation by committees that all public hearings should be open to the media unless there are special reasons to bar them. This is a reversal of the intention of the Act, suggesting that either the Act or the current practices under the Act need changing.

Committee Hearings

37 The Act and Broadcasting Guidelines also provide little opportunity for the Speaker to ascertain whether witnesses giving evidence at hearings may object to having their evidence broadcast. The Broadcasting Principles lack any mechanism to allow the Speaker to determine or protect the interests of witnesses, although there are appropriate processes outlined in the conditions for narrowcasts which, ironically, are heard by far fewer people.

38 There is also an apparent inconsistency in the powers of Presiding Members to control the broadcasting of committee proceedings once an authorisation has been given. Standing Order 236 allows visitors to be cleared from a public hearing at the discretion of the Presiding Member or at the request of any Member. In a complementary power, the Broadcasting Principles give the Presiding Member of a committee the authority to direct that the broadcasting of a committee hearing should cease. However, only the Speaker, or in his or her absence, the Deputy Speaker, has the authority (after consultation with the Presiding Member) to cease narrowcasts. In practice, the narrowcast transmission is switched off whenever a committee decides to take further evidence in camera, without reference to the Speaker. Nonetheless, it seems appropriate that a Presiding Member who has the authority to clear a hearing of visitors and direct that broadcasting cease should also have the power to halt narrowcasts.

39 As a concluding comment, the Committee considers that the greatest difficulty with the broadcasting provisions of the Act is that they do not provide

the flexibility that committees seek to manage their own relations with the media. However, before considering any amendments to the Act, the Committee wished to examine the experiences of other Australian parliaments.

Section Four - Practices in other Australian Parliaments

Chamber Proceedings

40 The Committee was interested to consider the Assembly's practices in light of those in other Australian parliaments. This section of the report highlights the variety of approaches that have been adopted to broadcasting, rather than comprehensively surveying the different chambers.

41 Firstly, a distinction can be made between parliaments that employ their own camera operators to televise chamber proceedings and those that do not.

42 Those parliaments that have their own camera operators have control over what is filmed and how it is filmed.⁸ Subsequent access to this footage by others (usually media outlets) is often on a cost recovery basis and unrestricted – although there may be restrictions placed on how the footage is to be presented during broadcast. Footage may also be narrowcast to chamber and government offices.

43 As with the Assembly, most chambers do not have their own camera operators. Therefore, any filming of chamber proceedings for broadcast is done by others, usually the camera crews of media organisations. Chambers in this position have guidelines for when and how proceedings can be filmed. The Assembly sits between two opposites in filming policy. The Northern Territory Legislative Assembly allows visual footage without sound to be recorded at the beginning of a parliamentary session but not during other proceedings. In contrast, the South Australian Legislative Assembly allows the media to film all proceedings, although in practice, only Question Time and major debates tend to be recorded. To make this possible, camera crews have reserved space in the public galleries.⁹

44 The chambers without their own camera operators also have in place sanctions (usually the withdrawal of filming privileges) for non-compliance by camera crews with the guidelines.

45 Most chambers also place conditions on the way that footage is broadcast – usually restricting use to the fair and accurate reporting of proceedings with a prohibition on the use of footage for political satire, political party advertising or electioneering. Again, the major sanction for non-compliance is withdrawal of access to footage or the chambers.

⁸ The New South Legislative Assembly uses a contractor to provide a broadcast quality audio visual signal of Assembly proceedings.

⁹ South Australia is currently reviewing its broadcasting policy.

46 In an indication of future trends, the House of Representatives, the Senate and the Western Australian Legislative Assembly provide a live audio and visual broadcast of the proceedings of their chambers on the internet.¹⁰

Live Audio Broadcasts of the Chamber

47 Several chambers have arrangements for live audio broadcasts of chamber proceedings via radio stations.¹¹ Chambers, like the Assembly, also narrowcast proceedings via intranets or landlines to various categories of government employees or agencies as well as to accredited media representatives in press galleries.

Broadcast of Committee Proceedings

48 There is also the full spectrum of approaches to the broadcast of the public proceedings of committees. In some cases it is delegated to committees to decide whether to allow coverage of their public proceedings and to what extent. In others, the proceedings of standing committees but not select committees can be broadcast, while in still others, committee proceedings are usually not authorised for broadcast.

Section Five – The Committee’s Deliberations

Establishing the Framework

49 In principle, the Committee supports the audio and visual broadcasting of chamber proceedings and the public proceedings of committees on a regular basis – subject to the caveats described below. After all, it is the people’s Assembly and its proceedings should be accessible. For those who cannot attend in person, alternative access should be as easy as possible, via Hansard records or sound and vision broadcasts.

50 The Committee sees its role as providing the Assembly with recommendations to ensure the Act remains relevant as new technologies emerge. At the same time, the Committee must also address the specific difficulties with the administration of the Act as it stands now. The Committee’s strategy has been to make recommendations to ensure that the broad principles are given legal authority in the Act which, in turn, is supplemented by more detailed prescriptions in guidelines established by resolution of the Assembly. Hence, the Committee has made recommendations below which both amend

¹⁰ The Western Australian broadcast is on a trial basis.

¹¹ In the case of the Northern Territory Legislative Assembly, a single radio station is authorised to broadcast live proceedings from the commencement of each day’s sitting until the conclusion of questions without notice.

the Act and take advantage of s. 7 of the Act to expand the scope of the broadcasting guidelines.

51 The Committee begins with the following recommendations to establish the framework under which later recommendations can follow logically:

Recommendation 1

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to authorise the audio and/or visual recording and broadcast of all public proceedings of the Legislative Assembly and its committees subject to any conditions or guidelines specified by resolution of the Legislative Assembly.

Recommendation 2

The Standing Committee on Administration and Procedure of the Legislative Assembly have an ongoing statutory obligation under the *Legislative Assembly (Broadcasting of Proceedings) Act 1997* to consider and report to the Assembly on any conditions or guidelines for the audio and/or visual recording and broadcast of the public proceedings of the Legislative Assembly or its committees.

52 The Committee also believes that the Assembly should reserve statutory authority to withdraw the right to broadcast or record public proceedings of the Assembly or its committees. This is to ensure that the Assembly retains control over its own proceedings. Accordingly, the Committee makes the following recommendation:

Recommendation 3

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to enable the Legislative Assembly, by resolution, to withdraw the right to record or broadcast the public proceedings of the Legislative Assembly.

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* also be amended to enable the Legislative Assembly, to determine processes, by resolution, by which the right to record or broadcast the public proceedings of committees can be withdrawn.

The later part of this recommendation should be read in conjunction with Recommendation nine.

Visual Broadcast of Chamber Proceedings

53 As indicated, the Committee supports the regular visual broadcasting of the proceedings of the Assembly chamber beyond the Assembly building. However, the Committee's support is tempered by a realisation of the practical difficulties that need to be overcome before proceedings can be regularly filmed and broadcast.

54 The Chamber is physically small and the presence of camera crews intrudes on proceedings and interferes with the circulation of members and staff around the edges of the Chamber. The intrusion is too disruptive to permit it to occur on a frequent basis and is the justification for the Assembly's current position that filming should only occur on specified occasions.

55 This practice should not be relaxed until the Assembly is responsible for filming its own proceedings. Ideally, the restrictions need only remain temporarily as the Committee hopes the Assembly will take responsibility for filming proceedings (see below). Until then, the current restrictions remain appropriate – namely, that the Speaker needs to assess whether the proceedings in question are of sufficient significance to warrant broadcasting.

56 However, as it is hopefully a temporary arrangement, the requirement for the Speaker's authorisation should be included in the guidelines for broadcasting, not left in the Act itself. In fact, the adoption of Recommendation One above will, by default, do this by removing any responsibilities for the Speaker from Part III of the Act.

57 The Committee has considered draft guidelines for the filming and broadcast of chamber proceedings that take into account recommendation one above and a copy of these are at Attachment B.

Recommendation 4

The draft guidelines for the recording and broadcast of public proceedings of the chamber of the Legislative Assembly at Attachment B of this report be adopted by the Assembly.

The Potential for the Assembly to Film Chamber Proceedings

58 The increasing importance of the internet for information distribution by parliaments (and others) and the potential of digital television suggests that live audio and visual broadcasts of chamber proceedings may, in time, become the norm. Live broadcasts of committee public proceedings in the same way will surely follow. However desirable this outcome is, it is somewhat off for the Assembly.

59 The Assembly currently films proceedings of the chamber via a single fixed angle camera for narrowcast within the Assembly building. However, the

film is not suitable for broadcast as the camera is fixed and cannot focus on Members with the call. The Assembly needs a more flexible system in place before it contemplates its own broadcasts.

60 There is provision in the walls of the chamber for wiring and mounting five cameras that could be remotely controlled from either the Hansard Control Room or the Central Control Room. The cameras could be manually adjusted by an operator or automatically switched to preset positions to record each Member speaking. Wall mounted cameras would be out of the way of the floor of the chamber and, by controlling the cameras, officers under the direction of the Assembly could ensure that filming was done in accordance with any guidelines. This would enable a better quality narrowcast; ultimately allow broadcast on the internet; and enable media organisations to broadcast or rebroadcast excerpts without the need to film proceedings themselves.

61 The Committee at this stage is not in a position to estimate in detail either the capital or recurrent costs of filming proceedings, although capital and installation costs are likely to be around \$300,000 to \$350,000 for the chamber alone.¹² One possibility is full or partial cost recovery from the media organisations that may wish to use the footage. In any event, the Assembly should investigate the costs and options associated with installing and operating its own cameras in the chamber. Accordingly, the Committee makes the following recommendation:

Recommendation 5

The Legislative Assembly authorise investigation of the options and costs associated with:

- **installing and operating its own cameras to televise the audio and visual proceedings of the Assembly and its committees for recording and broadcast;**
- **cost recovery from organisations that may wish to broadcast recordings of these proceedings; and**
- **providing an audio and visual broadcast of the public proceedings of the Assembly and its committees on the Assembly's internet home page.**

Narrowcast of Chamber Proceedings

62 There are not the practical restraints on the wider audio broadcasting of chamber proceedings that there are for visual broadcasting. An audio recording of proceedings is already made for Hansard and for narrowcast to occupants of the Assembly building and approved government offices.

¹² Based on the cost of 5 cameras (@\$20,000 ea); 5 lenses (@ \$10,000 ea); 5 pan tilt units (@ \$30, 000 ea); cabling; and integration with the AMX system. Committee rooms are each likely to need an equivalent set up for a single camera.

63 The Committee has expressed its support for the regular audio and visual broadcast of chamber proceedings where it is practical and where the Assembly directly controls the recording and broadcast (even if not the rebroadcast of excerpts). These conditions have been met for the audio broadcast of proceedings. It follows, therefore, that s. 4 of the Act, which authorises the broadcasting (in practice, audio only) of proceedings to government offices but, by default, restricts access to the broadcasts by others, should be deleted from the Act.

Recommendation 6

Part II of the *Legislative Assembly (Broadcasting of Proceedings) Act 1997* dealing with the Broadcasting of Proceedings to Government Offices be deleted.

64 Instead, the Assembly should facilitate the broadcast of Assembly proceedings via landline to any interested party on a full or partial cost recovery basis. This, in practice, is using the narrowcast transmission technology as a vehicle to broadcast proceedings. Accordingly, the Committee makes the following recommendation:

Recommendation 7

Access to an audio (and later visual) broadcast of the public proceedings of the Legislative Assembly and its committees via landline should be made available to any interested party on a full or partial cost recovery basis.

65 The Committee expects that interest in receiving broadcasts of Assembly and committee proceedings via landline will wane if they are broadcast on the internet.

66 The Committee has already recommended that the Assembly authorise investigation of the costs and technical considerations associated with filming and then broadcasting proceedings on the internet. Given that the Assembly is already responsible for the audio recording of proceedings, it should be possible to proceed with less expense and time to the interim step of providing an audio only broadcast on the internet. Accordingly, the Committee makes the following recommendation:

Recommendation 8

The Legislative Assembly authorise investigation of the costs and technical requirements associated with providing a live audio only broadcast of the public proceedings of the Assembly and its committees on the Assembly's internet home page without necessarily waiting for an accompanying visual broadcast.

Broadcast of Committee Proceedings

67 The Committee has already indicated that it supports in principle the broadcast of the public proceedings of committees. This follows from the Committee's conclusion that the proceedings of the chamber should be broadcast as a regular event. For this reason, several of the recommendations above incorporate amendments to the Broadcast Act to allow the regular audio and/or visual broadcast of committee proceedings.

68 Ultimately, the Committee believes that the Assembly will film and broadcast committee proceedings in much the same way as the Committee envisages will occur for the Assembly chamber. If Assembly proceedings are broadcast on the internet, then committee proceedings could be broadcast in their place when the Assembly is not sitting. However, it is likely to be some time before cameras are fitted in the Assembly's committee rooms if only for resource reasons. In the interim, landline audio narrowcasts and audio broadcasts on the internet remain the most likely vehicle for transmissions

69 However, as for the chamber, there may be occasions when committees do not wish the broadcast of their public proceedings. This is most likely to occur when witnesses are prepared to give public evidence but do not wish to be the subject of direct media attention. It should be possible to accommodate the wishes of witness in these circumstances without the need to take in-camera evidence. In such cases, decisions to withdraw broadcast rights are best made by the committees themselves on a case by case basis. To make sure that the Assembly has authority to delegate decisions about broadcasting to the committees themselves, the Committee makes the following recommendation:

Recommendation 9

The *Legislative Assembly (Broadcasting of Proceedings) Act 1997* be amended to empower the Legislative Assembly, by resolution, to delegate to its committees the authority to withdraw the right to record or broadcast their public proceedings.

Draft Guidelines for Broadcasting Committee Proceedings

70 Members believe that the proceedings of the chamber and committees are different enough to warrant separate recording and broadcasting guidelines. Accordingly, draft guidelines for the broadcast of the public proceedings of committees are at Attachment C. It will be noted that the guidelines contain provisions to ensure that the interests of witnesses are protected. The Guidelines are mainly based on the 'Conditions for Broadcasting and Televising of Committee Proceedings' issued by the House of Representatives.

Recommendation 10

The draft guidelines for the broadcast of the public proceedings of committees of the Legislative Assembly at Attachment C of this report be adopted by the Assembly.

Section Six – Conclusion

The Future

71 Members are conscious that developing technology has the potential to revolutionise the way that the Assembly and its committees interact with the community. The Committee places a high priority on encouraging residents to observe and participate in the operations of their parliament. The broadcast of chamber and committee proceedings is one way to encourage this interaction.

72 There will be increasing pressure on parliaments to take advantage of existing and emerging technologies as community expectations grow and the technology becomes cheaper. The technical capacity exists: for real time transcribing, already used in Australian courts, to allow Hansard to be displayed on the internet moments after the words are spoken in the chamber; for committee members to attach audio and visual records of their tabling speeches to electronic versions of committee reports; and for it all to be broadcast to people's homes via digital television and the internet.

73 In a broadcasting context, there is already a convergence of text, audio and visual information in combined digital formats. From a parliamentary perspective, this will blur the distinction between authorising information for publication and for broadcast. That, in turn, will lead to implications for the application of parliamentary privilege. The Committee is very conscious of these implications as it conducts a review of the Legislative Assembly (Privileges) Bill 1998 which declares the non legislative powers, privileges and immunities of the Assembly and establishes, among other things, a regime for the publication of Assembly documents.

74 The Broadcasting Act must allow the Assembly to take advantage of these types of broadcasting opportunities without being driven by them or hampered by inflexible legislation. The Committee believes that its recommendations, if adopted, will provide the Assembly with a robust and relevant Act.

Greg Cornwell MLA
Presiding Member
21 June 2000

AUSTRALIAN CAPITAL TERRITORY

**LEGISLATIVE ASSEMBLY (BROADCASTING OF
PROCEEDINGS) ACT 1997**

This consolidation has been prepared by the ACT Parliamentary Counsel's
Office

Updated as at 20 August 1997

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AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY (BROADCASTING OF PROCEEDINGS) ACT 1997

An Act relating to the broadcasting of proceedings of the Legislative Assembly

Part I—Preliminary

Short title

1. This Act may be cited as the *Legislative Assembly (Broadcasting of Proceedings) Act 1997*.¹

Commencement

2.¹ (1) Sections 1 to 6 (inclusive) commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) The Minister shall consult with the Speaker before fixing a day for the purposes of subsection (2).

(4) If a provision referred to in subsection (2) has not commenced before the end of the period of 3 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

“broadcast” means to transmit sound or visual images by radio, television, landline or any other electronic means;

“government office” means a place where officers or employees of the Public Service perform their duties;

“Speaker” means the person elected under section 11 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

Part II—broadcasting of proceedings to government offices

Authorisation of broadcasting to government offices

4. (1) The Speaker may, in writing, authorise the broadcasting of proceedings of the Legislative Assembly or a committee of the Assembly to specified government offices.

(2) An authorisation is subject to any conditions specified in it.

(3) The Speaker shall, within 3 sitting days of the Legislative Assembly after an authorisation is given, varied or revoked, cause a copy of the authorisation, variation or revocation to be laid before the Legislative Assembly.

(4) The validity of an authorisation, or a variation or revocation of an authorisation, is not affected by a failure to comply with subsection (3).

Compliance with conditions of authorisation

5. A person who broadcasts proceedings of the Legislative Assembly, or a committee of the Assembly, pursuant to an authorisation under section 4 shall comply with any conditions to which the authorisation is subject.

No action for broadcasting proceedings under this Part

6. No proceedings, civil or criminal, lie against a person for broadcasting proceedings of the Legislative Assembly or a committee of the Assembly in accordance with an authorisation under section 4.

Part III—Broadcasting of proceedings to the Public

Guidelines for authorisations

7. (1) The Standing Committee on Administration and Procedure of the Legislative Assembly shall consider, and report to the Assembly on, the principles on which broadcasting to the public of proceedings of the Assembly or a committee of the Assembly should be authorised.

(2) The Legislative Assembly may adopt, with or without modification, the principles contained in a report under subsection (1).

(3) The Legislative Assembly may vary or revoke any principles adopted under subsection (2), adopt additional principles on which broadcasting to the public of proceedings of the Legislative Assembly or a committee of the Assembly should be authorised or vary or revoke any additional principles so adopted.

Authorisation of public broadcasts

8. (1) The Speaker may, by writing, authorise a person to broadcast to the public—

(a) proceedings of the Legislative Assembly, or a committee of the Assembly, that are in the opinion of the Speaker, having regard to any relevant principles in effect under section 7, of sufficient significance to warrant broadcasting; or

(b) a recording of any such proceedings.

(2) An authorisation is subject to any conditions specified in it.

(3) The Speaker shall not grant an authorisation under subsection (1) otherwise than in accordance with any relevant principles in effect under section 7.

(4) The Speaker shall, within 3 sitting days of the Legislative Assembly after an authorisation is given, varied or revoked, cause a copy of the authorisation, variation or revocation to be laid before the Legislative Assembly.

(5) The validity of an authorisation, or a variation or revocation of an authorisation, is not affected by a failure to comply with subsection (3) or (4).

Unauthorised broadcasting of proceedings

9. (1) A person shall not broadcast to the public—

(a) proceedings of the Legislative Assembly or a committee of the Assembly; or

(b) a recording of any such proceedings;

unless he or she has been authorised to do so under section 8.

(2) A person who has been granted an authorisation under section 8 shall, in making a broadcast under the authorisation, comply with any conditions to which the authorisation is subject.

Privilege in respect of authorised broadcasts

10. (1) It is a defence to an action for defamation in respect of matter contained in a broadcast of proceedings of the Legislative Assembly, or a committee of the Assembly, made in accordance with an authorisation under section 8 that the defamatory matter was broadcast by the defendant without any adoption by the defendant of the substance of the matter and the defamatory matter was contained in a fair and accurate report of the proceedings.

(2) This section does not deprive a person of any defence that would have been available to him or her if this section had not been enacted.

NOTE

1. Act No. 31, 1997 notified in the ACT Gazette on 16 July 1997; ss. 1-6 commenced on 16 July 1996; remainder commenced on 20 August 1997 (see *Gazette* 1997, No. S252).

Draft Guidelines for the Recording and Broadcast of Public Proceedings of the Chamber of the Legislative Assembly

Reference to 'filming' in these guidelines is to the recording of visual or sound and visual images of the public proceedings of the Legislative Assembly.

Reference in these guidelines to 'broadcasting' is to the audio and/or visual broadcasting or rebroadcasting of proceedings or excerpts of public proceedings of the Legislative Assembly.

Recording Proceedings

1. The filming of the public proceedings of the Assembly shall only occur with the agreement of the Speaker. In deciding whether to authorise the filming of proceedings, the Speaker shall consider the importance of the proceedings to be recorded and the possible level of interest in the proceedings within the community.
2. The Speaker, when authorising the filming of proceedings of the Assembly, shall advise that the Assembly may resolve without notice that filming shall cease.
3. The Speaker, when authorising the filming of proceedings of the Assembly, shall require the following conditions be adhered to:
 - (a) as a general principle, cameras should focus on the Member with the call;
 - (b) reaction shots of a Member are only permitted:
 - (i) if the Member is referred to in debate;
 - (ii) if the Member has sought information which is being supplied by a Member having the call;
 - (c) coverage of the Galleries is not permitted;
 - (d) panning along the Benches is not permitted;
 - (e) close-up shots of Members' papers are not permitted;
 - (f) camera positioning is not to interfere with the proceedings of the Assembly;
 - (g) any instruction from the Speaker or the Speaker's delegate is to be observed.
4. Audio only recordings of proceedings shall be from the signal transmitted by landline or from the Assembly's narrowcast to building occupants.

Broadcasting of Proceedings

5. The Speaker, when authorising the broadcasting of proceedings, shall stipulate that they can only be broadcast for the fair and accurate reporting of events and not for:

- (i) the purpose of satire or ridicule;
- (ii) advertising for or by political parties or electioneering; nor
- (iii) commercial advertising or sponsorship.

6. Points of order and remarks that are withdrawn may not be broadcast or rebroadcast.

7. The recording and broadcast of proceedings is only permitted subject to the conditions outlined above. Permission to record and/or broadcast proceedings shall be on the basis of an undertaking to observe these conditions.

Draft Guidelines for the Recording and Broadcast of Public Proceedings of Committees of the Legislative Assembly

Reference in these guidelines to 'proceedings' is to only the public proceedings of committees of the Legislative Assembly.

Reference in these guidelines to 'recording' is to the audio and/or visual recording of proceedings.

Reference in these guidelines to 'broadcasting' is to the audio and/or visual broadcasting or rebroadcasting of proceedings or excerpts of proceedings.

Recording Committee Proceedings

1. Those recording proceedings shall not interfere with the conduct of the hearing. Nor shall they encroach into the Committee's working area nor issue instructions to members of the Committee or to people giving evidence.
2. Proceedings shall only be recorded under the following conditions:
 - (a) as a general principle, cameras should focus on the committee member or witness with the call;
 - (b) coverage of the Galleries is not permitted;
 - (c) close-up shots of documents held by Committee members, Committee staff or witnesses are not permitted

Broadcasting Committee Proceedings

Reference in these guidelines to 'broadcasting' is to the audio and/or visual broadcasting or rebroadcasting of proceedings or excerpts of proceedings.

3. Proceedings shall only be broadcast for the fair and accurate reporting of events and not for:
 - (i) the purpose of satire or ridicule;
 - (ii) advertising for or by political parties or electioneering; nor
 - (iii) commercial advertising or sponsorship.
4. At any time a Committee may withdraw approval for the recording and broadcast of proceedings.
5. The recording and broadcast of proceedings is only permitted subject to the conditions outlined above. Permission to record and/or broadcast

proceedings shall be on the basis of an undertaking to observe these conditions.

Protection of Witnesses

6. A witness shall be advised in advance of appearing at proceedings that the proceedings may be recorded and broadcast. A witness shall be given reasonable opportunity to object to the recording and/or broadcasting of their evidence and state the ground of the objection. The Committee shall consider any such objection having regard to the proper protection of the witness and the public interest in the proceedings. If the committee decides to allow any recording and/or broadcasting to proceed, notwithstanding the witness's objection, the witness shall be so informed before appearing in the proceedings.