
The Parliament of the Commonwealth of Australia

Arrangements for joint meetings with the Senate

House of Representatives
Standing Committee on Procedure

June 2004
Canberra

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Contents

Membership of the Committee	v
Terms of reference of the committee	vi
Terms of reference of the inquiry.....	vi
List of recommendations.....	vii
Arrangements for joint meetings with the Senate.....	1
Introduction	1
Reason for the inquiry	1
The joint meetings of 23 and 24 October 2003.....	2
Reasons for procedural arrangements for October meetings	2
Format of joint sittings and meetings	4
Joint sitting held under s. 57 of the Constitution	4
Other joint or concurrent meetings	5
Meetings to receive visiting heads of state	5
Joint meetings to mark Federation.....	5
Opening of a Parliament	6
Other joint meetings	6
Procedural issues relating to joint or concurrent meetings	7
Status of meetings.....	7
Application of standing orders.....	8
Procedural difficulties	9

House perspective on procedural issues	9
Looking to the future.....	10
Future venues for joint meetings to hear addresses	10
Future “joint” meetings – procedural arrangements	10
Conduct of Senators as visitors in the House.....	11
Conclusion.....	12
Appendix A	13
Conduct of the inquiry	13
Participants in round table conference	13
Appendix B	15
Excerpt from submission by Clerk of the House, Mr I C Harris, to four Procedure Committee inquiries.	15
Appendix C	19
Statement to the House by the Speaker — Addresses by the President of the United States of America and the President of the People's Republic of China	19
Appendix D	23
Details of Senate committee reports on the October joint meetings	23



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Terms of reference of the committee

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

Terms of reference of the inquiry

To inquire into the need for guidelines for the conduct of any future joint meetings of the House of Representatives and the Senate and, if necessary, the content of such guidelines.



List of recommendations

Recommendation 1

The committee recommends that when arrangements are made for a distinguished person to address both Houses of Parliament, the venue for such addresses should continue to be the chamber of the House of Representatives.

Recommendation 2

The committee recommends that any future parliamentary addresses by visiting distinguished persons should be in the form of a meeting of the House of Representatives to which all Senators are invited as guests.

Arrangements for joint meetings with the Senate

Introduction

Reason for the inquiry

- 1.1 The committee decided to review the arrangements for joint meetings with the Senate, following difficulties which arose during the joint meetings arranged to hear addresses by President George W Bush of the United States of America and President Hu Jintao of the People's Republic of China on 23 and 24 October 2003 consecutively.¹ The difficulties arose from the procedural arrangements approved by both Houses for the conduct of the meetings, by which the Speaker was to chair the meeting, and the standing orders of the House of Representatives were to apply.² A note on the conduct of the inquiry is included in Appendix A.

¹ VP(8.10.2003) 2002-2004/1213-6.

² VP(8.10.2003) 2002-2004/1213-5.

The joint meetings of 23 and 24 October 2003

- 1.2 On 8 October 2003 the House resolved that “the House invites the Senate to meet with the House in this Chamber for this purpose” and “the procedures of the House shall apply to the meeting so far as they are applicable”.³ The Senate passed an equivalent resolution.⁴ In welcoming Senators to hear President Bush on 23 October 2003, the Speaker of the House, the Hon Neil Andrew, extended “a particular welcome to the President of the Senate and honourable senators to this meeting of the House of Representatives and the Senate in this chamber to hear the address ...”.⁵
- 1.3 Senators Brown and Nettle interjected during President Bush’s address, resulting in both being warned. Senator Brown was invited to “excuse himself from the House” for one hour for continuing to interject, under House standing order 314A. Shortly afterwards, Senator Nettle was ordered to withdraw for continuing to interject.⁶ Neither Senator obeyed the Speaker’s instructions and following the departure of President Bush, they were named and suspended from the service of the House on the motion of the Leader of the House, the Hon Tony Abbott.⁷
- 1.4 Following this incident there was considerable debate in Parliament and the media about the procedural and constitutional issues relating to the suspension of the two Senators for 24 hours. These issues are within the ambit of the Procedure Committee’s general terms of reference and it seemed appropriate to the committee that it should express a view on these matters.

Reasons for procedural arrangements for October meetings

- 1.5 The Speaker responded to the publicity surrounding the meetings by making a statement to the House on 3 November 2003.⁸ He explained that the Prime Minister had written to him proposing:
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³ VP (8.10.2003) 2002-2004/1213.

⁴ SJ (9.10.2003) 2002-2004/2506-9.

⁵ H.R. Deb. (23.10.2003) 21687.

⁶ H.R. Deb. (23.10.2003) 21690-21692.

⁷ H.R. Deb. (23.10.2003) 21693.

⁸ H.R. Deb. (3.11.2003) 21745-8.

To continue a fitting and dignified convention for honouring guests of special significance, President Bush and President Hu should be invited to address members of both houses of parliament in a formal session in the House of Representatives chamber.⁹

- 1.6 The reference to a “formal session in the House of Representatives” was significant. The arrangement by which Senators met with Members of the House in the House chamber, had been used to hear Presidents from the United States on two previous occasions (President George Bush [senior] on 2 January 1992 and President Bill Clinton on 20 November 1996).¹⁰
- 1.7 The format in relation to visits by United States Presidents should be seen in the context of similar occasions in the United States itself, where it is an established protocol for hearing visiting dignitaries including heads of government.¹¹ In particular, it was used by the United States Congress when Senators and Members held a joint meeting in the House of Representatives Chamber to hear Prime Minister Howard address the Congress in September 2001.
- 1.8 If the practice of assembling Senators and Members in the House chamber had *not* followed this precedent, there may have been a perception that less honour was intended than on previous occasions. Similarly, although the practice had only been observed in relation to addresses by US Presidents, for obvious reasons, it would have been unacceptable to propose a different arrangement for the visit by the Chinese President.
- 1.9 For these “diplomatic” reasons, it is not considered an option to hear future presidential addresses in a less formal venue such as the Great Hall.

⁹ H.R. Deb. (3.11.2003) 21745.

¹⁰ *House of Representatives Practice*, p. 240.

¹¹ Joint sessions and meetings of Congress are an established procedure in the US. Joint sessions, the most formal, are held to hear the President’s annual state of the union address and for other formal occasions. Joint meetings are held for receiving addresses from dignitaries such as foreign heads of state and famous Americans such as astronauts and military leaders and for commemorating major events. Both joint sessions and joint meetings are held in the Hall of the House of Representatives as it has more seats than the Senate chamber. The Speaker of the House of Representatives usually presides over joint sessions and meetings except for counts of electoral votes which are presided over by the President of the Senate under the Constitution. [Source: www.congresslink.org].

Format of joint sittings and meetings

Joint sitting held under s. 57 of the Constitution

- 1.10 The only specific constitutional provision for a joint sitting applies to resolving disagreements over legislation, between the Houses. The Constitution provides for each House of the Parliament to make its own rules for conducting its business and proceedings “either separately or jointly with the other House”.¹² The Constitution is not explicit regarding the occasions on which joint rules might apply, but they certainly apply to the joint sittings to resolve deadlocks on legislation as provided for in section 57 of the Constitution.¹³
- 1.11 Both Houses at one stage had joint standing orders to provide for these joint sittings, including one relating to the election of a presiding member at a (section 57) joint sitting, and one providing for the presiding member to present any proposed law passed at the joint sitting to the Governor-General. The House of Representatives retains these joint standing orders which are to be found at the end of the House standing orders. When the Senate implemented revised and rearranged standing orders in 1990, there were no additional joint standing orders in the document, following a recommendation from the Senate Procedure Committee.
- 1.12 Because of the ineffectual nature of “joint” standing orders which do not apply to both Houses, the Procedure Committee has proposed that the House omit the joint standing orders from its draft revised standing orders.¹⁴ On 6 August 1974, on the only occasion on which a joint sitting under s. 57 of the Constitution has been held, neither House relied on the simplified joint standing orders and detailed rules were adopted to cover all exigencies.¹⁵

¹² Constitution section 50.

¹³ *House of Representatives Practice*, p. 239, notes that “conferences” or “joint meetings” of all members of both Houses are not provided for in the standing orders or the Constitution but would not be prevented should both Houses agree and determine the procedure to be followed.

¹⁴ Standing Committee on Procedure, *Revised Standing Orders*, November 2003.

¹⁵ *House of Representatives Practice*, p. 464-5. The joint standing orders were adopted by both Houses on 1 August 1974.

Other joint or concurrent meetings

Meetings to receive visiting heads of state

- 1.13 Other joint or concurrent meetings – planned for a variety of reasons - have been outside the formal provisions of section 57. The exact status of such meetings and the rules by which they should be conducted, were determined on an ad hoc basis.
- 1.14 Proposals for such meetings and details of the (much fewer) actual meetings held, are provided at p. 239 of *House of Representatives Practice*. The meetings to hear addresses by Presidents of the United States are referred to in 1.6 above. They were held on 2 January 1992 (President George Bush senior), 20 November 1996 (President Bill Clinton) and 23 October 2003 (President George W Bush). A similar joint meeting was held to hear an address by President Hu of the People’s Republic of China on 24 October 2003. As noted above, the arrangements for these joint meetings were resolved separately by both Houses and provided for the same procedural format. Members and Senators were to meet together in the House of Representatives chamber with the Speaker presiding and House of Representatives standing orders to apply as far as possible.

Joint meetings to mark Federation

- 1.15 The Senate and the House of Representatives have met jointly on two occasions to mark Federation. The first was on 9 May 1901 and the second to celebrate the centenary of Federation on 9 May 2001. Debate relating to these meetings used the terms, “meeting” and “conference” without distinction. The term “sitting” has also been used colloquially to refer to such meetings but this is not a useful application of the word because of the possible confusion with a joint sitting as provided for in the Constitution. In both 1901 and 2001, Senators and Members of the House of Representatives met at the same time and enjoyed the same ceremony in the Exhibition Building in Melbourne, but both Houses were adjourned separately by their respective Presiding Officers.¹⁶

¹⁶ H.R. Deb. (09.05.2001) 26651. At the end of proceedings the Speaker announced that the House “stands adjourned ...” and the President then announced that the Senate “stands adjourned...”. The resolutions of both Houses relating to the centenary “sitting” used the words “meet with ...” so the “sittings” were presumably “meetings”. Both resolutions provided (separately) for each House to be adjourned indicating that Members and Senators met “concurrently”. SJ (9.5.2001) 1998-2001/4219; VP (9.5.2001) 1998-2001/2259-60.

Opening of a Parliament

- 1.16 Members of the House of Representatives “attend” in the Senate Chamber to hear the Commission read by the deputy of the Governor-General (usually the Chief Justice of the High Court) and again to hear the Governor-General’s speech. The House of Representatives standing orders do not specify a venue for these occasions but the Senate standing orders do provide for Members of the House to go to the Senate chamber.¹⁷
- 1.17 Although the Senate chamber is smaller, the use of that chamber recognises the historic ban on the Sovereign or his/her representative from entering the Commons (or – in Australia – the House of Representatives) chamber.¹⁸
- 1.18 Procedurally the attendance of Members in the Senate chamber gives Members the status of guests of the Senate. As such they are subject to Senate standing orders.¹⁹ There have not been any occasions on which this power has been required to be exercised.

Other joint meetings

- 1.19 Several joint or concurrent meetings have been proposed but not proceeded with.²⁰ Various secret meetings were held jointly during both world wars but these were not regarded as formal meetings of the House. During World War I an informal secret meeting took place in the Senate Club Room on the invitation of the Prime Minister. During World War II, joint secret meetings of both Houses were held under a regulation of the National Security Act which was gazetted to set out the conditions of secrecy of any such meetings. Meetings were convened on 20 February, 3
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¹⁷ House of Representatives standing orders 2 (b) and 4. Senate standing orders 1 (d) and (e) and 2 (2) and (3).

¹⁸ *House of Representatives Practice*, p. 12. See also the historical note in the Procedure Committee report on procedures for the opening of Parliament, *Balancing tradition and progress*, p. 10.

¹⁹ Senate standing orders 174 and 175 provide for distinguished visitors, other visitors and the conduct of visitors. Senate standing orders do not distinguish between Members of the House of Representatives and other visitors. The equivalent orders in the House standing orders – 310 to 312 – provide differently for Senators and other visitors.

²⁰ These were a 1903 proposal to hold a conference to select a site for the seat of Government, a 1931 proposal to hold a conference to consider Australia’s economic and financial problems and proposals to discuss the site for a new and permanent Parliament House in 1969, 1971 and 1973. Details of the proposals are in *House of Representatives Practice*, pp. 239-240.

and 4 September and 8 October 1942, the first during a suspension of the House and the others following the adjournment of the House. The World War II secret meetings were held in the House of Representatives Chamber.²¹ Before the Australian Capital Territory became self-governing, the Senate and the House of Representatives, at a joint sitting, chose the person to fill a casual Senate vacancy in the Territory.²²

Procedural issues relating to joint or concurrent meetings

Status of meetings

- 1.20 The procedural issues which arose in relation to the meetings of 23 and 24 October 2003 created difficulties for the Senate rather than the House of Representatives. From the perspective of a meeting of the House the meeting was presided over by the Speaker, duly elected according to the Constitution and the House standing orders. The meeting took place in the House chamber and House standing orders prevailed.
- 1.21 From the perspective of the Senate, procedural issues relating to the October meetings include the choice of presiding officer and which standing orders should prevail when Members and Senators sit together or at the same time. These issues arise when the exact procedural status of the meeting is unclear. No such issues arise when a joint sitting under s. 57 of the Constitution is held. Other joint meetings are less transparent in relation to their procedural status.
- 1.22 While there have been some differences of opinion about the procedural status of joint meetings, their exact status has not been of much concern because unlike joint sittings under s. 57 of the Constitution, no legislative business was intended to be transacted. There was some debate about the proposal to sit Melbourne in 2001 given that s. 125 provides that the Parliament shall meet in Melbourne *until* it meet at the seat of Government. There was a view that *after* the seat of Government had been chosen, the Parliament could only meet there. A legal opinion obtained at

²¹ *House of Representatives Practice*, p. 240.

²² Joint sittings for this purpose were held on 5 May 1981 pursuant to the *Senate (Representation of Territories) Act 1973*, and 16 February 1988 pursuant to section 44 of the *Commonwealth Electoral Act 1918*. The sittings were held in the Senate Chamber and the President of the Senate presided. For rules adopted by both Houses for the 1988 sitting see VP (16.2.1988) 1987–90/334–8.

the time did not consider the venue for the ceremonial sittings a problem, but there may have been more debate about this issue if the Parliament were to attempt to act in its constitutional role rather than to hold a commemorative ceremony.

- 1.23 The 2001 centenary “sitting” was relatively straightforward procedurally because both Presiding Officers presided and both Houses were separately adjourned, implying that both the House and Senate met separately but concurrently. There were separate Senate Journals and House Votes and Proceedings for the day but the difficulty of finding precise terminology is reflected in these formal records. The Senate Journal noted that “the Senate met, with the House of Representatives”²³, implying a joint meeting. However, the President of the Senate welcomed the assembled Members, Senators and guests with the words “Your Excellency, Mr Speaker, Prime Minister, Leader of the Opposition, Senators and Members meeting here today as the joint commemorative *sitting* of the 39th Parliament.”²⁴
- 1.24 The Clerk of the House of Representatives classified each of the five meetings of the two Houses (the centenary sitting and the four meetings to hear presidential addresses) as “concurrent” meetings²⁵ but he did not use the term to imply that the House and Senate were sitting separately but at the same time. In relation to the meetings to hear presidential addresses, the two Houses were meeting concurrently in the sense that they met at the same time but they were not separate meetings, having the Speaker in the chair and House of Representatives standing orders in operation.

Application of standing orders

- 1.25 The centenary “sitting’s” categorisation as “concurrent” meetings is supported of the fact that each Presiding Officer separately adjourned the meeting of his and her House.²⁶ By implication, the standing orders so far as they applied to the ceremony would have been Senate standing orders in relation to Senators and House standing orders in relation to Members.

²³ SJ (9.5.2001) 1998-2001/4219.

²⁴ S Deb. (9.05.2001) 23921.

²⁵ Submission from Mr I C Harris, Clerk of the House of Representatives, p. 5.

²⁶ See 1.15 above and footnote 16.

- 1.26 However, the application of the standing orders to the joint meetings on 23 and 24 October was much more difficult because the resolution of both Houses regarding the meeting specified the use of House of Representatives standing orders to “apply to the meeting so far as they are applicable”.²⁷ This assumed some significance when the Speaker applied the House of Representatives standing orders dealing with disorderly conduct to a Senator.

Procedural difficulties

- 1.27 A consequence of the resolutions passed by both Houses was that a meeting of the Senate was presided over by a Member of the House of Representatives.²⁸ In addition to this anomaly, the decision to apply the House standing orders resulted in the Speaker of the House naming two Senators, the Leader of the House moving that they be suspended from the “service of the House” and a vote (though not a division) being taken by Senators and Members voting together.
- 1.28 These unusual procedural events of the meeting on 23 October 2003 (and the fact that two Senators were barred from a meeting of the Senate – albeit, meeting with the House in the House chamber - on 24 October) are of more practical and procedural concern for the Senate than the House. Two Senate committees have reported on these (and related) matters.²⁹
- 1.29 This committee does not wish to analyse these matters from the perspective of Senators but it does note that the procedural issues which arose should be avoided in any future meetings to hear addresses by foreign dignitaries.

House perspective on procedural issues

- 1.30 From the perspective of the House, once the Senate had resolved to meet with the House, with the Speaker in the chair and the House standing orders to apply so far as possible, there was no choice about how to

²⁷ VP (8.10.2003) 2002-4/1213.

²⁸ It was a meeting of the Senate in the sense that the Senate Journal reported that the Senate met in the House of Representatives chamber. SJ (23.10.2003) 2003-109/1. Although the Senate itself resolved to have the Speaker of the House preside at the meeting, it has been claimed that the Constitution (as reflected in the Senate standing orders) provides that only a Senator can be chosen to preside over the Senate.

²⁹ Details of the Senate reports are in Appendix C.

proceed when the conduct of two Senators breached those standing orders. Under the resolutions agreed to by both Houses, there was no capacity for the President of the Senate to exercise Senate standing orders relating to the conduct of Senators. Nor was there any possibility of the outcome being decided by Senators voting alone.

- 1.31 The Speaker expressed his perspective on the events of 23 and 24 October in a statement to the House on 3 November 2003. A copy of the statement is at Appendix C. The committee endorses the statement and supports the actions taken by the Speaker in the execution of his duty as chair of the meeting.

Looking to the future

Future venues for joint meetings to hear addresses

- 1.32 For one hundred years the House and Senate had met together – mainly to celebrate national or international occasions – without significant practical or procedural difficulties. The events of the meeting on 23 October 2003 mean that such meetings cannot be planned for the future on the assumption that the procedural arrangements are not likely to cause great difficulty.
- 1.33 At the same time, there is now a precedent and an expectation that joint and/or concurrent meetings to hear addresses from heads of state of foreign countries will be held in the House of Representatives chamber to emphasise the formal status of such addresses. The committee considers that any future meetings to hear such addresses should continue to be held in the House chamber. This position was supported by all those who attended the round table discussion on this and other matters held on 25 March 2004.

Recommendation 1

The committee recommends that when arrangements are made for a distinguished person to address both Houses of Parliament, the venue for such addresses should continue to be the chamber of the House of Representatives.

Future “joint” meetings – procedural arrangements

- 1.34 The committee considers that on future occasions when it is desirable for Senators and Members to meet together in the House chamber, the arrangement should be for the House to hold a meeting and invite

Senators. This would mean on such future occasions, Senators would be in a similar position to Members of the House of Representatives when they attend meetings in the Senate chamber at the opening of the Parliament. They would be invited guests of the House and subject to the authority of the Speaker.

1.35 The committee notes that the two Senate committees which examined these matters reached a similar conclusion and have made recommendations accordingly.

1.36 The Senate Procedure Committee recommended that the Senate pass a resolution regarding the form of future meetings to hear addresses and forward the resolution to the House of Representatives. The text of the resolution proposed was:

That the Senate considers that any future parliamentary addresses by visiting foreign heads of state should be received by a meeting of the House of Representatives in the House chamber, to which all senators are invited as guests.

1.37 The Senate Privileges Committee recommended that the Senate agree to a resolution along the lines suggested by the [Senate] Procedure Committee.³⁰

Recommendation 2

The committee recommends that any future parliamentary addresses by visiting distinguished persons should be in the form of a meeting of the House of Representatives to which all Senators are invited as guests.

Conduct of Senators as visitors in the House

1.38 The Clerk's submission suggests that some modification of the standing orders might be necessary should future meetings be held at which Senators were invited guests at a sitting of the House.³¹ He notes that standing order 312 was amended following a Procedure Committee recommendation which raised the question of disorder in the Senator's gallery during debate on the crisis in the Gulf in 1991. The change specifies that while in the Senators' gallery (part of the front row in the

³⁰ Senate Procedure Committee, *Third Report of 2003*, p. 3 and Senate Committee of Privileges, *Joint meetings of the Senate and the House of Representatives on 23 and 24 October 2003: 118th Report*, April 2004, p. 24. The links to these reports are in Appendix D.

³¹ Submission from the Clerk of the House, p. 6. A copy is included in Appendix B.

central public gallery) “Senators shall observe instructions concerning order issued by the Chair”. There is no doubt that all persons of whatever status in the chamber or galleries must obey any direction of the Chair but the linking of the Chair’s authority to Senators in a particular venue is not a clear statement of this principle.

- 1.39 Standing order 312 also distinguishes between Senators and “strangers”. The distinction between Senators and strangers is relevant because it removes Senators from the direct authority of the Serjeant-at-Arms. Standing orders 310 and 311 permit the Serjeant to exercise authority over “strangers” on his or her own discretion without any direction from the Speaker. The committee notes that Senate standing orders (174 and 175) do not make an equivalent distinction.
- 1.40 Presumably Senators attending a meeting to hear a distinguished person’s address as invitees, would not want to sit in a gallery but would wish to be in the seating area allocated to Members. This is the arrangement when Members of the House visit the Senate at the opening of a Parliament.
- 1.41 The committee considers that the issue of authority over the conduct of Senators while guests in the House of Representatives should be addressed by way of an appropriate sessional order to set out arrangements for Senators to be invited to be guests at a sitting of the House. The sessional order should ensure that the Speaker’s authority over Senators, regardless of where they sit in the chamber or galleries, is unquestioned. The committee does not consider it necessary to change the relevant standing orders at this stage.

Conclusion

- 1.42 In this report the committee recommends that future meetings to hear addresses should be in the House chamber and that Senators should be invited guests at meetings of the House. In relation to the terms of reference for this inquiry which invite the committee to consider the need for guidelines for any future joint meetings, the committee considers there is no need for guidelines to be drafted at this stage. If future addresses by visiting heads of state or others are contemplated, the arrangements should be tailored at the time to meet the requirements of the particular visit.

MARGARET MAY MP

Chair
31 May 2004



Appendix A

Conduct of the inquiry

The committee wrote to all Members and to the Clerk of the House asking for their views on arrangements for joint meetings with the Senate. The inquiry was also advertised on the committee's webpage. The result was one substantial submission (from the Clerk of the House) and informal feedback from a number of Members. In summary, the advice received was that future gatherings to hear addresses should be meetings of the House of Representatives, to which all Senators would be invited [see submission 1, p. 9]. The submission is at Appendix B.

The committee then organised a round table conference, held on 25 March 2004, of House leaders and others to discuss the issue of joint meetings (and other current committee inquiries).

Participants in round table conference

The Hon Neil Andrew MP, Speaker

The Hon Ian Causley MP, Deputy Speaker

The Hon Tony Abbott MP, Leader of the House

Ms Julia Gillard MP (Manager of Opposition Business)

Mrs Joanna Gash MP (Government Whip)

Mr Harry Quick MP (Opposition Whip)

Mr Michael Organ MP (Greens)

Mr Ian Harris (Clerk of the House)

Mr Peter Gibson (Senior Adviser to the Speaker)



Appendix B

Excerpt from submission by Clerk of the House, Mr I C Harris, to four Procedure Committee inquiries.

4. Arrangements for joint meetings with the Senate

The need for guidelines for the conduct of any future joint meetings of the House of Representatives and the Senate and, if necessary, the content of such guidelines.

The House and the Senate have held concurrent meetings on five occasions (apart from the special arrangements in 1901). In 2001, the House met with the Senate at the Royal Exhibition Building in Melbourne to mark the centenary of the Parliament. At the end of the common proceedings, the two Houses were adjourned separately by their respective Presiding Officers. The other four meetings (in 1992, 1996 and 2003) have been held in the House of Representatives Chamber to hear addresses by foreign heads of state. The Senate met in the House Chamber at the House's invitation, and, by resolutions of the two Houses, the Speaker presided and the procedures of the House applied as far as they were applicable.

Meetings of this kind (as distinct from joint sittings under section 57 of the Constitution and under s.44(2A) of the *Commonwealth Electoral Act 1918* (see House of Representatives Practice, 4th ed., p 239)) are not provided for in the standing

orders of either House or in the Constitution but are not prevented should both Houses agree and determine the procedures to be followed.

The question of the need for guidelines for any future joint meetings has arisen because of the situation that arose at the most recent meetings in 2003.

During the address by President George W. Bush on 23 October 2003, two Senators were each ordered by the Speaker, under the provisions of standing order 304A, to withdraw from the Chamber. When each senator refused to withdraw, the Speaker ordered the Serjeant-at-Arms to direct each of them to leave the Chamber. Neither senator withdrew from the Chamber. After President Bush had left the Chamber, the Speaker named both of the senators for continuing to defy the Chair. A motion was then moved by the Leader of the House, and endorsed by Members and Senators present, to suspend the two senators. Standing Order 307 provides that a member suspended is excluded from the Chamber, all its galleries and any room where the Main Committee is meeting. Under standing order 305, the period of suspension is 24 hours. This had the effect of excluding the senators from the meeting on 24 October 2003 to hear the address by President Hu of the People's Republic of China.

The Procedure Committee of the Senate has addressed the issue of rules for future joint meetings of the Parliament, if any. It has concluded that it 'would not be productive to attempt to draw up such rules ... (as) ... any such rules would need to be extremely elaborate to cover all possible issues which might arise and avoid all the potential difficulties, and would only make it more difficult for procedural questions or disorder to be dealt with in a satisfactory manner.'³²

Instead, the Committee has suggested that the procedure for occasions involving addresses by foreign heads of state be changed so that they would be meetings of the House of Representatives in the House of Representatives chamber, which senators would be invited to attend as guests, and not formal meetings of the Senate. The Committee has recommended that the Senate resolve accordingly, and that the resolution be forwarded to the House of Representatives so that the government can consider the proposal whenever any future occasions arise. The Senate has not yet considered this recommendation but is scheduled to do so on 11 May 2004.

³² Senate Procedure Committee, December 2003, p 3.

I support the approach recommended by the Senate Committee and suggest that the House Procedure Committee consider making a similar recommendation. The approach overcomes the inherent difficulty in a presiding officer of one House in effect presiding over a meeting of the other House. It would also give due primacy to the House in relation to such occasions.

Perhaps some modification of the standing orders would be necessary. The Procedure Committee's report of October 1992 on *The Standing Orders Governing Disorder and Strangers* raised the question of disorder in the Senators' gallery during debate on the crisis in the Gulf in 1991. Up until that time, the standing orders reflected the situation in the provisional Parliament House, and the Speaker's authority was uncertain in relation to disorder created by Senators. The Committee believed that the rights and obligations of Senators should be specifically mentioned, and recommended a new standing order. This is now reflected in that part of standing order 312 which states that "...Senators shall have the privilege of admission into the Senators' gallery without orders. While in the Senators' gallery Senators shall observe instructions concerning order issued by the Chair.

Standing order 310 provides the Serjeant-at-Arms with authority to remove any stranger who causes a disturbance in any gallery. This would extend to the downstairs gallery. However, standing order 198 distinguishes between Senators and strangers. Perhaps some tidying up would be necessary to ensure that Senators must comply with the Speaker's instructions concerning order, not only when they are in the [upstairs] Senators gallery. Subsequent to these changes, Senators, as guests of the House, would be subject to the rules applying to all guests. They could be seated in the distinguished visitors gallery, which would need to be extended by temporary seating. It would be appropriate for a seat to be provided for the President of the Senate on the floor of the Chamber. Given the differentiation between strangers and Senators, it may be necessary to amend that part of standing order 312 which empowers the Speaker to provide distinguished **strangers** [*emphasis added*] with a seat on the floor of the House. This would enable the President of the Senate to take a seat on the Chamber floor.

Finally in relation to this matter, the Procedure Committee has previously considered the procedures connected with the opening of a Parliament. In 1988 the House amended and then agreed to a motion by former Speaker Scholes that the Opening be carried out in the Members' Hall or its equivalent in the new House. The meeting at which the Queen opened the new building occurred in the Great Hall, without the necessity for special rules.



Appendix C

Statement to the House by the Speaker — Addresses by the President of the United States of America and the President of the People's Republic of China

Excerpt from Hansard, 3 November 2003, pp. 21745-21748.

The SPEAKER (3.24 p.m.) —In view of considerable public comment and media speculation about events surrounding the visits to Parliament House by President George W. Bush and President Hu Jintao on 23 and 24 October 2003, I wish to provide the House with my perspective on these events. The House should be aware that on 8 October 2003 the Prime Minister wrote to me advising of the proposed visits and expressing the government's view:

To continue a fitting and dignified convention for honouring guests of special significance, President Bush and President Hu should be invited to address members of both houses of parliament in a formal session in the House of Representatives chamber.

A similar letter was sent to the President of the Senate. I will deal firstly with the visit of President George W. Bush on 23 October 2003. The House, on 8 October 2003, agreed to a government motion that the House invite President George W. Bush to attend and address the House on 23 October 2003, that it invite the Senate to meet with the House in this chamber for that purpose and that at the meeting of the two houses for this purpose:

- (a) the Speaker shall preside at the meeting;
 - (b) the only proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the United States of America, after which the Speaker shall forthwith adjourn the House and declare the meeting concluded;
- and

(c) the procedures of the House shall apply to the meeting so far as they are applicable ...

The resolution was identical to resolutions of the House in respect of the 1992 visit by President George Bush Sr and the 1996 visit by President Clinton.

The Senate was advised of this resolution by message, which also requested Senate concurrence with its terms and that it take action accordingly. On 9 October 2003 the Senate passed a resolution to the effect that the Senate invite President Bush to address the Senate on 23 October 2003, that the Senate accept the invitation of the House to meet with the House for that purpose and that the Senate 'concur in the provisions of the resolution of the House relating to the conduct of that meeting'. Accordingly, as members will recall, members of the House and Senate assembled in this chamber at 11.15 a.m. on 23 October 2003 and I took the chair in accordance with the resolution agreed by both chambers.

During President Bush's address, as recorded in the proof *Votes and Proceedings*, at 11.30 a.m. Senator Brown was ordered under standing order 304A to withdraw from the House for one hour for continuing to interject. He refused to withdraw and ignored the Serjeant-at-Arms' direction, on my instruction, to leave the chamber. At 11.48 a.m. Senator Nettle was ordered to withdraw for continuing to interject. She also refused to withdraw and ignored the Serjeant-at-Arms' direction. Members may be unaware that at the same time as the senators' disorderly behaviour, a guest in the southern gallery rose and began to interject. He was immediately removed from the gallery under the arrangements I had authorised previously. I was subsequently advised that this person was a guest of one of the Greens.

After President Bush left the chamber, I named both senators for continuing to defy the chair. In accordance with House practice and procedure, which I remind the House both chambers had agreed would apply, the Leader of the House moved for the suspension of the two senators. This question was put and, as recorded in the proof *Votes and Proceedings*, was passed by members and senators present. This is not recorded in the proof *Journals of the Senate* for 23 October 2003. In accordance with House practice, I called the vote on the voices as being in the affirmative. I did not hear any request for a division and at 11.55 a.m. senators Brown and Nettle were suspended for 24 hours under standing order 305. There was no dissent from my ruling.

Later that day I wrote to the President of the Senate confirming the motion endorsed by members and senators present. I advised the President of the provisions of standing order 307, which had the effect of excluding Senator Brown and Senator Nettle from the chamber, all its galleries and any room where the Main Committee was meeting, and that this suspension was for 24 hours from 11.55 a.m. on 23 October 2003. I asked the President to convey this advice to Senators Brown and Nettle, and I table a copy of my letter to the President.

Also on 23 October 2003, the President and I wrote jointly to the Serjeant-at-Arms and the Usher of the Black Rod to confirm the suspension of the senators, to authorise them and officers under their direction to enforce the suspension and to confirm that the senators were not permitted to approach the House of Representatives through the glass link ways and were not permitted to enter the chamber galleries for the period of the suspension. I table a copy of the letter to the Serjeant and the Black Rod by the President and me.

There are two other matters relating to President Bush's visit which I wish to address. Members will be aware that television film coverage of Senators Brown and Nettle in the chamber began appearing nationally and internationally shortly after events in the chamber. This unauthorised footage was taken from the northern gallery by an as yet unidentified US media operator and against my specific and repeated direction that such filming was not

permitted. Investigation of this matter is not yet complete but preliminary assessments indicate that, notwithstanding my repeated refusal of requests from the Americans to permit coverage in addition to the nine parliamentary cameras, a camera was brought into the northern gallery and used. I understand that security attendants who saw the camera made the incorrect assumption that it had been authorised.

The other matter relates to events at the rear of the chamber as President Bush was departing. I did not see these events directly as the House had not yet adjourned. I have seen some film coverage of them and would simply make the observation that in the face of the refusal of Senators Brown and Nettle to obey the chair and their clear intention to approach President Bush with some vigour during his movement from the chamber, certain members, senators and chamber staff attempted to secure a clear route for the President.

I turn now to events surrounding the visit of President Hu Jintao on 24 October 2003. There has been some public commentary on the placement of guests of the Greens party members in the enclosed second floor gallery. The fact of the matter is that, having sole responsibility for the management of the House galleries, I made a deliberate decision on Thursday, 23 October 2003, following the unacceptable behaviour of the Greens senators in the chamber and one of their guests in the gallery that day, to ensure that guests of the Greens were unable to interrupt proceedings during the visit of President Hu. I directed that the Greens guests be seated with other overflow guests from the open galleries in the enclosed galleries. I am advised that guests of members and senators from all sides of politics, including guests of ministers, were also seated in the enclosed galleries as part of the overflow from the open galleries. There were approximately 30 people seated in the enclosed galleries. As a result of administrative confusion and divided responsibilities between the visits task force and House staff, it was regrettable that simultaneous translation facilities were not provided in the enclosed galleries. For this, I apologise.

In the days preceding President Hu's visit, the Chinese ambassador expressed to me on several occasions his concern that people may seek to attend President Hu's address using invitations not issued in their names. He strongly urged me to require photographic identification. I declined to do so on the basis that the requirement for photographic identification was not made known in advance to prospective guests and that to require it without notice may prove difficult for guests, particularly children. I assured the ambassador that I would direct that all possible steps be taken to ensure the integrity of the galleries. To further ease the ambassador's concern, I suggested that I would permit several of his embassy staff to assist House staff in identifying people who may not have been the persons for whom invitations were issued. Photographic identification of people so identified would then be requested. I am advised that this process did not result in the identification of any persons holding incorrect invitations.

It has also been publicly asserted that the Chinese foreign minister asked me to remove guests of members or senators from the open galleries. As I have already advised the House, I had decided the day before that guests of the Greens would be seated in the enclosed galleries to prevent any repetition of the unacceptable behaviour during President Bush's visit to the parliament. The Chinese foreign minister did arrive at the entrance to the House of Representatives wing in advance of President Hu on Friday, 24 October 2003. He spoke with me and the President of the Senate. I assured him that all appropriate steps had been taken to enable President Hu to be received with the dignity and courtesy appropriate to a visiting head of state. President Hu arrived shortly thereafter and, as members will recall, his address to the House took place without incident. As any objective reporter would have noted, the short time lapse between the arrival of the Chinese foreign minister and the

subsequent arrival of the President of China would have made it impossible for people to have been moved into or out of the galleries before President Hu arrived.

Finally, I wish to commend all the parliamentary staff, security personnel and staff of the visits task force for their outstanding contribution in securing the success of the visits by President Bush and President Hu to the parliament. I particularly thank the chamber staff and members of the Parliamentary Security Service. Under unprecedented circumstances and in the face of some difficulties, they executed their duties magnificently.



Appendix D

Details of Senate committee reports on the October joint meetings

Senate Procedure Committee

Joint meetings to receive addresses by foreign heads of state

Reference of Tax Expenditures Statement to estimates hearings

Third report of 2003 – November 2003

http://www.aph.gov.au/Senate/committee/proc_ctte/reports/2003/no3.pdf

Senate Committee of Privileges

Joint meetings of the Senate and the House of

Representatives on 23 and 24 October 2003

118th Report - April 2004

http://www.aph.gov.au/Senate/committee/priv_ctte/report_118/report.pdf