Parliamentary Precincts Bill 1988

Date Introduced: 18 February 1988
House: House of Representatives
Presented by: The Hon. Stewart West, M.P., Minister for Administrative Services

Digest of Bill

Purpose
To provide a legislative definition of the Parliamentary precincts in relation to the new Parliament House.

Background
The definition of the Parliamentary precincts is important for a number of reasons, principally related to the exercise of power by the Presiding Officers and the police. The areas occupied by the present and New Parliament Houses form part of the A.C.T., which is under the control of the Executive government. However, the parliamentary precincts are controlled by the Presiding Officers of Parliament. This occurs through section 49 of the Constitution, which states that the House of Representatives and the Senate will have, until Parliament declares otherwise, the same powers, privileges and immunities as enjoyed by the House of Commons at Federation. Since the seventeenth century, it has been recognised that the House of Commons has control of its precincts. This power exists to allow the Parliament to ensure the effective conduct of its business. The main uses of the power are to prevent misconduct by members and others, to prevent the service of legal documents, to regulate the sale of alcohol (Parliament House is exempted from the A.C.T. liquor laws) and to provide for security arrangements.

The same privileges inherited from the House of Commons act to restrict police powers within the precincts of Parliament. The restrictions are not contained in any document and are guided by general principles. Odgers lists the main principles, which include that police have no power to enter Parliament without the consent of the Speaker or President; once on the premises with consent, police may apprehend people who commit offences within their view, though not in a Chamber without specific permission; in serious emergencies police may act without permission (e.g. a man with a knife was once found in a corridor searching for the Prime Minister); and police are not to enter Parliament to interrogate a person, or execute a warrant, without the consent of the Speaker or President.1
There is also no exact definition of what currently comprises the
Parliamentary precincts. One definition advanced is that it comprises any
area de facto occupied by Members for their Parliamentary duties. It is
genarally considered that the building, front steps, verandahs and the
enclosed gardens form the Parliamentary precincts. It should be noted that
the roads surrounding the building are generally not included in the
precincts. However, it is very likely that obstruction in this area would
amount to a breach of privilege. There have been calls for the
Parliamentary precincts to be defined by legislation. In May 1978, the
Senate Committee on Privileges expressed the view that that there should
be a clear, legislative definition of the boundaries of the Parliamentary
precincts.

With the planned move to the new and permanent Parliament House, the
question of a legislative definition was raised again. Following a report
by the Joint Standing Committee on the New Parliament House in November
1985, a working party was established to recommend the area that is to be
defined as the Parliamentary precincts. This will be the area enclosed by
the wall around Capital Circle.

Main Provisions
Clause 4 contains the general definition of the Parliamentary
precincts. This will be the area enclosed by the top of the retaining wall
around Capital Circle, or where, there is no wall, an arc drawn to join
the walls. The road named Capital Circle is specifically excluded from the
definition, as is the Capital Circle road tunnel. For other land owned or
leased by the Commonwealth, the Presiding Officers may declare that the
property is needed for the purposes of Parliament and if such a
declaration is made, regulations may be made declaring that the property
is part of the precincts (clause 5).

The Parliamentary precincts will be under the control of the Presiding
Officers, subject to any order of either House. In addition, the Presiding
Officers powers in regard to the Executive Wing will be subject to any
conditions agreed between the Presiding Officers and the Minister (clause
6).

Clause 7 will allow the Presiding officers to grant leases within the
precincts as defined in clause 4.

Where, under an order from either House, a person is to arrested or
detained, the Australian Federal Police are to act in accordance with
arrangements agreed between the Presiding Officers and the Minister
responsible for the AFP (clause 8).

Nothing in this Bill is to be taken to reduce the powers, privileges
or immunities of either house (clause 12).

Schedule 1 of the Bill contains a diagram of the Parliamentary
precincts.

Schedule 2 will amend the Parliament Act 1974 to substitute a new
definition of the Parliamentary zone. This will clarify the current
definition. This Schedule also includes a diagram of the area defined.
References


For further information, if required, contact the Law and Government Group.

24 March 1988

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© Commonwealth of Australia 1988

Except to the extent of the uses permitted under the *Copyright Act* 1968, no part of this publication may be reproduced or transmitted in any form or by any means, including information storage and retrieval system, without the prior written consent of the Department of the Parliamentary Library. Reproduction is permitted by Members of the Parliament of the Commonwealth in the course of their official duties.