

Australian House of Representatives—the Office of Clerk

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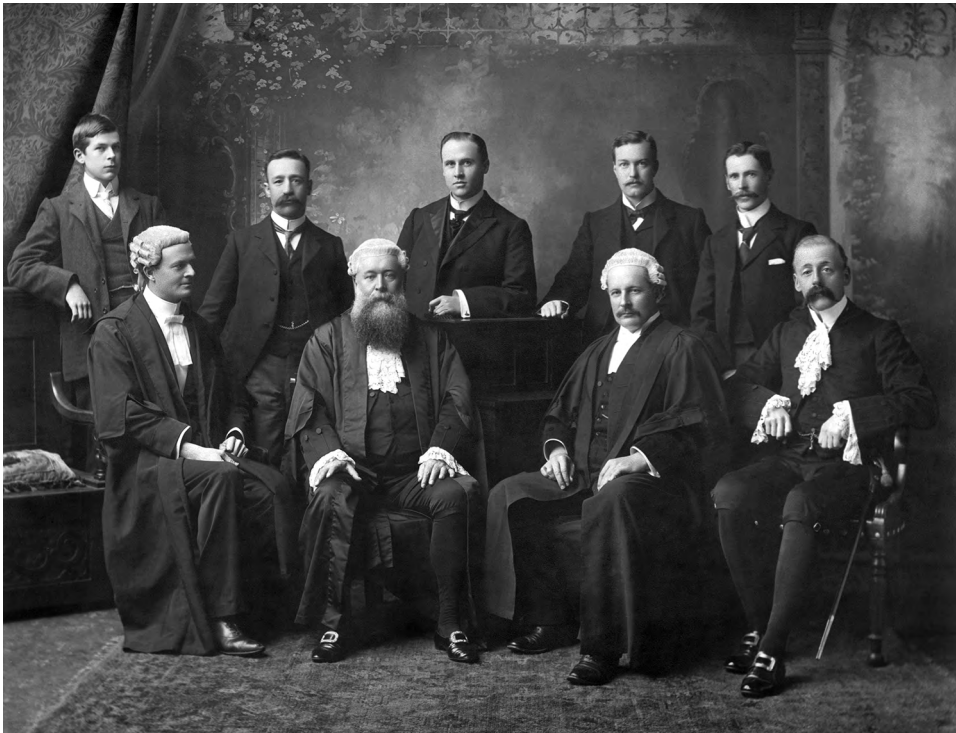


Figure 2: Officers of the House of Representatives, first parliament, 1901.

Front row, from left: Walter Augustus Gale (Second Clerk Assistant); Sir George Henry Jenkins (Clerk of the House); Charles Broughton Boydell (Clerk Assistant); Thomas Woollard (Serjeant-at-Arms and Clerk of Committees); back row, from left: Harold Anderson Ross Berry (Junior Clerk); Edward Theodor Huber (Clerk of the Records); Francis Laurence Clapin (Clerk of Papers and Accountant); John Robert McGregor (Reading Clerk and Assistant Clerk of Committees); Ernest William Parkes (Assistant Reading Clerk). Gale, McGregor, and Parkes each later became Clerk of the House.

Source: Courtesy of the National Archives of Australia. NAA: A8465, 1 4025026.

Introduction

At the right-hand side of a table just in front of the Speaker's chair in the chamber of the House of Representatives sits a figure in a black gown, who has variously been described as 'guide', 'counsellor', 'true and faithful servant of the House', 'guardian of the procedural equity that is the touchstone of any real parliamentary assembly' and, both poetically and rather mischievously, a 'wise old owl' (H.R. Deb. 28.9.1927, 23; H.R. Deb. 28.9.1927, 24; H.R. Deb. 6.5.1982, 2342; O'Keeffe 1990, 54; Menzies 2012, 3). This is the Clerk of the House.

Australia's system of government draws many of its structures and traditions from the United Kingdom, including the appointment of a Clerk to serve each house of the parliament. The Clerk has many responsibilities: from keeper of the House's formal records to its principal adviser on parliamentary law, practice, and procedure, from certifier of documents to chief executive of the department which supports the House, the Department of the House of Representatives. It is a remit which has expanded significantly since the first Clerk was appointed to the British House of Commons in the fourteenth century.

On 9 May 1901, the acting Clerk of the Australian House of Representatives read the proclamation and announced that he had received from the secretary to the prime minister a letter forwarding the Writs of Election to serve in the House of Representatives of the Commonwealth of Australia. Members then attended the Senate chamber, and His Royal Highness the Duke of Cornwall and York declared Australia's first parliament open. Since then, the Clerk has been a constant presence in the House each sitting day.

Appointment of the Clerk of the House

Since the first sitting of the Commonwealth parliament, there have been forty-seven parliaments, thirty-one prime ministers and twenty-seven governors-general—and only seventeen Clerks. Clerks are in effect the institutional memory of the House.

The longest-serving Clerk, Frank Green CBE, served for more than 18 years. The shortest-serving Clerk was John McGregor, who sadly died in office in 1927 on his first sitting day as Clerk, having just succeeded Walter Gale CMG, who had died in office only two months before that. (A full list of the Clerks is below.)

The Clerk, as an impartial servant of the House, is appointed by the Speaker after the Speaker has consulted members of the House about the proposed appointment. In practice, party leaders are consulted. Without exception, a person who is appointed as Clerk has been in the service of the House and has served at the table

as principal adviser on parliamentary procedure for a long period. A person cannot be appointed as the Clerk of the House of Representatives unless the Speaker making the appointment is satisfied that the person has extensive knowledge of, and experience in, relevant parliamentary law, procedure, and practice. Since 1999, this requirement has been enshrined in the Parliamentary Service Act 1999, under which the Clerk is appointed. The same Act preserves the independence of the Clerk in giving advice and also limits a Clerk's term of office to ten years.

At first, Clerks of the House of Representatives assumed their role having gained the extensive parliamentary experience required through working in the colonial and state parliaments. Indeed, George Jenkins CMG, who acted as the Clerk during the opening of the Commonwealth parliament, resigned a mere two months later to resume his office of Clerk of the Parliaments of Victoria (Elder 2018, 807). His successor, Charles Gavan Duffy (Clerk from 1901 to 1917), had also previously served in the Victorian state parliamentary arena (S. Deb. 27.8.1920, 3931). Walter Gale (Clerk from 1917 to 1927) had been Clerk and Librarian of the Western Australian Legislative Assembly, while his all-too-brief successor, John McGregor, had begun his career in the New South Wales parliament. Ernest Parkes (Clerk from 1927 to 1937), who became Clerk after Mr McGregor's sudden death in office, had also transferred from the Victorian parliament when the Commonwealth parliament was established (H.R. Deb. 17.6.1937, 22). Frank Green (Clerk from 1937 to 1955) transferred from the Tasmanian House of Assembly in 1921 (H.R. Deb. 10.6.1955, 1669).

More recent Clerks of the House have gained their experience through long careers in the federal parliament. For example, Norman Parkes (Clerk from 1971 to 1976), the son of Ernest Parkes, began working in the parliament as an accountant in the Parliamentary Reporting Staff in 1934, before moving to the House in 1937. He subsequently worked in every section of the department before becoming Clerk in 1971 (H.R. Deb. 9.12.1976, 3579).

All the Clerks have brought a wealth of House experience to the role, sometimes gained through what one Speaker referred to as a 'long and arduous apprenticeship' (H.R. Deb. 14.3.1991, 2041). Most recent Clerks—Allan Tregear, Alan Turner, Norman Parkes, Doug Blake, Alan Browning, Lyn Barlin, Bernard Wright, David Elder—had all worked for the House for at least thirty years before becoming Clerk. (Claressa Surtees, who became the Clerk in 2019, with twenty-six years of prior service, and Ian Harris, Clerk from 1997 to 2009, with twenty-five years of prior service, were not far behind.) Of note is Jack Pettifer, who became the Clerk in 1977. He served the House continuously in various roles from April 1939 to his retirement in July 1982, save for an interruption for war service, but his association with Parliament House was even longer than that. His father had been housekeeper when the parliament moved to Canberra and the family had lived in a flat within the precincts (H.R. Deb. 6.5.1982, 2341).

The Clerk's procedural roles

The first record of an appointment of an official to attend parliament in a clerical capacity in the United Kingdom dates from 1315 (Harris 2002, 2), while the House of Commons acquired its own Clerk in about 1363 (Ryle 1981, 501). Clerks—who could both read and write, which many members could not—kept a record of decisions and proceedings and informed members of what was going on. Over the centuries, they recorded the progress of bills and noted resolutions.

In the sixteenth century the Clerks began to undertake a wider range of functions. In the first half of that century, the Clerk's journal acquired statutory recognition as the official record of the House of Commons (Thrush and Ferris 2010). At first mainly a record of motions and bills, it was later expanded to include such things as the election of the Speaker, records of attendance, divisions, and decisions on matters of privilege (Elder 2018, 209). The Clerk also performed several other functions, the most important of which was to look up precedents from the books in his keeping (Thrush and Ferris 2010). Today the responsibility for recording all proceedings and decisions of the House of Representatives is vested formally in the Clerk, who records them in the official record, the *Votes and Proceedings*.

The operation of the House is governed by rules and conventions which provide the procedural authority exercised by the Speaker. The three main sources of procedural authority are the Constitution, the standing orders, and traditional practice. In many ways the provisions of the Constitution and the standing orders reflect traditional parliamentary practice which applied in the House of Commons in the years before Federation, and which was also followed in various ways in parliaments in the Australian colonies prior to Federation (Elder 2018, 190).

The Clerk plays a key role in advising the Speaker and members on these rules and conventions. To do this, the Clerk must have extensive knowledge and experience in the interpretation of the standing orders, in parliamentary practice and precedent, and in the requirements of the Constitution which affect the role of the House and its relationship with the Senate and the Crown. He or she is also required to be informed on the law and practice of other parliaments and in particular that of the United Kingdom House of Commons.

While sitting at the table, the Clerk may be called upon to give immediate advice to the chair or other members when a procedural or technical matter arises. Therefore the Clerk must always keep an ear to the debate (Elder 2018, 211). One member of the Speaker's panel once noted in the chamber 'how much it means to me that ... when we sit in the chair ... we can press a little button which shows a green light ... and we can get the advice we require' (H.R. Deb. 6.5.1982, 2345).

The Clerk's advice is offered not only to the chair but also to governments, oppositions, individual members of the House, and House and joint committees. Advice is given to members on the range of aspects of the role of a member, including their participation in proceedings. The Clerk serves the House above all else and must maintain complete impartiality in dealing with all members of the House.

In the early years of the parliament, when the House relied heavily on House of Commons practice, Erskine May's *Parliamentary Practice* was the standard reference text on the law, privileges, and proceedings of parliament used when the orders and practice of the House were silent. The House gradually developed its own body of practice, procedure, and precedent, and in 1975 the Standing Orders Committee recognised the need for the House to have its own equivalent of Erskine May's text (Pettiifer 1981, vii). The Clerk accordingly became the editor of *House of Representatives Practice*, the first edition of which was published in 1981. The Procedure Section (later becoming the Procedure Office) of the department was established to prepare the text. Now in its seventh edition, *House of Representatives Practice* is relied on by all those who participate in or follow the work of the House as the authoritative source on the practice of the House (Elder 2018, v).

While the principal role of the Clerk is to provide procedural advice to the Speaker and members, the Clerk plays other important roles in the chamber. The Clerk is the only non-member to have a speaking role in the proceedings of the House. In addition to announcing or 'calling on' items of business, the Clerk also 'reads' bills at each stage of their progress through the House—that is, when the bill is introduced (first reading) or when the House orders that the bill be read a second or third time. At each stage the Clerk in fact reads out only the long title of the bill. This procedure also has its origins in Britain, where, before printing and widespread literacy, the complete text of proposed laws had to be read out to the members, as many times as required.

Another of the Clerk's responsibilities is carried out when the House proceeds to elect a new Speaker. The Clerk assumes the role of Chair of the House, calling on the proposer and seconder and putting such questions as are necessary until the Speaker's chair is filled.

The Clerk also performs essential functions in the legislative process. As each bill is passed by the House, before it is sent or returned to the Senate the Clerk must certify on the bill that it has passed the House. Whenever the House deals with Senate amendments to a bill or disposes of a bill, the Clerk is also required to certify the action taken by the House. The Clerk must also certify bills which originated in the House and have been passed by both houses, before they can be forwarded to the governor-general for assent.

'ORDER, ORDER!'

Another of the Clerk's roles in the House is to activate the bells which, along with the associated flashing green lights in all rooms and lobbies of the building, summon members to the chamber. The Clerk causes the bells to ring before the commencement of each sitting or the resumption of a sitting after a suspension. Before any division or ballot is taken, the Clerk rings the bells for the period specified by the standing orders, as indicated by the sandglasses kept on the table for that purpose. The bells are also rung to summon members to the chamber to establish a quorum.

The standing orders set out other responsibilities for the Clerk, including the safe keeping of all records and documents of the House, the arrangements for bills, production of the Notice Paper, and the signing of motions of thanks, orders of the House, and addresses agreed to by the House.

The Clerk outside the chamber

The Clerk is also the chief executive of the Department of the House of Representatives. Today, this is a department of some 185 employees. The first Commonwealth parliament, which had only thirty-six senators and seventy-five members, was supported by a total of fifty-three officials (Reid and Forrest 1989, 398).

Since 1999, the Department of the House of Representatives has operated under the Parliamentary Service Act 1999. This Act provides for a non-partisan parliamentary service, comprised of the Department of the House of Representatives together with three other parliamentary departments: the Department of the Senate, the Department of Parliamentary Services, and the Parliamentary Budget Office.

The department supports the House, its members and committees, and some joint committees. In addition to this direct support for the House, the department seeks to increase awareness and understanding of the work of the House and helps the House and the parliament maintain institutional relationships with their state, territory, and international counterparts.

The Clerk is supported by the Deputy Clerk, the Serjeant-at-Arms and three Clerks Assistant, who oversee the work of particular areas of the department.

Changes that affect the parliament affect the department by extension, and Clerks have played considerable roles in leading and managing change. Significant transitions in recent decades include the introduction of information technology, which has had a substantial impact on the way that parliamentarians and parliamentary staff work, and the construction of a 'new' Parliament House in 1988. During the design phase for the new building, the Clerk, along with the other heads of the parliamentary departments, prepared detailed submissions on the future requirements for accommodation to be occupied by the House of Representatives (Joint Select

Committee on the New and Permanent Parliament House 1970, 13). In 1988, the then Clerk, Alan Browning, oversaw House aspects of the move to the new building, which involved a total of 370 people, including members, members' staff and departmental staff, and carriage of approximately 900 cubic metres of material (Department of the House of Representatives 1988, 3).

However, the Clerk's focus is not only domestic. By agreement between the departments of the House of Representatives and the Senate, the House of Representatives administers the International and Parliamentary Relations Office which serves both houses (Wright 2015, 29). The Clerk keeps abreast of international parliamentary best practice and shares the House's experiences. For example, the Clerk and a number of senior departmental staff are members of the Australia and New Zealand Association of Clerks-at-the-Table (ANZACATT) and the Association of Secretaries General of Parliaments, a consultative body of the Inter-Parliamentary Union, the association of national parliaments. Many Clerks have also been honorary or branch secretaries to the Australian branch of the Commonwealth Parliamentary Association.

The Clerk is also involved in supporting parliaments of other nations to build their institutional capacity. Some of this is done directly. For example, in recent years Clerks have delivered workshops and training to parliamentarians and parliamentary staff in countries ranging from Myanmar to Tonga (see Department of the House of Representatives 2018, 57; 2009, 40). As the first president of the Association of Secretaries General of Parliaments to come from the southern hemisphere, Mr Harris helped to support the establishment of parliaments in East Timor, Cambodia, and Laos (H.R. Deb. 26.11.2009, 13090). The Clerk, in overseeing the work of the International and Parliamentary Relations Office, supports the ongoing development of parliamentary democracy through a range of programs for parliamentarians and parliamentary staff. This includes study visits, broader parliamentary strengthening projects, and seminars and workshops. Many of these programs are delivered in partnership with international parliamentary associations, such as the Inter-Parliamentary Union, and other international bodies, such as the United Nations Development Programme.

Conclusion

By the time the first Commonwealth parliament opened in 1901, the role of the Clerk had already evolved from its beginnings as a scribe and reader for the English parliament. Since Federation, the role of Clerk in the House of Representatives has developed further still. The Clerk is now not only a procedural expert and keeper of records but adviser, capacity builder, and leader of a team of professional staff all working in the service of the House and the parliament. The Clerk is a steward of

‘ORDER, ORDER!’

the parliamentary institutions, maintaining knowledge and records about decisions and processes so they are available to the House long after individual members have departed.

Both the membership and the workload of the House have increased significantly over the years—for example, through the expansion of the committee system and the introduction of a parallel chamber, the Federation Chamber, to allow two streams of business to be debated concurrently (Elder 2018, 781). This has come with increased responsibilities for the Clerk. But it is not only the size of the House and the number of staff supporting it that have changed. The focus on high standards of stewardship and accountability across all public sector agencies, as set out in the Public Governance and Accountability Act 2013 (and previously in the Financial Management and Accountability Act 1997), has brought with it increased and more diverse formal responsibilities for the Clerk.

The role of today’s Clerk has expanded well beyond anything that a Clerk of the House a century ago could have imagined. While the Clerk continues to be the chief adviser to the Speaker and members on matters of parliamentary practice and procedure, the Clerk’s role now encompasses all of the duties that would be expected of the chief executive of any professional organisation. Underpinning this evolving role, throughout the House’s history the Clerk’s focus has remained on, as one parliamentarian put it, ‘pursuing the dignity of the House and the consistency of the rules’ (H.R. Deb. 1.8.2019, 1846).

Note: The following standing orders (as at 2 August 2022) refer to specific duties of the Clerk—4, 8, 10, 18, 19, 21, 22, 25, 27, 28, 50A, 102, 105, 106, 108, 110, 129, 135, 137, 156, 157, 164, 167, 171, 175, 176, 199, 200, and 254.

Clerks of the House

Name	Period of office
JENKINS, George Henry, CMG (acting*) (Sir George after retirement)	1.5.1901 to 6.7.1901
DUFFY, Charles Gavan, CMG	8.7.1901 to 31.1.1917
GALE, Walter Augustus, CMG	1.2.1917 to 27.7.1927
McGREGOR, John Robert	1.9.1927 to 28.9.1927
PARKES, Ernest William, CMG	27.10.1927 to 22.3.1937
GREEN, Frank Clifton, MC (CBE after retirement)	23.3.1937 to 25.6.1955
TREGGAR, Albert Allan (CBE after retirement)	27.6.1955 to 31.12.1958
TURNER, Alan George, CBE (Sir Alan after retirement)	1.1.1959 to 10.12.1971
PARKES, Norman James, CBE	11.12.1971 to 31.12.1976
PETTIFER, John Athol, CBE	1.1.1977 to 15.7.1982
BLAKE, Douglas Maurice, VRD (AM after retirement)	16.7.1982 to 30.7.1985
BROWNING, Alan Robert	31.7.1985 to 22.3.1991

Name	Period of office
BARLIN, Lyndal McAlpin, AM	23.3.1991 to 26.7.1997
HARRIS, Ian Charles, AO	27.7.1997 to 4.12.2009
WRIGHT, Bernard Clive (AO after retirement)	5.12.2009 to 31.12.2013
ELDER, David Russell	1.1.2014 to 11.8.2019
SURTEES, Claressa Anne	12.8.2019 –

Source: Based on Elder 2018, Appendix 3.

* Mr Jenkins was never formally appointed Clerk of the House, was paid no salary during his term as acting Clerk, and resigned to resume his office of Clerk of the Parliaments of Victoria.

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'ORDER, ORDER!'

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