
The Parliament of the Commonwealth of Australia

**Report concerning an application
from Ms Margaret Swieringa for
the publication of a response to
a reference made in the House of
Representatives**

House of Representatives
Standing Committee of Privileges

August 2001
Canberra



Membership of the Committee

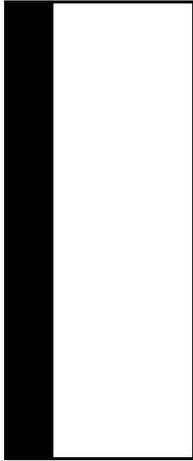
Chair Hon A M Somlyay MP

Deputy Chair Mr R W Sawford MP

Members Mr K J Andrews MP
 Ms J I Bishop MP¹
 Mr M Danby MP
 Hon D F Jull MP
 Mr R B McClelland MP²
 Hon L B McLeay MP
 Mrs M A May MP
 Mr P C Neville MP
 Mr R C G Sercombe MP

1 Nominee of the Leader of the House

2 Nominee of the Deputy Leader of the Opposition



1. Ms Margaret Swieringa of Canberra has made an application, under the procedure adopted by the House on 27 August 1997, for the publication of a response to references made in the House on 7 June 2001.
2. In considering Ms Swieringa's submission, the Committee has had regard to the terms of the House's resolution (copy of resolution at Appendix A) and the guidelines which the Committee has developed under paragraph 9 of the resolution (copy of guidelines at Appendix B).
3. The references to which Ms Swieringa has made application were made by the Chair of this Committee in reporting to the House on the Committee's findings in its inquiry into the alleged unauthorised disclosure of in camera evidence to the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Joint Committee). Ms Swieringa is secretary to the Joint Committee.
4. Paragraph 7 of the Committee's guidelines states:

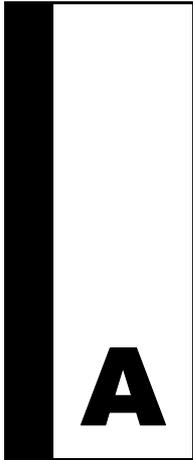
(7) applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee – such persons should contact the committee direct on the matter.
5. This guideline was developed to ensure that, where there are references to individuals in committee proceedings, those matters are referred back to the committee concerned. In this case, the references to which Ms Swieringa has made application are the reporting by the Chair to the House of the findings of this Committee in its report on the inquiry into the alleged disclosure of in camera evidence. To permit Rights of Reply in such cases effectively would be to allow responses to committee reports by means of this procedure. The Committee considers such responses are not within the intention of the Right of Reply procedure and could lead to similar attempts to respond to the

findings of committee reports by such means. A response to a committee report should be taken up with the committee concerned and not be tabled in the House using the Right of Reply procedure.

6. In reaching the conclusion in this case, the Committee notes that it does not see all references made in the House to committee proceedings excluded from the Right of Reply procedure, and this is not the intention of paragraph 7 of the guidelines. Each case involving references in the House arising from committee proceedings would have to be judged on its own circumstances.
7. The Committee recommends that no further action be taken by the House or the Committee on the submission.

HON A M SOMLYAY MP
Chair

August 2001



Appendix A

Right of Reply of persons referred to in the House

Resolution adopted 27 August 1997

That:

(1) Where a person who has been referred to by name, or in such a way as to be readily identified, in the House, makes a submission in writing to the Speaker:

(a) claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person; and

(b) requesting that the person be able to incorporate an appropriate response in the parliamentary record;

and if the Speaker is satisfied:

(c) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Committee of Privileges; and

(d) that it is practicable for the Committee of Privileges to consider the submission under this resolution,

the Speaker shall refer the submission to that Committee.

(2) The Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the

submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the House.

(3) If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the House to that person.

(4) In considering a submission under this resolution, the Committee shall meet in private session.

(5) The Committee shall not publish a submission referred to it under this resolution or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the House.

(6) In considering a submission under this resolution and reporting to the House the Committee shall not consider or judge the truth of any statements made in the House or of the submission.

(7) In its report to the House on a submission under this resolution, the Committee may make either of the following recommendations:

(a) that no further action be taken by the House or by the Committee in relation to the submission; or

(b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person and the Committee, be published by the House or incorporated in *Hansard*,

and shall not make any other recommendations.

(8) A document presented to the House under paragraph (5) or (7):

(a) in the case of a response by a person who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and

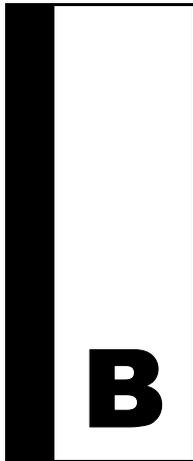
(b) shall not contain any matter the publication of which would have the effect of:

(i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy, in the manner referred to in paragraph (1); or

(ii) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.

(9) The Committee may agree to guidelines and procedures, not inconsistent with this resolution, to apply to the consideration by it of submissions.

(10) This resolution shall continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.



Appendix B

Protection of persons referred to in the House

**Guidelines made under clause 9 of the resolution of the House of 27 August 1997
Supplementary to the provisions of the resolution of the
27 August 1999**

The Committee of Privileges will consider each application for the publication of a response on its merits, but proposes that the following guidelines apply to the procedure:

- (1) an application must be received within 3 months of the making of the statement to which the person wishes to respond unless, because of exceptional circumstances, the committee agrees to consider an application received later;
- (2) applications should only be considered from natural persons, they should not be considered if lodged by or on behalf of corporations, businesses, firms, organisations or institutions;
- (3) applications should only be considered from persons who are Australian citizens or residents;
- (4) an application must demonstrate that a person, who is named, or readily identified, has been subject to clear, direct and personal attack or criticism;

- (5) applications must be concise, must be confined to showing the statement complained of and the person's response and must not contain any offensive material;
- (6) applications concerning statements made in the Main Committee may be considered;
- (7) applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee – such persons should contact the committee direct on the matter; and
- (8) in considering applications, the committee will have regard to the existence of other remedies that may be available to a person referred to in the House – for example, a Member of any Parliament in Australia would be considered to have a forum within which he or she could respond to remarks; media personnel similarly have means by which to make a response to any remarks about them.