

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF PRIVILEGES

**POSSIBLE IMPROPER INTERFERENCE WITH A WITNESS BEFORE
SELECT COMMITTEE ON UNRESOLVED WHISTLEBLOWER CASES**

58TH REPORT

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The Senate
Parliament House
CANBERRA ACT 2600

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POSSIBLE IMPROPER INTERFERENCE WITH A WITNESS BEFORE SELECT COMMITTEE ON UNRESOLVED WHISTLEBLOWER CASES

Introduction

1. On 30 June 1995, the following matter was referred to the Committee of Privileges:

Having regard to the report of the Select Committee on Unresolved Whistleblower Cases on the alleged intimidation of a witness, whether there was any improper interference with a person who provided evidence to that committee on account of that evidence, and, if so, whether any contempt was committed by that improper interference.

Background

2. This matter was referred following the adoption of a recommendation contained in a report of the Select Committee on Unresolved Whistleblower Cases. The report stated that Mr Peter Jesser, a senior lecturer in the Faculty of Business at the University of Southern Queensland in Toowoomba, alleged, in oral evidence before the select committee on 16 March 1995, that, at a departmental meeting on 10 March 1995, Professor Craig Littler questioned Mr Jesser's right to make allegations or statements to outside bodies.

3. The report further stated that Mr Jesser made a formal complaint of intimidation in a supplementary submission dated 6 April 1995, and drew attention to the following matters raised in Mr Jesser's submission:

I regarded the remarks [by Professor Littler at the departmental meeting of 10 March 1995] as intimidation to the extent that Littler (the senior person present) stated in front of my colleagues that he did not accept my right to make such a submission, that it amounted to an attack upon the department, and that my colleagues should all get involved in defending the department (which, in the context of his remarks, could only mean isolating or opposing me) [paragraph 23].

and

Littler threatened to sue if I raised the matter with any external agency [paragraph 24].

4. The President agreed that precedence should be given to a motion to refer the matter to the Committee of Privileges, and the matter was duly referred on the last day of the Budget sittings in 1995.

Conduct of Inquiry

5. The Committee of Privileges first met to consider the matter in August 1995. As is customary, the Committee wrote to both Mr Jesser as the complainant, and to Professor Littler, who was named in the select committee's report as the primary subject of the complaint. The Committee also wrote to the chair of the select committee, Senator Shayne Murphy,

seeking documentation, mentioned in the select committee's report, which had not been published by that committee.

6. Professor Littler responded seeking information about what was required by the Committee, and also seeking a formal hearing. Mr Jesser responded with a substantial submission which the Committee has decided to include as an appendix to this report. All attachments other than attachment A are not, however, included, as their relevance to the terms of reference of the Committee is not obvious. All other relevant documents have now been published by the select committee.

Comment

7. In brief, Mr Jesser has made several complaints which deal with long-standing difficulties within the Faculty of Business and which are more appropriately the subject of the Unresolved Whistleblower Cases Committee inquiry. So far as the Committee of Privileges is concerned, it is required to deal solely with the question whether Mr Jesser was intimidated, and whether reprisals were taken against him, on account of his giving evidence to the Senate Select Committee on Unresolved Whistleblower Cases. Mr Jesser's allegations of intimidation and reprisal relate, as he states in his submission to this Committee, to 'statements made at a departmental meeting at the University of Southern Queensland (USQ) on 10 March 1995 and action taken against me following that meeting'. Mr Jesser has provided the Committee with what he claims to be a transcript of discussion of a certain part of that meeting. The Committee of Privileges has not attempted to authenticate the transcript, which was apparently taken from a tape recording made by Mr Jesser without the knowledge of other persons attending the meeting. Other documents made available to the Committee of Privileges by the Select Committee on Unresolved Whistleblower Cases appear to confirm its accuracy. It is this transcript which is included as attachment A to his submission.
8. The transcript supplied by Mr Jesser in support of his claim of reprisal and intimidation was carefully, if reluctantly, examined by the Committee of Privileges, which did not welcome examination of material based on a surreptitiously-obtained record of discussions. The Committee noted, however, that the transcript had been published by the select committee and was regarded by Mr Jesser as integral to his case. The Committee has concluded that the transcript does not provide evidence to support Mr Jesser's claim of intimidation on account of his giving evidence to the Senate Select Committee on Unresolved Whistleblower Cases. Similarly, other matters raised in Mr Jesser's submission do not appear to the Committee of Privileges to represent reprisal and intimidation on account of his giving evidence to the select committee. The Committee emphasises that in matters of this nature it is not required to make a finding as to whether any intimidation or reprisal occurred, but whether any such intimidation or reprisal occurred on account of evidence before a Senate committee. In the light of its conclusion, the Committee has not found it necessary to pursue the matter further by seeking information from other persons.

9. The Committee is concerned that several adverse comments have been made by Mr Jesser against persons at the University of Southern Queensland. It has also noted requests from Professor Littler, in letters to both the Committee of Privileges and the Select Committee on Unresolved Whistleblower Cases, to give oral evidence before each committee. The Committee of Privileges has given careful consideration to these requests in respect of the matter referred to it. In view of the Committee's conclusion that Mr Jesser's complaint should not be pursued any further; the publication by the select committee of the comprehensive submissions made by the University of Southern Queensland and by the department in which Mr Jesser is a senior lecturer; and the undue stress which might be caused to persons if this report were to be delayed, it has decided that no useful purpose would be served by itself seeking responses under paragraph 1(13) of the Privilege Resolutions of 25 February 1988 from persons mentioned adversely by Mr Jesser, or by taking oral evidence. If, however, any such persons wish to respond to the matters he raises, the Committee of Privileges will give consideration to publishing any written submissions.

Finding

10. The Committee of Privileges has determined that no contempt of the Senate has been committed in respect of the matter referred to it on 30 June 1995.

**Senator Baden Teague
Chairman**

