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1. Report upon Articles in the Sunday Australian and the Sunday Review of 2 May 1971

(PP No. 163/1971)

Reference: Motion moved by Chairman of Select Committee on Drug Trafficking and Drug Abuse (Senator Marriott) and agreed to 4/5/71 (J.555).

Action: Report tabled and adopted 13/5/71 (J.605-6); persons attended and reprimanded 14/5/71 (J.612).

Persons/organisations involved: Mr J.R. Walsh; Mr H.B. Rothwell; the *Sunday Review*; the *Sunday Australian*; Select Committee on Drug Trafficking.

Resumé: On 2 May 1971, articles dealing with the proposed report of the Select Committee on Drug Trafficking and Drug Abuse appeared in the *Sunday Review* and the *Sunday Australian*. The Committee held six meetings and heard evidence from Senator Marriott and the two editors but did not consider itself entitled to inquire into the source of the information they published.

Findings: That publication prior to presentation to the Senate of the contents of a report constituted a breach of the privileges of the Senate; that the editor and publisher of each newspaper were responsible and culpable for the breach of privilege; that the Senate has the power to commit to prison, to fine, to reprimand or admonish or otherwise withdraw facilities held in and around its precincts; and that any such breach of privilege should in future be met with a heavier penalty.

Recommendation: That Messrs Walsh and Rothwell be required to attend before the Senate to be reprimanded by the Presiding Officer.

2. Report on Matters referred by Senate Resolution of 17 July 1975 [Executive Government Claim of Privilege] (PP No. 215/1975)

Reference: Motion moved by Leader of the Opposition in the Senate (Senator Withers); amendment moved by Leader of the Government in the Senate (Senator Wriedt); amendment negatived; motion agreed to 17/7/75 (J.836).

Action: Report tabled 7/10/75 (J.936); motion for adoption of dissenting report debated 17/2/77 (J.571).

Persons/organisations involved: Senator Wriedt; Senator Withers; the Prime Minister; the Treasurer; the Attorney-General; the Minister for Minerals and Energy.

Resumé: The Committee considered the directions dated 15 July 1975 of the Prime Minister, the Treasurer, the Attorney-General and the Minister for Minerals and Energy that public servants called to the Bar of the Senate to answer questions and produce documents on the 'loans affair' claim privilege. The claim of privilege was asserted in the public interest, on the basis that officers do not decide, and are not responsible for, Government policy or action.

Findings: The majority report found that no breach of privilege was involved; the dissenting report found that the claims of executive privilege were misconceived but that no action should be taken by the Senate.

3. Report on the Appropriate Means of Ensuring the Security of Parliament House

(PP No. 22/1978)

Reference: Motion moved by Senator Button; amendment moved by Senator Chaney agreed to; motion as amended agreed to 4/4/78 (J.88-9).

Action: Public hearings 12/4/78, 2/5/78; report tabled 30/5/78 (J.207); noted 17/8/78 (J.310).

Persons/organisations involved: Clerk and Deputy Clerk of the Senate; Usher of the Black Rod; Clerk of the House of Representatives; Serjeant-at-Arms; Commonwealth and ACT Police Forces; Director, Protective Services Co-ordination Centre,

Department of Administrative Services; Interim Security Co-ordinator, Parliament House.

Resumé: After considering the evidence, the Committee concluded that there was a need for protective services.

Recommendations: Resolutions should be passed by both Houses to establish the police authority for Parliament's protection; external and internal policing of Parliament should be within the jurisdiction of one force; a position of security coordinator, directly responsible to the Presiding Officers, should be permanently created; methods of identification of members and visitors should be instituted; an effective protection system is necessary for Parliament House; details of the agreed system should be incorporated in standing orders.

4. Quotation of Unparliamentary Language in Debate (PP No. 214/1979)

Reference: Motion moved by Senator Georges and agreed to 29/5/79 (J.748).

Action: Report tabled and adopted 20/9/79 (J.936).

Persons/organisations involved: Senator McLaren; Senator Georges.

Resumé: During debate on Appropriation Bill (No. 3) 1979, Senator McLaren quoted from the *Illawarra Mercury* words which the Acting Deputy-President ruled to be unparliamentary. Senator Georges moved a motion for dissent from the ruling. It was defeated. Thereupon Senator Georges raised the matter as one of privilege, on the basis that Senator McLaren was restricted in what he could say within the chamber, although the same words could be used outside. The Committee concluded that the question was not one for the Privileges Committee, but rather for the Standing Orders Committee to consider.

Finding: Question not a matter of privilege.

Recommendation: Matter should be referred to Standing Orders Committee.

5. Fifth Report - Imprisonment of a Senator (PP No. 273/1979)

Reference: Motion moved by Senator Georges and agreed to 30/8/79 (J.901-2).

Action: Report tabled 25/10/79 (J.1000); resolutions agreed to 26/2/80 (J.1153).

Persons/organisations involved: Senator Georges; Brisbane Magistrates' Court.

Resumé: On 27 July 1979, Senator Georges was charged in the Brisbane Magistrates' Court with committing two offences, relating to taking part in an unauthorised public protest. He pleaded guilty and was fined \$25 on each count, but did not pay the fines and was arrested and imprisoned on 15 August 1979. He was released on 16 August, after the fines were paid. The Committee considered the privilege of freedom from arrest as such, before turning to the specific matter of the failure of the appropriate authority in Queensland to advise the President of the Senate of the arrest and imprisonment of Senator Georges. The Committee concluded that it would be premature for the Senate to treat this failure as a contempt. The Committee further concluded that the imprisonment of Senator Georges was for a quasi-criminal matter and not one which would attract the privilege of freedom from arrest.

Finding: That the imprisonment of Senator Georges did not attract the privilege of freedom from arrest.

Recommendation: That the Senate agree to resolutions that it is the right of the Senate to receive notification of the detention of its members, and that courts (or the Governor-General, in the case of a court martial) ought to notify the President of the Senate of the fact and cause of the senator's being placed in custody; if the resolutions are agreed to, that the Commonwealth and State Presiding Officers and Attorneys-General confer upon action to be taken to ensure compliance.

6. Sixth Report [Harassment of a Senator] (PP No. 137/1981)

Reference: Motion moved by Senator Harradine and agreed to 26/5/81 (J.271-2).

Action: Report tabled 11/6/81 (J.388); adopted 22/10/81 (J.591).

Persons/organisations involved: Senator Brian Harradine; Ms Harriet Swift.

Resumé: The Committee heard evidence that, early in the morning of 8 and 10 April 1981, Senator Harradine received a number of offensive phone calls at his office in Parliament House. Telecom traced the later calls to a telephone held in the name of Ms Harriet Swift. In evidence to the Committee, Ms Swift indicated that there had been a party on her premises on the night of 9 April, which continued into the early hours of 10 April. A number of people, including herself, had become intoxicated and could have made abusive phone calls. She was unable to remember who had made any such call.

Finding: Contempt found, but no action by the Senate recommended, other than the adoption of the report.

7. First Report October 1984 (7th Report of the Series) [Unauthorised Publication of Committee Evidence taken in camera] (PP No. 298/1984)

Reference: Motion moved by Chairman of Select Committee on the Conduct of a Judge (Senator Tate) and agreed to 14/6/84 (J.992); on 22 August 1984 the Senate agreed to a motion of the Chairman of the Committee of Privileges to extend the reference (J.1029).

Action: Public hearings 12, 26 September 1984; report tabled 17/10/84 (J.1243); adopted 24/10/84 (J.1295).

Persons/organisations involved: Mr Brian Toohey; Ms Wendy Bacon; the *National Times*; John Fairfax and Sons Ltd; members and staff of the Select Committee on the Conduct of a Judge.

Resumé: In the *National Times* of 8-14 June 1984, an article purported to report evidence given in camera before the Select Committee on the Conduct of a Judge. Following the referral of the matter to the Committee of Privileges, three further articles in the same vein were published, which were also referred to the committee. The committee sought submissions and heard evidence from relevant persons and legal counsel, including the chairman of the select committee who indicated that the publication could impede the work of that committee, as well as that of other Senate committees. It was unable to discover, however, whether the disclosure was deliberate or inadvertent. It also noted that Mr Toohey defended the publication on the grounds of the public interest, and that neither he nor Ms Bacon expressed any regret for their actions.

Findings: That the publication of purported reports of in camera proceedings of the Select Committee on the Conduct of a Judge constituted a serious contempt of the Senate; that the editor and publisher of the *National Times* should be held responsible and culpable for the publication and the author culpable for contempt; that the unauthorised disclosure of the proceedings also constituted a serious contempt, if wilfully and knowingly made; and that the Committee would report on the question of penalty after the persons affected had placed submissions before it.

8. Question of Appropriate Penalties Arising from the Report of the Committee of Privileges of 17 October 1984 (PP No. 239/1985)

Reference: Motion moved by Chairman of Standing Committee of Privileges (Senator Childs) and agreed to 27/2/85 (J.64).

Action: Two public hearings 3 and 30/4/85; report tabled 23/5/85 (J.317).

Persons/organisations involved: The *National Times*; John Fairfax and Sons Ltd; Mr Brian Toohey; Ms Wendy Bacon; Senate Select Committee on the Conduct of a Judge.

Resumé: In the 7th Report of the Committee, serious contempts of the Senate were found in respect of certain publications in the *National Times* by the publisher, John Fairfax, editor Mr Toohey and journalist Ms Bacon on the purported evidence taken, and proceedings of, the Select Committee on the Conduct of a Judge. In considering the question of penalty, the Committee noted that Mr Toohey and Ms Bacon continued to maintain that they were not guilty of contempt, on the ground that the publication was in the national interest; that they did not express regret; and that the source of the disclosure of the information was unknown. The Committee concluded that a substantial fine would be appropriate for organisations in contempt of the Parliament. In this case, however, the Committee recognised that it was difficult to contemplate imposing a penalty on the publishers of information while the informant remained undetected. It noted too the question of the efficacy of fines as a deterrent, and took into consideration the expenses already incurred by the company in the legal defence of its actions.

Recommendations: That no penalty be imposed at the time but, if a similar offence were to be committed within the life of the Parliament, the Senate should impose an appropriate penalty for the initial offence; that legislation be introduced to put the power of the Houses of Parliament to fine beyond doubt.

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9. The Improper Disclosure and Misrepresentation by a Departmental Officer of an Amendment Prepared for Moving in the Senate (PP No. 506/1985)

Reference: Motion moved by Senator Haines and agreed to 23/4/85 (J.193).

Action: Report tabled 16/9/85 (J.454); adopted 18/9/85 (J.470).

Persons/organisations involved: Senator Tony Messner; Senator Janine Haines; Department of Community Services.

Resumé: On 22 April 1985 during debate on the Supported Accommodation Assistance Bill, Senator Messner discussed a proposed opposition amendment. Senator Haines indicated privately to both government and opposition spokesmen a proposed Democrat amendment to Senator Messner's amendment. In the course of the following day, Democrat offices were lobbied by non-government groups who opposed the proposed Democrat amendment, citing an officer of the Department of Community Services as the source of their information. The officer wrote to Senator Haines to reassure her that she had been unaware of the Democrat amendment and had merely recommended that lobby groups contact the Democrats' spokesperson for clarification of the party's stance.

Recommendation: That the matter be not further pursued.

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10. Detention of a Senator (PP No. 433/1986)

Reference: Motion moved by Senator Reynolds and agreed to 13/11/85 (J.594).

Action: Oral evidence received from Senator Georges; report tabled 5/12/86 (J.1571); resolutions agreed to 18/3/87 (J.1693-4).

Persons/organisations involved: Senator George Georges; Queensland Police.

Resumé: On 11 November 1985, Senator Georges and a number of other persons were arrested at a protest meeting at the SEQEB Building in Brisbane and charged with offences under s.4A of the Vagrants Gaming and Other Offences Act. Senator Georges declined to have his fingerprints or photograph taken before being released on bail; he was therefore charged with obstructing a police officer in the exercise of his duty, and held in custody overnight before appearing before a magistrate and being granted bail. The Queensland Police initially attempted only indirectly to notify the President of the Senate of Senator Georges' arrest. The Committee concluded that there was no intention on the part of the police to harass Senator Georges.

Recommendations: That the Senate reaffirm its right to receive notification of the detention of its members, and related matters; that the Senate give consideration to the alteration of the immunity from arrest and detention.

11. The Circulation of Petitions (PP No. 46/1988)

Reference: President determined precedence to notice of motion 15/3/88; motion moved by Leader of the Opposition in the Senate (Senator Chaney) 16/3/88; amendment moved by Senator Collins agreed to; motion as amended agreed to 16/3/88 (J.556).

Action: Report (including a dissenting report from Senator Durack) tabled 2/6/88 (J.843); noted 2/11/88 (J.1065).

Persons/organisations involved: The Hon. Brian Burke; Mr R.M Strickland; Senator Fred Chaney.

Resumé: Senator Chaney's motion referred to a specific incident relating to petitions, namely, whether a petition prepared by Mr Strickland was suppressed in consequence of a threat of legal proceedings by the Hon. Brian Burke; the motion, as agreed to, related to whether the circulation of a petition containing defamatory material was, or ought to be, privileged. The Committee treated the questions of the circulation of petitions and of defamation separately.

Findings: That the circulation of petitions is not absolutely privileged and is probably not subject to any form of qualified privilege; if Parliament were to determine that the circulation of a petition be privileged, a change to the law would be required; that the circulation of petitions containing defamatory matter should not be privileged; that the circulation of other petitions requires no special protection and therefore no change to the law is required.

Dissent: Senator Durack, in his dissenting report, included the text of the petition to which Senator Chaney referred: it sought to have deferred the appointment of the Hon. Brian Burke as Ambassador to Ireland. Senator Durack dissented from the findings that the circulation of a petition containing defamatory material should not be protected by parliamentary privilege and that no change to the law was warranted.

12. Person Referred to in the Senate (Mr T. Motion) (PP No. 385/1988)

Reference: Referred by President 30/11/88.

Action: Report tabled 7/12/88 (J.1264); adopted 13/12/88 (J.1297).

Persons/organisations involved: Mr Tony Motion; Senator Peter Walsh.

Resumé: In question time on 10 November 1988, in response to a question on a proposed gold tax, Senator Walsh referred to certain named individuals who opposed the tax as 'spivs' who 'lounged' around Perth. His remarks were repeated in the *West Australian* newspaper. In his response, Mr Motion rebutted Senator Walsh's description and stated that his remarks had caused considerable unjustifiable distress to Mr Motion and his family.

Recommendation: That the response be incorporated in *Hansard*.

13. Person Referred to in the Senate (Mr I.R. Cornelius) (PP No. 386/1988)

Reference: Referred by President 12/12/88.

Action: Report tabled and adopted 14/12/88 (J.1314).

Persons/organisations involved: Mr Ian Cornelius; Senator Peter Walsh.

Resumé: On 10 November 1988 in question time in the Senate, Senator Walsh described Mr Cornelius as a 'spiv' who had conspired to defraud the Commonwealth and who had been gaoled. In his response, Mr Cornelius denied the allegations, pointing out that he was not the Cornelius who had been gaoled and also pointing to

the hurt and embarrassment the Senator's comments had caused personally and to the companies on whose boards Mr Cornelius sat.

Recommendation: That the response be incorporated in *Hansard*.

14. Possible False or Misleading Evidence and Manipulation of Evidence before Senate Committees - Travel by Aboriginal Community Representatives (PP No. 461/1989)

Reference: President determined precedence to notice of motion 7/11/88; motion moved by Leader of Opposition in the Senate (Senator Chaney) and agreed to 8/11/88 (J.1098-9).

Action: Report tabled 28/2/89 (J.1385); noted 12/4/89 (J.1549).

Persons/organisations involved: Mr Ray Robinson; Mr Darby McCarthy; Mr Norman Johnson; Mr Charles Perkins; Senator John Coulter; Senator Bob Collins; Estimates Committee E; Select Committee on the Administration of Aboriginal Affairs.

Resumé: In estimates hearings on 25-26 October 1988, it was asserted that the Department of Aboriginal Affairs had not committed funds for persons to prepare or present submissions to the Select Committee on the Administration of Aboriginal Affairs and that Messrs Robinson, McCarthy and Johnson, whose expenses for a visit to Canberra on 1-2 September 1988 had been paid by the Department, had come primarily to discuss sporting matters with the Secretary. In responses to the Committee, Messrs Robinson, McCarthy and Johnson indicated that their giving evidence to the Select Committee on 2 September was merely opportunistic.

Findings: That on evidence available to the Committee no false or misleading evidence was given to Estimates Committee E in relation to the attendance in Canberra of Messrs Robinson, McCarthy and Johnson on 1 and 2 September 1988; there was no attempt to manipulate the evidence laid before the Select Committee; therefore, no contempt was committed.

15. Possible False or Misleading Evidence before a Senate Estimates Committee - Department of Defence Project Parakeet (PP No. 461/1989)

Reference: President determined precedence to notice of motion 5/12/88; motion moved by Senator MacGibbon and agreed to 6/12/88 (J.1247).

Action: Report tabled 6/3/89 (J.1433-4); noted 12/4/89 (J.1549).

Persons/organisations involved: Dr Malcolm McIntosh; Senator Jocelyn Newman; Department of Defence; Estimates Committee E.

Resumé: On 29 November 1988 during debate on the Appropriation Bills, Senator MacGibbon indicated that he believed Dr McIntosh, Chief of Capital Procurement in the Department of Defence, had provided false or misleading information to senators in response to their questions about Project Parakeet, a trunk communications system, in the Additional Estimates hearings in May of that year. The information centred on supposed technical problems, cost overruns and delays, and whether the later stages of the project would go to open tender. The response from Dr McIntosh indicated that discussion of the project was of a partial nature so as not to preempt ministers; if senators were misled, it was not deliberate and he apologised. The Committee concluded that Dr McIntosh's responses to questioning could have been more helpful.

Finding: The response could have been more helpful. As there was no intention to give false or misleading evidence to a Senate estimates committee, no contempt was committed.

16. Person Referred to in the Senate (Mr C. Wyatt) (PP No. 461/1989)

Reference: Referred by President 11/4/89.

Action: Report tabled and adopted 5/5/89 (J.1606)

Persons/organisations involved: Mr Cedric Wyatt; Senator Noel Crichton-Browne.

Resumé: During debate in the Senate on 9 March 1989 on the special audit report on the Aboriginal Development Commission and the Department of Aboriginal Affairs, Senator Crichton-Browne implied that, during Mr Wyatt's tenure as WA head of the Department of Aboriginal Affairs, funds may have been used for purposes for which they were not intended, and that Mr Wyatt's appointment to the ADC was inappropriate. In his response, Mr Wyatt rejected the allegations.

Recommendation: That the response be incorporated in *Hansard*.

17. Possible Improper Interference with a Witness - Drugs in Sport Inquiry

(PP No. 461/1989)

Reference: President determined precedence to notice of motion 8/12/88; motion moved by Chairman of Environment, Recreation and the Arts Committee (Senator Black), by leave, and agreed to 8/12/88 (J.1276-7).

Action: Public hearing 10 May 1989; finding reported to the Senate 11/5/89 (J.1662); report tabled 5/6/89 (J.1792); finding endorsed 4/10/89 (J.2087-8).

Persons/organisations involved: Ms Suzanne Howland; Mr Greg Blood; Australian Institute of Sport; Standing Committee on Environment, Recreation and the Arts.

Resumé: On 30 November 1988, Ms Howland gave evidence, as a summoned witness, to the Standing Committee on Environment, Recreation and the Arts inquiry into drugs in sport. On the following day, she was asked by her landlord, Mr Blood, a librarian at the Australian Institute of Sport, to leave the house in which she was living. The committee concluded that Mr Blood was stressed by the whole issue of drugs in sport and that he had not intended to interfere with Ms Howland's giving of evidence or to penalise her for it.

Finding: Because the requisite intention was not established, no contempt was committed.

18. Possible Interference with Witnesses in Consequence of their giving Evidence before the Senate Select Committee on Aboriginal Affairs (PP No. 461/1989)

Reference: President determined precedence to notice of motion 2/11/88; motion moved by Leader of Opposition in the Senate (Senator Chaney) and agreed to 3/11/88 (J.1070).

Action: Report tabled 16/6/89 (J.1921); findings endorsed 4/10/89 (J.2087).

Persons/organisations involved: Mr Charles Perkins; Mrs Shirley McPherson; Mr Michael O'Brien; Aboriginal Development Commission; Select Committee on the Administration of Aboriginal Affairs.

Resumé: In May 1988, the Aboriginal Development Commission (ADC) passed a resolution that no public statements on behalf of the Commission be made by Commissioners or officers without the prior approval of the Board; in October the ADC Board resolved that papers or submissions of whatever kind should not be presented to any parliamentary committee without prior approval; it passed a motion of no confidence in the Chairman, Mrs McPherson, for, inter alia, appearing before the Select Committee on the Administration of Aboriginal Affairs without notifying the Commissioners; the ADC also transferred Mr O'Brien from his position of General Manager to a newly-created position. After examining copious documentation, the committee concluded that Mrs McPherson had given her evidence to the Select Committee in a private capacity and that she had, in fact, notified the Board of her intention to do so; and that Mr O'Brien's evidence was also given in a private capacity. The committee concluded that the actions taken were reprisals but that any penalty or injury was not inflicted solely in consequence of the giving of evidence to the select committee.

Findings: In relation to the resolutions of May and October 1988, no contempt committed; in relation to the no confidence motion, in the particular circumstances a finding of contempt should not be made; in relation to the proposed transfer of Mr O'Brien, no contempt committed.

19. Person Referred to in the Senate (Sir Charles Court) (PP No. 461/1989)

Reference: Referred by the President 25/9/89.

Action: Report tabled and adopted 27/10/89 (J.2171).

Persons/organisations involved: Sir Charles Court; Senator the Hon. Peter Walsh.

Resumé: In question time on 6 September 1989, Senator Walsh, the Minister for Finance, commented on the North West Shelf Natural Gas Project and Sir Charles Court's role in it. Sir Charles objected that the Minister's comments were both offensive and inaccurate.

Recommendation: That the response be incorporated in *Hansard*.

20. Possible Unauthorised Disclosure of Senate Committee Report (PP No. 461/1989)

Reference: President gave precedence to notice of motion 17/8/89; motion moved by Senator Hamer at the request of Senator Teague and agreed to 18/8/89 (J.1961).

Action: Report tabled 21/12/89 (J.2445); finding endorsed and recommendations adopted 16/5/90 (J.96-7).

Persons/organisations involved: Senator Irina Dunn; Standing Committee on Foreign Affairs, Defence and Trade.

Resumé: On the morning of 16 August, three newspapers carried articles reflecting the contents of the report of the Standing Committee on Foreign Affairs, Defence and Trade on its inquiry into visiting nuclear-powered ships. The report was tabled later that day. The tabling of the report had been delayed, owing to pressure of business in the Senate chamber. After inquiries to all senators and staff concerned, the Committee was informed that a member of the standing committee, Senator Dunn, had prepared media releases and briefed the press on 15 August, the day on which the report was scheduled to be tabled. The Committee concluded that Senator Dunn had knowingly briefed the media, but had done so in the belief that the tabling of the report was imminent; it also noted her apology. It also suggested that committees should examine matters themselves before referring them to the Committee of Privileges.

Findings: That in the light of all the circumstances, a finding of contempt not be made; that no further action be taken.

Recommendations: That the President draw to the attention of all senators paragraph 6(16) of the Privilege Resolutions and Standing Order 37; that the Procedure Committee consider a proposal to schedule the tabling of committee reports early in the day.

21. Possible Adverse Treatment of a Witness before the Select Committee on the Administration of Aboriginal Affairs (PP No. 461/1989)

Reference: President gave precedence to notice of motion 9/3/89; motion moved by Senator Baume; debated and agreed to 9/3/89 (J.1458-9).

Action: Public hearing 29 November 1989; report tabled 22/12/89 (J.2465); notice of motion given for next day of sitting not less than 7 days after the day on which notice given - that the Senate endorse findings 22/12/89 (J.2466); fresh notice given 9/5/90 (J.37); findings endorsed 16/5/90 (J.97).

Persons/organisations involved: Mr Michael Pope; Mr Cedric Wyatt; Mr Michael Stewart; Aboriginal Development Commission, Senate Select Committee on the Administration of Aboriginal Affairs.

Resumé: Mr Pope was a senior officer in the Aboriginal Development Commission (ADC) until his resignation on 4 November 1988. He gave evidence critical of the ADC to the Select Committee on the Administration of Aboriginal Affairs on 9 December 1988, as a private citizen. On 4 January 1989, at the instigation of the Acting General Manager, Mr Wyatt, a letter was sent to Mr Pope, advising him that, in the light of his evidence to the select committee, he was not to enter the Bonner House premises of the ADC, without first seeking and obtaining the permission of the General Manager. Mr Stewart issued a staff circular dated 20 February 1989, broadening the proscription to all ADC premises. The ADC explanation for these actions was that it was concerned about the extent of leakage of information from its premises.

Findings: The committee found that there was adverse treatment of Mr Pope, though not of a serious nature; that it was partially in consequence of his giving evidence to the select committee; that contempts had been committed, although not of a serious nature; and that, in the light of the ADC apology to Mr Pope and the Senate, no penalty should be imposed.

22. Possible Unauthorised Disclosure of Senate Committee Submission (PP No. 45/1990)

Reference: President gave precedence to notice of motion 5/12/89; motion moved by Chairman of the Select Committee on Health Legislation and Health Insurance (Senator Crowley) and agreed to, 6/12/89 (J.2321).

Action: Report tabled 9/5/90 (J.41); finding endorsed and recommendations adopted 23/5/90 (J.130).

Persons/organisations involved: Mr Stuart Hamilton, Secretary, Department of Community Services and Health; Australian Private Hospitals Association; Select Committee on Health Legislation and Health Insurance.

Resumé: Towards the end of September 1989, the Australian Private Hospitals Association (APHA) made a submission to the Select Committee on Health Legislation and Health Insurance. On 22 October, the APHA became aware that its submission was in the hands of a senior officer of the Department of Community Services and Health, before the committee had authorised its publication. The department indicated that it had received the document from the minister's senior private secretary, who was unaware how it arrived in the minister's office and who circulated it with many other such submissions. The select committee published the submissions received on 3 November and the department apologised for its action. The Committee of Privileges concluded that further investigations would be unlikely to discover the source of the disclosure and therefore considered that the matter should not be taken any further.

Finding: Although it would be open to the committee, and to the Senate, to find that a contempt of the Senate had been committed by the unauthorised distribution of the document, the committee concluded that, in the particular circumstances of the case, such a finding should not be made.

Recommendations: That appropriate warnings about conditions of disclosure be given in public advertisements calling for submissions, in notes to witnesses, and in letters acknowledging receipt of submissions; that persons making submissions be notified when submissions are publicly released by a committee.

23. Person Referred to in the Senate (Mr A.E. Harris) (PP No. 45/1990)

Reference: Referred by the President 26/2/90.

Action: Report tabled 25/5/90 (J.144); adopted and noted 25/5/90 (J.146).

Persons/organisations involved: Mr A.E. Harris; Senator David MacGibbon.

Resumé: During the adjournment debate on 19 December 1989, Senator MacGibbon referred to what he regarded as a threatening letter from Mr Harris, then chairman of Australian Airlines. In his response, Mr Harris included a copy of the letter, which

detailed the airline's approach to the pilots' dispute. He denied any part in the other letters received by the Senator; pointed out the bipartisan nature of his public appointments; and outlined the company's profitability.

Recommendation: That the response be incorporated in *Hansard*.

24. Person Referred to in the Senate (Dr P. Ingram Cromack) (PP No. 438/1990)

Reference: Referred by the President 18/7/90.

Action: Report tabled and adopted 19/9/90 (J.293).

Persons/organisations involved: Dr P. Ingram Cromack; Senator Jean Jenkins.

Resumé: On 28 May 1990 in the adjournment debate, Senator Jean Jenkins named Dr Cromack as an orthopaedic surgeon 'noted for being a hard-liner' in the matter of supporting compensation claims for work-related disabilities, particularly RSI. In his response, Dr Cromack claimed that he suffered professional injury, financial loss and stress as a result of the allegations and the associated media publicity and rejected Senator Jenkins' assertions about RSI.

Recommendation: That the response be incorporated in *Hansard*.

25. Person Referred to in the Senate (Mr A.E. Harris) (PP No. 438/1990)

Reference: Referred by the President 26/2/90.

Action: Report tabled, adopted and noted 17/10/90 (J.345).

Persons/organisations involved: Mr A.E. Harris; Senator David MacGibbon.

Resumé: During debate in the Senate following the adoption of the 23rd report of the Committee of Privileges, Senator MacGibbon again made allegations about Mr Harris' conduct, this time as chairman of the Australian Sports Commission. Mr Harris responded, denying that his intention had been to force Senator MacGibbon into silence or that he had been discourteous or dishonest, and rejecting the allegations against him.

Recommendation: That the response be incorporated in *Hansard*.

26. Possible Misleading Evidence before a Senate Estimates Committee - Department of Defence - Asbestos in Royal Australian Navy Ships (PP No. 438/1990)

Reference: President gave precedence to notice of motion 23/8/90; motion moved by Senator Newman and agreed to 24/8/90 (J.250-1).

Action: Report tabled 8/11/90 (J.398); finding endorsed 14/11/90 (J.449).

Persons/organisations involved: Senator Jocelyn Newman; Department of Defence; Australian Defence Force; Estimates Committee B.

Resumé: In answer to a question on notice relating to the use of asbestos in the Defence Force, the Navy response indicated that preventative measures had been adopted in 1966, creating the impression that the matter had come to the attention of the Navy only at that time. Yet documentation made available to Senator Newman showed that the dangers of asbestos were drawn to the attention of the Navy in 1943. The committee concluded that the reply drafted by the officer was accurate to the best of his knowledge and belief at the time and that he could not have known, or been expected to know, of the existence of the material subsequently provided to Senator Newman.

Finding: No contempt was committed in regard to evidence given to Estimates Committee B in May 1990 concerning asbestos in Royal Australian Navy ships.

27. Person Referred to in the Senate (Sir William Keys) (PP No. 438/1990)

Reference: Referred by the President 26/11/90.

Action: Report tabled, adopted, motion to take note 29/11/90 (J.493); report noted 5/12/90 (J.510).

Persons/organisations involved: Sir William Keys; Senator Jocelyn Newman; Senator John Herron.

Resumé: During a discussion of matters of public importance on 15 November 1990, Senator Newman referred to Sir William as a government 'stooge' for his support of repatriation hospital integration. Sir William responded that the views he expressed were his own. In the same debate, Senator Herron referred to Sir William's input on the subject of recognition of overseas-trained doctors to an Australian Medical Association national conference. Sir William's response claimed that the Senator was incorrect in his statements.

Recommendation: That the response be incorporated in *Hansard*.

28. Person Referred to in the Senate (Mr C.H. Cannon) (PP No. 438/1990)

Reference: Referred by the President 11/12/90.

Action: Report tabled and adopted 19/12/90 (J.644).

Persons/organisations involved: Mr C.H. Cannon; Senator Paul McLean.

Resumé: During the adjournment debate on 12 November 1990, Senator McLean alleged that Mr Cannon, when manager of the National Australia Bank in Toowoomba, had been guilty of fraud and deceptive conduct. The senator's comments were published by Darling Downs media. Mr Cannon responded that the senator's remarks were without substance and had damaged his reputation.

Recommendation: That the response be incorporated in *Hansard*.

29. Person Referred to in the Senate (the Honourable Tom Uren) (PP No.438/1990)

Reference: Referred by the President 17/12/90.

Action: Report tabled and adopted 19/12/90 (J.644).

Persons/organisations involved: The Hon. Tom Uren; Senator the Hon. Robert Ray.

Resumé: In question time on 12 December 1990, the Minister for Defence, Senator Robert Ray, criticised Mr Uren for comments made by the latter during a trip to Iraq to seek the release of Australian hostages. He also alleged that Mr Uren briefed former Prime Minister Fraser on Labor Party matters. In his response, Mr Uren clarified his position on both matters.

Recommendation: That the response be incorporated in *Hansard*.

30. Possible Improper Influence or Penalty on a Witness in respect of Evidence before a Senate Committee (PP No. 258/1991)

Reference: President gave precedence to notice of motion 17/10/90; motion moved by Chairman of Environment, Recreation and the Arts Committee, Senator Crowley, and agreed to 18/10/90 (J.359).

Action: Report tabled 6/3/91 (J.812); finding endorsed 7/3/91 (J.831).

Persons/organisations involved: Mr Glen Jones; Mr Chris Turner; Australian Drug Free Powerlifting Federation; Standing Committee on Environment, Recreation and the Arts.

Resumé: Mr Glen Jones, National Drug Testing Officer of the Australian Drug Free Powerlifting Federation, alleged that another member of the Federation, Mr Turner, threatened to publish to other members allegations against Mr Jones, including that he had given false evidence to the standing committee during its drugs in sport inquiry, if

he did not withdraw from a contest for an office within the Federation. Mr Turner submitted that he had not intended to interfere with Mr Jones on account of his having given evidence to a Senate committee. The Committee of Privileges concluded that the proposal to publish a document claiming that false evidence had been given to a Senate committee was insufficient evidence of intention to interfere with a witness.

Finding: That no contempt of the Senate was committed.

31. Person Referred to in the Senate (Sir William Keys) (PP No. 258/1991)

Reference: Referred by the President 11/12/90.

Action: Report tabled and adopted 11/3/91 (J.842).

Persons/organisations involved: Sir William Keys; Senator Jocelyn Newman.

Resumé: On 5 December 1990, during a debate on the committee's 27th Report, Senator Newman again discussed matters relating to Sir William Keys. Sir William's response explained the context of his visit with the then Minister for Defence to defence facilities in north Queensland, the rationale for his media comments and his representation of the veterans' community.

Recommendation: That the response be incorporated in *Hansard*.

32. Person Referred to in the Senate (Ms Patsy Harmsen) (PP No. 258/1991)

Reference: Referred by the President 19/6/91.

Action: Report tabled and adopted 21/6/91 (J.1280).

Persons/organisations involved: Ms Patsy Harmsen; Senator Paul Calvert.

Resumé: During the adjournment debate in the Senate on 5 June 1991, Senator Calvert raised the matter of the impending closure of the Electrolux silicon smelter. Ms Harmsen believed that her campaign against the smelter had been misrepresented, and that Senator Calvert's remarks had harmed her reputation as a community representative and political candidate and had caused her to be harassed.

Recommendation: That the response be incorporated in *Hansard*.

33. Person Referred to in the Senate (Dr Alex Proudfoot, FRACP) (PP No. 470/1991)

Reference: Referred by President 21/8/91.

Action: Report tabled and adopted 3/9/91 (J.1452).

Persons/organisations involved: Dr Alex Proudfoot; Senator Margaret Reynolds.

Resumé: Dr Proudfoot took exception to remarks made in the Senate by Senator Reynolds on 30 May 1991 and to a response to a question on notice from her which was published in *Hansard* on 14 August 1991. In Dr Proudfoot's view, the response readily identified him and could have led to a belief that he was biased against women and that his court action against the Human Rights and Equal Opportunity Commission was frivolous or vexatious.

Recommendation: That the response be incorporated in *Hansard*.

34. Person Referred to in the Senate (Ms Jeannie Cameron) (PP No. 470/1991)

Reference: Referred by President 13/11/91.

Action: Report tabled and adopted 14/11/91 (J.1726).

Persons/organisations involved: Ms Jeannie Cameron; Senator Graham Richardson.

Resumé: During the committee of the whole stage of the Appropriation Bills in the Senate on 17 October 1991, Senator Richardson made comments about a staff member of Senator Jocelyn Newman. Ms Cameron asserted that the person referred to was readily identifiable as herself and that the comments were unfair, untrue, and had adversely affected her reputation.

Recommendation: That the response be incorporated in *Hansard*.

35. Report on Committee's Work since Passage of Privilege Resolutions of 25 February 1988 (PP No. 467/1991)

Action: Report tabled 2/12/91 (J. 1811); noted 26/3/92 (J.2133).

36. Possible Improper Interference with a Witness and Possible Misleading Evidence before the National Crime Authority Committee (PP No. 194/1992)

Reference: President determined precedence to notice of motion 8/11/90; motion moved by Leader of the Opposition in the Senate (Senator Hill) and agreed to 12/11/90 (J.410).

Action: Public hearings 9/12/91, 27/4/92; report tabled 25/6/92 (J.2623); finding endorsed and recommendations adopted 17/12/92 (J.3427).

Persons/organisations involved: Mr Mark Le Grand; Mr Peter Faris, QC; Mr Gregory Cusack, QC; Mr Julian Leckie; National Crime Authority; Parliamentary Joint Committee on the National Crime Authority.

Resumé: In late 1989, the Parliamentary Joint Committee on the National Crime Authority commenced an inquiry into the NCA's 'Operation Ark', an investigation into possible police corruption in South Australia. Mr Mark Le Grand, an additional member of the NCA for South Australia in 1989, was directed by the new NCA Chairman, Mr Peter Faris, not to make any documents available or have any discussions with any committee or person outside the Authority without first consulting the Authority; he reminded him of the secrecy provisions of the NCA Act. Whether intended or not, this had the effect of restricting Mr Le Grand in the giving of evidence to the joint committee. The committee concluded that this and subsequent directions could have had the effect of restricting Mr Le Grand in his dealings with the joint committee; that answers about the restrictions by NCA members had the effect of misleading the joint committee; that the restrictive actions of the members of the NCA in late 1989 were undertaken in the belief that they were in accordance with the NCA Act; and that the joint committee was not ultimately prevented from acquiring the information it needed to perform its functions.

Finding: The Committee determined that it should not find that a contempt had been committed.

Recommendations: That sections 51 and 55 of the NCA Act be clarified; that any conflict between accountability of statutory bodies to Parliament and secrecy requirements be resolved during passage of legislation through Parliament; that the Scrutiny of Bills Committee draw such provisions to the attention of Parliament; that urgent consideration be given to legislation clarifying the position of parliamentary privilege vis-a-vis secrecy provisions of other legislation; that the Senate warn persons dealing with a House of Parliament or its committees to answer questions fully and frankly.

37. Possible Improper Interference with Witnesses before the Community Affairs Committee (PP No. 235/1992)

Reference: President determined precedence 2/4/92; motion moved by Chair of Community Affairs Committee (Senator Zakharov) and agreed to 2/4/92 (J.2178).

Action: Report tabled 9/9/92 (J.2731); finding endorsed 17/12/92 (J.3427).

Persons/organisations involved: Messrs John Murphy, Kevin Baker, Andrew Walmsley and Mark Plunkett; Standing Committee on Community Affairs.

Resumé: Complaints were made to the Standing Committee on Community Affairs about a solicitor who had allegedly intimidated a person or persons because of evidence they gave to the committee on 6 September 1991 in respect of its inquiry into

the implementation of pharmaceutical restructuring measures. However, the witnesses making the assertions refused the Committee of Privileges' invitation to substantiate their claims. The committee reported its disquiet about a possible abuse of process.

Finding: No findings of contempt could or should be made.

38. Person Referred to in the Senate (the Honourable Paul B. Toose) (PP. No. 540/1992)

Reference: Referred by the Deputy President 13/10/92.

Action: Report tabled and adopted 13/10/92 (J.2891).

Persons/organisations involved: The Hon. Paul Toose; Advertising Standards Council; Senator the Hon. Michael Tate; *The Australian*.

Resumé: In the Senate on 2 December 1991, Senator Jones asked Senator Tate a question about an article in *The Australian* in which the Hon. Paul Toose, as chairman of the Advertising Standards Council (ASC), was quoted as being hostile to certain lobby groups. Mr Toose regarded the comments as misleading, and an assault on the status of the ASC and on the integrity of its chairman.

Recommendation: That the response be incorporated in *Hansard*.

39. Person Referred to in the Senate (Mr Dale E. Hennessy) (PP No. 540/1992)

Reference: Referred by the President 24/11/92.

Action: Report tabled, adopted 30/11/92 (J.3158).

Persons/organisations involved: Mr Dale Hennessy; Senator John Watson, Select Committee on Superannuation.

Resumé: In the adjournment debate on 3 November 1992, Senator Watson referred to the evidence of Mr Hennessy, Director of the Queensland Government Superannuation Office, and suggested that the Select Committee on Superannuation might have been misled by Mr Hennessy with regard to the level of funding of State superannuation schemes. Mr Hennessy denied Senator Watson's allegations.

Recommendation: That the response be incorporated in *Hansard*.

40. Persons Referred to in the Senate (Ms Margaret Piper, Ms Eve Lester and Mr Seth Richardson) (PP No. 540/1992)

Reference: Referred by the President on 14/12/92.

Action: Report tabled, adopted and noted 17/12/92 (J.3426).

Persons/organisations involved: Ms Margaret Piper; Ms Eve Lester; Mr Seth Richardson; Senator Jim McKiernan; Refugee Council of Australia (RCOA).

Resumé: On 7 December 1992, Senator McKiernan commented in the Senate on the quality of the evidence provided by RCOA witnesses to the Joint Standing Committee on Migration Regulations. Ms Piper, on behalf of the other witnesses, objected that many of his remarks were inaccurate.

Recommendation: That the response be incorporated in *Hansard*.

41. Person Referred to in the Senate (Mr R.S.Lippiatt) (PP No.92/1993)

Reference: Referred by President after consultation with Committee of Privileges, 26/8/92.

Action: Report tabled and adopted 12/5/93 (J.126).

Persons/organisations involved: Mr Richard Lippiatt; Senator Robert Bell.

Resumé: In the adjournment debate on 3 June and 13 October 1992, Senator Bell referred to Mr Lippiatt's administration of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* on behalf of Australia Post, particularly as it affected a former Australia Post employee 'Y'. For privacy reasons, the Committee discouraged

Mr Lippiatt from placing specific facts relating to the case on the public record but he was able to indicate that he believed Senator Bell's information was unsubstantiated.
Recommendation: That the response be incorporated in *Hansard*.

42. Possible Adverse Treatment of a Witness before the Corporations and Securities Committee (PP No. 85/1993)

Reference: Deputy President determined precedence 8/10/92; motion moved by Senator Bell at request of Senator Spindler and agreed to 2/10/92 (J.2879).

Action: Public hearings 15/12/92, 11/2/93; report tabled and noted 27/5/93 (J.310); findings and recommendations debated 30/9/93 (J.557); amendment moved by Senator Cooney (negatived), findings endorsed and recommendations adopted 21/10/93 (J.684); President's response 16/3/94 (J.1413); Government response 22/8/95 (J.3650).

Persons/organisations involved: Mr James Gaffey; Australian Securities Commission; Joint Committee on Corporations and Securities.

Resumé: Mr Gaffey, then a legal officer with the Australian Securities Commission, gave evidence on 11 October 1991 to the Joint Committee on Corporations and Securities as a representative of the Young Lawyers Section of the Law Institute of Victoria. The Young Lawyers' attitude was contrary to the attitude taken before the committee by the ASC. On 18 May 1992, six charges under the Public Service Act were laid against Mr Gaffey: five were intra-office matters; the sixth, that 'he engaged in improper conduct as an officer' by making a submission to the joint committee at variance with the ASC position, thus compromising the latter. Although the last-named charge was withdrawn, and the operations of the joint committee were not affected, the Privileges Committee concluded that the laying of the charge could deter other witnesses from appearing before other committees and therefore constituted a contempt.

Findings: That the ASC and two of its officers took action which constituted a contempt, with intent, against Mr Gaffey for having given evidence in a private capacity before the Corporations and Securities Committee. No contempt was involved in the other charges.

Recommendations: That the Senate endorse the findings; that no penalty be imposed in respect of the identified contempts, in light of the apologies offered; that heads of departments, statutory office holders and SES officers be required to undertake study of the principles governing the operations of Parliament and of the accountability of departments, agencies and statutory authorities to Parliament.

43. Possible Threat to Senate Select Committee or Senators (PP No. 389/1993)

Reference: President determined precedence 4/5/93; motions moved by Senators Reynolds and Walters and agreed to 5/5/93 (J.67).

Action: Report tabled 15/12/93 (J.1028); findings endorsed 3/2/94 (J.1198).

Persons/organisations involved: Ms Fiona Patten; Mr Robert Swan; Eros Foundation; Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies.

Resumé: The Eros Foundation is a lobby group for legalised adult goods and services in Australia. Ms Patten, a public relations consultant of the Foundation, indicated in a covering letter to the select committee that traders disadvantaged by the committee's proposed limits on 0055 telephone services would contemplate damages action. Mr Swan was reported in *The Australian* of 23 January 1993 as indicating that the Foundation would 'out' Liberal Party figures if the party adopted a policy of cracking down on the sex industry; similar comments were also allegedly made by Ms Patten. The Committee of Privileges concluded that the intention of the Foundation's representatives was not to threaten the select committee members; and that the

'outing' proposal, while offensive, could not be regarded as having the effect or tendency of substantially obstructing senators in the performance of their functions.

Finding: The Committee did not find that a contempt of the Senate had been committed by representatives of the Eros Foundation, in that they did not intend to utter a threat to the select committee and their actions did not have the effect or tendency of substantially obstructing senators in the performance of their functions.

44. Possible Improper Interference with or Misleading Reports of Proceedings of Senate Legal and Constitutional Affairs Committee (PP No. 390/1993)

Reference: President determined precedence 8/8/93; motion moved by Chair of Legal and Constitutional Affairs Committee (Senator Cooney) and agreed to 30/8/93 (J.405).

Action: Report tabled 15/12/93 (J.1028); finding endorsed and recommendation adopted 3/2/94 (J.1198); Watchdog Association complied with Senate order 15/3/94 (J.1394).

Persons/organisations involved: Mr Andrew Wade; Watchdog Association Inc; Australian Securities Commission; Senate Standing Committee on Legal and Constitutional Affairs.

Resumé: In July 1993, the Watchdog Association placed an advertisement in several newspapers, encouraging submissions to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into the Australian Securities Commission. The advertisement was so worded that it could have created the impression that the Senate committee was interested only in submissions from persons whose rights had been 'trampled on' by the ASC or that the inquiry was hostile to the ASC. The Committee of Privileges concluded that the advertisement was potentially misleading, but that this was not the intention of the Association. The Committee reported that Mr Wade, for the Association, agreed to take action to remedy the situation.

Finding: The Committee did not find that a contempt had been committed.

Recommendations: That the Senate endorse the finding; and that the Watchdog Association place a notification of the report and the committee's conclusions in the *Watchdog Reporter* as soon as possible.

45. Person referred to in the Senate (Mr T.T. Vajda) (PP No. 4/1994)

Reference: Referred by President 28/1/94.

Action: Report tabled 7/2/94 (J.1208); adopted 7/2/94 (J.1209).

Persons/organisations involved: Mr T.T. Vajda; Senator Jim Short.

Resumé: On 20 May 1993 in the Senate, Senator Short repeated allegations which had been published in the *Sydney Morning Herald* that Mr Vajda had been involved in the arrest or interrogation of Mr and Mrs Bardy in Hungary in 1951. In his response, Mr Vajda denied the allegations.

Recommendation: That the response be incorporated in *Hansard*.

46. Possibly False or Misleading Information given to Estimates Committee E or the Senate (PP No. 43/1994)

Reference: President determined precedence 27/9/93; motion moved by Senator Ferguson and agreed to 29/9/93 (J. 528).

Action: Report tabled 2/3/94 (J.1342); finding endorsed 24/3/94 (J.1524).

Persons/organisations involved: Senator the Hon. Chris Schacht; Australian Customs Service; Estimates Committee E.

Resumé: During the hearings of Estimates Committee E on 26 August 1993, the minister responsible for Customs, Senator Schacht, twice indicated that he did not think legislation was necessary to introduce a fee or tax in relation to the diesel fuel rebate scheme. In fact, legislation was being drafted at the time. The Committee of Privileges

concluded that the minister gave false information to Estimates Committee E, but that he did so inadvertently; and that the officers advising him were unsure whether false information was being given. The committee also concluded that, although the matter was clarified in the Senate on 31 August, it would have been preferable had it been clarified at the first possible opportunity, and criticised the public servants involved in briefing the minister. The committee also observed that public servants are required to answer fully and honestly all questions which are asked directly of them and, in the event that their minister provides wrong, inaccurate or incomplete information, to make the fact known to the minister as soon as practicable so that any errors or omissions may be rectified, preferably during the hearing in question.

Finding: The committee determined that it should not find that a contempt had been committed.

47. Person referred to in the Senate (Councillor Michael Samaras) (PP No. 112/1994)

Reference: Referred by President, 11/5/94.

Action: Report tabled 31/5/94 (J.1713); report adopted 2/6/94 (J.1746).

Persons/organisations involved: Councillor Michael Samaras; Senator Michael Baume.

Resumé: On 3 May 1994, Senator Michael Baume alleged, in a notice of motion, that Councillor Samaras of Wollongong City Council had been involved in electoral fraud. Councillor Samaras wrote to the President of the Senate on 7 May 1994, denying the allegation and seeking redress.

Recommendation: That the response by Councillor Samaras be incorporated in *Hansard*.

48. Possible Improper Disclosure of Document or Proceedings of Migration Committee

(PP No. 113/1994)

Reference: President determined precedence 25/11/93; motion moved by Chair of Migration Committee (Senator McKiernan) and agreed to 25/11/93 (J.901).

Action: Report tabled 8/6/94 (J.1778); finding endorsed and recommendation adopted 30/6/94 (J.1999).

Persons/organisations involved: Joint Standing Committee on Migration; Ms Margo Kingston; the *Canberra Times*.

Resumé: On 25 November 1993, an article in the *Canberra Times* purported to reveal the draft recommendations of the Migration Committee's report into detention practices. All committee members, their staff and staff of the secretariat denied any knowledge of the source of the disclosure, while Ms Kingston, the journalist concerned, refused to assist the Privileges Committee for ethical reasons.

Findings: The committee was unable to make a finding that there was an improper disclosure of a document before, or proceedings of, the Joint Committee on Migration; it therefore did not find that a contempt had been committed.

Recommendation: The committee recommended that the issue of journalistic ethics be referred to the Senate Standing Committee on Legal and Constitutional Affairs.

49. Parliamentary Privileges Amendment (Enforcement of Lawful Orders) Bill 1994 (PP No.171/1994)

Reference: Motion moved by the Leader of the Australian Democrats, Senator Kernot, and agreed to, 12/5/94 (J.1683).

Action: Public hearing 18/8/94; report tabled 19/9/94 and noted by the Senate (J.2160).

Persons/organisations involved: the Senate.

Resumé: On 23 March 1994, Senator Kernot introduced the Parliamentary Privileges Amendment (Enforcement of Lawful Orders) Bill 1994, designed to provide for the Federal Court to enforce lawful orders made by the Parliament and to allow the court to determine claims of executive privilege. Options for determining claims of public interest immunity were canvassed before the committee, as were sanctions for the enforcement of orders. The committee concluded that such matters should not be determined by courts.

Recommendation: That the Bill not be proceeded with.

50. Possible Improper Interference with a Witness and Possible False or Misleading Answers given to the Senate or a Senate Committee (PP No. 322/1994)

Reference: President gave precedence 19/5/93; motion moved by Senator Watson and agreed to 20/5/93 (J.214).

Action: Report tabled 8/12/94 (J.2766); findings endorsed and recommendations adopted 2/2/95 (J.2863).

Persons/organisations involved: Mr John Richardson; Mr Frank Kelly; Australian Customs Service (ACS); Joint Committee of Public Accounts; Estimates Committee A.

Resumé: Mr John Richardson was a customs agent with a firm which represented Midford Paramount, a shirtmaking firm charged with misuse of export quotas and threatened with other charges. The charges failed, but the company was forced to close because of the activities of the ACS. These matters were investigated by the Joint Committee of Public Accounts. Mr Richardson gave evidence to the joint committee on 29 August 1991, in which he was highly critical of the ACS. During his evidence, he reported that an unknown caller had threatened to put him out of business if he criticised Customs to the inquiry. He subsequently provided documentation to the Senate on the question of a penalties scheme administered by the ACS, alleging that Customs officers had misled Estimates Committee A in their responses to questions concerning the scheme.

Findings: A threatening call was made to Mr Richardson, and this constituted a serious contempt (the committee was unable to discover the source of the call); the witness suffered penalty or injury but the committee could not establish whether this was as a result of his giving evidence to a committee; ACS answers and evidence to the Senate and an estimates committee did not constitute a contempt.

Recommendations: That the Senate request the Comptroller-General of Customs to circulate copies of the committee's report to all senior officers in the ACS; that the Senate refer the matter of the implementation of the recommendations of a report on customs operations (the Conroy report) to the relevant committee.

51. Possible Penalty or Injury to a Witness before the Employment, Education and Training Committee (PP No. 4/1995)

Reference: President gave precedence 30/5/94; motion moved by Senator Crane and agreed to 31/5/94 (J. 711).

Action: Report tabled 7/2/95 (J.2899); finding endorsed 2/3/95 (J.3008).

Persons/organisations involved: Mr Roger Boland; Mr Bert Evans; the Hon. Laurie Brereton; the Metal Trades Industry Association (MTIA); the Australian Industrial Relations Commission.

Resumé: On 11 November 1993 Mr Roger Boland, director of industrial relations for the MTIA, gave evidence critical of government policies to the Senate Standing Committee on Employment, Education and Training in relation to the Industrial Relations Reform Bill 1993. An article in the *Australian Financial Review* of 29 March 1994 alleged that the Minister for Industrial Relations, the Hon. Laurie Brereton, had

overturned a proposal to appoint Mr Boland to the Australian Industrial Relations Commission. Discussion in both Houses linked Mr Boland's non-appointment to the views he expressed before the Senate committee. Mr Brereton and Mr Bert Evans of the MTIA denied that Mr Boland had been deprived of the appointment. Mr Boland stated he did not regard himself as having been prejudiced in any way because of his giving evidence.

Finding: The committee did not find that a contempt had been committed.

- 52.** Parliamentary Privileges Amendment (Enforcement of Lawful Orders) Bill 1994 —Casselden Place reference (PP No. 21/1995)

Reference: Motion moved by Senator Spindler and agreed to 22/6/94 (J.830-1).

Action: Report tabled 1/3/95 (J.2984); report noted 2/3/95 (J.3008).

Persons/organisations involved: the Senate, the Department of Administrative Services, the Auditor-General.

Resumé: The committee considered a particular instance of refusal by a minister to produce documents in response to an order of the Senate. The documents related to Commonwealth leaseholding arrangements in Casselden Place, Melbourne, and were denied on commercial-in-confidence grounds. The impasse was broken by the Senate's asking the Auditor-General to investigate and report on the matter. The committee concluded that claims of executive privilege are for a House of Parliament to determine and that, in the event of conflict, an independent arbiter be called upon to evaluate material to assist the relevant House to determine the matter. The committee noted the success of the process in respect of the matter it considered.

- 53.** Possible Threat to a Senator (PP No. 44/1995)

Reference: President gave precedence 19/10/94; motion moved by Senator Parer and agreed to 20/10/94 (J.2342).

Action: Report tabled 22/3/95 (J.3107); finding endorsed 23/3/95 (J.3136).

Persons/organisations involved: Senator Woodley, Mr Keith Williams.

Resumé: In the Senate on 21 September 1994, Senator Woodley alleged that, when he raised concerns about the Port Hinchinbrook development, he had been threatened by Mr Keith Williams, the principal of the development. The committee concluded that Mr Williams had prosecuted his campaigns vigorously but in doing so did not obstruct Senator Woodley in the performance of his duties.

Finding: The committee did not find that a contempt had been committed.

- 54.** Possible Unauthorised Disclosure of a Submission to the Joint Committee on the National Crime Authority (PP No. 133/1995)

Reference: President gave precedence 2/3/94; motion moved by Deputy Chair of Joint Committee on National Crime Authority (Senator Vanstone) and agreed to 3/3/94 (J.1359).

Action: Report tabled 30/6/95 (J.3602); findings endorsed and recommendation adopted 24/08/95 (J.3694).

Persons/organisations involved: Mr Les Ayton, the Hon. KT Griffin, the Hon. Stephen Baker, the Hon. Dean Brown, Mr Chris Nicholls, Joint Committee on the National Crime Authority.

Resumé: The Joint Committee on the National Crime Authority received as in camera evidence a confidential submission dated 29 May 1991 relating to its inquiry into casinos from then Superintendent Les Ayton of the Western Australia Police. On 4 March 1993, Messrs Griffin and Brown quoted from the submission in the South Australian Parliament and the document was tabled. An anonymous telephone call to

the joint committee secretariat implicated journalist Chris Nicholls as the source of the improper disclosure of the submission.

Findings: The Committee found that the Ayton submission, received in camera by the Joint Committee on the National Crime Authority, was improperly disclosed and that such disclosure constituted a serious contempt; it was unable to establish the source of the improper disclosure, owing substantially to the constraints on its capacity to examine the members of the South Australian legislature responsible for publishing and referring to the submission under privilege.

Recommendation: If the source of the improper disclosure is subsequently revealed, that the matter again be referred to the committee, with a view to a possible prosecution for an offence under section 13 of the *Parliamentary Privileges Act 1987*.

55. Possible Penalty or Injury to a Witness before the Standing Committee on Industry, Science, Technology, Transport, Communications and Infrastructure (PP No. 134/1995)

Reference: President gave precedence 27/10/93; motion moved by Chair of the Industry, Science, Technology, Transport, Communications and Infrastructure Committee (Senator Childs) and agreed to 18/11/93 (J.812).

Action: Public hearings 18/8/94, 27 and 28/10/94; report tabled 30/6/95 (J.3602); finding endorsed 19/10/95 (J.3984).

Persons/organisations involved: Dr Philip Nitschke, Royal Darwin Hospital, the Hon. Mike Reed, Standing Committee on Industry, Science, Technology, Transport, Communications and Infrastructure.

Resumé: Dr Nitschke, then a Resident Medical Officer at Royal Darwin Hospital, gave evidence to the standing committee's inquiry into disaster management as a representative of the Medical Association for the Prevention of War. The evidence was critical of the Hospital's preparedness for a nuclear accident. The responsible minister, the Hon. Mike Reed, issued a press release on the same day, suggesting that the Hospital could 'scrape by' without Dr Nitschke; he was interviewed the following day for a contract for the following year and was not, initially, successful, despite the fact that contract renewal was virtually automatic at the hospital.

Findings: The Committee found that the Minister's press release could be regarded as constituting a threat to Dr Nitschke; that he was penalised by the hospital by his initial rejection for a 1994 contract; that the threat was not made and penalties were not imposed in consequence of his appearance before the Standing Committee; therefore, no contempt was committed.

56. Person Referred to in the Senate (Ms Yolanda Brooks) (PP No. 135/1995)

Reference: 20/6/95, by the President.

Action: Report tabled 30/6/95 (J.3602); report adopted 24/08/95 (J.3694).

Persons/organisations involved: Ms Yolanda Brooks, Senator Ian Macdonald.

Resumé: On 18 November 1993 during discussion of matters of public importance and on 28 June 1994 during the adjournment debate, Senator Ian Macdonald revealed the content of affidavits filed in the Queensland Supreme Court relating to the dismissal of Ms Brooks from her position of Shire Clerk of the Whitsunday Shire Council. Ms Brooks stated that the allegations against her had no basis in fact; the publication of them was both professionally and personally damaging; and that Senator Macdonald had no direct knowledge of the matter.

Recommendation: That the response be incorporated in *Hansard*.

57. Possible Penalty or Injury Imposed on Witnesses before the Senate Select Committee on Superannuation (PP No. 183/1995)
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Reference: President gave precedence 16/12/93; motion moved by Senator West on behalf of Superannuation Committee and agreed to (J.1073).

Action: Report tabled 17/10/95 (J.3937); finding endorsed 19/10/95 (J.3984).

Persons/organisations involved: Mr Kevin Lindeberg, Mr Des O'Neill, Mr Cecil Lee, Mr Gordon Rutherford, Queensland Professional Credit Union, Select Committee on Superannuation.

Resumé: Mr Kevin Lindeberg alleged that he and his wife had their membership of the Queensland Professional Credit Union terminated, and Mr Des O'Neill had his application for membership rejected, as a result of their giving evidence to the Select Committee on Superannuation in Brisbane on 29 April 1993. Messrs Lindeberg and O'Neill had raised before that committee, and attempted to raise before the 1993 Credit Union AGM, the matter of extraordinary withdrawals from the superannuation fund in 1987, and related matters.

Finding: The committee noted that the question of possible contempt was intertwined with wider disputes between persons within an organisation. It was unable to establish that the penalty and injury caused to Messrs Lindeberg and O'Neill were on account of their giving evidence to the Senate Superannuation Committee and accordingly determined not to make a finding that a contempt of the Senate had occurred.

58. Possible Improper Interference with a Witness before Select Committee on Unresolved Whistleblower Cases (PP No. 476/1995)

Reference: President gave precedence; motion moved by Senator Foreman on behalf of Chair of Select Committee on Unresolved Whistleblower Cases (Senator Murphy) and agreed to 30/6/95 (J.3600).

Action: Report tabled 26/10/95 (J.4069); finding endorsed 9/5/96 (J.146).

Persons/organisations involved: Mr Peter Jesser, Professor Craig Littler, University of Southern Queensland, Select Committee on Unresolved Whistleblower Cases

Resumé: Mr Jesser, a senior lecturer in the Faculty of Business at the University of Southern Queensland, alleged that Professor Craig Littler questioned his [Jesser's] right to make a submission about departmental matters to an outside body and that intimidation and reprisal followed his giving evidence to the Select Committee on Unresolved Whistleblower Cases.

Finding: The Privileges Committee concluded that, whether or not intimidation or reprisal had occurred, it was not because of Mr Jesser's giving evidence to the Senate committee. Therefore no contempt of the Senate was committed.

59. Person Referred to in the Senate (Mrs Esther Crichton-Browne) (PP No. 475/1995)

Reference: 22 November 1995, by the President.

Action: Report tabled 1/12/95 (J.4344); report adopted 9/5/96 (J.146).

Persons/organisations involved: Mrs Esther Crichton-Browne, Senator Sue Knowles.

Resumé: During the adjournment debate on 15 November 1995, Senator Knowles commented on aspects of a matter relating to a restraining order against Senator Crichton-Browne. Mrs Crichton-Browne responded that Senator Knowles' version of events was inaccurate.

Recommendation: That the response be incorporated in *Hansard*.

60. Possible Unauthorised Disclosure of Documents or Deliberations of Senate Select Committee on the Dangers of Radioactive Waste (PP No. 9/1996)

Reference: Deputy President gave precedence to notice of motion 29/6/95; motion moved by Senator Chapman and agreed to, 30/6/95 (J.3600).

Action: Report presented to the President, 29/4/96; tabled 30/4/96 (J.30); finding endorsed 20/6/96 (J.361).

Persons/organisations involved: Senator Grant Chapman; the Hon. Duncan Kerr, Minister for Justice; Select Committee on the Dangers of Radioactive Waste.

Resumé: At a meeting held on 27 June 1995, the Radioactive Waste Committee agreed to order the production of certain documents by the Australian Federal Police and other bodies. On the following day the Minister for Justice issued a press release commenting on this demand, before it was more widely known. The Radioactive Waste Committee considered the unauthorised disclosure, although it did so after the matter had been referred to the Committee of Privileges. Its conclusion was that, although the source of the leak could not be determined, the unauthorised disclosure had not impeded the work of the committee.

Finding: No question of contempt involved.

Recommendation: That the Senate endorse procedures first outlined in the committee's 20th report, in the form of a resolution, that a committee affected by an unauthorised disclosure should seek to discover the source of the disclosure. It should then conclude whether the disclosure potentially or substantially interfered with the work of the committee; if so, it should report to the Senate and the matter may be raised in accordance with Standing Order 81.

61. Possible False or Misleading Statements to Senate Select Committee on Public Interest Whistleblowing (PP No. 10/1996)

Reference: President determined precedence 9/3/95; motion moved by Senator Murphy and agreed to, 21/3/95 (J.3084).

Action: Report presented to the President 29/4/96; tabled 30/4/96 (J.31); finding endorsed 20/6/96 (J.361).

Persons/organisations involved: Mr Alwyn Johnson; Mr John Harris; Trust Bank; Select Committee on Public Interest Whistleblowing.

Resumé: On 27 February 1995, Mr Johnson drew to the attention of a select committee secretary statements pertaining to the termination of his employment by the Trust Bank, made by the bank's chairman Mr John Harris in response to an invitation by the Select Committee on Public Interest Whistleblowing. Mr Johnson had alleged to that committee that he had been dismissed by the bank for his role in disclosing problem loans. Through its solicitors, the bank asserted that Mr Johnson's position had been made redundant as a result of the amalgamation of two banks, that he was independently assessed as being unsuitable for redeployment at a lower level, and that his contribution to the disclosure of the problem loans was not a factor in the decision to terminate his employment. The committee concluded that, although Mr Harris' statements were not as precise as they might have been, they did not constitute false or misleading evidence before a committee.

Finding: No finding of contempt should be made.

62. Committee of Privileges 1996-1996: History, Practice and Procedure (PP No. 108/1996)

Action: Report presented to the President of the Senate 28/6/96, tabled 21/8/96 (J.481); noted 25/9/97 (J.2527).

63. Possible false or misleading evidence before Select Committee on Unresolved Whistleblower Cases (PP No. 360/1996)

Reference: President gave precedence 24/6/96; motion moved by Senator Shayne Murphy and agreed to 25/6/96 (J.385).

Action: Report tabled 5/12/96 (J.1212); finding endorsed 29/5/97 (J.2041).

Persons/organisations involved: Mr Kevin Lindeberg; Mr Peter Coyne; Senator Shayne Murphy; Queensland Criminal Justice Commission; Select Committee on Unresolved Whistleblower Cases.

Resumé: Senator Murphy, as former chair of the Select Committee on Unresolved Whistleblower Cases, received submissions from Mr Lindeberg and Mr Coyne which alleged that deliberately misleading evidence had been given to that committee by the Criminal Justice Commission about the number and availability of advices given by the Queensland Crown Solicitor, and awareness of documents held by the Queensland Department of Family Services and Aboriginal Islander Affairs, in relation to what came to be known as the Heiner documents case. The Committee concluded that the CJC was unaware of the documents. It also made the point that state bodies were the most appropriate avenues for examinations of this kind.

Finding: That no contempt had been committed by the Criminal Justice Commission in respect of the matter.

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64. Possible false or misleading evidence before the Environment, Recreation, Communications and the Arts Legislation Committee (PP No. 40/1997).

Reference: President gave precedence 22/8/96, motion moved by Senator Patterson and agreed to 9/9/96 (J.532).

Action: Report tabled 19/3/97 (J.1635); finding endorsed and recommendation adopted 29/5/97 (J.2042).

Persons/organisations involved: Mr Geoffrey Marr; Mr Paul Miles; Mr David Krasnostein; Senate Environment, Recreation, Communications and the Arts Legislation Committee.

Resumé: Mr Marr, an administrative officer with Telstra, and Mr Miles, a private investigator and friend of Mr Marr, wrote to the President of the Senate in November 1995 and January 1996 claiming that, during evidence given by Mr Krasnostein, Telstra General Counsel, to the Senate Environment, Recreation, Communications and the Arts Legislation Committee estimates hearing on 27 June 1995, Mr Krasnostein falsely alleged that Mr Marr had threatened violence against Telstra employees and their families; and that Mr Marr and Mr Miles had unlawfully obtained an internal Telstra e-mail message. The Committee concluded that Mr Krasnostein did not make the allegation that Mr Marr had threatened Telstra employees. However, Mr Krasnostein's evidence left the ERCA Committee with the clear impression that there were grounds for suspicion that Mr Miles and Mr Marr had illegally acquired a Telstra internal e-mail, thus misleading that committee. The Privileges Committee concluded that misleading evidence was not intentionally given.

Finding: The Committee found that no contempt of the Senate had been committed.

Recommendation: That a statement of principle relating to the accountability of statutory authorities to Parliament be reasserted.

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65. Person referred to in the Senate (Dr Neil Cherry) (PP No. 48/1997)

Reference: Referred by the President 5/3/97.

Action: Report tabled 25/3/97 (J.1759); report adopted 25/3/97 (J.1759)

Persons/organisations involved: Dr Neil Cherry; Senator the Hon. Richard Alston.

Resumé: During question time on 5 March 1997, Senator Alston alleged that Dr Neil Cherry was a 'shameless charlatan' and 'snake oil merchant' in relation to the emerging research on electro-magnetic radiation. Dr Cherry wrote to the President of the Senate on 5 March 1997, denying the allegations and seeking redress.

Recommendation: That the response by Dr Neil Cherry be incorporated in *Hansard*.

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66. Person Referred to in the Senate (Ms Deborah Keeley) (PP No. 89/1997)

Reference: Referred by the President 22/4/97.

Action: Report tabled 29/5/97 (J.2038); report adopted 29/5/97 (J.2038)

Persons/organisations involved: Ms Deborah Keeley; Senator Bill O'Chee.

Resumé: On 25 February 1997 during debate in the Senate, Senator O'Chee alleged that the principal author of a report prepared by the Office of Government Information and Advertising, relating to tenders for a creative advertising and media strategy to explain, promote and encourage voluntary compliance for the Australia-wide gun amnesty, had been offered a lucrative position with an advertising agency which was one of the final tenderers for the contract. Ms Keeley wrote to the President of the Senate on 21 April 1997, denying the allegation and seeking redress.

Recommendation: That the response by Ms Keeley be incorporated in *Hansard*.

67. Possible threats of legal proceedings made against a senator and other persons (PP No. 141/1997)

Reference: 23/8/95. President gave precedence 22/8/95. Motion moved by Senator Boswell and agreed to 23/8/95 (J.3665).

Action: Public hearings 31/1/97, 16/4/97; Report tabled 3/9/97 (J.2412); findings endorsed 22/9/97 (J.2456)

Persons/organisations involved: Senator Bill O'Chee; Mr David Armstrong; Mr Michael Rowley; Mr Ron Crew; Cairns Professional Game Fishing Association.

Resumé: During question time on 8 June 1995, Senator O'Chee asked a question about a possible conflict of interest by one of the board members of the East Coast Tuna Management Advisory Committee, Mr Michael Rowley, who undertakes tuna fishing in North Queensland. Senator O'Chee claimed that a proposal to allow longline fishing, previously forbidden in a specified area in order to prevent the depletion of marlin and other bill fish, had been put before the Committee, and tabled certain photographs that purported to show Mr Rowley's boats landing prohibited fish. In an adjournment speech on 22 June 1995, Senator O'Chee referred to certain information provided to him by Mr David Armstrong, a former manager of a tuna company of which Mr Rowley was a shareholder and director. Mr Rowley subsequently instructed the firm of Bottoms English to initiate defamation proceedings against certain persons, including Mr David Armstrong, with the letter of demand in respect of Mr Armstrong citing only the material contained in Senator O'Chee's speech as evidence of the alleged defamation.

Findings: A contempt of the Senate was committed by Mr Rowley, acting on legal advice, in taking legal action against Mr Armstrong. No contempt of the Senate was involved in the taking of other legal actions.

Penalty: No penalty was recommended, the Committee deeming it inappropriate to recommend a penalty against a person who, after receiving legal advice, regarded himself as exercising his legal rights.

68. Persons referred to in the Senate (Mr Ray Platt, Mr Peter Mulheron) (PP No. 158/1997)

Reference: Referred by the President 21/7/97 and 7/8/97.

Action: Report tabled 23/9/97 (J.2478); report adopted 23/9/97 (J.2478).

Persons/organisations involved: Mr Ray Platt; Mr Peter Mulheron; Senator Boswell.

Resumé: On 18 June 1997, during discussion on matters of public interest, Senator Boswell made a speech criticising of *The Strategy* newspaper and its editor, Mr Platt. Mr Mulheron subsequently identified himself as a staff member of *The Strategy*. Both Mr Platt and Mr Mulheron wrote to the President on 21 July and 7 August 1997 respectively, claiming that Senator Boswell's statements were incorrect.

Recommendation: That the responses be incorporated in *Hansard*.

69. Person referred to in the Senate (Dr Clive Hamilton) (PP No. 183/97)

Reference: Referred by the President 29/9/97.

Action: Report tabled 21/10/97 (J.2659); report adopted 21/10/97 (J.2659).

Persons/organisations involved: Dr Clive Hamilton; Senator the Hon. W. Parer.

Resumé: During question time on 25 September 1997, in response to a question on Dr Clive Hamilton's criticism of the government's position on greenhouse, Senator Parer alleged that Dr Hamilton was 'anti-Australian' and read extracts from Dr Hamilton's interview on an ABC radio program *The Search for Meaning*. Dr Hamilton wrote to the President seeking redress, stating that *The Search for Meaning* was a long-running program that provided an opportunity for well-known people to discuss their personal, spiritual and religious journeys. His revelations on that program were a personal matter and entirely unrelated to his credentials to discuss climate change policy.

Recommendation: That the response be incorporated in *Hansard*.

70. Questions arising from proceedings of the Parliamentary Joint Committee on the National Crime Authority (PP No. 68/1998)

Reference: Motion moved by Senator Ferris and agreed to 26/6/1997 (J.2257-8).

Action: Report tabled 6/4/98 (J.3623); conclusions and recommendations noted 28/5/98 (J.3881).

Persons/organisations involved: Mr John Elliott; Senator Stephen Conroy; Parliamentary Joint Committee on the National Crime Authority.

Resumé: In 1997 the Joint Committee on the National Crime Authority undertook an evaluation of the operations of the National Crime Authority. At a public hearing of the joint committee, Mr John Elliott gave evidence concerning the Authority's investigation of him; at the same hearing Senator Stephen Conroy was prevented from putting certain questions to Mr Elliott and certain material was expunged from the *Hansard* transcript of evidence. The joint committee sought clarification of certain matters from the Privileges Committee: whether Senator Conroy's rights to question a witness were infringed; the limitations on the joint committee of the *National Crime Authority Act 1984*, sections 51 and 55; and whether certain further material should be expunged from the *Hansard* record.

Conclusions: The Committee of Privileges concluded that the entire joint committee hearing was contrary to the statute under which the joint committee was established, and as a consequence Senator Conroy's rights could not have been infringed. It further found that, as the proceedings had been widely publicised, a belated expungement order would be ineffectual. It drew attention to the extremely restrictive terms of the relevant provisions of the NCA Act and suggested that they should be reviewed.

Recommendations: That the NCA Committee seek amendment to sections 51 and 55 of the National Crime Authority Act or that, as an alternative to seeking amendment to section 51 of the Act, a declaratory enactment be made by Parliament to make it explicit that parliamentary privilege cannot be set aside except by express words in a statute.

71. Further possible false or misleading evidence before Select Committee on Unresolved Whistleblower Cases (PP No. 86/1998)

Reference: President determined precedence 4/12/97. Motion moved by Senator Woodley and agreed to 5/12/97 (J.3206).

Action: Report tabled 26/5/98 (J.3839); finding endorsed 28/5/98 (J.3882).

Persons/organisations involved: Mr Kevin Lindeberg; Senator John Woodley; Senate Select Committee on Unresolved Whistleblower Cases; Queensland Criminal Justice

Commission; Parliamentary Criminal Justice Committee of the Queensland Legislative Assembly.

Resumé: This inquiry dealt with further allegations that the Queensland Criminal Justice Commission had presented misleading evidence to the Senate Select Committee on Unresolved Whistleblower Cases in relation to the Parliamentary Criminal Justice Committee's handling of Mr Lindeberg's complaint and in relation to its investigation of the shredding of the Heiner documents. The Privileges Committee dismissed these allegations, and, having again noted that they were part of a series of disputes in Queensland involving the role of the Commission, suggested that such disputes should be resolved by state bodies.

Finding: That no contempt of the Senate has been committed by the Queensland Criminal Justice Commission.

72. Possible improper action against a person (Dr William De Maria) (PP No. 117/98)

Reference: Documents tabled by the President on 25/8/97; motion moved by Senator Bourne and agreed to 4/9/97 (J.2438).

Action: Report tabled 30/6/98 (J.4110); findings endorsed and recommendation adopted 1/12/98 (J.225).

Persons/organisations involved: Dr William De Maria; The University of Queensland; Senator John Woodley.

Resumé: On 27 May 1997 Senator John Woodley gave a speech in the Senate which added to remarks he had made on the previous evening about whistleblowers. Senator Woodley's speech mentioned two Senate select committee reports on whistleblowing, referring specifically to the work of Dr William De Maria, who had been a witness before the committees. On 29 May 1997 Senator Woodley took the opportunity to table documents which he believed to be associated with his previous speech but which in fact contained Dr De Maria's allegations of misconduct against University of Queensland staff. On 18 June 1997 Senator Woodley apologised to those staff and to the Senate for his role in tabling the documents. The University subsequently took disciplinary action against Dr De Maria based on the documents tabled by Senator Woodley on 29 May.

Findings: The University of Queensland, in taking action against Dr William De Maria as a direct consequence of his communication with the Senate through Senator Woodley, committed a contempt. The Committee of Privileges was unable to conclude that Dr De Maria should be found in contempt. It observed, however, that all senators have a duty to check material before tabling.

Recommendation: That no penalty be imposed.

73. Possible improper interference with a potential witness before the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (PP No. 118/98)

Reference: President determined precedence 1/10/97. Motion moved by Senator Bolkus and agreed to 2/10/97 (J.2611).

Action: Report tabled 30/6/98 (J.4111); finding endorsed and recommendations adopted 1/12/98 (J.225-6).

Persons/organisations involved: The Hon. Daryl Williams; Mr Alan Rose, Australian Law Reform Commission; Attorney-General's Department; Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund

Resumé: After communications between the Australian Law Reform Commission and the Native Title Committee secretariat, an invitation was extended to the former to make a written submission and to give oral evidence to that committee. The Commission's President, Mr Alan Rose, accepted the invitation on 19 September 1997

but withdrew following discussions with the Attorney-General's Department. On 29 September 1997, an article in the *Sydney Morning Herald* alleged Mr Rose had been pressured to withdraw by the Attorney-General.

Finding: The Committee of Privileges found that no contempt was committed in respect of the matter, as the Attorney-General and his officers had not sought by improper means to influence the evidence of the Australian Law Reform Commission, or to cause the Commission to refrain from giving that evidence. The Committee noted, however, the pResuméd failure by all persons involved to take account of the rights, obligations and protections of witnesses before parliamentary committees.

Recommendations: That the following matter be referred to the Legal and Constitutional Legislation Committee for inquiry and report: The statutory powers and functions of the Australian Law Reform Commission; and that the Senate resolution of 21 October 1993, relating to senior public officials' duty to undertake study of the principles governing the operations of Parliament, be reaffirmed, with each department to report in a year's time on how the terms of the resolution have been complied with.

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74. Possible unauthorised disclosure of parliamentary committee proceedings (PP No. 180/98) (Note: This report incorporates six separate references to the Committee)

References:

- (1) Possible unauthorised disclosure of documents of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund – President gave precedence; motion moved by Senator Evans and agreed to 27 October 1997 (J.2717)
- (2) Possible premature disclosure of the report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund – President gave precedence; motion moved by Senator Abetz and agreed to 29 October 1997 (J.2759)
- (3) Possible unauthorised disclosure of advice to the Parliamentary Joint Committee on the National Crime Authority – President gave precedence; motion moved by Senator McGauran and agreed to 26 November 1997 (J.2991)
- (4) Possible unauthorised disclosure of the report of the Environment, Recreation, Communication and the Arts References Committee – President gave precedence; motion moved by Senator Evans and agreed to 26 November 1997 (J.2991)
- (5) Possible unauthorised disclosure of a draft report of the Economics References Committee – President gave precedence; motion moved by Senator Collins and agreed to 12 March 1998 (J.3379)
- (6) Possible unauthorised disclosure of a draft report of the Parliamentary Joint Committee on the National Crime Authority – President gave precedence; motion moved by Senator McGauran and agreed to 2 July 1998 (J.4162)

Action: Report tabled 9/12/98 (J. 360); findings endorsed and recommendations adopted 15/2/99 (J.428).

Persons/organisations involved:

- (1) Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund; Senator the Hon. Nick Bolkus; the Hon. Daryl Williams; Mr Warren Entsch; Senator the Hon. Nick Minchin.
- (2) Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund; Senator Jeannie Ferris; Senator Eric Abetz; Senator the Hon. Nick Bolkus; Mr D. Melham MP; Ms Margo Kingston; Ms Aban Contractor; Mr Jack Waterford.
- (3) Parliamentary Joint Committee on the National Crime Authority; Senator Stephen Conroy; Senator Jeannie Ferris; Senator Julian McGauran; Professor Jim Davis.
- (4) Environment, Recreation, Communications and the Arts References Committee; Senator the Hon. Chris Schacht; the Hon. Michael Baume; Senator the Hon. Richard Alston; Mr Neville Stevens.

- (5) Economics References Committee; Senator Jacinta Collins; Senator George Campbell; other committee members and staff.
- (6) Parliamentary Joint Committee on the National Crime Authority; Senator Jeannie Ferris; Senator Julian McGauran.

Resumé: This report covers six separate instances of unauthorised disclosure of Senate committee reports, proceedings or documents. Having examined each of the matters referred, the Committee concluded that it should also examine the underlying principles governing improper disclosures. The Committee therefore devoted the first chapter to examining the issues of principle, concluding that the existing prohibitions should remain, while in the second chapter it discussed and made findings on the individual matters referred to it.

(1) Two documents from the Native Title Committee (NTC) secretariat relating to contacts between the Committee and the Australian Law Reform Commission were tabled in the House of Representatives on 22 October 1997 by the Attorney-General. It was claimed that the NTC chair, a member of the House of Representatives, had transmitted the documents without the authority of the NTC. The Committee concluded that the second of the two documents had indeed been transmitted without the authority of the NTC, though its attachments had been authorised for release. It considered that the release was not particularly serious and, in any event, the Committee could not make a finding of contempt against a member of the House of Representatives.

Finding: No contempt of the Senate committed.

(2) Before the tabling of a report from the Native Title Committee (NTC) on the Native Title Amendment Bill 1997, at least two newspapers gave accurate accounts of its contents, and two members of the NTC, Mr Daryl Melham MP and Senator the Hon. Nick Bolkus, held a televised press conference based on a minority report. The Committee was unable to discover the source of the earlier disclosures of the draft report to various news media, nor was it able to examine the actions of Mr Melham as a participant in the press conference.

Finding: Senator the Hon. Nick Bolkus committed a contempt of the Senate

(3) On 23 October 1997 Senator Conroy responded in the adjournment debate to a matter raised in the Senate concerning parliamentary privilege and the Joint Committee on the National Crime Authority, quoting an opinion sought by the NCA Committee from Professor Jim Davis, an opinion which had not at that time been authorised for release but which supported the senator's views on a contentious issue within that committee. The Privileges Committee considered that Senator Conroy had been unwise to disclose the document but that there had been no NCA Committee intention to suppress the document.

Finding: No contempt of the Senate committed.

(4) In a response dated 8 September 1997 to a question taken on notice in an estimates hearing, the Department of Communications and the Arts advised that a draft of the majority report on the Telstra sale bill by the Environment, Recreation, Communications and the Arts References Committee had been found in the department. On investigation, it appeared that the committee secretary had been instructed by a member of the committee to provide successive drafts of the minority report and the draft majority report to the minister's office so that the minister's staff could assist government senators in the preparation of the minority report and have access to departmental resources in doing so.

Finding: Unidentified officer, or officers, of the Department of Communications and the Arts committed contempt of the Senate.

(5) On 7 December 1997 an article in the *Weekend Australian* quoted from a draft report of the Economics References Committee on promoting Australian industry. Committee members and secretariat advised that they had no knowledge of how the draft report contents were disclosed. One senator suggested that, as such documents were not always clearly stamped 'confidential', they could be inadvertently passed on or

left lying in an open area; he also suggested that briefings on the handling of committee documents were required for new senators.

Finding: Unidentified person or persons who disclosed draft report committed contempt of the Senate.

(6) An article appeared in *The Age* on 6 April 1998, giving an accurate account of the outcome of the deliberations of the National Crime Authority (NCA) Committee before its report evaluating the NCA had been tabled. In this instance, the unauthorised disclosure did not impede the work of the committee but placed the relationship of trust between committee members in jeopardy.

Finding: Unidentified person or persons who disclosed draft report likely to have committed contempt of the Senate.

Recommendations:

That no penalty be imposed in respect of any persons against whom a contempt finding has been made; and that the question of authority to divulge private deliberations and documents of committees be referred to the Procedure Committee.

75. Execution of Search Warrants in Senators' Offices (PP No.52/99)

Reference: Deputy President, as Chair of the Senate Procedure Committee, requested that the Privileges Committee consider the matter (1/12/98).

Action: Report tabled 22/03/99 (J.581); recommendation adopted 25/03/99 (J.633).

Persons/organisations involved: Presiding Officers, Australian Federal Police.

Resumé: The committee considered the question whether parliamentary privilege provides an immunity from legal processes for compulsory production of documents and the significance of search warrants in the context of this question. It did not reach a firm conclusion on the matter but considered that general guidelines between the Australian Federal Police and the Law Council of Australia in respect of legal professional privilege could form the basis for developing comparable protocols between the Presiding Officers and law enforcement authorities.

Recommendation: That the general guidelines between the Australian Federal Police and the Law Council of Australia should form the basis for discussion between the Presiding Officers and the Attorney-General regarding the execution of search warrants in the offices of senators and members.

76. Parliamentary Privilege: Precedents, Procedures and Practice in the Australian Senate 1966-1999 (PP No. 126/1999)

Action: Report noted 26/8/99 (J.1585).

77. Persons Referred to in the Senate (Certain Faculty Members of Greenwich University)

(PP No.151/1999)

Reference: Referred by the President 27/5/99.

Action: Report tabled and adopted 28/6/99 (J.1350).

Persons/organisations involved: Senator Kim Carr; Greenwich University; Dr Claudine Jeanrenaud; Dr Carl E. Lindgren; Dr Lisa A. Mertz; Dr Daniel W. Miller; Dr Francesco Patricolo; Dr C. Norman Shealy; Dr Rick Walston and Dr John Walsh.

Resumé: During the adjournment debate on 22 March 1999, Senator Kim Carr referred to the establishment of Greenwich University on Norfolk Island and commented on the nature of the courses offered and the qualifications of the faculty. In their responses, faculty members asserted that they themselves, and the courses they offered, were academically sound.

Recommendation: That the response be incorporated in *Hansard*.

78. Possible Improper Use of Proceedings of Community Affairs References Committee

(PP No. 183/1999)

Reference: President gave precedence to notice of motion; motion moved by Senator Crowley and agreed to, 27/5/99 (J.947).

Action: Report tabled 1/9/99 (J.1626); findings endorsed 23/9/99 (J.1739).

Persons/organisations involved: Community Affairs References Committee; Associate Professor Margaret Allars; Dr Frank Peters; Dr Wes Whitten; Dr David Howes; the Hon. Dr Michael Wooldridge; Department of Health and Family Services.

Resumé: In its report on the Creutzfeldt-Jakob Disease settlement offer, the Community Affairs References Committee recommended, inter alia, that a review be undertaken by Professor Allars of further scientific information, including that provided to the committee by Drs Peters, Whitten and Howes. The review was undertaken and provided to the minister, whose department provided copies to the committee, and to many other interested persons before the committee had authorised publication. Dr Howes complained to the committee that Professor Allars' review disparaged him and reflected badly on his reputation. The department asserted that the review had been undertaken for a Senate committee and was thus covered by parliamentary privilege.

Findings: The committee did not make a finding with respect to its first two terms of reference, namely whether committee witnesses were injured in consequence of the evidence they gave the committee or whether the proceedings of the committee were misused to harm them. It considered the matters to be ones for scientific peer review to determine and beyond its competence. In respect of the questions as to whether the proceedings of the Community Affairs References Committee were misrepresented by the department and whether the department published a document prepared for and submitted to a parliamentary committee, the Privileges Committee found that no contempt was committed as the department was unsure of the status of the review report and unaware of the need to obtain committee authorisation to distribute it. The Privileges Committee criticised the department for its inadequate understanding of parliamentary processes.

79. Possibly False or Misleading Statements Tabled in the Senate - Discontinuation of Inquiry (PP No. 196/1999)

Reference: President determined precedence 6/5/97; motion moved by the Leader of the Opposition in the Senate, Senator Faulkner, at the request of Senators Bolkus and Margetts, and agreed to 7/5/97, though inquiry not to commence until conclusion of Australian Federal Police investigations and any legal proceedings (J.1855-6).

Action: Report tabled 29/9/99 (J.1792); adopted 30/9/99 (J.1811).

Persons/organisations involved: Senator Malcolm Colston; Mrs C. Smith; Attorney-General; Australian Federal Police; Director of Public Prosecutions.

Resumé: Statements were tabled in the Senate on 24 March and 6 May 1997 relating to travel allowance payments to then Senator Colston, statements which were alleged to be false or misleading. As the payments were under investigation by the Australian Federal Police (AFP) and legal proceedings a possibility, the committee's inquiry was to commence only following a statement from the Attorney-General, advising that those investigations and proceedings had been concluded. A statement dated 2 September 1999 was duly provided by the Attorney, indicating that the AFP investigations had been concluded and that Commonwealth legal proceedings consequent on those investigations had also been concluded. The Attorney included a statement from the Office of the Director of Public Prosecutions, indicating that the Commonwealth had declined to prosecute in view of the health of the alleged offender. In the circumstances, the Committee concluded it would be inappropriate to pursue its own inquiry.

Recommendation: That the inquiry be not further pursued.

80. Persons Referred to in the Senate (Board Members and Staff of Electronic Frontiers Australia Inc.) (PP No.358/1999)

Reference: Referred by the President 13/10/99.

Action: Report tabled and adopted 21/10/99 (J.1986).

Persons/organisations involved: Senator Richard Alston; Electronic Frontiers Australia Inc.

Resumé: During a Senate debate on Internet censorship on 30 September 1999, Senator Alston, the Minister for Communications, made disparaging remarks about Electronic Frontiers Australia Inc (EFA) and attacked its views on Internet regulation. EFA asserted that the Minister's allegations were unsubstantiated and took the opportunity to clarify its position.

Recommendation: That the EFA response be incorporated in *Hansard*.

81. Persons Referred to in the Senate (Dr Chris Atkinson and Dr Chris Harper) (PP No. 373/1999)

Reference: Referred by the President 9/11/99.

Action: Report tabled and adopted 30/11/99 (J.2159).

Persons/organisations involved: Senator Chris Evans; Royal Australian and New Zealand College of Radiologists; Dr Chris Atkinson; Dr Chris Harper.

Resumé: Senator Evans sought information in respect of a number of members of the Royal Australian and New Zealand College of Radiologists, via questions on notice published in the Senate Notice Paper of 29 September 1999. The College, on behalf of Drs Atkinson and Harper, expressed concern that misleading information had been published concerning the two doctors' alleged involvement with imaging groups, information which had the potential to damage the doctors' professional reputations and standing.

Recommendation: That the response be incorporated in *Hansard*.

82. Person Referred to in the Senate (Ms Christine Bourne) (PP No. 374/1999)

Reference: Referred by the President 10/11/99.

Action: Report tabled and adopted 30/11/99 (J.2159).

Persons/organisations involved: Senator Stephen Hutchins; Ms Christine Bourne.

Resumé: During the adjournment debate on 23 September 1999, Senator Hutchins alluded to the result of a Leichhardt Council by-election following a High Court ruling and added that one candidate, Ms Bourne, had been served with a bankruptcy notice. Ms Bourne asserted that her reputation and standing in the community had been adversely affected as a result.

Recommendation: That Ms Bourne's response be incorporated in *Hansard*.

83. Persons Referred to in the Senate (Mr Raymond Rose, Principal, Bridge Business College) (PP No. 375/1999)

Reference: Referred by the President 10/11/99.

Action: Report tabled and adopted 30/11/99 (J.2159).

Persons/organisations involved: Senator Kim Carr; Mr Raymond Rose; Bridge Business College.

Resumé: During a matters of public interest discussion in the Senate on 29 September 1999, Senator Carr discussed private providers of international education in Australia. He made certain allegations, inter alia, about the adequacy of the Bridge Business College, allegations which were responded to by its principal, Mr

Raymond Rose. Mr Rose claimed that Senator Carr's comments had unfairly damaged the reputation of the college and caused it to be subject to an unscheduled investigation by the Department of Immigration and Multicultural Affairs.

Recommendation: That Mr Rose's response be incorporated in *Hansard*.

84. Possible Unauthorised Disclosure of Draft Parliamentary Committee Report (PP No. 35/2000)

Reference: President determined precedence 1/9/99; motion moved by Senator O'Brien at the request of Senator Collins, and agreed to, 2/9/99 (J.1636).

Action: Report tabled 7/3/2000 (J.2374); findings endorsed and recommendations adopted 15/3/2000 (J.2447).

Persons/organisations involved: Senate Employment, Workplace Relations, Small Business and Education References Committee; Senator Karen Synon; the Hon. Peter Reith; Department of Employment, Workplace Relations and Small Business.

Resumé: The chair's draft report of the inquiry by the Senate Employment, Workplace Relations, Small Business and Education References Committee into regional unemployment was disclosed to the Department of Employment, Workplace Relations and Small Business, a fact which became apparent when an officer of the department contacted the committee secretary to inquire about the status of the document. The Employment Committee investigated the disclosure and was advised by then Senator Synon that her then staff had inadvertently provided a copy of the draft report to Minister Reith's office. The minister insisted his staff had not solicited a copy of the draft report and that they were unaware of its privileged nature when the departmental liaison officer passed it to the department for comment; the departmental secretary also disclaimed any knowledge of the report's status.

Findings: That the staff member of a former senator disclosed without authority a draft report to a ministerial staff member; that a ministerial staff member in turn disclosed without authority that draft report to a departmental liaison officer who provided it to the department; that the officers of the department circulated the report internally and to another department; that the departmental officers concerned should have been aware of the status of the document; that departmental training in parliamentary procedures was inadequate; that the handling of the draft report in both the minister's office and in the department constituted culpable negligence and that a contempt of the Senate was committed.

Recommendations: That arrangements be made for ministerial and shadow ministerial staff to attend a seminar on parliamentary procedure; that committees mark all pages of draft reports as confidential and transmit them with care; that no penalty be imposed.

85. Possible Intimidation of a Witness before the Employment, Workplace Relations, Small Business and Education References Committee (PP No. 36/2000)

Reference: President determined precedence 11/8/99; motion moved by Senator O'Brien at the request of Senator Collins and agreed to 12/8/99 (J.1481).

Action: Report tabled 7/3/2000 (J.2374); findings endorsed and recommendation adopted 15/3/2000 (J.2448).

Persons/organisations involved: Senate Employment, Workplace Relations, Small Business and Education References Committee; Mr Peter Felsch; Mr Tony Wiltshire; Brewarrina Shire Council.

Resumé: On 26 July 1999 the Senate Employment Committee held a public hearing at Brewarrina, NSW, as part of its inquiry into indigenous education. Four witnesses from the Brewarrina Shire Council, including General Manager Mr Peter Felsch, gave evidence, although only one, Mr Tony Wiltshire, the Council's Youth and Community

Development Officer, was listed on the program. Mr Wiltshire subsequently sought to give further evidence in camera but time constraints precluded this; he was informed that written submissions were still being received, however. Mr Wiltshire later wrote to the Employment Committee, asserting that Mr Felsch had prevented him from providing a submission to the Employment Committee on the day of the hearing and that his employment was under review as a result of his proposed submission to the inquiry. Mr Felsch confirmed that he had caused Mr Wiltshire's submission to be delayed while its status and contents were determined.

Finding: That Mr Peter Felsch improperly interfered with and penalised Mr Tony Wiltshire, then Youth and Community Development Officer of Brewarrina Shire Council, as a consequence of the latter's participation in the proceedings of the Employment Committee. The committee noted, however, that Mr Felsch had acted on legal advice, with the best interests of the Brewarrina Shire in mind.

Recommendation: That no penalty be imposed.

86. Alleged Threats to a Witness before the Select Committee on A New Tax System

(PP No. 39/2000)

Reference: President determined precedence 6/12/99; motion moved by Senator Allison and agreed to 7/12/99 (J.2189).

Action: Report tabled 13/3/2000 (J.2424); finding endorsed 16/3/2000 (J.2485).

Persons/organisations involved: Senate Select Committee on A New Tax System; Mr Fred Wren; Mr Grant Fortescue; Mr Terry Peabody Jnr; Wren Oil; Nationwide Oil.

Resumé: Mr Fred Wren, Managing Director of Wren Oil, alleged that he had received phone threats from Mr Fortescue, then General Manager of Nationwide Oil, concerning Wren Oil's submission and evidence to the Senate Select Committee on A New Tax System in February 1999. By the time the Privileges Committee examined the matter, Mr Fortescue had retired. His successor, Mr Peabody, asserted that Mr Fortescue's objection was not to the fact that Mr Wren had given evidence but to the quality of Mr Wren's evidence and to the fact that he had used a parliamentary forum to raise matters relating to an ongoing commercial dispute which were unrelated to the committee's inquiry. The committee concluded that Mr Fortescue's comments were probably made in the heat of the moment and did not warrant further inquiry, which might lead to an escalation of commercial hostilities out of all proportion to any possible offence of contempt.

Finding: On the basis of the evidence before the committee, no contempt of the Senate was committed.

87. Person Referred to in the Senate (Mr R.T. Mincherton) (PP No. 40/2000)

Reference: Referred by President 8/3/2000.

Action: Report tabled, adopted, 13/3/2000 (J.2424-5).

Persons/organisations involved: Mr R.T. Mincherton; Senator Sue Knowles; Western Australian Liberal Party.

Resumé: On 8 December 1999, during matters of public interest discussion in the Senate, Senator Knowles addressed certain media coverage of the internal workings of the Western Australian Liberal Party and made allegations about Mr Mincherton, which he asserted were untrue and which had damaged his reputation and caused hurt to his family.

Recommendation: That Mr Mincherton's response be incorporated in *Hansard*.

88. Person Referred to in the Senate (Mr N. Crichton-Browne) (PP No. 71/2000)

Reference: Referred by the President 30/3/2000.

Action: Report tabled, adopted 10/4/2000 (J.2585).

Persons/organisations involved: Mr Noel Crichton-Browne; Senator Sue Knowles; Western Australian Liberal Party.

Resumé: On 8 December 1999, during matters of public interest discussion in the Senate, Senator Knowles addressed certain media coverage of the internal workings of the Western Australian Liberal Party and made allegations about Mr Noel Crichton-Browne, which he asserted were untrue.

Recommendation: That Mr Crichton-Browne's response be incorporated in *Hansard*.

89. Senior Public Officials' Study of Parliamentary Processes: Report on Compliance with Senate Order of 1 December 1998 (PP No. 79/2000)

Reference: Advisory report.

Action: Report tabled, noted 13/4/2000 (J.2632).

Persons/organisations involved: Australian Public Service.

Resumé: On 21 September 1993, following a number of inquiries which showed a lack of understanding on the part of senior public servants of parliamentary procedures and processes, the Senate adopted a recommendation of the Committee of Privileges that all senior executives in the Australian Public Service and statutory authorities be required to undertake study on accountability to Parliament, including the protection afforded to witnesses before parliamentary committees. The response was patchy. Following yet another instance of public sector failure to afford appropriate protection to a parliamentary committee witness, as outlined in the Privileges Committee's 73rd report, the Senate repeated its 1993 resolution and added a requirement that each department report within a year to the Senate on how it and its related agencies had complied with the Senate resolution. All departments responded; from their responses it appeared that some 50 per cent of relevant officers had attended courses on the topic offered by the Public Service and Merit Protection Commission or the Department of the Senate.

90. Person Referred to in the Senate (Dr Malcolm Colston) (PP No. 113/2000)

Reference: Deputy President referred 19/4/2000.

Action: Report tabled, adopted 5/6/2000 (J.2723).

Persons/organisations involved: Dr Malcolm Colston; Senator Robert Ray.

Resumé: During a second reading speech in the Senate on the Norfolk Island Amendment Bill 1999 [2000] Senator Ray made certain allegations about former Senator Colston's visit to Norfolk Island and to other external territories and to his seeking the position of administrator of Norfolk Island. Dr Colston denied the allegations.

Recommendation: That Dr Colston's response be incorporated in *Hansard*.

91. Person Referred to in the Senate (Mr Noel Crichton-Browne) (PP No. 119/2000)

Reference: Referred by the President 30/5/2000.

Action: Report tabled, adopted 19/6/2000 (J.2797).

Persons/organisations involved: Mr Noel Crichton-Browne; Senator Sue Knowles.

Resumé: On 10 April 2000, Senator Knowles spoke to the motion that the Senate adopt the 88th report of the Committee of Privileges, which recommended that an earlier response from Mr Crichton-Browne be incorporated in *Hansard*. Mr Crichton-Browne again alleged that Senator Knowles' statements were untrue, and vexatious.

Recommendation: That Mr Crichton-Browne's response be incorporated in *Hansard*.

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92. Matters arising from 67th Report of the Committee of Privileges (PP No 150/2000.)

Action: Report tabled 29/6/2000 (J.2997); Chair's statement (29/6/2000; *Hansard* p. 16040); report noted 17/8/2000 (J.3114).

Persons/organisations involved: Mr Michael Rowley; Mr David Armstrong; former Senator Bill O'Chee; Justice Jones; Mr Harry Evans, Clerk of the Senate; Mr Bret Walker SC.

Resumé: On 12 April 2000 Jones J. of the Supreme Court of Queensland brought down a judgment in a defamation action between Michael Rowley (plaintiff) and David Armstrong (defendant), proceedings which were one of the subjects of the committee's 67th report. The committee was concerned about the issues raised in the judgment and sought advice from the Clerk of the Senate and from Mr Bret Walker SC on the status of communications between informants and members of Parliament. The Clerk found that the judgment failed to address the key question of the nature of the communication between Mr Armstrong and former Senator O'Chee and its relationship with proceedings of the Senate. Mr Walker concluded that there was no doubt that the communication by Mr Armstrong to [then] Senator O'Chee constituted 'proceedings in Parliament' for the purposes of sub-section 16(3) of the Parliamentary Privileges Act and suggested that the 'egregious deficiencies in the decision should be addressed by an appellate court'.

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93. Possible Unauthorised Disclosure of in camera Proceedings of the Economics References Committee (PP No. 179/2000)

Reference: President determined precedence; motion moved by Senator Calvert on behalf of Senator Gibson and agreed to 11/5/2000 (J.2704-5).

Action: Report tabled 28/8/2000 (J.3126); finding endorsed 31/8/2000 (J.3181).

Persons/organisations involved: Economics References Committee; Senator Brian Gibson; Senator Shayne Murphy; Australian Taxation Office.

Resumé: The Chair of the Economics References Committee, Senator Shayne Murphy, confirmed to a journalist the name of an individual who had given in camera evidence to that committee's inquiry into the Australian Taxation Office. He claimed that he did so in order to protect the committee's reputation from a factually incorrect proposed story. The Deputy Chair, Senator Brian Gibson, raised the matter as a question of privilege as he feared that the disclosure of the identity of an in camera witness would undermine the confidence of future witnesses in the ability of Senate committees to maintain anonymity when requested. The Privileges Committee concluded that a finding of contempt against Senator Murphy was inappropriate: the name of the in camera witness had previously been published in *Business Review Weekly*; no harm was done to the committee's proceedings; and no in camera evidence had been disclosed without the authority of the committee.

Finding: That no contempt of the Senate should be found in respect of the matter.

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94. Matters Arising from 67th Report of the Committee of Privileges (2) — Possible Senate Representation in Court Proceedings (PP No. 198/2000)

Action: Report tabled and recommendation adopted 4/9/2000 (J.3192).

Persons/organisations involved: Mr David Armstrong; Mr William O'Chee; the Senate.

Resumé: The committee sought advice on possible action that could be taken with regard to the judgment of Justice Jones of the Queensland Supreme Court in the defamation action brought by Mr Michael Rowley against Mr David Armstrong, and concerning a new action by the former against former Senator William (Bill) O'Chee who originally raised Mr Armstrong's concerns in the Senate. The Clerk of the Senate

advised that, if either action came to trial, counsel instructed for the Senate could seek leave to appear as *amicus curiae* to assist the court on the parliamentary privilege question.

Recommendation: That the Senate authorise the President, if required, to engage counsel as *amicus curiae* if the action for defamation against Mr David Armstrong or a similar action against Mr William O'Chee is set down for trial.

95. Penalties for Contempt: Information Paper (PP No. 199/2000)

Action: Report tabled 4/9/2000 (J.3193); noted 5/10/2000 (J.3321).

Resumé: A commissioned survey of the powers, privileges and immunities of 16 national legislatures, and those of the 8 Australian state and territory parliaments, together with those legislatures' powers to punish contempts.

96. Possible Misleading Evidence to and Improper Interference with Witnesses before the Employment, Workplace Relations, Small Business and Education Legislation Committee (PP No. 118/2001)

Reference: President determined precedence 27/2/2001; motion moved by Senator Collins and agreed to 28/2/2001 (J.3980).

Action: Report tabled 25/6/2001 (J.4393); finding endorsed 9/8/2001 (J.4650).

Persons/organisations involved: Senate Employment, Workplace Relations, Small Business and Education Legislation Committee; Senator Jacinta Collins; Mr Jonathan Hamberger; Mr Peter McIlwain; Dr Peter Shergold; Department of Employment, Workplace Relations and Small Business.

Resumé: In the course of the budget estimates hearings of May 2000, Senator Collins of the Employment Committee requested copies of certain Australian Workplace Agreements (AWAs); the Employment Advocate, Mr Hamberger, undertook to provide them. Some days later, however, he wrote to the Employment Committee indicating a change of mind and stating his belief that it would be 'inappropriate' to do so. The Employment Committee persevered with its request at subsequent estimates hearings, during which Acting Employment Advocate Peter McIlwain suggested that Mr Hamberger's change of mind had been based partly on legal advice from the Department of Employment, Workplace Relations and Small Business, advice which both he and Dr Shergold insisted was protected by legal professional privilege. At a special hearing of the Employment Committee on 14 August 2000, Mr Hamberger asserted that his decision not to provide copies of the AWAs was not based on legal advice but because he believed it inappropriate to do so; he also confirmed he had discussed the matter with both the relevant minister and the department. Certain senators on the Employment Committee were left with the impression that they had been deliberately misled on the matter and that the statutory Employment Advocate and/or the Acting Employment Advocate had been improperly influenced to change their decisions. However, the Committee of Privileges, with access to an array of extra documentation, was able to conclude that, on the basis of the evidence before it, no contempt had occurred.

Finding: That there was no evidence to support a conclusion that a contempt of the Senate had been committed.

97. Person Referred to in the Senate (Mr Terence O'Shane) (PP No. 131/2001)

Reference: Referred by President 28/6/2001.

Action: Report tabled, adopted 28/6/2001 (J.4458).

Persons/organisations involved: Senator Bill Heffernan; Mr Terry O'Shane; Dr Evelyn Scott.

Resumé: In the adjournment debate on 25 June 2001, Senator Heffernan addressed the topic of child sexual abuse in indigenous communities and alleged that Mr Terry O'Shane was the person responsible for abusing certain children. Mr O'Shane denied the allegations, claiming that they had damaged his reputation and standing in the community.

Recommendation: That Mr O'Shane's response be incorporated in *Hansard*.

98. Person Referred to in the Senate (Alderman Dr John Freeman) (PP No. 166/2001)

Reference: Referred by the President 7/8/2001.

Action: Report tabled, adopted 27/8/2001 (J.4765).

Persons/organisations involved: Senator Bob Brown; Dr John Freeman; Hobart City Council.

Resumé: In the committee stages of the consideration of the Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001 on 20 June 2001, Senator Brown attributed certain remarks to Hobart City Council alderman Dr John Freeman relating to an area of land on Mt Nelson known as habitat of the endangered swift parrot but proposed for the development of an old people's home. Alderman Freeman asserted that the remarks attributed to him were both untrue and offensive.

Recommendation: That Dr Freeman's response be incorporated in *Hansard*.

99. Possible Unauthorised Disclosure of a Submission to the Parliamentary Joint Committee on Corporations and Securities (PP No. 177/2001)

Reference: President determined precedence 26/6/2000; motion moved by Chair of the Parliamentary Joint Committee on Corporations and Securities, Senator Chapman, and agreed to 27/6/2000 (J.2908).

Action: Report tabled 30/8/2001 (J.4834); findings endorsed and penalty imposed 18/9/01 (J.4866).

Persons/organisations involved: Australian Securities and Investments Commission; Yannon Pty Ltd; Parliamentary Joint Committee on Corporations and Securities; Nationwide News Pty Ltd.

Resumé: On 12-13 February 2000, *The Weekend Australian* published two articles by its national business correspondent on the ASIC investigation into the Yannon transaction, indicating that the source of the information was a 'secret' ASIC report to the Parliamentary Joint Committee on Corporations and Securities. A similarly-sourced article was published in *The Australian* on the following Monday. The Corporations and Securities Committee had not authorised the release of the document and considered that the unauthorised disclosure adversely affected its work. After extensive preliminary investigation, the Privileges Committee held a public hearing into the matter on 25 May 2001. It was unable to discover the source of the disclosure or to establish with certainty whether the disclosure was deliberate. It concluded, however, that the publication in *The Weekend Australian* and *The Australian* of information based on the disclosure was deliberate and was made in the full knowledge that the document had not been authorised for publication. The Committee of Privileges advised that committees should take particular care in receiving and handling in camera documents and other evidence.

Findings: That the person or persons who disclosed in camera ASIC evidence to a journalist, and Nationwide News Pty Ltd, as the organisation responsible for the actions of the journalist, committed a contempt of the Senate.

Recommendation: In the event that the person or persons who disclosed in camera ASIC evidence to a journalist are found, a penalty of a \$5,000 fine as authorised by the *Parliamentary Privileges Act 1987* be imposed, or a prosecution for an offence under

section 13 of that Act be initiated by the Senate; and that the Senate reprimand Nationwide News. If Nationwide News offends again, the committee may recommend that its access to certain areas in Parliament House be restricted.

100. Possible Unauthorised Disclosure of Draft Report of Legal and Constitutional Legislation Committee (PP No. 195/2001)

Reference: President determined precedence 25/6/2001; motion moved by Senator Calvert at the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, and agreed to, 26/6/2001 (J.4405).

Action: Report tabled 19/9/2001 (J.4882); findings endorsed 26/9/2001 (J.4974).

Persons/organisations involved: Senate Legal and Constitutional Legislation Committee; Senator Marise Payne; Nationwide News Limited.

Resumé: On 19 February 2001 the draft report of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne) on the Sex Discrimination Amendment Bill (No. 1) 2001 was emailed to committee members. The following day, the chair was contacted by a journalist to discuss the draft report; she refused, and informed him of its confidential status. Notwithstanding this, an article was published in *The Australian* on 22 February 2001 under the journalist's by-line and based in part on the draft report. The Legal and Constitutional Legislation Committee found that the unauthorised disclosure both affected its operations and had the potential to affect its work adversely.

Findings: That the unauthorised disclosure of the Legal and Constitutional Legislation Committee draft report was probably deliberate but the Privileges Committee was unable to find the source of the disclosure; that the person or persons who disclosed the information to the journalist committed a contempt of the Senate; and that Nationwide News Pty Ltd, publisher of *The Australian*, as the organisation responsible for the actions of the journalist, committed a contempt of the Senate.

Recommendation: That no penalty be applied, as the committee's recommendation in respect of the 99th report had not been published before the article appeared in *The Australian*, and the disclosure was not as serious.

101. Persons Referred to in the Senate (Staff and Faculty of Greenwich University) (PP No. 215/2001).

Reference: Referred by the President 17/9/2001.

Action: Report tabled and adopted 26/9/2001 (J.4976).

Persons/organisations involved: Senator Kim Carr; Mr Jack Marges; Greenwich University; Senate Employment, Workplace Relations, Small Business and Education Legislation Committee.

Resumé: On both 7 June 2001 during an estimates hearing of the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, and 25 June 2001 in the Senate chamber, Senator Carr referred to Greenwich University, alleging that it lacked qualified faculty, failed to coordinate communications among academic staff and offered spurious programs. Mr Marges responded, on behalf of the staff and faculty of Greenwich University, denying the allegations.

Recommendation: That the response by Mr Marges be incorporated in *Hansard*.

102. Counsel to the Senate (PP No. 307/2002)

Reference: motion moved by Chair of Committee of Privileges, Senator Ray, and agreed to, 20/3/2002 (J.244).

Action: Report tabled 26/6/2002 (J.492); noted 22/8/2002 (J.646).

Persons/organisations involved: The Senate; the courts.

Resumé: In view of the number of cases with privilege implications coming before the courts, the committee considered whether the Senate should retain counsel on a permanent basis to represent it as required. After considering advice from the Clerk of the Senate, the committee concluded that the expense of such retention would be excessive and compounded by the problem of availability of counsel when required.

Conclusion: That the present ad hoc arrangements for the engagement of counsel be continued.

103. Possible Improper Influence and Penalty on a Senator (PP No. 308/2002)

Reference: President determined precedence 6/8/2001; motion moved by Leader of the Government in the Senate, Senator Hill, and agreed to 7/8/2001. (J.4597).

Action: Report tabled 26/6/2002 (J.492); findings endorsed 22/8/2002 (J.646).

Persons/organisations involved: Senator Tambling; Northern Territory Country Liberal Party (CLP); the Hon. Denis Burke MLA; Mrs Suzanne Cavanagh.

Resumé: After lengthy internal CLP discussion on the merits of the federal government's Interactive Gambling Bill 2001, the party gave written directions to its federal representative, Senator Grant Tambling, on how to vote on the legislation. Senator Tambling, a parliamentary secretary, convinced that he had achieved the best possible outcome for the Northern Territory via the government's amendments to the legislation, ignored his party's directive and voted with the government on the bill on 28 June 2001. On 3 July 2001, the CLP disendorsed Senator Tambling. After the party refused to consider his appeal against the disendorsement, Senator Tambling opened legal proceedings and raised the matter of privilege. Proceedings were stayed, the CLP met the senator's legal costs, and both parties agreed to a new preselection process, which Senator Tambling did not contest.

Findings: That the CLP purported to direct a senator as to how he should exercise a vote on the interactive gambling legislation and penalised him by revoking his preselection, in consequence of that vote. The Committee of Privileges concluded that, while the CLP's actions were reckless and ill-judged, on balance a contempt should not be found.

104. Possible False or Misleading Evidence before the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (PP No. 309/2002)

Reference: President determined precedence 19/9/2001; motion moved by Senator McGauran, at the request of the Chair of the Native Title Committee, Senator Ferris, and agreed to 19/9/2001 (J.4879).

Action: Report tabled 26/6/2002 (J.492); finding endorsed 22/8/2002 (J.645).

Persons/organisations involved: Ms Sharon Firebrace; Indigenous Land Corporation; Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund.

Resumé: In its 18th report, the Native Title Committee highlighted two cases of what it regarded as misleading evidence from the then chair of the Indigenous Land Corporation (ILC), Ms Sharon Firebrace. The first instance related to the action taken concerning the leaking to the media of an Australian National Audit Office issues paper on the ILC; the second, to whether the Australian Federal Police was investigating the ILC purchase of the Roebuck Plains cattle station. The issues were complicated by their interrelationship and by the fact that Ms Firebrace and the ILC Board were at loggerheads for much of this period. Much of Ms Firebrace's evidence on the first issue was based on second-hand reports, as she had not been present for the Board consideration of the ANAO paper.

Finding: That, while misleading evidence was given to the Native Title Committee, it is unlikely it was given with deliberate intent, and therefore no contempt was committed.

105. Execution of Search Warrants in Senators' Offices — Senator Harris (PP No. 310/2002)

Reference: President determined precedence 14/2/2002; motion moved by Senator Harris and agreed to 14/2/2002 (J.91).

Action: Report tabled 26/6/2002 (J.492); finding endorsed 22/8/2002 (J. 645).

Persons/organisations involved: Senator Len Harris; Queensland Police Service.

Resumé: On 27 November 2001 Queensland Police entered Senator Harris's Mareeba office, searched, under warrant, for certain material, and took away copies of computer-based information. Senator Harris asked the Clerk of the Senate for advice and the Clerk wrote to the Commissioner of the Queensland Police Service (QPS), pointing out that material outside the authorisation of the search warrant might have been seized and that some of the material so seized may be covered by parliamentary privilege. The Commissioner informed the committee that the material in question had been secured in the safe of the QPS solicitor and arrangements were made for the senator and his solicitor to inspect the computer disks and to identify those documents to which privilege applied. They did not do so.

Conclusion: No breaches of the immunities of the Senate were involved in this case; Senator Harris and his solicitors should take the opportunity offered by the QPS to identify material in respect of which privilege could be claimed; guidelines concerning the execution of search warrants in parliamentary offices should be established between the Presiding Officers and the Australian Federal Police, which would also be applicable to state and territory police forces; and the seizure of documents over which a claim of parliamentary privilege is not made is a matter for the courts.

Finding: No contempt of the Senate is involved.

106. Possible Improper Interference with a Witness before the Senate Select Committee on a Certain Maritime Incident (PP No. 344/2002)

Reference: President determined precedence 16/5/2002; motion moved by Senator the Hon. Peter Cook, Chair, Select Committee on a Certain Maritime Incident, and agreed to 16/5/2002 (J.359).

Action: Report tabled August 2002.

Persons/organisations involved: Senator Cook; Dr Brendon Hammer; Rear Admiral R.W. Gates CSM RAN; Mr Max Moore-Wilton AC; Commander Stefan King; Ms Barbara Belcher; Ms Harinder Sidhu; Mr Michael Potts.

Resumé: On 11 March 2002 a meeting was held between Dr Brendon Hammer, Commander Stefan King, and Ms Harinder Sidhu relating to evidence which might be given before the Maritime Incident Committee. On 29 April Rear Admiral Gates raised the question that the meeting might have been intended improperly to influence Commander King in the giving of evidence. Following the allegation's being made known to the Department of the Prime Minister and Cabinet, Dr Hammer wrote to Commander King stressing that he did not intend to influence him on the matter.

Conclusion: No improper interference was attempted or exerted.

Finding: No contempt of the Senate was committed.

107. Parliamentary Privilege: Precedents, Procedures and Practice in the Australian Senate 1966-2002 (PP No. 345/2002)

Action: Report tabled 27/8/2002 and noted 29/8/2002 (J.712).

108. Person Referred to in the Senate (Mr John Hyde Page) (PP No. 388/2002)

Reference: Referred by the President 16/9/2002.

Action: Report tabled and adopted 15/10/2002 (J.875).

Persons/organisations involved: Senator Steve Hutchins; Mr John Hyde Page.

Resumé: On 22 August 2002 during debate in the Senate, Senator Hutchins read an anonymous email he claimed to have received, including the transcript of a purported telephone conversation between two people. The inference of the email and transcript was that Mr John Hyde Page had offered a bribe to a member of the Young Liberal Movement to attend a meeting of the Movement. Mr John Hyde Page responded denying the allegation.

Recommendation: That the response by Mr John Hyde Page be incorporated in *Hansard*.

109. Person Referred to in the Senate (Mr Tony Kevin) (PP No. 497/2002)

Reference: Referred by the President 14/10/2002.

Action: Report tabled and adopted 22/10/2002 (J.949).

Persons/organisations involved: Senator Brett Mason; Senator George Brandis; Senator Alan Ferguson; Mr Tony Kevin, Mr Kevin Rudd.

Resumé: On 26 September 2002 during proceedings in the Senate, Senators Mason, Brandis and Ferguson made adverse comments about Mr Tony Kevin in respect of his former career as an Australian ambassador, his temporary employment with Mr Kevin Rudd, MP and evidence he gave to the Select Committee on a Certain Maritime Incident. Mr Kevin responded, refuting the allegations.

Recommendation: That the response by Mr Tony Kevin be incorporated in *Hansard*.

110. Persons Referred to in the Senate (Dr Geoffrey Vaughan, Dr Peter Jonson, Professor Brian Anderson) (PP No. 601/2002)

Reference: Referred by the President 15/11/2002, 20/11/2002 and 2/12/2002.

Action: Report tabled and adopted 10/12/2002 (J.1285).

Persons/organisations involved: Senator Ron Boswell; Dr Geoffrey Vaughan; Dr Peter Jonson; Professor Brian Anderson.

Resumé: On 12 November 2002, Senator Boswell made adverse comments relating to Dr Geoffrey Vaughan, Dr Peter Jonson and Professor Brian Anderson during debate on the Research Involving Embryos Bill 2002. On 15 November 2002 the President of the Senate received letters from Dr Geoffrey Vaughan and Dr Peter Jonson asking that their responses be circulated to all senators. A further letter from Dr Geoffrey Vaughan was received on 20 November 2002, and on 2 December 2002 the President received a letter from Professor Brian Anderson. All four letters refuted the allegations of conflict of interest and were treated as submissions under Privilege Resolution 5.

Recommendation: That the responses by Dr Geoffrey Vaughan, Dr Peter Jonson and Professor Brian Anderson be incorporated in *Hansard*.

111. Persons Referred to in the Senate (Mr Bob Moses, on behalf of Board and Management of National Stem Cell Centre) (PP No. 2/2003)

Reference: Referred by the President 12/12/2002.

Action: Report tabled and adopted 5/2/2003 (J.1458).

Persons/organisations involved: Senator Ron Boswell; Mr Bob Moses; Board and Management of the National Stem Cell Centre.

Resumé: On 12 November 2002 during debate on the Research Involving Embryos Bill 2002, Senator Boswell made a series of allegations concerning the National Stem Cell

Centre and research funding in Australia. Mr Bob Moses, on behalf of the Board and Management of the National Stem Cell Centre, responded, refuting the allegations.

Recommendation: That the response by Mr Bob Moses, on behalf of Board and Management of National Stem Cell Centre be incorporated in *Hansard*.

112. Possible Unauthorised Disclosure of Draft Report of Environment, Communications, Information Technology and the Arts Legislation Committee (PP No. 11/2003)

Reference: President determined precedence 27/6/2002; motion moved by Chair of the Environment, communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, and agreed to 27/6/2002 (J.524).

Action: Report tabled and findings endorsed 6/2/2003 (J.1475).

Persons/organisations involved: Senator Alan Eggleston; Environment, Communications, Information Technology and the Arts Legislation Committee; The Age Company Limited, Ms Annabel Crabb; Mr Michael Gawenda

Resumé: On 17 June 2002, *The Age* published an article by Ms Annabel Crabb, which contained references, including summaries of two of four recommendations, to the contents of the Environment, Communications, Information Technology and the Arts Legislation Committee's report on the Broadcasting Services Amendment (Media Ownership) Bill 2002, which was to be tabled the next day. Senator Eggleston wrote to the President of the Senate advising that the disclosure of the report had not been authorised. After extensive preliminary investigation, the Privileges Committee held a public hearing into the matter on 24 October 2002.

Findings: There was an unauthorised disclosure, by an unknown person, of two recommendations contained in the Report of the Employment, Communications, Information Technology and the Arts Legislation Committee on the bill, and of the fact that there was to be a joint dissenting report by the Australian Labor Party and the Australian Democrats. The disclosure was deliberate and the person who disclosed the committee proceedings was *prima facie* in contempt of the Senate. The Age Company Limited published the article by Ms Crabb knowingly based on the deliberate unauthorised disclosure. However, under the circumstances, no contempt was found against The Age Company Limited, Mr Michael Gawenda, Associate Publisher and Editor of *The Age*, and Ms Annabel Crabb.

113. Australian Press Council and Committee of Privileges Exchange of Correspondence (PP No. 135/2003)

Reference: Advisory report.

Action: Report tabled and noted 25/6/2003 (J.1983).

Persons/Organisations involved: Committee of Privileges; Professor Ken McKinnon, Chairman, Australian Press Council.

Resumé: On 3 March 2003, the Committee of Privileges sent a copy of its 112th report to, among others, the editors and publishers of the major media outlets in Australia, and every journalist in the Press Gallery. On 14 March 2003, the Australian Press Council initiated correspondence with the committee which appeared to be based on media descriptions of the committee's 112th report. An exchange of correspondence then ensued. That correspondence formed the basis of the committee's report.

114. Execution of Search Warrants in Senators' Offices — Senator Harris: Matters arising from the 105th report of the Committee of Privileges (PP No 75/2003)

Reference: Statement by Chair of the Committee of Privileges, Senator Ray, 5/2/2003, *Hansard*, pp. 8573-4; (J.1457)

Action: Report tabled and noted 20/8/2003 (J.2245).

Persons/Organisations involved: Senator Len Harris; Mr Robert Atkinson APM; Queensland Police Service; Mr Stephen Skehill SC

Resumé: Queensland Police executed a search warrant in the Mareeba office of Senator Harris on 27 November 2001 seized several documents and copied the contents of the hard discs of computers in the office. The committee considered the question of whether any breaches of the immunities of the Senate or contempts were involved in the search and seizure in its 105th report (see above). In view of Senator Harris' solicitors maintaining a general claim of privilege over all the seized documents, the committee, with the approval of the President, appointed Mr Stephen Skehill SC to make an evaluation of the seized material. Both Senator Harris and the Queensland Police Service agreed in advance to accept Mr Skehill's determination. After examining more than 74,000 pages of documents, Mr Skehill reported to the committee that, in his view, none of the documents were within the scope of the search warrant. Having reached this conclusion, he had no need to consider which of the documents would have been immune from seizure on the basis of parliamentary privilege.

Recommendation: That the Presiding Officers and the Attorney-General finalise draft protocols for the execution of search warrants in senators' and members' offices and that the committee be given the opportunity to comment on the draft.

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115. Persons Referred to in the Senate (Board Members of Electronic Frontiers Australia Inc.) (PP No. 292/2003)

Reference: Referred by the President 17/9/2003.

Action: Report tabled and adopted 18/9/2003 (J.2447).

Persons/organisations involved: Senator the Hon. Richard Alston; Senator Brian Harradine; Ms Irene Graham; Electronic Frontiers Australia Inc.

Resumé: On 9 September 2003 during debate in the Senate on the Communications Legislation Amendment Bill (No. 1) 2002, Senators Alston and Harradine made adverse comments about the Board of Electronic Frontiers Australia Inc. On 17 September 2003, Ms Irene Graham, Executive Director, responded on behalf of the Board Members of Electronic Frontiers Australia Inc., refuting the allegations.

Recommendation: That the response by the Board Members of Electronic Frontiers Australia Inc. be incorporated in *Hansard*.

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116. Possible Improper Interference with a Witness before the Rural and Regional Affairs and Transport Legislation Committee (PP No. 53/2004)

Reference: President gave precedence to the motion 1/12/2004. Motion moved by Senator McGauran, at the request of the Chair of the Rural and Regional affairs and Transport Legislation Committee, Senator Heffernan, and agreed to 2/12/2003, (J.2810).

Action: Report tabled 2/3/2004 (J.3052); finding endorsed 4/3/2004 (J.3092).

Persons/organisations involved: Mr Colin Dorber; Mr Alix Turner; Rural and Regional Affairs and Transport Legislation Committee; Australian Wool Innovation Pty Limited; Mr Simon Campbell, WoolProducers.

Resumé: In December 2003 the Senate Rural and Regional Affairs and Transport Committee was conducting an inquiry in the Statutory Funding Agreement between the Commonwealth of Australia, Australian Wool Innovation Pty Limited (AWI) and Australian Wool Services Limited. A submission was received from Mr Alix Turner, a wool grower, in a private capacity, which made adverse comments about Mr Colin Dorber, former Managing Director of AWI. In a supplementary submission, Mr Turner stated that he had received a phone call from Mr Dorber responding to the adverse comments and allegedly threatening to take action to terminate the collection of the levy that funds AWI. A further submission from Mr Simon Campbell, President of

WoolProducers, alleged Mr Turner had been subjected to verbal intimidation and threats designed to influence his evidence to the committee, contrary to statements made in Mr Turner's supplementary submission. The committee examined the various accounts which were not incompatible and concluded that although a robust exchange had occurred there was no evidence that Mr Dorber intended to influence Mr Turner's evidence. The committee observed that the use of procedures to deal with adverse committee evidence in paragraphs (11) to (13) of Privilege Resolution 1 might have prevented the exchange taking place outside the parliamentary forum where there was a grave risk of contempts being committed.

Finding: A contempt of the Senate should not be found.

117. Person Referred to in the Senate (Dr I.C.F. Spry, Q.C.) (PP No. 77/2004)

Reference: Referred by the President 23/3/2004.

Action: Report tabled and adopted 30/3/2004 (J.3277).

Persons/organisations involved: Senator Julian McGauran; Dr I.C.F. Spry, Q.C.; the *National Observer*.

Resumé: On 3 March 2004 during proceedings in the Senate, Senator McGauran was critical of editorial comments made in the *National Observer* under the heading "Israel and Anti-Semitism". Dr I.C.F. Spry, Q.C., editor of the *National Observer*, provided a response under Privilege Resolution 5.

Recommendation: That the response by Dr I.C.F. Spry, Q.C., be incorporated in *Hansard*.

118. Joint Meetings of the Senate and the House of Representatives on 23 and 24 October 2003 (PP No. 80/2004)

Reference: Motion moved by Senator Bob Brown, and agreed to 29/10/2003.

Action: Report tabled 1/4/2004 (J.3321). Report noted 5/8/2004 (J.3836).

Persons/organisations involved: President of the United States of America, George W. Bush; President of the People's Republic of China, Hu Jintao; Senator Bob Brown; Senator Kerry Nettle.

Resumé: On 23 October 2003 and 24 October 2003 two joint meetings of the Senate and the House of Representatives were held in the House of Representatives chamber for the purpose of receiving addresses from President George W. Bush of the United States of America and President Hu Jintao of the People's Republic of China. During the address by President George W. Bush, both Senator Brown and Senator Nettle, representatives of the Australian Greens, interjected and were ordered to leave the chamber by the Speaker. They refused to do so. After the address, the Speaker stated that they had committed an offence and called the Leader of the House to move that they be suspended 'from the service of the House'. The Speaker declared the motion carried. Senators Brown and Nettle were subsequently excluded from the House of Representatives for twenty-four hours and therefore from the address by President Hu Jintao the following day. The committee did not treat the inquiry as a contempt inquiry, as it had not been raised in accordance with standing order 81 and did not identify specific contempts to be investigated. Its ability to make findings of fact on allegations of improper conduct or improper interference was limited by jurisdictional issues. The events took place in the House of Representatives under the chairmanship of the Speaker, or in the precincts of that chamber, involved House of Representatives staff or officials of foreign governments. The constitutional status of the joint meetings and what immunities or privilege applied was also unclear and, in the committee's view, unresolvable.

Recommendation: That the Senate agree to a resolution, along the lines proposed by the Procedure Committee in its Third Report of 2003, that future addresses by 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.

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119. Possible False or Misleading Evidence before the Environment, Communications, Information Technology and the Arts Legislation Committee (PP No. 177/2004)

Reference: President gave precedence to the motion 23/3/2004. Motion moved by Senator Mackay, and agreed to 24/3/2004, (J.3215).

Action: Report tabled 3/8/2004 (J.3791); finding endorsed and recommendation adopted 5/8/2004 (J.3836).

Persons/organisations involved: Senator Sue Mackay; Mr Bill Scales AO; Mr Anthony Rix; Telstra

Resumé: On 16 February 2004 at the Environment, Communications, Information Technology and the Arts Legislation Committee's additional estimates hearing, evidence was given by officers of Telstra that the high rate of faults in the Telstra network was due largely to recent heavy rain and not to network deterioration. On 10 March 2004 a document claimed to be an internal Telstra briefing was tabled in the House of Representatives. That evening, during the adjournment debate in the Senate, Senator Mackay highlighted apparent contradictions between the evidence given at the estimates hearing and statements made in the internal Telstra document. The committee sought explanations from the Telstra witnesses. Detailed and technical explanations were required to explain the inconsistencies, leaving the committee to conclude that the potential for committees to be left with misleading impressions about Telstra's operations was high, even though there was no evidence in the case that the officials intended to mislead the committee.

Finding: No contempt should be found.

Recommendation: That there be laid on the table by no later than 1 March 2005 a statement of measures taken by Telstra to ensure that senior officers are appropriately trained in their obligations to Parliament, including the number and level of officers who have undergone such training and the dates of any such training.

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120. Possible unauthorised disclosure of private deliberations or draft report of Select Committee on the Free Trade Agreement between Australia and the United States of America (PP No. 52/2005)

Reference: President gave precedence to the motion 4/8/2004. Motion moved by Senator Ridgeway and agreed to 5/8/2004 (J.3829).

Action: Report tabled 8/3/2005 (J.432); finding endorsed 10/3/2005 (J.477).

Persons/organisations involved: Senator the Hon. Peter Cook; Senator Kerry O'Brien; Senator Stephen Conroy; Senator Aden Ridgeway; Select Committee on the Free Trade Agreement between Australia and the United States of America.

Resumé: On 30 July 2004, the Select Committee on the Free Trade Agreement between Australia and the United States of America held a meeting by telephone. The following day various press articles appeared, purporting to give reports of the discussion at the meeting and the content of the draft report. Also, at a press conference on 2 August 2004, the Labor Party members of the FTA Committee, who participated via teleconference, disclosed their recommendations in relation to the provisions of the legislation which was before the committee and released a document setting out those recommendations. The select committee was unable to investigate these matters as it ceased to exist when the draft report occurred in the press reports and at a press conference. Inaccurate accounts of private deliberations given to the media may have been designed to pressure certain members to reveal their intentions in relation to the report. However, the select committee had already become

dysfunctional and neither the unauthorised disclosure or misrepresentations resulted in further interference.

Finding: No contempt should be found.

121. Possible unauthorised disclosure of draft reports of Community Affairs References Committee (PP No. 58/2005)

Reference (1): President gave precedence to the motion 11/5/2004. Motion moved by Senator Ferris, at the request of Senators Knowles and Humphries, and agreed to 12/5/2004 (J.3403).

Reference (2): President gave precedence to the motion 24/6/2004. Motion moved by Chair, Community Affairs References Committee, Senator McLucas, and agreed to 24/6/2004 (J.3699-3700).

Action: Report tabled 15/3/2005 (J.507); finding endorsed 17/3/2005 (J.568).

Persons/organisations involved: Reference (1) – Community Affairs References Committee; Senator Sue Knowles; Senator Gary Humphries.

Reference (2) – Community Affairs References Committee; Senator Jan McLucas.

Resumé: Reference (1) – Before the consideration of a draft report on an inquiry into poverty and financial hardship, articles based on the draft report appeared in several newspapers. The Community Affairs References Committee considered the matter but did not consider the disclosure had significantly interfered with the work of the committee. Two members of the committee in effect dissented from this conclusion and raised a matter of privilege. As they were both also members of the Privileges Committee, they did not participate in this committee's inquiry into either matter. The committee was unable to identify the leaker and views within the committee were divided on whether there had been significant interference with its work.

Reference (2) – Before the consideration of a draft report on an inquiry into Hepatitis C and the blood supply, articles based on the draft report appeared in several newspapers. Senator McLucas, on behalf of the committee, raised it as a matter of privilege. The Privileges Committee was unable to identify the leaker and views within the committee varied on whether the interference with its work caused by the unauthorised disclosure was substantial.

Finding: References (1) and (2): There was an unauthorised disclosure by an undiscovered (and in all likelihood, undiscoverable) source; it was likely to have been deliberate and had a tendency substantially to interfere with the work of the committee because it occurred before the committee had a chance to consider the report, could have influenced the committee's deliberations or conclusions, and had a deleterious effect on the level of trust among members of the committee. However, in view of the Privileges Committee's intention to inquire broadly into the contempt of unauthorised disclosure, no contempt should be found.

122. Parliamentary privilege – unauthorised disclosure of committee proceedings (PP No. 137/2005)

Reference: Advisory report. Motion moved by Chair of the Privileges Committee (Senator Faulkner) and agreed to 16/3/2005 (J.544).

Action: Report tabled 21/6/2005 (J.781).

Persons/organisations involved:

Resumé: In view of the large number of cases of unauthorised disclosure of committee proceedings, particularly draft reports, the committee sought a general reference on the contempt of unauthorised disclosure. It sought submissions and held one public hearing. The committee affirmed that the purpose of the prohibition against unauthorised disclosure (and therefore the need for sanctions) is to protect persons giving information to committees, as well as those about whom information may be given or who may be adversely affected by a committee's findings or conclusions. It

signalled an intention that unauthorised disclosures of in camera evidence should be treated in future as, in effect, a 'strict liability' offence and identified a number of measures to be implemented by committees to either reduce the risk of unauthorised disclosure or to ensure that committees take greater responsibility for their own internal discipline. It developed draft guidelines to be followed by committees in cases of unauthorised disclosure.

Recommendation: The Committee of Privileges commended the proposals contained in this report to the Senate. Because of the complexity and tightly-interwoven nature of the existing laws, rules, resolutions and guidelines and in accordance with normal Senate practice, the committee recommended that the report, its appendices and associated documents be referred to the Procedure Committee to determine any necessary changes to the existing provisions relating to unauthorised disclosures, to give effect to these proposals. Recommendation adopted 11/8/2005 (J.934).

123. Possible failure by a senator to comply with the Senate's resolution relating to registration of interests (PP No. 224/2005)

Reference: President determined precedence 15/6/2005. Motion moved by Senator George Campbell, at the request of the Leader of the Opposition in the Senate (Senator Evans), and agreed to 16/6/2005 (J.706).

Action: Report tabled 5/10/2005 (J.1174)

Persons/organisations involved: Senator Chris Evans; Senator Ross Lightfoot.

Resumé: On 26 May 2005, the Leader of the Opposition in the Senate (Senator Evans) raised a matter of privilege with the President of the Senate under standing order 81, relating to Senator Lightfoot's share trading activities and whether he had properly disclosed details of his registrable interests in accordance with the resolutions of the Senate relating to the registration of interests. The committee focussed on the issue of intention and concluded that while Senator Lightfoot had failed to comply with the resolutions, there was no evidence that he had done so knowingly.

Finding: No contempt should be found.

124. Person Referred to in the Senate (Professor David Peetz) (PP No. 405/2005)

Reference: Referred by the President 29/11/2005.

Action: Report tabled and adopted 6/12/2005 (J.1652).

Persons/organisations involved: Senator the Hon. Eric Abetz; Professor David Peetz.

Resumé: On 8 November 2005 during question time in the Senate, Senator Abetz, in his capacity as Minister representing the Minister for Employment and Workplace Relations, made a number of claims regarding Professor Peetz. Professor Peetz provided a response under Privilege Resolution 5.

Recommendation: That the response by Professor David Peetz, be incorporated in *Hansard*.

125. Parliamentary Privilege: Precedents, Procedure and Practice in the Australian Senate 1996-2005 (PP No. 3/2006)

Action: Presented to the President under standing order 38(7) on 19/12/2005 and tabled 7/2/2006 (J.1787)

126. Person referred to in the Senate (Professor Barbara Pocock) (PP No. 41/2006)

Reference: Referred by the President 6/2/2006.

Action: Report tabled and adopted 27/2/2006 (J.1883).

Persons/organisations involved: Senator the Hon. Eric Abetz; Professor Barbara Pocock.

Resumé: On 29 November 2005 during question time in the Senate, Senator Abetz, in his capacity as Minister representing the Minister for Employment and Workplace Relations, claimed that Professor Pocock had misled the parliament and questioned her independence. Professor Pocock responded under Privilege Resolution 5, refuting the claim.

Recommendation: That the response by Professor Barbara Pocock be incorporated in *Hansard*.

127. Persons referred to in the Senate (Certain persons on behalf of the Exclusive Brethren) (PP No. 122/2006)

Reference: Referred by the President 8/6/2006.

Action: Report tabled and adopted 21/6/2006 (J.2328).

Persons/organisations involved: Senator Bob Brown, Exclusive Brethren, Mr Philip McNaughton, Mr C Warwick John, Mr David W Stewart.

Resumé: On 9 May 2006, Senator Bob Brown gave notice of a motion for the reference of matters relating to certain alleged activities of the Exclusive Brethren to the Community Affairs References Committee. Messrs McNaughton, John and Stewart provided a response, under Privilege Resolution 5, on behalf of the Exclusive Brethren, refuting the imputations contained in the notice of motion.

Recommendation: That the response by certain persons on behalf of the Exclusive Brethren be incorporated in *Hansard*.

128. Person referred to in the Senate (Mr Karl J O'Callaghan, APM, Commissioner of the Western Australian Police) (PP No. 155/2006)

Reference: Referred by the President 3/8/2006.

Action: Report tabled and adopted 16/8/2006 (J.2514).

Persons/organisations involved: Senator David Johnston, Mr Karl J O'Callaghan, APM

Resumé: On 14 June 2006, during discussion of matters of public interest in the Senate, Senator Johnston made allegations that certain actions of the Western Australian Police Service and its Commissioner were politically motivated. Mr O'Callaghan made a response under Privilege Resolution 5 refuting the allegations.

Recommendation: That the response by Mr Karl J O'Callaghan, APM, be incorporated in to *Hansard*.

129. Person referred to in the Senate (Dr Clive Hamilton) (PP No. 388/2006)

Reference: Referred by the President 30/10/2006.

Action: Report tabled and adopted 8/11/2006 (J.3027).

Persons/organisations involved: Senator the Hon. Eric Abetz, Dr Clive Hamilton, the Australia Institute Ltd.

Resumé: On 18 October 2006, during question time in the Senate, Senator Abetz made comments about Dr Hamilton in respect of his credibility as a commentator on drought relief to Australian farmers. Dr Hamilton provided a response under Privilege Resolution 5 refuting the comments.

Recommendation: That the response from Dr Clive Hamilton be incorporated in *Hansard*.

130. Person referred to in the Senate (Mr Darryl Hockey) (PP No. 131/2007)

Reference: Referred by the President 29/3/2007.

Action: Report tabled and adopted 7/8/2007 (J.4081).

Persons/organisations involved: Senator Glenn Sterle, Mr Darryl Hockey, AWB.

Resumé: On 29 November 2006, during debate on motions to take note of answers to questions in the Senate, Senator Sterle made comments about a number of people named in the Cole royal commission into the Oil for Food Program, including Mr Hockey who provided a response under Privilege Resolution 5 rejecting Senator Sterle's allegations.

Recommendation: That the response by Mr Darryl Hockey be incorporated in to *Hansard*.

131. Possible false or misleading evidence and improper refusal to provide information to the Finance and Public Administration Committee (PP No. 171/2007)

Reference: President gave precedence to the motion 6/2/2007. Motion moved by Senator Forshaw, also on behalf of Senator Murray, and agreed to 7/2/2007 (J.3382)

Action: Report tabled 11/9/2007 (J.4328); findings endorsed and recommendation agreed to 20/9/2007 (J.4463)

Persons/organisations involved: Senator Michael Forshaw, Senator Andrew Murray, Finance and Public Administration Committee, Mr Greg Maguire, Mr Tony Windsor MP, Australian Electoral Commission.

Resumé: On 10 March 2005, at a hearing of the Finance and Public Administration References Committee on the Regional Partnerships Program, Mr Greg Maguire gave evidence that certain of his companies had provided financial support to Mr Tony Windsor's election campaign and offered to provide the committee with a list of his companies. He failed to do so despite numerous reminders and demands. In the meantime, the Australian Electoral Commission was unable to investigate possible electoral disclosure irregularities because it had no evidence other than evidence protected by parliamentary privilege. The former chair of the committee, Senator, Forshaw, and another member, Senator Murray raised Mr Maguire's conduct as a matter of privilege.

Findings: The committee found that there was a refusal to provide information but in view of the repeated refusals to provide that information, the committee was unable to find that false or misleading evidence had been given. The committee was unable to find a contempt against the person who refused to provide information as this would have involved examining a member of the House of Representatives.

Recommendation: That the Senate accept that the matter is not amenable to further pursuit by the exercise of formal inquiry powers.

132. Persons referred to in the Senate (Mr Chalid Muhammad and Mr Nurkholis on behalf of the staff of the Indonesian Forum for Environment) (WALHI) (PP No. 173/2007)

Reference: Referred by the President 10/9/2007.

Action: Report tabled and adopted 17/9/2007 (J.4389).

Persons/organisations involved: Senator Ian Macdonald, Mr Chalid Muhammed, Mr Nurkholis, Indonesian Forum for Environment (WALHI).

Resumé: On 9 August 2007, during general business debate in the Senate, Senator Macdonald made comments connecting WALHI and its members with terrorist organisations. Mr Muhammad and Mr Nurkholis, pursuant to Privilege Resolution 5, provided a response rejecting the association of WALHI and its members with terrorist organisations.

Recommendation: That the response on behalf of WALHI be incorporated in *Hansard*.

Oral Report – Unauthorised disclosure of committee proceedings (Hansard, 13/9/2007, p.93)

Reference: Matter arising from the 122nd Report.

Resumé: The committee, having kept a watching brief on the operation of the sessional order agreed to on 6/10/2005 relating to procedures for committees in dealing with unauthorised disclosure of their proceedings, and finding it an effective method of addressing the issue, recommended that the sessional order become an order of continuing effect. The chair gave notice of a motion to that effect on 13/9/2007 (J.4369).

Action: Motion agreed to 17/9/2007, (J.4388)

133. Possible false or misleading evidence before the Legal and Constitutional Affairs Committee (PP No. 260/2008)

Reference: President gave precedence to the motion 17/9/2007. Motion moved by Senator Nettle and agreed to 18/9/2007 (J.4415).

Action: Report tabled 15/5/08 (J.427). Motion to endorse findings moved 15/5/08 (J.427). Additional information tabled 26/6/08 (J.662).

Person/organisations involved: Senator Kerry Nettle, Legal and Constitutional Affairs Committee, Mr MJ Keelty APM (Commissioner, Australian Federal Police), Mr Robert Cornall AO (Secretary, Attorney-General's Department), Mr Mamdouh Habib, Australian Security Intelligence Organisation.

Resumé: Over several estimates hearings of the Legal and Constitutional Affairs Committee and its predecessor, from 2004, questions were asked about the government's knowledge of the alleged rendition of Mr Mamdouh Habib from Pakistan to Egypt. Answers given by the heads of ASIO, the AFP and the Attorney-General's Department were apparently inconsistent and Senator Nettle raised this as a matter of privilege.

Findings: The committee concluded that, although in certain respects the evidence of Mr Cornall and Commissioner Keelty was equivocal, it was not in fact misleading given the state of these officers' knowledge at the time and the terms of the relevant questions addressed to them.

Recommendation: That no contempt was committed in this regard.

134. Effective Repetition (PP No. 275/2008)

Action: Report tabled 18/6/08 (J.527).

Recommendation: That the Senate endorse the principles outlined in paragraph 1.18 of the report to guide any amendment of the *Parliamentary Privileges Act 1987* to address the issue of effective repetition, adopted 18/6/08 (J.527).

135. Persons referred to in the Senate (Certain persons on behalf of the Exclusive Brethren) (PP No. 338/2008)

Reference: Referred by the President 17/9/2008

Action: Report tabled and adopted 24/9/2008 (J.940).

Persons/organisations involved: Senators Bob Brown and Christine Milne; Mr Doug Burgess, Mr Daniel Hales, Mr Bruce Pridham and Mr David Stewart on behalf of the Exclusive Brethren.

Resumé: On 15 May 2008, Senator Bob Brown gave notice of his intention to move a motion on 26 August 2008 for the reference of matters relating to certain alleged activities of the Exclusive Brethren to the Community Affairs References Committee. The motion was debated on 26, 27 and 28 August 2008. Messrs Burgess, Hales,

Pridham and Stewart provided a response, under Privilege Resolution 5, on behalf of the Exclusive Brethren, relating to statements made during the debate.

Recommendation: That the response by certain persons on behalf of the Exclusive Brethren be incorporated in *Hansard*.

136. Persons referred to in the Senate (Mr Barry Williams, President of the Lone Fathers Association of Australia Inc.) (PP No. 4/2009)

Reference: Referred by the President 3/2/2009

Action: Report tabled and adopted 10/2/2009 (J.1579).

Persons/organisations involved: Senator Rachel Siewert; Mr Barry Williams; Lone Fathers Association of Australia Inc.

Resumé: On 3 December 2008 Senator Siewert, in asking a question without notice, referred to Mr Williams and the views of the Lone Fathers Association as "anti-gay, anti-women, and domestic violence denial". Mr Williams, President of the Lone Fathers Association, provided a response under Privilege Resolution 5.

Recommendation: That the response by Mr Barry Williams be incorporated in *Hansard*.

137. Persons referred to in the Senate (Mr Anthony and Mrs Brenda Bird, members of the Exclusive Brethren) (PP No. 5/2009)

Reference: Referred by the President 17/9/2008

Action: Report tabled and adopted 10/2/2009 (J.1579).

Persons/organisations involved: Senator Christine Milne; Senator Bob Brown; Exclusive Brethren; Mrs Brenda Bird; Mr Anthony Bird.

Resumé: On 26, 27 and 28 August 2008 during proceedings in the Senate, Senators Milne and Brown referred to certain practices of members of the Exclusive Brethren. Several members of the Exclusive Brethren sought responses under Privilege Resolution 5. One application was dealt with in the committee's 135th Report. The remaining application, by Mr and Mrs Bird, is the subject of this report.

Recommendation: That the response by Mr and Mrs Bird be incorporated in *Hansard*.

138. Persons referred to in the Senate (The Medical Council of Tasmania) (PP No. 176/2009)

Reference: Referred by the President 26/8/2009

Action: Report tabled and adopted 14/9/2009 (J.2467).

Persons/organisations involved: Senator Guy Barnett, Dr Peter Sexton, Medical Council of Tasmania.

Resumé: On 1 August 2009 during proceedings in the Senate, Senator Barnett referred to the treatment of a particular medical practitioner by the Medical Council of Tasmania. President of the Council, Dr Peter Sexton, provided a response which although it did not explicitly mention Privilege Resolution 5, was accepted as a submission for that purpose.

Recommendation: That the response by the Medical Council of Tasmania be incorporated in *Hansard*.

139. Persons referred to in the Senate (Mr Alan Cummine) (PP No. 192/2009)

Reference: Referred by the President 16/10/2009

Action: Report tabled and adopted 26/10/2009 (J.2579).

Persons/organisations involved: Senator Christine Milne, Mr Alan Cummine.

Resumé: On 10 September 2009, during proceedings in the Senate, Senator Milne referred to former government advisers who now worked for non-government organisations as being part of a "greenhouse mafia", including Mr Alan Cummine. Mr Cummine provided a response under Privilege Resolution 5.

Recommendation: That the response by Mr Alan Cummine be incorporated in *Hansard*.

140. Persons referred to in the Senate (Mr Richard Stanton) (PP No. 301/2009)

Reference: Referred by the President 16/10/2009

Action: Report tabled and adopted 29/10/2009 (J.2693).

Persons/organisations involved: Senator Christine Milne, Mr Richard Stanton.

Resumé: On 10 September 2009, during proceedings in the Senate, Senator Milne referred to former government advisers who now worked for non-government organisations as being part of a "greenhouse mafia", including Mr Richard Stanton. Mr Stanton provided a response under Privilege Resolution 5.

Recommendation: That the response by Mr Richard Stanton be incorporated in *Hansard*.

141. Possible interference with, or imposition of a penalty on, a witness before the Legal and Constitutional Affairs References Committee) (PP No. 318/2009)

Reference: President gave precedence to the motion 9/9/2009. Motion moved by the Chair of the Legal and Constitutional Affairs References Committee (Senator Barnett) and agreed to 10/9/2009 (J.2444).

Action: Report tabled 23/11/2009 (J.2817); Motion to endorse finding and refer a matter to the Chairs' Committee agreed to 4/2/2010 (J.3153-4).

Persons/organisations involved: Legal and Constitutional Affairs References Committee, Ms Rowena Puertollano, Aboriginal Legal Service of Western Australia Inc. (ALSWA), Mr Dennis Eggington, Ms Katrina Carlisle, Broome Family Violence Prevention Legal Services (FVPLS).

Resumé: Ms Rowena Puertollano, Coordinator of the Broome FVPLS, made a submission to the Legal and Constitutional Affairs References Committee's inquiry into access to justice. Her supervisor, Ms Katrina Carlisle, having consulted with her employer, the ALSWA, issued Ms Puertollano with a written warning for serious misconduct. The references committee wrote to the CEO of the ALSWA, Mr Dennis Eggington warning that this action was a potential contempt and requesting that the written warning be withdrawn. It was, but the references committee was not satisfied with Mr Eggington's response and reported the matter to the Senate before initiating a referral to the Privileges Committee.

Findings: The issuing of a warning letter to Ms Puertollano by the ALSWA was a direct consequence of her evidence to the references committee but there was no evidence of any culpable intention on the part of ALSWA to interfere with the references committee's inquiry. In the circumstances, no contempt should be found.

Recommendation: That the Senate endorse the finding that no contempt should be found, and that the Chairs' Committee consider the adequacy of information provided to witnesses on the subject of possible intimidation or imposition of a penalty in consequence of a witness's evidence to a Senate committee.

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142. Matters arising from the Economics Legislation Committee Hearing on 19 June 2009 (PP No. 396/2009)

References:

(1) Possible adverse action taken against Mr Godwin Grech in consequence of his evidence to the Economics Legislation Committee – President gave precedence on 23/6/2009, motion moved by Senator Heffernan and agreed to 24/6/2009 (J.2173).

(2) Possible false or misleading evidence given to the Economics Legislation Committee or possible improper interference with the hearing – President gave precedence on 11/8/2009, motion moved by Senator Evans and agreed to on 12/8/2009 (J.2279)

Action: Report tabled 25/11/2009 (J.2873). Motion to endorse findings and refer matters for the consideration of the President and the Chairs' Committee still before the Senate.

Persons/organisations involved: Economics Legislation Committee, Senator Annette Hurley, Senator Eric Abetz, Mr Malcolm Turnbull MP, Mr Godwin Grech, Department of the Treasury, Mr David Martine, Mr Jim Murphy, Dr Ken Henry, Australian Federal Police, Mr Roger Wilkins, Mr Terry Moran, Federal Parliamentary Press Gallery.

Resumé: At a hearing of the Economics Legislation Committee on 19 June 2009 on the OzCar Bill, Mr Godwin Grech claimed to have seen a short email from the Prime Minister's office seeking assistance under the OzCar Scheme for a car dealer in the Prime Minister's electorate. The claim had been denied by the Prime Minister and Treasurer. Extensive searches for the email had failed to locate it. At and after the hearing Mr Grech was mobbed by the press. The terms of the alleged email were published the following day and an inquiry by the AFP commenced. The AFP discovered the email when executing a search warrant at Mr Grech's home and he admitted that he had recreated the email from a recollection he believed he had of it. Mr Grech admitted himself to a psychiatric facility and remained there throughout the inquiry. Treasury department discovered more incriminating material on his computer account and commenced disciplinary proceedings. On the day the Auditor-General reported on the administration of the OzCar scheme Mr Grech revealed to the press that he had met with Senator Abetz and Mr Turnbull before the hearing and had come under pressure because he wanted to prevent any Opposition delay to the bill. Mr Turnbull and Senator Abetz disputed his account.

Findings:

(1) Possible adverse action against Mr Grech.

Media harassment

- At the conclusion of the hearing on 19 June 2009, members of the Press Gallery, particularly camera operators and photographers, flagrantly breached the Presiding Officers' Guidelines for filming and photography in Parliament House by continuing to film after the adjournment of the hearing and by filming Mr Grech and Mr Martine as they left the building.
- Although the televising of the hearing was duly authorised, the Senate Economics Legislation Committee did not apply the relevant Senate broadcasting resolutions to control the activities of the media present in the hearing room during the hearing.
- Mr Grech (and Mr Martine) was subject to undue pressure from the media during and after the hearing, but there is evidence that Mr Grech invited media attention by his provision of material to a journalist for the purpose of pre-hearing publicity. Mr Grech did not seek the protection of the committee from the media.
- The media attention was a direct consequence of Mr Grech's evidence to the committee.
- There is no evidence that, in their zealotry, camera operators and photographers intended any harm to Mr Grech or to the operations of the committee and therefore no contempt was committed. However, the conduct of the media at and after the hearing was excessive, inappropriate and in contravention of the rules.

The AFP inquiry

- The AFP inquiry was initiated by the Secretary of the Attorney-General's Department after consultations with the Attorney-General and following an approach from the Secretary of the Department of the Prime Minister and Cabinet.
- The Secretary of the Department of the Prime Minister and Cabinet asked the Secretary of the Attorney-General's Department to examine possible criminal offences and take the necessary action after extensive searches of the relevant departments' IT systems had failed to locate the alleged email and the conclusion was drawn that the email was false.
- In initiating the action which led to the referral of matters to the AFP, the Secretary of the Department of the Prime Minister and Cabinet believed that Mr Grech may have been a victim of the false email. This aspect of the referral was therefore not an action adverse to Mr Grech.
- Further matters referred to the AFP by the Secretary to the Treasury were in consequence of the discovery on Mr Grech's computer of documents indicating possible wrongdoing by him, the search having been initiated by Dr Henry because of concern about the source of material published by journalist, Steve Lewis. This aspect of the referral was an action adverse to Mr Grech.
- The initiation of the AFP inquiry was not primarily motivated by Mr Grech's evidence to the committee.

Disciplinary action by Treasury

- Disciplinary action against Mr Grech was initiated after the discovery on his computer system of incriminating material that suggested that he had breached the Public Service Code of Conduct.
- The search of Mr Grech's computer system was initiated by the Secretary to the Treasury because of concern about the source of material published by journalist, Steve Lewis.
- The initiation of disciplinary action was an adverse action.
- The initiation of disciplinary action was not a direct consequence of Mr Grech's evidence to the committee.
- In the immediate aftermath of the hearing senior Treasury officers took all reasonable steps to comfort Mr Grech and provide for his welfare.

'Backgrounding' of the media

- The committee was unable to discover any evidence of 'backgrounding' of the media.

(2) Possible false or misleading evidence or improper interference.

False or misleading evidence by reference to a document later admitted to be false

- There is evidence that the Economics Legislation Committee was misled by the references to a document later admitted to be false.
- Senator Abetz did not give false or misleading evidence to, or cause any improper interference with, the hearing of the Economics Legislation Committee. He did not know at the time that it was a false document. The committee does not dispute that Senator Abetz was acting in good faith in using material supplied by a source he did not doubt.
- Mr Stansfield was unaware that the email was false until it was revealed to be so by the AFP's press release.
- Mr Godwin Grech provided false information to his Treasury colleagues on several documented occasions.
- There are discrepancies between the accounts of events given by Mr Grech and all other persons from whom the committee received submissions.
- No false or misleading evidence was given by Mr David Martine to the Economics Legislation Committee in respect of the document or in respect of any other matter. There was no improper conduct by Mr Martine at the hearing.
- The committee does not accept Senator Eggleston's criticism of Senator Hurley's chairing of the hearing.

Other false or misleading evidence

- Mr Godwin Grech gave a misleading impression to the Economics Legislation Committee about the amount of work involved in his advocacy on behalf of Mr John Grant.
- Mr Godwin Grech gave evidence to the committee about his dealings with the journalist, Steve Lewis, that was untrue.
- Mr Godwin Grech did not disclose to the committee that he had created a record of the email that he asserts he believed existed.

Collusive pre-arrangement of questions and answers for an undisclosed purpose

- Mr Godwin Grech suggested to the Opposition that the Car Dealership Financing Guarantee Appropriation Bill 2009 should be referred to a Senate committee for the purpose of getting his 'evidence' about alleged corrupt conduct by the Prime Minister into the public arena.
- Mr Godwin Grech met with the Opposition Leader, Mr Turnbull, and Senator Abetz in Sydney for the purpose of showing them the 'evidence' he had of alleged corrupt conduct by the Prime Minister.
- Unbeknown to Mr Turnbull and Senator Abetz, Mr Grech's 'evidence' of this alleged corrupt conduct had been created by himself as a record of an email that he asserts he believed existed.
- Apart from Mr Grech's recollection, which he asserted may be faulty or false, there was no evidence put before the committee that an email resembling Mr Grech's record of it ever existed.
- There was no inappropriate pre-arrangement by Senator Abetz of questions and answers for the hearing of the Economics Legislation Committee.
- Questions which may have a political motive are a commonplace and unremarkable part of the processes employed by senators for holding governments to account.

Improper use of a hearing

- The hearing by the Economics Legislation Committee was an entirely legitimate use of Senate procedures to explore a matter of possible misfeasance.
- Unbeknown to all but Mr Godwin Grech, evidence of the possible misfeasance had been recreated, as a record of an email that he asserts he believed existed. In this sense, there was an improper interference with the hearing of the Economics Legislation Committee on the OzCar bill.

Possible interference with Mr Grech in relation to his evidence

- In respect of the allegation concerning Mr Jim Murphy, the committee does not dispute Treasury's account.
- In respect of the allegation concerning Mr Chris Barrett, the committee does not dispute Mr Barrett's account.
- There is no evidence that improper pressure was placed on Mr Grech in respect of his evidence by any person other than himself, or that any other person caused any improper interference with Mr Grech in respect of his evidence.

Mr Grech's fitness to give evidence on 19 June 2009

- The Department of the Treasury and its senior officers have no case to answer that in allowing Mr Grech to give evidence, knowing his difficult state of health and the work pressure he was under, they failed to respond adequately to the requirements of a Senate committee, thereby causing an improper interference with the free exercise by the committee of its authority.

In view of Mr Grech's state of health, the committee was unable to make findings as to his culpability and was therefore unable to arrive at a conclusion that a contempt was committed by Mr Grech.

Recommendation: That the Senate endorse the committee's findings and conclusions; that the President resume consideration of an appropriate response to the behaviour of the media after the hearing; and that the Chairs' Committee consider model procedures for handling the media.

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143. Persons referred to in the Senate (Vicki Dunstan on behalf of the Church of Scientology), (PP No. 9/2010)

Reference: Referred by the President 11/01/2010

Action: Report tabled and adopted 4/2/2010 (J.3147).

Persons/organisations involved: Senator Nick Xenophon, Church of Scientology.

Resumé: On 17 November 2009, during the adjournment debate in the Senate, Senator Xenophon made wide-ranging allegations critical of the Church of Scientology. Vicki Dunstan, President, Church of Scientology provided a response under Privilege Resolution 5.

Recommendation: That the response by Vicki Dunstan be incorporated in *Hansard*.

144. Statutory secrecy provisions and parliamentary privilege – an examination of certain provisions of the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009 (referred 18 march 2010), (PP No.127/2010)

Reference: Referred by Senate: Motion moved by Chair of Committee of Privileges, Senator Brandis, and agreed to 18/3/2010 (J.3399).

Action: Report tabled out of session 4/6/2010, in Senate 15/6/2010.

Persons/organisations involved: Clerk of the Senate, Officers of the Treasury, Commonwealth Ombudsman, Australian Law Reform Commission, Australian Rule of Law Association, Professor Anne Twomey.

Resume: The Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009 was referred to the committee with particular reference to the provisions in the bill relating to the disclosure of taxpayer information to parliamentary committees and the conflict which these provisions have with the *Parliamentary Privileges Act 1987*.

- The bill places conditions on the access by parliamentary committees to certain information, and undermines both the powers and immunities of parliamentary committees and the rights of unfettered access by witnesses to parliamentary committees.
- A further feature of the provisions in question is the application of a criminal sanction to a witness who gives evidence to a parliamentary committee in other than defined circumstances.

Recommendations:

- a) That the bill be amended by either removing any reference to Parliament and its committees from the bill, thereby allowing the existing law to operate in conjunction with the existing procedural protections provided by standing and other orders of the Houses; or by removing the application of the offence provisions to dealings between taxation officers and Parliamentary committees and providing guidance to taxation officers in their dealings with Parliamentary committees and declaring that disclosures to Parliament and its committees are not affected by the bill.
- (b) that the Procedure Committee consider whether it is necessary to strengthen guarantees to safeguard the privacy of taxpayer information by means of a resolution of the Senate; and
- (c) that the Clerk of the Senate write to the Commissioner of Taxation drawing attention to the training provided by the Department of the Senate in parliamentary matters and the availability of the Department of the Senate to work with the Australian Taxation Office in developing appropriate in-house training materials.

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145. Persons referred to in the Senate (Mr Geordie Guy on behalf of Electronic Frontiers Australia Inc.), (PP No. 133/2010)

Reference: Referred by the President 7/4/2010.

Action: Report tabled and adopted 22/6/2010 (J.3663).

Persons/organisations involved: Senators Stephen Conroy, Sue Boyce, Jacinta Collins and Electronic Frontiers Australia Inc.

Resumé: On 15 and 16 March 2010 in response to questions at question time by senators Boyce and Collins, Senator Conroy both orally and in a tabled document referred to Reporters Without Borders having been misled by Electronic Frontiers Australia and that Electronic Frontiers Australia may have provided other misleading information. Mr Guy, on behalf of the board of Electronic Frontiers Australia, responded refuting the allegations.

Recommendation: That the response by Mr Geordi Guy be incorporated in *Hansard*.

146. Persons referred to in the Senate (Vicki Dunstan on behalf of the Church of Scientology Australia), (PP No.134/2010)

Reference: Referred by the President 11/05/2010

Action: Report tabled and adopted 22/6/2010 (J.3663).

Persons/organisations involved: Senators Nick Xenophon, Christine Milne, Bob Brown and the Church of Scientology Australia.

Resumé: On 11 and 18 March 2010, during debates to refer a matter to a committee for inquiry, Senators Bob Brown, Milne and Xenophon made remarks critical of the Church of Scientology. Ms Vicki Dunstan, President, Church of Scientology provided a response under Privilege Resolution 5.

Recommendation: That the response by Vicki Dunstan be incorporated in *Hansard*.
