

1943-44.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

HOUSE OF REPRESENTATIVES.

REPORT

FROM THE

STANDING COMMITTEE

OF

PRIVILEGES

RELATING TO

CENSORSHIP OF MEMBERS' CORRESPONDENCE,

TOGETHER WITH THE

MINUTES OF PROCEEDINGS OF THE COMMITTEE.

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EXTRACTS FROM THE VOTES AND PROCEEDINGS.

No. 23 OF 7TH MARCH, 1944.

9. NEW STANDING ORDER—COMMITTEE OF PRIVILEGES.—Mr. Curtin (Prime Minister) moved, pursuant to notice, That the following new Standing Order be adopted by the House :—

“ 322A. A Committee of Privileges, to consist of seven Members, shall be appointed at the commencement of each Parliament, or as soon thereafter as is practicable, to inquire into and report upon complaints of breach of Privilege which may be referred to it by the House.”.

Question—put and passed.

10. COMMITTEE OF PRIVILEGES.—Mr. Curtin (Prime Minister) moved, by leave, That Mr. Clark, Mr. Evatt, Mr. Forde, Mr. Harrison, Mr. Hutchinson, Mr. McEwen and Mr. Pollard be Members of the Committee of Privileges; five to form a quorum.

Question—put and passed.

11. COMMITTEE OF PRIVILEGES—CENSORSHIP OF MEMBERS' CORRESPONDENCE.—Mr. Curtin (Prime Minister) moved, by leave, That the matter of Privilege, brought before this House on the 25th February by the honorable Member for Barker, regarding the opening by censors of letters addressed to Members of this House, be referred to the Committee of Privileges for inquiry and report.

Question—put and passed.

No. 20 OF 25TH FEBRUARY, 1944.

2. PRIVILEGE—CENSORSHIP OF MEMBERS' CORRESPONDENCE.—Mr. Cameron raised a question of Privilege with reference to the censoring of letters addressed to honorable Members, and moved, That the opening by censors of letters addressed to Members of this House at Parliament House, Canberra, or at the rooms occupied by Federal Members in a State Capital City, is a breach of the privilege of Parliament.

Debate ensued.

Mr. Menzies (Leader of the Opposition) moved, as an amendment, That after “ addressed ” the following words be inserted “ by other than Service personnel or persons residing in operational areas ”.

Debate continued.

Motion and amendment withdrawn, by leave.

MINUTES OF PROCEEDINGS.

PARLIAMENT HOUSE, CANBERRA.

THURSDAY, 9TH MARCH, 1944.

Present :

Mr. J. J. Clark.	Mr. W. J. Hutchinson.
Mr. H. V. Evatt.	Mr. J. McEwen.
Mr. F. M. Forde.	Mr. R. T. Pollard.
Mr. E. J. Harrison.	

The Entries in the Votes and Proceedings of the House of Representatives No. 23 of 7th March, 1944, recording the proceedings in connexion with appointment of the Committee and the Entry in No. 20 of 25th February, 1944, regarding Privilege were read by the Acting Clerk of Committees.

On the Motion of Mr. Evatt, Mr. Forde was elected Chairman.

Ordered :

That a letter be sent to each Member of the House of Representatives inquiring whether he desired to submit any evidence relevant to the Committee's inquiry.

That Mr. A. G. Cameron, M.P., be invited to attend the Committee on Tuesday, 14th March, 1944, at 1.45 p.m. to submit relevant evidence, and that Mr. P. W. Ettelson, Chief Post and Telegraph Censor, be asked to attend to explain the system of mail censorship.

The Committee deliberated.

The Committee adjourned.

TUESDAY, 14TH MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Clark.	Mr. Hutchinson.
Mr. Evatt.	Mr. McEwen.
Mr. Harrison.	Mr. Pollard.

Minutes of the previous meeting were read and confirmed.

Honorable Archie Galbraith Cameron, M.P., was called and examined.

Phillip Windmiller Ettelson, Controller of Postal and Telegraph Censorship, 425 St. Kilda-road, Melbourne was called and examined.

The Committee deliberated.

The Committee adjourned.

MINUTES OF PROCEEDINGS—*continued.*

WEDNESDAY, 15TH MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Clark.		Mr. Hutchinson.
Mr. Evatt.		Mr. McEwen.
Mr. Harrison.		Mr. Pollard.

Minutes of the previous meeting were read and confirmed.

Phillip Windmiller Ettelson, Controller of Postal and Telegraph Censorship, 425 St. Kilda-road, Melbourne, was recalled and further examined.

The Committee deliberated.

The Committee adjourned.

THURSDAY, 16TH MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Clark.		Mr. Hutchinson.
Mr. Evatt.		Mr. McEwen.
Mr. Harrison.		Mr. Pollard.

Minutes of the previous meeting were read and confirmed.

Phillip Windmiller Ettelson, Controller of Postal and Telegraph Censorship, 425 St. Kilda-road, Melbourne, was recalled and further examined.

Honorable Archie Galbraith Cameron, M.P., was recalled and further examined.

The Committee deliberated.

The Committee adjourned.

TUESDAY, 21ST MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Clark.		Mr. Hutchinson.
Mr. Evatt.		Mr. Pollard.
Mr. Harrison.		

Minutes of the previous meeting were read and confirmed.

Lieutenant-Colonel Eric Harvey Wilson, Chief Field Censor, Victoria Barracks, Melbourne, was called and examined.

The Committee deliberated.

The Committee adjourned.

THURSDAY, 30TH MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Clark.		Mr. Hutchinson.
Mr. Evatt.		Mr. McEwen.
Mr. Harrison.		Mr. Pollard.

Minutes of the previous meeting were read and confirmed.

The Draft Report submitted was considered.

The Committee deliberated.

The Committee adjourned.

FRIDAY, 31ST MARCH, 1944.

Present :

Mr. Forde (Chairman).

Mr. Evatt.		Mr. Hutchinson.
Mr. Harrison.		Mr. Pollard.

Minutes of the previous meeting were read and confirmed.

The Draft Report submitted was further considered and agreed to.

The Committee deliberated.

The Committee adjourned.

REPORT.

THE COMMITTEE OF PRIVILEGES to which the House of Representatives referred for inquiry and report the matter of Privilege, brought before the House on the 25th February, 1944, by the honorable Member for Barker, regarding the opening by censors of letters addressed to Members of the House, has the honour to report—

1. When on the 25th February in the House of Representatives the honorable Member for Barker (Mr. Cameron) raised, as a matter of privilege, the question of the censorship of Members' letters he submitted the following motion:—

That the opening by censors of letters addressed to Members of this House, at Parliament House, Canberra, or at the rooms occupied by Federal Members in a State Capital City is a breach of the privilege of Parliament—

to which the Leader of the Opposition (Mr. Menzies) moved as an amendment—

That after the word "addressed" the following words be inserted "by other than service personnel or persons residing in operational areas".

Upon an assurance being given by the Attorney-General (Mr. Evatt) that the Government would have the question examined by a committee representing both sides of the House, the motion and the amendment were withdrawn.

2. This Committee having been appointed and the matter referred to it—the Committee's first action was to address to every Member of the House a letter inquiring whether they had any evidence they desired to submit to the Committee. Numbers of replies were received, but in each case it was intimated that the Member had no evidence to tender.

3. Mr. Cameron was invited to attend the Committee to give evidence relevant to its inquiry and to submit the envelopes referred to by him in his speech in the House on 25th February last.

4. The Committee also examined Mr. P. W. Ettelson, Controller of Postal and Telegraph Censorship, and Lieutenant-Colonel E. H. Wilson, Chief Field Censor, who explained fully to the Committee the nature of the censorship carried out under their respective authorities.

5. Mr. Cameron's contention is that the correspondence of Members should be exempt from censorship on the ground that constituents should have free access to their elected representatives.

To quote his own words to the Committee—

My object in raising this matter is that I think that particularly in time of war when there is such a great growth of government by people who have not been specially trained for that sort of service there must be access by the elector to his representative in Parliament. I believe that that access should be without any oversight by people outside. I think that the oath of allegiance that every Member of Parliament takes is sufficient guarantee that if we come across anything subversive or deleterious from the point of view of the Government we have access to the appropriate Minister or to the Director-General of Security. There will be a lot of claims and contentions about things which have taken place during the war and I think that those matters should be between the constituents and their Members and that there should be no oversight by the censor. In a democracy Parliament is the supreme authority. By no stretch of the imagination can I believe that a jack-in-office on the censorship staff is better able than I am to judge whether something is subversive or deleterious to the welfare and defence of this country. Therefore it should be a privilege of a Member of Parliament that his mail shall be opened by the censor. It is not exactly a privilege for the Member; it is rather a privilege of the person who writes to the Member that there should be free access for him to his Member regarding any matter that he wishes to bring to the notice of that Member. I believe in censorship in time of war. I have never said otherwise; but I say that when a

letter has been franked by the unit officer and the letter is addressed to a Member of this Parliament that should be sufficient guarantee to the censor that there is nothing of a wrongful nature in that letter.

Later he said—

I feel that the treatment I have received is hardly accidental. I feel that I have been singled out for special attention.

6. Mr. Cameron produced to the Committee seven envelopes addressed to himself at Parliament House which bore evidence of having been opened by a censor. Examination showed that all these letters had come from persons in the Services or in areas under military control.

He also tendered five other envelopes which had been received by air mail from the Northern Territory; these had not been opened by the censor.

Mr. Cameron was unable to produce any envelopes from civilians which had been censored; he explained that he had not made a practice of retaining the envelopes until last Christmas when he "felt that the matter was going too far and was not altogether accidental".

7. Under the Post and Telegraph Censorship Order, the Post and Telegraph Censorship Authority may open and examine any postal articles as defined by the Post and Telegraph Act and do certain things in respect of such articles as prescribed in that Order. The Controller of Postal and Telegraph Censorship, Mr. Ettelson, indicated that so far as postal matter is concerned his censors opened and examined 100 per cent. of certain categories of overseas mails and lesser percentages of other categories of overseas mails, inwards and outwards; certain limited categories of inland mails were also opened and examined. He explained that competent authorities, such as the Security Service, the Army, the Navy and the Air Force, may ask District Censors for special examination of certain persons' mail. The District Censors would then exercise their discretion. Other inland mails which would be subjected to censorship would be those from certain declared areas or areas of special operational or other importance.

8. Questioned as to whether the mail of Mr. Cameron had at any time been subjected to special scrutiny, Mr. Ettelson gave an emphatic denial, adding that at no time since the outbreak of war had the name of Mr. Cameron been included in any special scrutiny list or other list. He had confirmed that by a telegram sent to all District Censors.

9. When asked whether he was aware of the practice which obtains in connexion with the correspondence to Members of the House of Commons, Mr. Ettelson stated that the practice adopted in Australia was based on that of the United Kingdom. Prior to the outbreak of war the Council of Imperial Defence prepared and issued to all British authorities affected, including Australia, a publication known as the Regulations for Censorship 1938. That publication contained the fundamental principles which should operate in connexion with postal and telegraphic censorship and it was used as the foundation upon which the Australian censorship system was built. He added that there had been the closest adherence to those principles ever since,

not only in Australia, but also in other British dominions and in British colonies and protectorates.

10. To ascertain authoritatively the present position in the United Kingdom Mr. Ettelson despatched a telegram to the Director-General of Postal and Telegraphic Censorship in London on 28th February last. He also sent a similar telegram to his representative in New York, who is a responsible officer of the United Kingdom censorship. These telegrams and the replies, tendered as evidence to the Committee, are as follows:—

To Director-General Postal & Telegraphic Censorship, London.—Kindly advise whether in U.K. any exemption from censorship accorded to (a) overseas and (b) inland mails sent to or by (1) Ministers of the Crown and (2) other Members of Parliament. Outline of U.K. practice would be appreciated. It is realized that inland mails only examined in special circumstances.

who replied—

Your *en clair* telegram of Feb. 28 (1) personal immunity is not granted. Official correspondence of Ministers of the Crown is permitted to proceed unexamined; (2) correspondence of Members of Parliament is treated in same way as members of ordinary public; (3) in case of inland mails censorship is imposed solely for operational security and no personal immunity.

To Director Imperial Censorship Western Area, New York.—Kindly advise whether any exemption from censorship accorded to (a) overseas, and (b) inland mails sent to or by Members of the U.S. Senate and House of Representatives. Outline of U.S. Censorship practice would be appreciated. It is realized that normally inland mails not examined.

who replied—

U.S.A. Censorship do not exempt from censorship of mails of U.S.A. Senators or Representatives unless any one of them is on an official designation.

11. Consequent on a statement by Mr. Ettelson that Army authorities may ask for special examination of certain mails, the Committee sought to ascertain whether any such request had been made concerning the mail of Mr. Cameron. The Chief Field Censor, Lieutenant-Colonel E. H. Wilson, was therefore examined by the Committee. He explained that Field Censorship was set up within the Army solely for the use of the Army—its most important function being for security purposes. He assured the Committee that Mr. Cameron's mail had not been singled out for any special scrutiny, and that no extracts from correspondence addressed to or written by him or any other Member of the Commonwealth Parliament had been communicated to any Department, authority or person.

12. Section 49 of the Constitution reads—

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the Committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

So far the Commonwealth Parliament has not enacted any legislation to declare its privileges. Its privileges are therefore limited to those inherited from the House of Commons.

13. As indicative of the position in the United Kingdom, the following extracts from debates in the House of Commons are interesting:—

11th September, 1942.—Squadron Leader ERRINGTON asked the Minister of Information whether he is aware that there continues to be an increasing censorship of letters addressed to Members of Parliament; and whether he is prepared to exempt from such censorship letters addressed to Members?

Mr. THURLE.—In my view it would not be possible to defend an arrangement which differentiated between letters addressed to M.P.'s and to the general public. But I can assure my hon. and gallant Friend that any increase in the volume of censorship is due to nothing but reasons of operational security.

Squadron Leader ERRINGTON.—Can my hon. Friend say what the difficulty is in exempting from censorship letters addressed to Members of Parliament?

Mr. THURLE.—The hon. and gallant Gentleman will realize that it would be a very invidious thing to make a distinction between Members of Parliament and other trustworthy citizens.

Mr. STINWELL.—Are not Members of Parliament invited to attend Secret Sessions in order to receive secret information that the public are not allowed to receive?

Mr. THURLE.—Once an exception of this kind is made—at present there are no exceptions at all—all sorts of other classes would be making demands on that account.

11th August, 1940.—Mr. MALCOLM McMILLAN asked the Minister of Information whether he will take steps to put an end to the military censorship on letters to Members of Parliament from their constituents, in view of the complaint that members of the public are afraid of expressing their views or grievances in letters subject to censorship, even on certain urgent matters requiring Members' attention?

Mr. COOPER replied.—There is no military censorship of mail to or from Forces in this country and Northern Ireland. Such mail is subjected to the same degree of postal censorship as civilian mail. I would therefore refer the hon. Member to the answer I gave on 7th August last to a similar question addressed to me by the hon. Member for Down (Dr. Little). I need hardly add that it is neither the intention nor the practice of the censorship to prevent or penalize in any way free communication between members of the public and their Parliamentary representatives. The censorship which exists in certain parts of Scotland is not military and is designed solely to prevent the leakage of information which might be of value to the enemy. Correspondents may rest assured that it has no other purpose and they need have no fear that any attempt will be made to prevent them writing to their Members of Parliament for the purpose of expressing their views or grievances.

The answer given on the 7th August, 1940, referred to in Mr. Cooper's reply was—

The partial exemption from censorship of their correspondence, which was conceded to Members of Parliament during the early part of the last war, was withdrawn with the acquiescence of the House in April, 1916, experience having shown to the military authorities the impracticability and danger of making any exceptions to the rule of examination. It is regretted, therefore, that no such instructions can be given to the censorship department.

This statement was made in reply to Dr. Little who had asked the Minister whether he would give instructions to the Censorship Department that letters addressed to London, or elsewhere in Great Britain, for Members of Parliament from Northern Ireland, would be delivered without being censored.

The acquiescence of the House in April, 1916, is derived from the following questions to and replies by the Under-Secretary for War, Mr. Tennant:—

Sir A. MARKHAM asked the Under-Secretary of State for War if he has any information that any abuse has prevailed by reason of the privilege given to men at the front to communicate with Members of this House without their letters being censored, provided such communications are addressed to Members at the House?

Mr. TENNANT.—No, Sir, no abuse has been discovered, so far as I am aware, by reason of the immunity from censorship of letters coming to Members of either House of Parliament at the Palace of Westminster. It is with reference to communications in the reverse direction that there is evidence of abuse. (Hon. Members: "Hear, hear!") I did not mean to bring any charge against hon. Members; I did not mean that. It is apparently simple for the note-paper of this House to be obtained by wholly unauthorized persons, and I have evidence that it has got into very undesirable hands. It is also evident that there is no difficulty in posting letters within the precincts of the Palace of Westminster. In these circumstances, I am prepared either on my own responsibility to withdraw the privilege of immunity from censorship, or, if the House thinks that this course should not be taken without further examination, to set up a Select Committee to investigate the subject.

Sir A. MARKHAM.—Is the right hon. Gentleman aware that when I first raised this question I only asked that permission should be given to men at the front to write direct to Members of this House, and not for permission for letters to go out; and this was the undertaking that he gave?

Mr. TERNANT.—I do not remember that; I am much obliged to my hon. Friend; therefore I will ask the House generally to inform me, through the usual channels, whether they think that this is a matter which deserves so heavy a penalty as to have a Select Committee—(Hon. Members: "No, no!")—or whether they will permit me, on my own responsibility—(Hon. Members: "Yes.")—to withdraw the immunity.

COMMITTEE'S OBSERVATIONS AND FINDINGS.

14. No Commonwealth legislation has yet been enacted to define the privileges of Parliament and in order to determine whether any class of privilege now in force must be had to the practice of the House of Commons.

15. The Commons has recognized the broad distinction between the privilege of Parliament and the administration of censorship as a governmental activity in time of war.

16. Interference with the mail of any citizen in time of war is a serious matter, but under war conditions every effort must be made to ensure that no vital information can reach the enemy, and in this regard the Committee considers that Members of the House should not enjoy any immunity which, in the interests of national security, is denied to the ordinary citizen.

17. The Committee is of opinion that the immunity from censorship of letters addressed to Members of the House in time of war is not one for inclusion in legislation defining privilege, and to grant immunity subject to safeguards means such a departure from the principle of privilege as to negative its existence.

18. Any relaxation of censorship as applied to the mails of Members of Parliament should be as a result of change of administration of censorship rather than as a special privilege to be claimed by Members.

19. Should it be established at any time, however, that the mail of any Member had been the subject of special scrutiny a very serious position arises fundamentally affecting the right of a constituent to approach a Member with his grievance.

20. So far as the incidents leading to the Committee's present inquiry are concerned, the Committee is of opinion that no evidence exists for contending that the mail of Mr. Cameron or of any other Member of the House has been singled out for special examination. Although a number of envelopes were produced, which had been opened by censors, it appears to the Committee that Mr. Cameron's mail has not been treated in any manner different from other Members whose mail from operational and other prescribed areas has been opened and censored.

21. As a result of its deliberations the Committee is unanimously of opinion—

- (1) that the opening by censors of letters addressed to Members of the House is not a breach of any existing privilege of the House;
- (2) that the evidence negatives any suggestion that the mail addressed to Mr. Cameron was subjected to any special scrutiny or to any discrimination; no envelopes produced by Mr. Cameron indicated any censoring other than of letters posted to him from operational or other prescribed military areas.

22. Several other matters relating to the censorship of mail addressed to honorable Members and to other citizens as well were mentioned in evidence given before the Committee. In view of the express and specific reference by the House to the Committee contained in the *Votes and Proceedings*, of 7th March, 1944, the Committee regards itself as having no jurisdiction or authority to report on these other matters.

F. M. FORDE, Chairman.

Parliament House,
Canberra, 31st March, 1944.