

1959.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

HOUSE OF REPRESENTATIVES

REPORT

COMMITTEE OF PRIVILEGES

the matter raised by the honorable
Member for Capricornia on the
17th March, 1959

together

Minutes of Proceedings of the Committee

EXTRACT FROM THE VOTES AND PROCEEDINGS N
dated TUESDAY, 24th FEBRUARY, 1959.

COMMITTEE OF PRIVILEGES.- Mr. Hasluck (Minister for Territories, moved, by leave, That the number of Members appointed to serve on the Committee of Privileges be increased to nine, and that Mr. C.R. Cameron, Mr. Clark, Mr. Drury, Mr. Erwin, Mr. A.D. Fraser, Mr. Galvin, Mr. Killen, Mr. Snedden and Mr. Turnbull be members of that Committee; five to form a quorum.

Question - put and passed.

EXTRACT FROM THE VOTES AND PROCEEDINGS
dated TUESDAY, 17th MARCH, 1959.

PRIVILEGE - STATEMENTS REGARDING MEMBER FOR CAPRICORNIA -
PROPOSED REFERENCE TO COMMITTEE OF PRIVILEGES.- Mr. Pearce raised a matter of Privilege based upon the circulation of copies of a lettergram regarding himself which was forwarded by Mr. John Somerville Smith to the Leader of the House on the 9th March, 1959, and statements made by Mr. Smith and moved, That the matter be referred to the Committee of Privileges.

Debate ensued.

Mr. Holt (Treasurer) was granted leave to continue his speech when the debate is resumed.

Debate adjourned, and the resumption of the debate made an Order of the Day for the next sitting.

EXTRACT FROM THE VOTES AND PROCEEDINGS
dated WEDNESDAY, 18th MARCH, 1959.

PRIVILEGE - STATEMENTS REGARDING MEMBER FOR CAPRICORNIA -
REFERENCE TO COMMITTEE OF PRIVILEGES.- The Order of the Day having been read for the resumption of the debate on the following motion of Mr. Pearce, That the matter (raised by the honorable Member for Capricornia on the 17th March) be referred to the Committee of Privileges -

Debate resumed.

Question - put and passed.

EXTRACT FROM THE VOTES AND PROCEEDINGS
dated TUESDAY, 7th APRIL, 1959.

COMMITTEE OF PRIVILEGES.- Mr. Holt (Treasurer) moved, by leave, That during the consideration of the matter referred to the Committee of Privileges on the 18th March, 1959, Mr. Killen be discharged from attendance on the Committee and Mr. Joske be appointed to serve in his place.

Question - put and passed.

R E P O R T

.. The Committee of Privileges, to which was referred the matter raised in the House on 17th March, 1959 by the honorable Member for Capricornia (Mr. Pearce), has agreed to the following Report:

COMPLAINT

.. The complaint placed before the House is set out in Appendix "A" hereto.

EVIDENCE TAKEN

.. Your Committee called the Rt. Hon. H.E. Holt, M.P., who was examined on Oath in relation to the lettergram he received from Mr. J. Somerville Smith on 9th March, 1959, and which he laid before the Committee.

4. Your Committee called the honorable Member for Capricornia (Mr. Pearce), who was examined on Oath in relation to the matter raised by him in the House on the 17th March, 1959 and in connexion with certain documents he laid before the Committee.

5. Your Committee also called Mr. H.F. Opperman, M.P. (Government Whip), who was examined on Oath and gave evidence in relation to the threats alleged by Mr. Pearce.

GENERAL

49 of the Constitution states that

"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".

The Parliament has not so declared except in relation to two minor powers viz.: Parliamentary Papers Act 1908-1946 and the Parliamentary Proceedings Broadcasting Act 1948.

Your Committee had recourse to the precedents and practice of the House of Commons in accordance with Section 49 of the Constitution. By Commons practice it has been already established that

"The attempt to influence Members in their conduct by threats is (also) a breach of privilege." (a)

"Libels upon Members have (also) been constantly punished but to constitute a breach of privilege they must concern the character or conduct of Members in that capacity." (b)

"Mr. Speaker ruled that it had been the practice of the House to detain privilege under great limitations and conditions in order to raise a case of privilege, and must refer to the action of honorable Members in the discharge of their duties in the actual transaction of the business of this House." (c)

These and similar rulings have been constantly followed by the House of Commons and the Committee is bound by them.

- (a) May "Parliamentary Practice" 16th Ed. p
- (b) H.C. Debates, 1875, Vol. 222, c.1194
- (c) H.C. Debates, 1887, Vol. 311, c.287.

CONCLUSION

After careful consideration to the matter referred to the Committee, and evidence taken and all relevant documents reviewed, the Committee, and is of the opinion that the threats made against Mr. Pearce did not affect him in the discharge of his duties in the actual transactions of the business of this House.

The findings of the Committee are as follows

That investigation into the matter referred to the Committee on 18th March, 1954, was a breach of Parliamentary Privilege.

12. Having found that Mr. J. Somerville Smith's statement did not constitute a breach of privilege, the Committee was precluded from investigating those statements.

However the Committee thinks it proper to record that the honorable Member for Capricornia, appearing before the Committee on Oath, denied completely all imputations of improper conduct and displayed willingness to provide any information required by the Committee.

ACKNOWLEDGMENTS

Your Committee acknowledges the assistance of the Clerk of the House (Mr. A.G. Turner) who appeared before it and assisted with information on Parliamentary Law. The Committee also records its appreciation of the valuable services by the Clerk to the Committee (Mr. D.M. Blake)

. NIGEL DRURY
Chairman

MINUTES OF PROCEEDINGS

PARLIAMENT HOUSE, CANBERRA.

Thursday, 19th March, 1959.

(23rd Parliament,
First Meeting).

Mr. Clark	Mr. Galvin
Mr. Drury	Mr. Snedden
Mr. Erwin	Mr. Turnbull
Mr. A.D. Fraser	

The entry in the Votes and Proceedings of the House of Representatives No. 4 of 24th February, 1959, recording the appointment of members of the Committee was read by the Clerk to the Committee.

On the motion of Mr. Erwin, Mr. Drury was elected Chairman.

The entries in the Votes and Proceedings Numbers 10 and 11 dated 17th and 18th March respectively, recording the Resolution referring to the Committee for investigation the matter of privilege raised by the honorable Member for Capricornia (Mr. H.G. Pearce), were read by the Clerk to the Committee.

The Committee deliberated.

NOTICE OF MOTION.

Mr. A.D. Fraser
second move :-

"That if the Committee proceeds to examine a Breach of Privilege against any person, that person shall be given an opportunity of being legally represented."

On the motion of Mr. A.D. Fraser, the offer of the Clerk of the House (Mr. A.G. Turner) to appear informally before the Committee was accepted, and that Mr. Turner be invited to appear before the Committee at its next meeting.

On the motion of Mr. Galvin, it was agreed that the House be asked to provide the following powers to the Committee:

- (1) Have power to send for persons, papers and records.
- (2) Have leave to sit during sittings of the House.

Resolved - That all statements to the Press should be made by Chairman as directed by the Committee.

The Committee adjourned until Tuesday, 7th April, 1959
p.m.

Friday, 7th April, 1959.

(23rd Parliament
Second Meeting).

Present

Mr. Drury (Chairman)	
Mr. C.R. Cameron	Mr. Joske
Mr. Clark	Mr. Galvin
Mr. Erwin	Mr. Snedden
Mr. A.D. Fraser	Mr. Turnbull

The Minutes of the previous meeting were read and confirmed

The motion moved in the House of Representatives on 7th April, 1959 regarding the discharge of Mr. Killen from attendance on the Committee and the appointment of Mr. Joske to serve in his place during the consideration of the present inquiry, was read by the Clerk.

The entry in the Votes and Proceedings No.12 dated 19th March, 1959, empowering the Committee to -

- (1) Have power to send for persons, papers, and records, and
- (2) Have leave to sit during sittings of the House;

was read by the Clerk.

Notice of Motion:

Resolved that consideration of Mr. A.D. Fraser's motion be deferred until after the Clerk of the House (Mr. A.G. Turner) had appeared before the Committee.

The Committee deliberated.

The Chairman laid before the Committee a lettergram addressed to the Committee, which he had received from Mr. J Somerville Smith.

The Clerk of the House (Mr. A.G. Turner) appeared before Committee and discussed the memorandum which he had previously circulated to members of the Committee.

The Clerk of the House withdrew.

Mr. A.D. Fraser moved pursuant to notice "That if the Committee proceeds to examine a Breach of Privilege against any person, that person shall be given an opportunity of being legally represented."

Debate ensued.

Mr. Joske moved that consideration of Mr. A.D. Fraser's motion be deferred until application is made by any person for legal representation.

Questi-

<u>Ayes</u>	<u>Noes</u>
Mr. C.R. Cameron	Mr. A.D. Fraser
Mr. Clark	
Mr. Erwin	
Mr. Galvin	
Mr. Joske	
Mr. Snedden	
Mr. Turnbull	

And so the question was resolved affirmatively

Ordered

That the Rt. Hon. H.E. Holt, M.P., Mr. H.F. Opperman, M.P., and Mr. H.G. Pearce, M.P., be called to attend as witnesses, to be examined, give evidence and table any documents in their possession relevant to the inquiry before the Committee.

The Rt. Hon. H.E. Holt, M.P. was called, sworn and examined, and laid upon the table a lettergram dated 8th March, 1959, which he had received from Mr. J. Somerville Smith and a copy of his reply thereto.

The witness withdrew.

The Committee deliberated.

On the motion of Mr. Joske the Committee agreed that the following objection of Mr. A.D. Fraser be noted in the minutes :-

"That I object to the examination of Mr. Pearce, beyond that necessary to establish the authenticity of documents and the nature of the threats, until the Committee has decided whether or not a prima facie case of breach of privilege exists."

Mr. H.G. Pearce, M.P. was called, sworn and examined and laid upon the table the following documents -

Letter from Commonwealth General Assurance to Mr. J. Somerville Smith, signed W.W. Alderton, Managing Director.

Signed copy of Mr. Pearce's explanatory letter to the Prime Minister.

Aronced copy of a lettergram circulated in the C.T.A. Melbourne and handed to Mr. Pearce by Senator Wade.

Lettergram dated 22nd March, 1959, from Mr. J. Somerville Smith to Mr. Pearce.

Rockhampton Morning Bulletin, dated 20th March, 1959, containing an article headed "Another Charge of Lobbying"

The Witness withdrew.

The Committee deliberated.

Mr. Pearce was recalled and further examined

The Witness withdrew.

Mr. Opperman was called, sworn and examined

The Witness withdrew.

The Committee adjourned until

Wednesday, 8th April, 1959

Wednesday, 8th April, 1959.

(23rd Parliament,
Third Meeting).

Mr. Drury (Chairman)

Mr. C.R. Cameron	Mr. Galvin
Mr. Clark	Mr. Joske
Mr. Erwin	Mr. Snedden
Mr. A.D. Fra	Mr. Turnbull

The minutes of the previous meeting were read and confirmed.

Mr. Snedden moved, That investigation of the matter referred to the Committee of Privileges on 18th March, 1959, disclose no breach of privilege.

Debate ensued.

Question put

<u>Ayes</u>	<u>Noes</u>
Mr. Clark	Mr. C.R. Ca
Mr. Erwin	
Mr. A.D. Fras	
Mr. Galvin	
Mr. Joske	
Mr. Snedden	
Mr. Turnbull	

And so the question was resolved in the affirmative.

Ordered - That the Chairman prepare a Draft Report for submission to the Committee at its next meeting.

The Committee adjourned until 12 noon on Thursday, 9th April, 1959.

Thursday, 9th April, 1959.

(23rd Parliament,
Fourth Meeting).

Mr. Drury (Chairman)

Mr. C.R. Cameron	Mr. Galvin
Mr. Clark	Mr. Joske
Mr. Erwin	Mr. Snedden
Mr. A.D. Frase	Mr. Turnbull

The Minutes of the previous meeting were read and confirmed

The Chairman submitted his Draft Report.

The Committee proceeded to the consideration of the Draft Report.

Paragraphs 1 to 4 agreed to.

Paragraph 5 amended and agreed

Paragraphs 6 and 7 agreed to.

Paragraphs 8 and 9 amended and agreed

Paragraphs 10 to 12 agreed to.

Resolved - That the Draft Report, as amended, be the Report of the Committee to the House.

The Committee adjourned sine die.

APPENDIX "A"

Extract from Hansard, of the House of
Representatives, dated Tuesday, 17th
March, 1959.

PRIVILEGE

Charge Against Member

MR. PEARCE (Capricornia) - I wish to raise a matter of privilege, Mr. Speaker, in regard to something that has occurred since the House last met, and I propose to conclude my remarks by submitting a motion to the House.

Sir, since this House met last, a man, John Somerville Smith, has caused to be circulated in the Commercial Travellers' Club and has also, I am informed, posted to the editor of the "Rockhampton Morning Bulletin", a copy of a lettergram that was sent to the Leader of the House at 11.30 a.m. on 9th March, 1959. When the Leader of the House received this lettergram he referred the matter to me, and also to the Prime Minister, and sought my comments in regard to it, and I gave to the Prime Minister a written statement containing my views.

Since that time - and before a roneoed copy was given to me to-day by a senator - the Leader of the House informs me, he replied to John Somerville Smith telling him that I had bluntly denied acting with any impropriety in my conduct as a member of this chamber.

At a much earlier time this John Somerville Smith issued threats against me, principally through the Government Whip, that I had better keep out of his way or he would take action to see that my reputation was ruined. I paid very little attention to this threat, because I had formed the opinion that this John Somerville Smith was rather eccentric and flamboyant in his manner, and that he could no possibly be serious about uttering threats, in view of the nature of the tasks that I had refused to undertake on his behalf by using my influence as a member of Parliament to obtain information.

As the roneoed copy of the lettergram has received circulation as far abroad as Melbourne, in the Commercial Travellers' Club, and Rockhampton, I wish the matter to be considered by the Committee of Privileges of this House. therefore move -

That the matter be referred to the Committee of Privilege

MR. CALWELL . But what is the matter concerned?

MR. PEARCE - It is suggested that I should give the House some idea of the contents of this lettergram. The lettergram, which was sent to the Leader of the House, alleges that I engage in professional lobby work for certain firms, that I have stolen from Mr. John Somerville Smith some of his customers - although my fees, it is said, are higher than his - and that I influenced the Government in order to obtain for the firm of Thiess Brothers a £9,000,000 Snowy Mountains scheme contract. That is, broadly, the nature of the contents of the lettergram. That sir, is broadly the nature of the lettergram - that I had improperly used my influence or my position as a member of Parliament for certain firms. A roneoed copy of the lettergram is in my possession.

MR. HAROLD HOLT (Higgins - Treasurer) - Perhaps I shall be permitted to add a word or two on the facts and then have leave to continue my remarks at a later stage, in case it is necessary for me to put any further comments to the House. As the honorable member for Capricornia (Mr. Pearce) has pointed out to the House,

/received

received this rather lengthy lettergram from Mr. Somerville Smith, I think on Tuesday of last week.

MR. J.R. FRASER - Was it sent "collect"?

MR. HAROLD HOLT - No, but it was marked "urgent", if my recollection is correct. The contents certainly were of a scandalous character, as the honorable gentleman has pointed out. The sender prefaced the lettergram by referring to some statements I made in this House when, as honorable gentlemen will recall, Mr. Somerville Smith had publicly advertised for members of the Parliament to join his organization as public relations assistants, or to engage in activities of that kind. In the course of speaking to this matter, which was raised in the debate on the motion for the adjournment of the House on one occasion, I did point out to honorable members what, it seemed to me, was involved in the proposal, and I also added a warning to people who might be thinking of securing the services of this gentleman, that the Public Service of this country dealt with matters which came before it on their merits, irrespective of whether they were advanced by members of Parliament or anybody else. Mr. Somerville Smith sent a lettergram drawing attention to what I had then said and requesting me to take action to have the honorable member for Capricornia disqualified from his membership of this place. I thought that my proper course in the circumstances was to place the contents of the lettergram before the head of the Government and the leader of Mr. Pearce's party who of course in this case was one and the same person. I also made the contents known to Mr. Pearce himself. The Prime Minister (Mr. Menzies) subsequently had a talk with Mr. Pearce and asked him -

MR. WARD -- Who is this Mr. Pearce?

MR. HAROLD HOLT - The honorable member for Capricornia. I apologize to the honorable member for East Sydney for referring to the honorable member for Capricornia by name. The Prime Minister requested that the honorable member for Capricornia place his comments in writing, which he did, and he made a copy of that document available to me. On receipt of the honorable member's comments, I sent a note to Mr. Smith, acknowledging receipt of the telegram and saying that the honorable member for Capricornia had given an emphatic denial that he had acted with any impropriety at any time in his capacity as a member of this House. So far as I was concerned, that was where the matter stood until, earlier to-day, the honorable member for Capricornia brought to my notice the fact that a roneed copy of the lettergram sent to me had apparently been given circulation at such widely separated points as Melbourne and Rockhampton. Whether it has had an even wider circulation than that, perhaps the investigation referred to will elicit. I ask for leave to continue my remarks later.

Leave granted.

DR. EVATT - I have no objection to this course, but I suggest that as the debate is to be adjourned, any documents that the Leader of the House has in his possession be submitted to us in the meantime, leaving the question to be determined on the motion a little later.

MR. HAROLD HOLT - Any documents would, of course, go to the Committee of Privileges, if the House decided that the matter be referred to that Committee.

DR. EVATT -- I follow that.

MR. CALWELL - But the Opposition wants to know what is in the

MR. HAROLD HOLT -- I have indicated the substance of it

DR. EVATT - It is not unreasonable that a document of that kind be made available to the Leader of the Opposition before the matter is referred to the Committee of Privileges.

MR. HAROLD HOLT - Yes. I am sure that the honorable member for Capricornia will agree to that course.

Debate adjourned.