

*House of Representatives*

**COMMITTEE OF PRIVILEGES**

**REPORT RELATING TO  
AN ARTICLE  
PUBLISHED IN *THE SUN*,  
18 SEPTEMBER 1973  
together with  
MINUTES OF PROCEEDINGS OF  
THE COMMITTEE**

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*Brought up and ordered to be printed  
8 November 1973*

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## MEMBERSHIP OF THE COMMITTEE

Hon. K. E. Enderby, M.P., *Chairman*

Mr D. M. Cameron, M.P.

Mr P. E. Lucock, C.B.E., M.P.

Mr F. W. Collard, M.P.<sup>1</sup>

Mr G. G. D. Scholes, M.P.

Hon. F. Crean, M.P.<sup>2</sup>

Mr R. H. Sherry, M.P.<sup>4</sup>

Mr E. N. Drury, C.B.E., M.P.

Mr R. I. Viner, M.P.<sup>5</sup>

Hon. R. V. Garland, M.P.<sup>3</sup>

Hon. E. G. Whitlam, Q.C., M.P.

### *Clerk to the Committee*

Mr L. M. Barlin,  
Senior Parliamentary Officer,  
House of Representatives.

- 1 Discharged from attendance, 15 October 1973.
- 2 Discharged from attendance, 26 September 1973; resumed his attendance, 15 October 1973.
- 3 Discharged from attendance, 20 September 1973.
- 4 Appointed to serve in the place of Mr Crean, 26 September 1973; appointed to serve in the place of Mr Collard, 15 October 1973.
- 5 Appointed to serve in the place of Mr Garland, 20 September 1973.

## CONTENTS

	<i>Page</i>
Extracts from <i>Votes and Proceedings</i> . . . . .	1
Report . . . . .	2
Minutes of Proceedings . . . . .	8
Appendixes	
I Extract from <i>Hansard</i> . . . . .	11
II Copy of <i>The Sun</i> article . . . . .	14
III Memorandum submitted by Mr N. J. Parkes, O.B.E., Clerk of the House of Representatives . . . . .	15

## APPENDIX

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

CHICAGO, ILLINOIS

1955-1956

RESEARCH REPORT NO. 1000  
BY J. H. HARRIS AND J. H. HARRIS

## EXTRACTS FROM VOTES AND PROCEEDINGS

### No. 3—1 March 1973

- 14 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—  
That Mr D. M. Cameron, Mr Collard, Mr Crean, Mr Drury, Mr Enderby,  
Mr Garland, Mr Lucock, Mr Scholes and Mr Whitlam be members of the  
Committee of Privileges; five to form a quorum.

Question—put and passed.

### No. 47—20 September 1973

- 11 PRIVILEGE—ARTICLE IN 'THE SUN'—REFERENCE TO COMMITTEE OF PRIVILEGES:  
Mr Hurford raised a matter of privilege based upon an article published in  
*The Sun* on Tuesday 18 September 1973 under the heading '5 WAYS TO CUT  
MEAT PRICES—REPORT BY MPS'. Mr Hurford produced a copy of *The Sun*  
containing the article and gave the name of the printer and publisher of that  
newspaper.

Mr Hurford then moved—That the matter of the article in *The Sun* of Tuesday  
18 September 1973, relating to the recommendations of the Joint Committee  
on Prices in its report on Stabilisation of Meat Prices, be referred to the Com-  
mittee of Privileges.

Debate ensued.

Question—put and passed.

- 17 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—  
That during the consideration of the matter referred to the Committee of  
Privileges this day, Mr Garland be discharged from attendance on the committee  
and Mr Viner be appointed to serve in his place.

Question—put and passed.

### No. 49—26 September 1973

- 10 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—  
That, during the consideration of the matter referred to the Committee of  
Privileges on 20 September, Mr Crean be discharged from attendance on the  
committee and Mr Sherry be appointed to serve in his place.

Question—put and passed.

### No. 50—27 September 1973

- 10 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—  
That the Committee of Privileges, when considering the matter referred to it  
on 20 September, have power to send for persons, papers and records.

Question—put and passed.

**No. 54—15 October 1973**

**8 COMMITTEE OF PRIVILEGES:** Mr Daly (Leader of the House) moved, by leave—  
That, in relation to the membership of the Committee of Privileges:

- (1) Mr Crean do now resume his attendance on the Committee;
- (2) during the further consideration of the matter referred to the Committee on 20 September 1973 and the consideration of the matter referred this day, Mr Collard be discharged from attendance on the Committee and Mr Sherry be appointed to serve in his place, and
- (3) during consideration of the matter referred to the Committee this day, Mr Garland be discharged from attendance on the Committee and Mr Viner be appointed to serve in his place.

Question—put and passed.

## REPORT

1. The Committee of Privileges to which was referred the matter of the complaint made in the House of Representatives on 20 September 1973 relating to an article published in *The Sun* on Tuesday 18 September 1973 under the heading '5 WAYS TO CUT MEAT PRICES—REPORT BY MPs', has agreed to the following Report:

### Complaint

2. On Thursday 20 September 1973, Mr C. J. Hurford, M.P., Chairman of the Joint Committee on Prices, brought up the report of that Committee on Stabilisation of Meat Prices. Later that day in raising as a matter of privilege an article published in the Sydney newspaper *The Sun*, Mr Hurford said:

Now that I have brought down the report on the stabilisation of meat prices from the Joint Parliamentary Committee on Prices it will be obvious to honourable members that recommendations made by the Committee in its report were prematurely published in a front page article in 'The Sun' on Tuesday 18 September 1973. It is well-known that the publication or disclosure of reports of committees before they have been reported to the House constitutes a breach of privilege or contempt.

3. The motion to refer the matter to the Committee of Privileges was agreed to by the House. The debate on the motion appears as Appendix I and the article which is the subject of the complaint is reproduced as Appendix II to this Report.

### Powers, privileges and immunities of the House of Representatives, and of its Members

4. *Section 49 of the Commonwealth of Australia Constitution Act* provides 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.

5. Except in relation to a few minor powers, viz., Parliamentary Papers Act (protection of Printer), Parliamentary Proceedings Broadcasting Act (protection of the Australian Broadcasting Commission) and Public Accounts Committee Act and Public Works Committee Act (provisions respecting witnesses before these committees), the Parliament has not declared its privileges and they therefore remain those of the House of Commons as at 1 January 1901.

6. In considering the matter referred to it, the Committee had recourse to the practice and precedents of the House of Commons. Relevant cases and precedents are included in the Memorandum of the Clerk of the House of Representatives.

### Inquiries made by the Committee

7. The Committee sought advice on the matter from Mr N. J. Parkes, O.B.E., Clerk of the House of Representatives, whose Memorandum prepared for the Committee is reproduced as Appendix III to this Report.

8. The Committee satisfied itself that neither the Joint Committee on Prices nor The Senate had authorised publication of the Report on Stabilisation of Meat Prices prior to its presentation to the House of Representatives.

9. Initially, evidence was taken from Mr Hurford, Chairman of the Joint Committee on Prices, Mr M. E. Aldons, Clerk to that committee and from Mr C. S. Boorman, Clerk to Sub-Committee B of the Joint Committee on Prices which was primarily responsible for the inquiry into meat prices. Later, Mr B. J. Tier, Editor of *The Sun* and Mr N. E. O'Reilly, journalist employed by *The Sun* in the Parliamentary Press Gallery, were examined.

10. The Editor accepted responsibility for publication of the article. He stated, however, that at the time of publication he did not think of the Parliamentary rule prohibiting publication or disclosure of reports of committees which have not been presented to the Parliament. Whilst the article itself stated that the report of the committee 'will be presented to Parliament today', he said that it did not enter his mind that publication of the article would constitute a contempt of the House of Representatives. He expressed regret for his action and informed the Committee that he had taken action to avoid a repetition of this nature so far as that was practicable.

11. The Committee finds it surprising that the editor of a large metropolitan newspaper who has had many years' experience in that position, would not think of the rule prohibiting premature publication of Parliamentary Committee reports. Nevertheless, in this case it accepts the editor's assurance that if he had been fully conscious at the time that publication was a breach of parliamentary privilege, he would not have published it.

12. Mr O'Reilly admitted that he was the writer of the article. He informed the Committee that a copy of the draft report had been shown to him on the morning of Tuesday 18 September 1973, but declined to name the person who had made the report available.

13. In his evidence to the Committee, Mr O'Reilly pointed out that possible recommendations of the Joint Committee had been the subject of a good deal of earlier newspaper speculation and comment and in fact two members of the Committee had discussed certain aspects of the inquiry on a television program two days prior to publication of *The Sun* article. In addition, he had been informed by the person who made the report available to him that it was to be presented to the Parliament that day. Mr O'Reilly said that, in view of all the speculation, the fact that he may have been in breach of the standing orders did not enter his mind at the time of writing the article.

14. The Committee is surprised that a journalist of Mr O'Reilly's experience should not have had in mind the rule relating to the premature publication of the reports of Parliamentary Committees. However, as responsibility for the article has been accepted by the Editor of the newspaper, it is felt unnecessary to recommend that any action be taken against Mr O'Reilly.

15. The Committee views with grave concern the action of the unknown person in making available to a journalist part or whole of a Parliamentary Committee report prior to its presentation to the Parliament. This action is of special significance in view of a recent similar case in The Senate. The need to adhere to the basic rule is of fundamental importance to the Parliamentary Committee system.



### Findings

16. The findings of the Committee are as follows:

- (i) That a breach of privilege and a contempt of the House of Representatives occurred when:
  - (a) an unknown person, on Tuesday 18 September 1973, made available to Mr N. E. O'Reilly, a copy of the draft report on Stabilisation of Meat Prices,
  - (b) Mr N. E. O'Reilly transmitted his article to *The Sun* on Tuesday 18 September 1973, and
  - (c) the article was published in *The Sun* newspaper on Tuesday 18 September 1973.
- (ii) That Mr B. J. Tier, Editor of *The Sun* and Mr N. E. O'Reilly, journalist employed by *The Sun*, are both guilty of a contempt of the House of Representatives.

### Recommendations

17. The Committee recommends to the House of Representatives:

- (i) That the Editor of *The Sun* should be required to publish in a prominent position in that newspaper, an adequate apology for the premature publication of contents of the draft report on Stabilisation of Meat Prices.
- (ii) That as the Editor of *The Sun* has accepted responsibility for the premature publication of contents of the draft report on Stabilisation of Meat Prices, no action be taken against Mr O'Reilly.
- (iii) That Mr Speaker communicate with the President of the Parliamentary Press Gallery requesting him to bring to the notice of all journalists employed in the Gallery the long-standing Parliamentary rule applying to the premature publication or disclosure of Committee proceedings, evidence or Reports.

K. E. ENDERBY  
*Chairman*

6 November 1973

**MINUTES OF PROCEEDINGS  
PARLIAMENT HOUSE, CANBERRA  
WEDNESDAY, 26 SEPTEMBER 1973**

*(28th Parliament—First Meeting)*

*Present:*

Mr D. M. Cameron	Mr Scholes
Mr Collard	Mr Sherry
Mr Drury	Mr Viner
Mr Enderby	Mr Whitlam
Mr Lucock	

The following extracts from the *Votes and Proceedings* were read by the Clerk to the Committee:

- (a) No. 3—1 March 1973—recording the appointment of members of the Committee;
- (b) No. 47—20 September 1973—recording the reference to the Committee of the article in *The Sun* relating to recommendations of the Joint Committee on Prices in its report on Stabilisation of Meat Prices, and
- (c) No. 47—20 September 1973— recording that, during the consideration of the present inquiry, Mr Garland be discharged from attendance on the Committee and Mr Viner be appointed to serve in his place.

The Clerk to the Committee advised that earlier this day, the House had resolved that, during consideration of the present inquiry, Mr Crean be discharged from attendance on the Committee and Mr Sherry be appointed to serve in his place.

On the motion of Mr Collard, Mr Enderby was elected Chairman.

The following documents were presented to the Committee:

- (a) A copy of *The Sun* newspaper dated 18 September 1973 containing the article referred to the Committee.
- (b) A copy of the Report of the Joint Committee on Prices on Stabilisation of Meat Prices.

The Committee deliberated.

*Resolved:* That the Clerk of the House of Representatives be asked to submit a Memorandum upon the question of Privilege involved in the present case.

*Resolved:* That approval of the House of Representatives be sought for the Committee, when considering the present inquiry, to have power to send for persons, papers and records.

*Resolved:* That all statements to the Press in relation to the present inquiry shall be made by the Chairman after being authorised by the Committee.

The Committee adjourned until Wednesday 10 October 1973 at 8.15 p.m.

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\* \* \* Items which have been omitted from these Minutes of Proceedings relate to another inquiry being conducted by the Committee.

**WEDNESDAY, 10 OCTOBER 1973**

*(28th Parliament—Second Meeting)*

*Present:*

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Scholes

Mr Collard

Mr Sherry

Mr Drury

Mr Viner

Mr Lucock

The Minutes of Proceedings of the meeting held on 26 September 1973 were confirmed.

The Chairman advised the Committee that he had received an extract from the *Votes and Proceedings* of 27 September 1973 recording a resolution of the House of Representatives granting the Committee, when considering the matter referred to it on 20 September 1973, power to send for persons, papers and records.

The Chairman brought up a Memorandum prepared by the Clerk of the House of Representatives in relation to the matter referred to the Committee on 20 September 1973.

The Committee deliberated.

*Resolved:* That this Committee finds that the article in *The Sun* of Tuesday 18 September 1973 relating to the recommendations of the Joint Committee on Prices in its report on Stabilisation of Meat Prices, constitutes a breach of privilege and a contempt of the House of Representatives.

*Resolved:* That Mr C. J. Hurford, M.P., Chairman of the Joint Committee on Prices, Mr M. E. Aldons, Clerk to the Joint Committee on Prices, and Mr C. S. Boorman, Clerk to Sub-Committee B of the Joint Committee on Prices, be requested to appear before the Committee at its next meeting.

*Resolved:* That Mr B. J. Tier, Editor, *The Sun*, Sydney, be requested to appear before the Committee at a time to be arranged by the Clerk to the Committee.

The Committee adjourned until a date and time to be determined by the Chairman.

**TUESDAY, 23 OCTOBER 1973**

*(28th Parliament—Third Meeting)*

*Present:*

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Scholes

Mr Crean

Mr Sherry

Mr Drury

Mr Viner

Mr Lucock

The Minutes of Proceedings of the meeting held on 10 October 1973 were confirmed.

The Chairman advised the Committee that he had received the following extracts from the *Votes and Proceedings*.

(1) No. 54—15 October 1973—

\* \* \*

- (b) recording that Mr Crean resume his attendance on the Committee.
- (c) recording that during further consideration of the matter referred to the Committee on 20 September 1973 and consideration of the matter referred on 15 October 1973, Mr Collard be discharged from attendance and Mr Sherry be appointed in his place.

\* \* \*

The Chairman advised that in response to a request from the Committee, the Clerk of the Senate had advised that the Report on Stabilisation of Meat Prices had been presented to the Senate on 20 September 1973 and that its prior publication had not been authorised by The Senate.

Mr Christopher John Hurford, M.P., Chairman of the Joint Committee on Prices was called, sworn and examined.

The witness withdrew.

Mr Malcolm Eric Aldons, Clerk to the Joint Committee on Prices and Mr Clive Stanley Boorman, Clerk to Sub-Committee B of the Joint Committee on Prices were called, sworn and examined together.

The witnesses withdrew.

Mr Christopher John Hurford, M.P., was recalled and having been sworn previously, was further examined.

The witness withdrew.

Mr Bernard John Tier, Editor of *The Sun*, was called, sworn and examined.

The witness withdrew.

The Committee deliberated.

*Resolved:* That Mr N. O'Reilly, *The Sun* Bureau, Press Gallery, Parliament House, be requested to appear before the Committee at its next meeting.

\* \* \*

The Committee adjourned until tomorrow at 8.15 p.m.

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WEDNESDAY, 24 OCTOBER 1973

(28th Parliament—Fourth Meeting)

*Present:*

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Scholes

Mr Crean

Mr Sherry

Mr Drury

Mr Viner

Mr Lucock

The Minutes of Proceedings of the meeting held on 23 October 1973 were confirmed.

\* \* \*

Mr Neil Edwin O'Reilly, journalist employed by *The Sun*, was called, sworn and examined.

*Resolved:* That the following papers referred to by Mr O'Reilly in his evidence, be received by the Committee:

Press cutting headed 'Tax plan to cut beef price reported', from the *Sydney Morning Herald* dated 17 September 1973.

Press statements issued by the Rt Hon. J. D. Anthony, M.P., dated 17 March, 17 April, 28 April, 31 August and 13 September 1973.

Transcript of the television program '*Federal File*' of 16 September 1973.

The witness withdrew.

The Committee deliberated.

*Resolved:* That Mr B. J. Tier, Editor of *The Sun*, in having published prematurely contents of the Report on Stabilisation of Meat Prices, is guilty of a contempt of the House of Representatives.

*Resolved:* That this Committee recommends to the House of Representatives that the Editor of *The Sun* should be required to publish in a prominent position in that newspaper, an adequate apology for the premature publication of contents of the Report on Stabilisation of Meat Prices.

*Resolved:* That this Committee further recommends to the House of Representatives that Mr Speaker should communicate with the person from time to time holding the position of President of the Parliamentary Press Gallery requesting him to bring to the notice of all journalists employed in the Gallery the long-standing Parliamentary rule applying to the premature publication or disclosure of Committee proceedings, evidence or Reports.

*Ordered:* That the Chairman prepare a Draft Report in respect of *The Sun* inquiry, incorporating the Memorandum of the Clerk of the House of Representatives, for submission to the next meeting of the Committee.

The Committee adjourned until Tuesday 6 November 1973 at 8.15 p.m.

## TUESDAY, 6 NOVEMBER 1973

(28th Parliament—Fifth Meeting)

*Present:*

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Crean

Mr Drury

Mr Lucock

Mr Scholes

Mr Sherry

Mr Viner

Mr Whitlam

The Minutes of Proceedings of the meeting held on 24 October 1973 were confirmed.

*Resolved:* That this Committee finds that a breach of privilege and a contempt of the House of Representatives occurred when:

- (a) an unknown person, on Tuesday 18 September 1973, made available to Mr N. E. O'Reilly, a copy of the draft report on Stabilisation of Meat Prices,
- (b) Mr N. E. O'Reilly transmitted his article to *The Sun* newspaper on Tuesday 18 September 1973, and,
- (c) the article was published in *The Sun* newspaper on Tuesday 18 September 1973.

*Resolved:* That this Committee finds that in addition to Mr B. J. Tier, Editor of *The Sun*, Mr N. E. O'Reilly, journalist employed by *The Sun*, is guilty of a contempt of the House of Representatives.

The Chairman submitted his Draft Report on *The Sun* inquiry.

Paragraphs 1 to 10 agreed to.

Paragraphs 11 and 12 amended and agreed to.

Paragraph 13 agreed to.

Paragraphs 14 to 17 amended and agreed to.

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

\* \* \*

The Committee adjourned until Tuesday 13 November 1973, at 8.30 p.m.

## APPENDIX I

Extract from *Hansard*, Thursday, 20 September 1973

### PRIVILEGE

**Mr HURFORD** (Adelaide)—Mr Speaker, I raise a matter of privilege based on an article published on Tuesday, 18 September 1973 in the 'Sun', a Sydney evening newspaper, under the heading: '5 ways to cut Meat Prices—Report by MPs'. I produce a copy of the 'Sun' printed and published by John Fairfax and Sons Ltd of Jones Street, Broadway, Sydney, Postcode 2007, for the Proprietors, Associated Newspapers Ltd. Now that I have brought down the report on the stabilisation of meat prices from the Joint Parliamentary Committee on Prices it will be obvious to honourable members that recommendations made by the Committee in its report were prematurely published in a front page article in the 'Sun' on Tuesday, 18 September 1973. It is well known that the publication or disclosure of reports of committees before they have been reported to the House constitutes a breach of privilege or contempt. This position is made clear in May's 'Parliamentary Practice' and in standing order 340 of the House which provides that the report of a committee which has not been reported to the House shall not, unless authorised by the House, be disclosed or published by any member of such committee or by any other person.

Honourable members will appreciate that such an action on the part of the editor of the 'Sun' newspaper places suspicion on each member of the Joint Parliamentary Committee on Prices and on the personnel of our secretariat. It was the unanimous wish of the Committee at a meeting today that I, as Chairman of the Committee, should raise this matter in the House at the first available opportunity. Clearly publication of recommendations from the Committee's report 2 days prior to its presentation to the House constitutes a breach of privilege of the House and accordingly, I move:

That the matter of the article in the 'Sun' of Tuesday, 18 September 1973, relating to the recommendations of the Joint Committee on Prices in its report on stabilisation of meat prices be referred to the Committee of Privileges.

**Mr ANTHONY** (Richmond—Leader of the Australian Country Party)—I can understand the great concern of the Government that the report of the Joint Parliamentary Committee on Prices has been published prematurely by a newspaper. It is quite wrong and improper that a report of a committee be published prior to its presentation to the Parliament. I accept that fact and the need for this matter to go to the Standing Committee on Privileges. However, this is not the only matter that needs to go before that Committee. I believe that another report of far greater significance was prematurely published. The release of that report also should be examined. I refer to the report of the Coombs Committee which dealt with matters of tremendous financial significance.

**Mr SPEAKER**—Order! The right honourable gentleman must confine his remarks to the motion as moved by the honourable member for Adelaide. He is referring to another matter.

**Mr ANTHONY**—I was about to say that I will move an amendment to the motion so that the publication of the Coombs report can also be referred to the Standing Committee on Privileges which can examine the printing of both reports.

**Mr SPEAKER**—The right honourable member would be out of order because a matter for reference to the Privileges Committee must come before the Speaker who determines that a prima facie case has been established before it can be referred to the Privileges Committee.

**Mr ANTHONY**—Thank you, Mr Speaker. I take your advice and will not proceed on that course, but I think this is a matter that the House should consider at some time. I understand the great concern of the Government at this report being printed. I do not condone the action and it should be examined to see how it came to be released.

**Mr HURFORD**—It involves the whole Committee, including Opposition members.

**Mr ANTHONY**—Yes, I support that view. Reports of the committees should remain confidential until the Parliament has had the opportunity to examine them. I should also like to know where confidentiality of a committee starts and finishes because I have been told that a copy of the report of the Joint Parliamentary Committee on Prices was given to the Prime Minister (Mr Whitlam) before it was presented to this House. That aspect also needs to be examined.

**Mr Les Johnson**—Who told you that?

**Mr ANTHONY**—I was told by an Opposition member of the Committee who said that during the course of a Committee meeting one of the members said that the report had been given to the Prime Minister a week before it came into this House. This matter needs to be looked at by the Privileges Committee because I do not believe that any person has the right to this information prior to its coming to the Parliament. Some innuendoes have been made by the honourable member for Eden-Monaro (Mr Whan) to the effect that I had obtained prior information.

**Mr Reynolds**—I take a point of order. Is the right honourable gentleman entitled, without any evidence whatsoever, to make the kind of remark that he has made without naming the persons or presenting any concrete evidence? At least in the matter before us we have the substantial item—the publication of the article in the 'Sun' newspaper—referred to. I think it is grossly improper that the right honourable gentleman should be able to make the kind of allegation that he has made. I seek your guidance, Mr Speaker.

**Mr SPEAKER**—Order! There is no point of order involved. The Chair is not in a position to know whether anything is true or untrue. I am only obeying the Standing Orders of the House.

**Mr ANTHONY**—Thank you, Mr Speaker. I will leave the matter of which I raised to the Committee of Privileges to examine further. There was an innuendo that I had obtained information about the actions of this Government in trying to formulate a plan to bring down the price of meat on the Australian market. The honourable member for Eden-Monaro cast aspersions on me and said that I might have obtained information from the Committee. Let me assure him that I have been making—

**Mr SPEAKER**—Order! The right honourable gentleman is now completely out of order. The motion before the Chair relates to an article which appeared in the 'Sun' newspaper. The motion was moved by the honourable member for Adelaide and apparently the right honourable gentleman is supporting it. That is the only item before the chair at the present time. I ask the right honourable gentleman to confine his remarks to the motion before the Chair.

**Mr ANTHONY**—Thank you. I am referring to the making public of this information and the information which the Committee brought down in its recommendations. What I am saying is that if there is any reflection on anybody else, which the Committee should examine, let it be known that on 17 March this year at the opening of the Boorowa Show I said that this was the Government's attitude and that the government would be trying to find a means of bringing down a tax on meat to reduce the domestic price. I have made a series of statements during the year.

**Mr SPEAKER**—Order! The right honourable gentleman insists on ignoring a request from the Chair to confine his remarks to the motion before the Chair, which relates to a matter of privilege and an article which appeared in the 'Sun' newspaper a couple of days ago. That is the only item before the Chair. I ask the right honourable gentleman finally to confine his remarks to the motion before the Chair.

**Mr ANTHONY**—Thank you, Mr Speaker. I support the motion that this matter be examined. I want to make that quite clear. It should be looked at. It is quite wrong that the Press should be allowed to print a report prior to its coming before this Parliament. But I also want to put the House on notice that I will seek your approval, Mr Speaker, to move a motion that the publication of the Coombs report also be investigated by the Privileges Committee.

Question resolved in the affirmative.

**Mr Hansen**—I rise on a point of order. I was not involved nor was I a member of the Joint Committee on Prices, but I heard the Leader of the Country Party say that a member of the Committee had stated in committee that the Prime Minister had been advised of certain information that was before the Committee or had been given a copy of a report. If the right honourable gentleman has this information, I think that in all fairness to other members of the Committee he should divulge the name of that person.

**Mr SPEAKER**—Order! There is no point of order involved. As I stated before, the chair is not in a position to state whether anything is true or untrue in this regard. There is no point of order involved with the Chair.

**Mr Keating**—I wish to make a personal explanation. I just want to comment on the issue—

**Mr SPEAKER**—Does the honourable gentleman claim to have been misrepresented?

**Mr Keating**—Yes, I do, by implication in relation to the green copies of Hansard speeches and your statement after lunch. I just want to make this comment: I accept that it is the ruling of the former Speaker that the Leader of the opposition and the Prime Minister have these documents made available. Frankly, I do not think they should have any rights over any other honourable member.

**Mr SPEAKER**—Order! The honourable gentleman claims to have been misrepresented. What the last Speaker did or what I did has nothing to do with the situation. You claim to have been misrepresented.

**Mr Keating**—I seek leave to make a statement.

**Mr SPEAKER**—Is leave granted?

**Mr Anthony**—In relation to this report?

**Mr Keating**—In relation to the greens.

**Mr Anthony**—No, not in relation to another matter.

**Mr Keating (Blaxland)**—On a personal explanation, Mr Speaker, you mentioned in the last paragraph of your report that some words were accepted by the Hansard office and some were not. The implication was that the meaning was changed. There was no change of meaning; there was only a change in the grammar. But the Leader of the Opposition should have had the courtesy to tell me that he was coming into the House with the greens. I believe that the present Prime Minister and former Leader of the Opposition never adopted this practice in his life.

**Mr NIXON (Gippsland)**—I wish to make a personal explanation. Just prior to the honourable member for Blaxland speaking—

**Mr SPEAKER**—Order! Is the honourable member asking to make a personal explanation?

**Mr NIXON**—Yes.

**Mr SPEAKER**—Does the honourable member claim to have been misrepresented?

**Mr NIXON**—I want to give some information. I seek leave.

**Mr SPEAKER**—Order! The honourable member does not have the call.

**Mr NIXON**—I seek leave to make a statement.

**Mr SPEAKER**—Order! Is leave granted?

**Mr Daly**—No.

**Mr SPEAKER**—Leave is not granted.

**Mr Gorton**—I wish to make a statement relating to the report and the debate on it.

**Mr SPEAKER**—Is leave granted?

**Mr Daly**—No.

**Mr SPEAKER**—Leave is not granted.



**Mr Anthony**—I take a point of order. The honourable member for Wide Bay has asked that I should in all decency reveal where this information came from. Two members of this House, both members of that Committee—the honourable member for Gippsland and the right honourable member for Higgins—have been trying to rise to say that they were told before the Committee that a report had been given to the Prime Minister.

**Mr Gorton**—I was not going to say that.

**Mr Anthony**—Weren't you? I am sorry.

**Mr NIXON** (Gippsland)—I wish to make a personal explanation.

**Mr SPEAKER**—Does the honourable gentleman claim to have been misrepresented?

**Mr NIXON**—Yes.

**Dr Gun**—By his own Leader.

**Mr NIXON**—Not by my own Leader at all; by imputation. As a member of the Committee I have been misrepresented in the discussion that went on as to whether or not information had been given to the Prime Minister about the Committee's discussions. It is true to say that information was proposed to be given to the Prime Minister on a number of occasions by the Chairman of Sub-Committee B. Whether he gave the Prime Minister that information—he said he was going to do so—only he and the Prime Minister can state.

**Mr SPEAKER**—Order! That is not a persona explanation. I intend to take action under the Standing Orders if honourable members are going to abuse the opportunity to make personal explanations and make them a debating point. In future I intend to adhere very strictly to that point. I will certainly take action. Honourable members are making a farce of the situation by making personal explanations and debating the point.

**Mr GORTON** (Higgins) (3.23)—I do not want to make a personal explanation but since there has been some discussion which has been quite open to the House, the Leader of the House (Mr Daly) might now be willing to give me leave to make a statement to clear it up.

**Mr Daly**—It will not take long, will it?

**Mr GORTON**—No, quite short.

**Mr SPEAKER**—Is leave granted? There being no objection, leave is granted.

**Mr GORTON**—The facts are these: Not long ago the Australian Country Party as a whole and, as I understand it, the Leader of the Australian Country Party (Mr Anthony) were accused by a member of the Joint Committee on Prices in this House of leaking information to the Press. For my part, in conversation with the Leader of the Country Party I said that I was quite sure that that was not true. In any case it was an odd accusation to be made because on the Committee we had been told by a member of the Committee that he was discussing matters with the Prime Minister as they went through.

## APPENDIX II

Extract from *The Sun* of Tuesday 18 September 1973

### **'5 Ways to Cut Meat Prices—Report by MPs.'**

The joint Parliamentary committee on prices has recommended a five-point plan to reduce the price of meat in Australia.

Principal recommendation is for a special export tax to be imposed on beef.

The committee does not specify the amount of tax.

But it says most of the tax should be returned to meat producers with a small amount being kept for beef promotion and improved production methods.

The committee also recommends asking the meat industry to impose voluntary restraints on the export of meat.

The third recommendation is that export quotas on beef be imposed if the American cattle industry continues to withhold stock from market.

The fourth recommendation is for the encouragement of white meat production—poultry and pork—by assuring supplies of stock feed to the producers and promoting the product.

Fifth recommendation is for a restructuring of the Australian Meat Board to include representatives of employees, consumers and retailers.

The majority report is signed by all Labor MP's on the committee and will be presented to Parliament today.

A separate minority report will also be tabled.

## APPENDIX III

### NOTES PREPARED BY THE CLERK OF THE HOUSE OF REPRESENTATIVES

#### REPORT IN *THE SUN* OF 18 SEPTEMBER 1973 RELATING TO THE RECOM- MENDATIONS OF THE JOINT COMMITTEE ON PRICES IN ITS REPORT ON STABILISATION OF MEAT PRICES

(Matter referred to the Committee of Privileges on 20 September 1973)

2 October 1973

## HOUSE OF REPRESENTATIVES COMMITTEE OF PRIVILEGES

*Notes prepared by the Clerk of the House of Representatives*

The following notes have been prepared at the request of the House of Representatives Committee of Privileges inquiring into the article in *The Sun* of Tuesday 18 September 1973, relating to the recommendations of the Joint Committee on Prices in its report on Stabilisation of Meat Prices.

A copy of the report in *The Sun* of 18 September 1973 and a copy of the recommendations by the Joint Committee on Prices in its report brought up on 20 September 1973 are, for comparative purposes, reproduced in Appendix 'A' to these notes.

*Extract from the Votes and Proceedings of the  
House of Representatives, 20 September 1973*

### 11 PRIVILEGE—ARTICLE IN 'THE SUN'—REFERENCE TO COMMITTEE OF PRIVILEGES:

Mr Hurford raised a matter of privilege based upon an article published in *The Sun* on Tuesday, 18 September 1973 under the heading '5 WAYS TO CUT MEAT PRICES—REPORT BY MPs'. Mr Hurford produced a copy of *The Sun* containing the article and gave the name of the printer and publisher of that newspaper.

Mr Hurford then moved—That the matter of the article in *The Sun* of Tuesday, 18 September 1973 relating to the recommendations of the Joint Committee on Prices in its report on Stabilisation of Meat Prices, be referred to the Committee of Privileges.

Debate ensued.

Question—put and passed.

*Speech of honourable Member for Adelaide  
in raising matter on 20 September 1973*

Mr Speaker, I raise a matter of privilege based on an article published on Tuesday, 18 September 1973 in *The Sun*, a Sydney evening newspaper, under the heading: '5 ways to cut Meat Prices—Report by MPs'. I produce a copy of *The Sun* printed and published by John Fairfax and Sons Ltd of Jones Street, Broadway, Sydney, Postcode 2007, for the Proprietors, Associated Newspapers Ltd. Now that I have brought down the report on the stabilisation of meat prices from the Joint Parliamentary Committee on Prices it will be obvious to honourable Members that recommendations made by the Committee in its report were prematurely published in a front page article in *The Sun* on Tuesday 18 September 1973. It is well known that the publication or disclosure of reports of committees before they have been reported to the House constitutes a breach of privilege or contempt. This position is made clear in May's *Parliamentary Practice* and in standing order 340 of the House which provides that the report of a committee which has not been reported to the House shall not, unless authorised by the House, be disclosed or published by any member of such committee or by any other person.

Honourable Members will appreciate that such an action on the part of the editor of *The Sun* newspaper places suspicion on each member of the Joint Parliamentary Committee on Prices and on the personnel of our secretariat. It was the

unanimous wish of the Committee at a meeting today that I, as Chairman of the Committee, should raise this matter in the House at the first available opportunity. Clearly publication of recommendations from the Committee's report two days prior to its presentation to the House constitutes a breach of privilege of the House and accordingly, I move:

'That the matter of the article in *The Sun* of Tuesday, 18 September 1973, relating to the recommendations of the Joint Committee on Prices in its report on stabilisation of meat prices be referred to the Committee of Privileges.'

## CONSTITUTIONAL PROVISION—GENERAL CHARACTER OF PRIVILEGE

### *Constitution*

Section 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 the privileges, etc., except in relation to a few minor powers, viz., Parliamentary Papers Act (protection of Printer), Broadcasting of Parliamentary Proceedings Act (protection of Australian Broadcasting Commission) and Public Accounts Committee Act and Public Works Committee Act (provisions respecting witnesses before these committees).

### *What constitutes Privilege*

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law.

(May 18, p. 64)

The particular privileges of the Commons have been defined as: 'The sum of the fundamental rights of the House and of its individual Members as against the prerogatives of the Crown, the authority of the ordinary courts of law and the special rights of the House of Lords'.

(May 18, p. 64)

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are 'absolutely necessary for the due execution of its powers'. They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.

(May 18, p. 64)

### *Breach of Privilege and Contempt*

When any of these rights and immunities, both of the Members, individually, and of the assembly in its collective capacity, which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence

is called a breach of privilege, and is punishable under the law of Parliament. Each House also claims the rights to punish actions, which, while not breaches of any specific privilege, are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its officers or its Members. Such actions, though often called 'breaches of privilege' are more properly distinguished as 'contempts'.  
(May 18, p. 65)

### PARTICULAR REFERENCES IN RELATION TO MATTER BEFORE THE COMMITTEE

The matter before the Committee would appear to come within the category of what *May* (pages 142-3) describes as 'Premature publication or disclosure of a committee's proceedings or evidence'.

The relevant extract from *May* is set out below:

By the ancient custom of Parliament 'no act done at any committee should be divulged before the same be reported to the House'. Upon this principle the Commons, on 21 April 1837, resolved, 'That the evidence taken by any select committee of this House, and the documents presented to such committee, and which have not been reported to the House, ought not to be published by any member of such committee or by any other person'. Where the public are admitted this rule is usually not enforced. The publication or disclosure of proceedings of committees conducted with closed doors or of draft reports of committees before they have been reported to the House will, however, constitute a breach of privilege or a contempt.

Again, at page 646 *May* goes on to say:

Any publication of a draft report, which has been submitted to a committee, before such report has been agreed to by the committee and presented to the House, is treated as a breach of privilege.

Memorandum by Mr L. A. Abraham, C.B., C.B.E., former Principal Clerk of Committees and recognised authority on the privileges of the House of Commons—  
H. of C. Paper 34 of 1 December 1967:

The resolution of 21st April, 1837, declared 'that the evidence taken by any select committee of this House and the documents presented to such committee, and which have not been reported to the House, ought not be published by any member of such committee or by any other person'. It is clear from the debate on this resolution that the mischief at which it was aimed was the publication of such evidence or documents *before* the report of the committee had been presented to the House and published.

Standing order 340 of the House of Representatives provides:

The evidence taken by any select committee of the House and documents presented to and proceedings and reports of such committee, which have not been reported to the House, shall not, unless authorised by the House, be disclosed or published by any member of such committee, or by any other person.

Standing order 308 of the Senate provides:

The evidence taken by any Select Committee of the Senate and documents presented to such Committee, which have not been reported to the Senate, shall not, unless authorised by the Senate or the Committee, be disclosed or published by any member of such Committee, or by any other person.

Parliamentary Privilege in Australia (Enid Campbell) states at page 57:

It is generally accepted that publication of the report of a parliamentary committee before the report has been presented to the whole House is a breach of privilege.

and again at page 58

Anticipation of a committee report comes very close to premature publication of the report itself and in cases where the forecast is made by someone having access to the committee's report, should properly be treated as breach of privilege.

Mr J. R. Odgers, C.B.E., Clerk of the Senate, in the publication *Australian Senate Practice* (4th Edition) at page 575, states

The publication of a committee's report before its presentation to the Senate is unquestionably a breach of privilege.

### PREVIOUS CASES

To assist the Committee in its judgment the following cases and precedents are cited:

#### *House of Commons*

July 1968—Complaint concerning an article in *The Observer* newspaper of 26 May 1968.

The Committee of Privileges found that Mr Dalyell, M.P., was guilty of a breach of privilege and of a serious contempt of the House for having made available to a newspaper reporter his proof copy of the minutes of evidence taken at a private meeting of the Select Committee on Science and Technology and recommend that Mr Dalyell be reprimanded. In the Committee's opinion the reporter and editor of the newspaper concerned had committed a contempt of the House but recommended in the circumstances of the case that no further action be taken.

Precedents brought to the attention of that Committee included:

(i) *Sheehan's Case* 1831 (C.J. (1831-32) 360)

On 31 May 1831 a matter of privilege was raised by the Chairman of the Select Committee on Tithes in Ireland. He complained of the publication in the *Dublin Evening Mail* of a document which purported to be the Committee's 2nd report and which was in fact a copy of a draft report circulated to the Committee and not agreed to by them or reported to the House.

Sheehan, the proprietor of the newspaper, was summoned to the Bar. He refused to disclose his source of information and took full responsibility upon himself. The House therefore resolved as follows:

That Thomas Sheehan, Proprietor of the *Dublin Evening Mail* Newspaper, having published in the said Newspaper a Report, purporting to be the Second Report of the Committee of this House, on the subject of Tithes in Ireland, the same not having been presented to this House, has been guilty of a high Breach of the Privileges of this House.

Sheehan was committed to the custody of the Serjeant at Arms. He immediately petitioned the House, pleading that he thought the document was a proper Report sanctioned by the House, stating that he had received no information from any Officer of the House, and expressing regret for his inadvertent breach of privilege. He was admonished at the Bar the next day by the Speaker and discharged.

(ii) *Select Committee on Postal Communication between London and Paris, etc.*, 1850 Report (H.C., 381, p. vi (1850))

This Report, made on 28 May 1850, referred to the publication in two newspapers of part of a Draft Report 'printed for the purpose of aiding the Members of the Committee in the subject before them' while the Committee was still deliberating. The Committee had traced the offence to the correspondent of one of the newspapers who had expressed contrition but declined to give the name of the person from whom he had obtained the Draft. The Committee reported that they had

decided to leave the matter there, but recommended certain changes in the system of printing and distributing such documents.

The Report was ordered to lie upon the Table and to be printed.

- (iii) *Select Committee on the Cottage Homes Bill*, 1899 (H.C. 271, p. x (1899) and C.J. (1899) 327)

The 2nd Special Report of this Committee, made on 7 July 1899, dealt with the premature publication of verbatim extracts from the Chairman's Draft Report in *The Times* of 28 June 1899. It stated that the premature publication of 'confidential and privileged documents' had become 'part of a regular system of *The Times* newspaper'. No blame attached to Members of the Committee or to the Clerks, but the Committee recommended that the system of entrusting documents without any cover to the Printers' Messenger should be changed, and that the Lobby representative of any newspaper publishing privileged documents should be excluded from the precincts of the House.

The Report was ordered to lie upon the Table and to be printed.

#### *Senate case*

May 1971—Report upon articles in *The Sunday Australian* and *The Sunday Review* of 2 May 1971.

The Senate Committee of Privileges found:

- (1) that the publication prior to presentation to the Senate, of contents of the *Report of the Senate Select Committee on Drug Trafficking and Drug Abuse in Australia*, in *The Sunday Australian* of 2 May 1971 and in *The Sunday Review* of 2 May 1971, constituted a breach of the privileges of the Senate, and
- (2) that the editor and publisher of each of the newspapers were the persons who were to be held responsible and culpable in the breach of privilege.

The Committee recommended that the persons concerned should be required to attend before the Senate to be reprimanded. The Senate agreed and, subsequently, the reprimands were administered.

The following observation was made by the Committee in its report:

Bearing in mind the fact that the Senate has already developed a significant system of Standing and Select Committees, and that this development appears certain to continue, the Committee is concerned that such clear cases of premature publication should have occurred at this time. The Committee hopes that its finding in this matter will constitute a warning against any future disclosure or premature publication.

#### *Matters for determination by the Committee*

It is for the Committee to decide, in the light of all the circumstances and having in mind the precedents and cases mentioned, whether the publication of the recommendations of the Joint Committee on Prices as it appeared in *The Sun* newspaper of 18 September constitutes a breach of privilege or constitutes a contempt of the House. If it is decided that a breach of privilege has occurred the committee will then need to determine the penalty, if any, to be imposed on the person or persons responsible.



The precedents are submitted as a guide to the Committee on what other Commons and Australian privileges committees have recommended but they are not binding and the issue of every inquiry rests with the Committee itself.

In the present case it would seem worthwhile to quote for the information of the Committee the following extract from advice given to the Privileges Committee of the Commons by the Clerk of that House in the case concerning Mr Dalyell, M.P.—July 1968—see earlier.

The rule (relating to premature publication) prohibits any deliberations of the Committee, any proceedings of the Committee and any evidence given to the Committee being referred to or disclosed by Members or others, or described in the press, before the various items have been reported to the House by the Select Committee itself. This rule of privilege has a practical basis. Committees frequently refrain from reporting parts of the evidence on grounds of security or the public interest. Quite apart from any question of security, a partial or garbled version of evidence which may have been given by witnesses is unfair both to them and to the Select Committee. When a Select Committee is sitting in private, its members must be allowed to pursue their deliberations without outside interference. For this reason it has long been regarded as a contempt of the House if outside persons take the initiative and publish the results of the Committee's work before the Committee has made up its mind on what recommendation it is going to make. (H. of C. Paper 357 22 July 1968, pps. 50-51).

In the case of Mr Dalyell the Privileges Committee in its Report made certain observations concerning the responsibility of those involved in the premature publication and the blame attaching to each. As these observations may be of interest they are quoted below:

The Resolution of the House of 21 April 1837, 'That the evidence taken by any Select Committee of this House, and the documents presented to such Committee, and which have not been reported to the House, ought not to be published by any Member of such Committee or by any other person' is clear and unambiguous, and has been consistently upheld by the House. Sir Barnett Cocks reminded the Committee that the purpose of parliamentary privilege is to give to Members the minimum degree of protection, without which they could not effectively carry out their duties in the House of Commons. Your Committee are particularly concerned that the unauthorised disclosure which occurred here should have taken place at a time when experiments are being made with the greater use of Select Committees. These Committees depend largely for their success on the existence of mutual trust and confidence between their Members and those who appear as witnesses before them; this confidence would be greatly imperilled by any failure to observe the rules of the House by all those concerned in the work of the Committees.

Your Committee conclude that Mr Dalyell was guilty of a breach of privilege and of a serious contempt of the House. They accordingly recommend that Mr Dalyell be reprimanded.

Your Committee were informed by Mr Marks, and Miss Slaughter confirmed, that she did not see the proof copy of the minutes and that her part in the preparation of the article was limited to some research into the subject with which it dealt. Having heard her, they are satisfied that she is in no way implicated and that no blame can be attached to her.

Your Committee are of the opinion that Mr Marks has committed a contempt of the House. Although Mr Marks was inexperienced in parliamentary matters and procedure, he knew that he was publishing information to which he should not have had access and which was not intended at that time to be published. In view, however of his acceptance of Mr Dalyell's assurance that there was here no question of privilege, Your Committee recommend that no further action be taken in his case.

Your Committee take a more serious view of Mr Astor's responsibility. As an experienced editor of a national newspaper, he must have known that the information which had come into his hands was contained in a parliamentary document of a highly confidential nature and he admits that he 'failed to take adequate steps to discover the position'. It is clear that he knew he was taking a deliberate risk. Your Committee are of the opinion that he committed a contempt of the House, but in all the circumstances they recommend that no further action should be taken in his case.

Mr Dalyell was subsequently reprimanded by the House of Commons.

*Means by which newspaper learnt of Joint Committee's recommendations; possible inquiry by Committee*

The Committee may feel that it is incumbent upon it to make inquiries as to how

the recommendations of the Joint Committee became prematurely known to *The Sun*. This may, or may not, present difficulties for the Committee.

The Committee of Privileges of the Senate when confronted with a rather similar situation in 1971 (the case of *The Sunday Australian* and *The Sunday Review*) determined, by majority, to interpret its reference from the senate as raising only the possible breach of privilege by the newspapers referred to in the motion and considered that the reference did not entitle the Committee to inquire into and report upon the question of how the information contained in the draft report came to the knowledge of, or into the hands of, the newspapers concerned.

In at least three United Kingdom cases (Sheena's 1831, the Select Committee on Postal Communication between London and Paris 1850, and the Select Committee on the Civil List 1901) the relevant committee of the Commons was unable to ascertain who was responsible for divulging the information which was the subject of inquiry.

#### *Involvement of proceedings of a joint committee*

This is the first case in which the Committee of Privileges has been required to make enquiries regarding the premature disclosure of the proceedings or report of a joint committee.

The fact that it is a joint committee and not a House committee which is involved may give rise to questions as to the authority of the House Committee of Privileges to make enquiries.

It is submitted that the matter has been properly referred to the Committee of Privileges in accordance with the standing orders. It has relation to a matter affecting the privileges of Members of the House and a committee (albeit a joint committee) of the House, and can, therefore, properly be the subject of inquiry by the Committee of Privileges of the House.

### **THE COMMITTEE OF PRIVILEGES: FUNCTIONS, PROCEEDINGS, ETC.**

#### *Standing Order*

House of Representatives Standing Order No. 26 is as follows:

A Committee of Privileges to consist of nine Members, shall be appointed at the commencement of each Parliament to *inquire into and report upon* complaints of breach of privilege which may be referred to it by the House.

#### *Witnesses—Summoning of and administration of oath*

House of Representatives Standing Orders Nos. 354 to 368 deal with the calling of witnesses, etc.

*May*, 18th ed., pp. 629-30 deal with the general powers of a Select Committee regarding the attendance of witnesses.

In 1941, the Chairman of the Commonwealth Parliament War Expenditure Committee asked the Solicitor-General for advice on certain questions. In dealing with the following question:

Has a Select Committee or Joint Committee power to summon persons to give evidence and to administer oaths to witnesses.

the Solicitor-General (Opinion 53 of 1941) said that if a Select Committee is empowered to send for persons, papers and records, it may, in his opinion, summon witnesses to give evidence.

By virtue of Section 49 of the Constitution, the power contained in the *Parliamentary Witnesses' Oaths Act*, 1871, of Great Britain for any Committee of the House of Commons to administer an oath to a witness is conferred on each House of the Commonwealth Parliament and on the Committees of each such House. This power, however, does not extend to a joint Committee.

The Solicitor-General briefly answered the question by stating:

A Select Committee or a Joint Committee authorised to send for persons, papers and records has power to summon witnesses. A Select Committee also has power to administer oaths to witnesses. It is doubtful whether a Joint Committee has that power.

### *Scope of inquiry*

'A select committee, like a Committee of the whole House, possesses no authority except that which it derives by delegation from the House by which it is appointed. When a select committee is appointed to consider or inquire into a matter, the scope of its deliberations or inquiries is defined by the order by which the committee is appointed (termed the order of reference), and the deliberations or inquiries of the committee *must be confined* within the limits of the order of reference . . . interpretation of the order of reference of a select committee is a matter for the committee . . . If it is thought desirable that a committee should extend its inquiries beyond the limits laid down in the order of reference, the House may give the committee authority for that purpose by means of an instruction.'

(*May*, 18th, p. 620)

Besides the report properly so called relating to the subject-matter referred to the committee, it is frequently necessary for a committee to make what is termed a special report in reference to some matter incidentally arising relating to the powers, functions or proceedings of the committee. . .

A report from a committee desiring the instructions of the House as to the authority of the committee or the proper course for it to pursue; or a report that a witness has failed to obey a summons to attend or has refused to answer questions addressed to him by the committee, are examples of such special reports.' (*May*, 18th, p. 645)

A House of Representatives case of a special report relates to the Committee of Privileges inquiring into articles in the *Bankstown Observer* (1955). An article dated 28 April 1955 had been referred to the Committee. Subsequently, the Committee presented a special report to the House seeking authority to include in its investigations articles appearing in the *Bankstown Observer* of 12 and 19 May. The House agreed to a motion that the Committee's request be acceded to. (V. & P. 1954-55, pp. 225, 239)

'... The scope of any inquiry (*of the Committee of Privileges*) comprises all matters relevant to the complaint'. (*May*, 18th, p. 652)

The foregoing reference in *May* results from a resolution of the House of Commons in 1947-48.

That when a matter of complaint of breach of privilege is referred to a Committee, such Committee has and always has had the power to inquire not only into the matter of the particular complaint but also into facts surrounding and reasonably connected with the *matter of the particular complaint* and into the principles of the law and custom of privilege that are concerned. (*House of Commons Journals* 1947-48, p. 23)

*Counsel: Lack of judicial form:*

'Persons accused of breaches of the privileges or of other contempts of either House are not, as a rule, allowed to be defended by counsel; but in a few cases incriminated persons have been allowed to be heard by counsel, the hearing being sometimes limited to 'such points as do not controvert the privileges of the House'. Where a person has been allowed to make his defence by counsel, counsel have sometimes been heard in support of the charge; and where a complaint of an alleged breach of privilege was referred to the Committee of Privileges, counsels were allowed, *by leave of the House*, to examine witnesses before the Committee on behalf of both the Member who had made the complaint and the parties named therein'. (The last cases recorded in May were in the 18th century.) (*May*, 18th, pp. 163-4)

Details of the Commons Practice in relation to counsel appearing before Select Committees are given in *May* 18th, pp. 630-1.

During the course of the sittings of the House of Representatives Committee of Privileges in the Bankstown *Observer* case, Mr R. E. Fitzpatrick, who had been called by the Committee, requested that he be represented by counsel. By resolution, the Committee decided to hear counsel on the following two points:

- (a) as to his right to appear generally for Mr Fitzpatrick, and
- (b) as to the power of this Committee to administer an oath to the witness.

The Committee heard counsel on these points but did not agree to counsel's application to appear. (Report of Committee tabled 8 June 1955, pp. 9-10.)

'Little attempt is made in the Committee of Privileges to observe judicial forms. Persons accused of contempt of the House are not as a rule allowed to be defended by Counsel, though in a few cases the House has given leave for an exception to be made. The Committee of Privileges usually hears only the parties concerned and the Clerk of the House, and the House decides the appropriate penalty on the tenor of the debate on the Committee's report.' (Extract from Paper prepared by the Clerk of the House of Commons for the Association of Secretaries-General of Parliaments, March 1965.)

*Protest or dissent may not be added to the Report*

Standing Order 343 reads as follows:

'The chairman shall read to the committee, at a meeting convened for the purpose, the whole of his draft report, which may at once be considered, but, if desired by any Member it shall be printed and circulated amongst the committee and a subsequent day fixed for its consideration. In considering the report, the chairman shall read it paragraph by paragraph, proposing the question to the committee at the end of each paragraph—"That it do stand part of the report". A Member objecting to any portion of the report shall move his amendment at the time the paragraph he wishes to amend is under consideration, but no protest or dissent may be added to the report'.

Recommendations by the Joint Committee on Prices in its Report  
on the Stabilisation of Meat Prices brought up in the House of  
Representatives on 20 September 1973

## RECOMMENDATIONS

The major recommendations of the Committee are that:

- (i) As the principal means of stabilising domestic meat prices steps be taken to introduce a special flexible tax on beef exports; proceeds from this tax to be refunded to beef livestock producers with some of the proceeds set aside to establish a capital fund which should be used to improve technology in the meat industry and promote the industry; (paragraph 66)
- (ii) in the meantime, the meat industry be requested to voluntarily restrict beef exports; (paragraph 67)
- (iii) if the United States of America livestock producers continue to withhold stock from the U.S. domestic market, immediate action be taken to impose quotas on Australian beef exports to the U.S.A.; (paragraph 47)
- (iv) special steps be taken to encourage the expansion of production of the white meat industry by promotion and assurance of supplies of stock feed; (paragraph 72)
- (v) the Australian Meat Board be restructured to include representatives of consumers, employees and retailers and be charged with looking after the interests of the meat industry as a whole; (paragraph 79)
- (vi) early consideration be given to the establishment of a Government sponsored and financed consumer organization; (paragraph 80)
- (vii) the Australian Meat Board collect information on all sales under forward contract. (paragraph 83)

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