

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

1973—*Parliamentary Paper No. 236*

House of Representatives

Committee of Privileges

**Report relating to a letter allegedly
written by the Secretary,
Department of Aboriginal Affairs**

together with

**Minutes of Proceedings of
the Committee**

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THE COMMONWEALTH OF AUSTRALIA
DEPARTMENT OF THE TREASURY

ANNUAL REPORT
1988-89

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MEMBERSHIP OF THE COMMITTEE

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

Mr D. M. Cameron, M.P.

Mr F. W. Collard, M.P.¹

Hon. F. Crean, M.P.

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

Hon. R. V. Garland, M.P.²

Mr P. J. Keating, M.P.³

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

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

Mr R. H. Sherry, M.P.⁴

Mr R. I. Viner, M.P.⁵

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, 15 October 1973.

³ Appointed to serve in the place of Mr. Sherry, 17 October 1973.

⁴ Appointed to serve in the place of Mr. Collard, 15 October 1973; replaced by Mr. Keating, 17 October 1973.

⁵ Appointed to serve in the place of Mr. Garland, 15 October, 1973.

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. 53 — 11 October 1973

- 23 ADJOURNMENT: The question was accordingly proposed—That the House do now adjourn.

Privileges Mr Snedden (Leader of the Opposition) raised a matter of privilege based upon an article published in the *Daily Telegraph* on Thursday, 11 October 1973, under the heading 'Torres Strait scheme under attack' referring to a letter allegedly written by the Secretary of the Department of Aboriginal Affairs. Mr Snedden produced a copy of the *Daily Telegraph* containing the article and gave the name of the printer and publisher of that newspaper.

Mr Speaker stated that he would consider whether a *prima facie* case of breach of privilege had been made out and would report his opinion on the matter at the next sitting.

No. 54 — 15 October 1973

- 2 PRIVILEGE—LETTER ALLEGEDLY WRITTEN BY THE SECRETARY, DEPARTMENT OF ABORIGINAL AFFAIRS—REFERENCE TO COMMITTEE OF PRIVILEGES: Mr Speaker stated that, on Thursday night last, Mr Snedden (Leader of the Opposition) had raised a matter of privilege relating to a letter allegedly written by the Secretary of the Department of Aboriginal Affairs to the Chairman of the Council for Aboriginal Affairs, which was referred to and quoted in the *Daily Telegraph* of Thursday, 11 October 1973. Mr Speaker said that he had undertaken to consider whether a *prima facie* case of breach of privilege had been made out and to report to the House today. He had given the matter consideration and informed the House that, in his opinion, such a case had been made out and that Mr Snedden might now proceed, if he wished, to move a motion to refer the matter to the Committee of Privileges.

Mr Snedden then moved—That the matter of the letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday, 11 October 1973 under the heading 'Torres Strait scheme under attack', be referred to the Committee of Privileges.

Question—put and passed.

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.

9 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—

That the Committee of Privileges, when considering the matter referred to it today, have power to send for persons, papers and records.

Question—put and passed.

No. 56 — 17 October 1973

4 COMMITTEE OF PRIVILEGES: Mr Daly (Leader of the House) moved, by leave—

That, during consideration of the matter referred to the Committee of Privileges on 15 October 1973, Mr Keating be appointed to the committee in the place of Mr Sherry, appointed on 15 October 1973.

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 15 October 1973 relating to a letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday, 11 October 1973 under the heading 'Torres Strait scheme under attack', has agreed to the following Report:

Complaint

2. The matter was raised during the adjournment debate on Thursday, 11 October 1973 by the Leader of the Opposition, the Rt Hon. B. M. Snedden, Q.C., M.P. At the next sitting on Monday, 15 October 1973 Mr Speaker indicated that in his opinion a *prima facie* case of breach of privilege had been made out and Mr Snedden's subsequent motion to refer the matter to the Committee of Privileges was agreed to. Relevant extracts from *Hansard* appear as Appendix I and the newspaper article which gave rise to the matter is reproduced as Appendix II to this Report.

Powers, Privileges and Immunities of the House of Representatives, and of its Members

3. *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.

4. Except in relation to a few minor powers, viz., Parliamentary Papers Act (Protection of Printer), Parliamentary Proceedings Broadcasting Act (protection of 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.

5. 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 which appears as Appendix III to this Report.

Inquiries made by the Committee

6. Initially the Committee sought advice upon the matter from Mr N. J. Parkes, O.B.E., Clerk of the House of Representatives. A copy of the letter referred to in the newspaper article was obtained from the Secretary of the Department of Aboriginal Affairs and the Committee set out to determine whether statements in the letter constituted:

- (a) imputations against or reflections on members of the Standing Committee on the Environment and Conservation in their capacity as Members of that Committee, and/or

- (b) an intention to withhold information from the Committee or an attempt to influence a witness with respect to the evidence he was to give to that Committee.

7. Following an examination of the letter, it was apparent to the Committee that portions of the letter referred to in the newspaper article were quoted out of context. Paragraphs relating to two different meetings and separated in the letter by other paragraphs were shown as following one another in the newspaper article. As a consequence, the newspaper article represented a distorted version of the letter.

8. The Committee is satisfied that the letter did not cast imputations against or reflect on Members of the Standing Committee on the Environment and Conservation nor did it express an intention to withhold information from the Committee or constitute an attempt to influence a witness with respect to the evidence to be given to that Committee.

9. The Committee is critical of the publication by the *Daily Telegraph* newspaper of contents of a confidential letter written by the Secretary of the Department of Aboriginal Affairs. The article distorted the contents of the letter. The Committee did not consider that the terms of reference required it to pursue inquiries as to how the letter came into the possession of the journalist or whether the form of its publication was the result of a deliberate action by the journalist.

Findings

10. As a result of its inquiries, the Committee finds that there is no breach of privilege involved in the matter referred to it on 15 October 1973.

K. E. ENDERBY
Chairman

20 November 1973

MINUTES OF PROCEEDINGS

PARLIAMENT HOUSE, CANBERRA

TUESDAY, 23 OCTOBER 1973

(28th Parliament—Third Meeting)

Present:

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Lucock

Mr Crean

Mr Scholes

Mr Drury

Mr Viner

Mr Keating

* * * *

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

(1) No. 54—15 October 1973

- (a) referring to the Committee the matter of the letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday, 11 October 1973 under the heading 'Torres Strait scheme under attack'.

* * * *

- (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.
- (d) recording that, during consideration of the matter referred to the Committee on 15 October 1973, Mr Garland be discharged from attendance and Mr Viner be appointed in his place.
- (e) granting the Committee, when considering the matter referred to it on 15 October 1973, power to send for persons, papers and records.
- (2) No. 56—17 October 1973—recording that, during consideration of the matter referred to the Committee on 15 October 1973, Mr Keating be appointed to the Committee in the place of Mr Sherry appointed on 15 October 1973.

* * * *

Resolved: That the Clerk of the House of Representatives be asked to submit a Memorandum upon the question of Privilege involved in the reference of 15 October 1973.

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 15 October 1973.

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

Resolved: That the Clerk to the Committee write to Mr B. G. Dexter:

- (1) to inquire whether Mr Dexter wrote the letter allegedly written by him, referred to and quoted in the *Daily Telegraph* article of Thursday, 11 October 1973, and
- (2) to request a true copy of the letter if such a letter was written by him.

The Committee adjourned until tomorrow at 8.15 p.m.

WEDNESDAY, 24 OCTOBER 1973

(28th Parliament—Fourth Meeting)

Present:

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Lucock

Mr Crean

Mr Scholes

Mr Drury

Mr Viner

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

The Chairman presented the following papers received from Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, in response to the request of the Committee:

Letter from Mr B. G. Dexter addressed to the Clerk to the Committee, dated 24 October 1973.

Copy of minute headed 'Turtles Project', addressed to Dr Coombs and Professor Stanner by Mr B. G. Dexter, dated 14 August 1973.

Copy of minute headed 'Alleged Council Letter' addressed to the Minister for Aboriginal Affairs by Mr B. G. Dexter, dated 12 October 1973.

* * * *

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 Lucock

Mr Crean

Mr Scholes

Mr Drury

Mr Viner

Mr Keating

Mr Whitlam

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

The Committee deliberated in respect of the reference of 15 October 1973.

Resolved: That in the light of evidence sought and obtained by the Committee, it is of opinion that there is no breach of privilege involved in the reference of 15 October 1973.

Ordered: That the Chairman prepare a Draft Report in respect of the reference of 15 October 1973, 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 13 November 1973, at 8.30 p.m.

TUESDAY, 20 NOVEMBER 1973

(28th Parliament—Sixth Meeting)

Present:

Mr Enderby (*Chairman*)

Mr D. M. Cameron

Mr Lucock

Mr Crean

Mr Scholes

Mr Drury

Mr Viner

The Chairman explained why the meeting set down for 13 November had been postponed.

The Minutes of Proceedings of the meeting held on 6 November 1973 were confirmed.

The Chairman submitted his Draft Report in respect of the reference of 15 October 1973.

Paragraphs 1 to 8 agreed to.

Paragraphs 9 and 10 amended, and agreed to.

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

The Committee adjourned *sine die*.

APPENDIX I

Extracts from Hansard

Thursday 11 October 1973

Mr SNEDDEN (Bruce—Leader of the Opposition) (10.16)—I have a matter of privilege which I wish to raise. It is based upon an article published in the *Sydney Daily Telegraph* of today, Thursday 11 October 1973. The article appears under the heading 'Torres Strait Scheme under Attack'. I produce a copy of the *Daily Telegraph* printed and published by Mirror Newspapers Ltd of 2 Holt Street, Surry Hills on behalf of Nationwide News Pty Ltd. I should make the point immediately that the issue of privilege relates in no way to the newspaper itself. The newspaper reports a letter which was sent by Mr Dexter, who is the permanent head of the Department of Aboriginal Affairs. The letter was addressed to Dr Coombs who, among many other duties, is a special adviser to the Prime Minister (Mr Whitlam). I understand that he is Chairman of the Aboriginal Affairs Council. The report says that Mr Dexter's letter to Dr Coombs related to evidence to be given to the House of Representatives Standing Committee on Environment and Conservation. I have ascertained that both Mr Dexter and Dr Coombs in fact gave evidence before that Committee. As I have not the letter I am unable to say whether the letter was written before or after their evidence to the Committee. One must assume that it was a letter written before their appearance before the Committee having regard to the quote from the letter which is included in the newspaper report. The newspaper reports:

We should not assume that all those we will be talking to will be interested in getting at the facts.

I have no doubt that at least one of them seeks nothing else than the abandonment of the Turtle Project or in putting what remains of it after restructuring under the direct control of the Thursday Island Co-operative.

We should therefore exercise discretion in what we say in particular in relation to those aspects where we may not yet have determined our own approach, such as marketing.

I wish to refer to Erskine May's *Parliamentary Practice*. On page 114 under the heading 'Conspiracy to Deceive either House or Committees of either House' it reads:

It has already been seen that the giving of false evidence, prevarication or suppression of the truth by witnesses while under examination before either House or before committees of either House is punished as a contempt;

I will read the following words for the sake of completeness but I do not want any allegation to be read into my reading of them:

and that persons who present false, forged or fabricated documents to either House or to committees of either House are guilty of a breach of privilege.

The point I wish to make is contained in the next sentence, which reads:

Conspiracy to deceive either House or any committees of either House will also be treated as a breach of privilege.

It hardly needs for me to say, but I think it worth saying for what I say will no doubt be reported, that privilege in this sense does not relate in any way to the personal advantages of any member of the House. Privilege in this sense relates to the House being able to discharge its functions fearlessly without any fear of consequences or without any reward for what is done. It is on that basis that I raise this matter. Can the House or in this case the House of Representatives Standing Committee on Environment and Conservation be regarded as being defeated in getting at all the facts and all the truth of the matter which they were examining? Concerned as I was about the matter I wrote a letter to the Prime Minister. It was delivered to him this evening. I have had that letter returned to me with a notation from the Prime Minister. I notice the Prime Minister is at the table and I assume I have the authority of the Prime Minister to report what was in the letter and the reply the Prime Minister made.

Mr Whitlam—Yes.

Mr SNEDDEN—The letter reads:

My dear Prime Minister,

A serious issue has been raised concerning the administration of the Department of Aboriginal Affairs involving Dr H. C. Coombs . . .

Mr Whitlam—I suggest the essence of the letter is the last 2 sentences. Perhaps you could read them and my 2 sentences in reply.

Mr SNEDDEN—I have no objection but it is quite a short letter and it might be as well to read it in whole. The letter reads:

My Dear Prime Minister,

A serious issue has been raised concerning the administration of the Department of Aboriginal Affairs involving Dr H. C. Coombs as Chairman of the Aboriginal Advisory Council and the Permanent Head of the Department of Aboriginal Affairs, Mr B. Dexter.

The Opposition will seek an opportunity to debate this issue but I want to bring immediately to your attention the possibility that a serious breach of privilege has occurred concerning the

evidence that Mr Dexter and Dr Coombs were to give the House of Representatives Committee on Environment and Conservation.

If that report is correct (*Daily Telegraph* 11.10.1973) Mr Dexter is quoted as writing to Dr Coombs as follows:

I will not read that extract as I have already done so. The letter continues:

Will you provide me with the full text of the letter and advise whether you would support referring this matter to the Privileges Committee.

I intend to move the appropriate motion in the House tonight.

The letter was signed by me. Underneath it is written:

I have no such letter, original or copy. I support referring the matter to the Privileges Committee. 11.10.1973 2140 hours.

There is then something which I interpret to be the initials of the Prime Minister. That is the basis upon which I raise this matter of privilege. I am aware that normally it remains for the Speaker to be satisfied that a *prima facie* breach of privilege exists. I am in your hands, Mr Speaker, as to whether I should move a motion at this stage or wait until you have investigated the matter to see whether there is a *prima facie* case. If it were your wish, Mr Speaker, that I move the motion now I would move it in the terms that the matter of the article in the *Daily Telegraph* of Thursday 11 October 1973 under the heading 'Torres Strait Scheme Under Attack' be referred to the Committee of Privileges. I am in your hands, Mr Speaker. I believe I said earlier that the matter of privilege relates to the letter, not to the report of it. I think it is important that that distinction be made. I leave it to you, Mr Speaker, to indicate to me whether you wish me to move the motion now or whether you prefer more time to consider the matter.

Mr SPEAKER—Order! In conformity with the usual practice and standards of the House in regard to these particular matters, as the Leader of the Opposition said, it is for me to consider whether a *prima facie* case is made. I shall certainly do so. I will give it every consideration and report to the House at the next sitting.

Monday 15 October 1973

PRIVILEGE

Mr SPEAKER—On Thursday night last the Leader of the Opposition (Mr Snedden) raised a matter of privilege relating to extracts from a letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, to Dr H. C. Coombs, Chairman of the Council for Aboriginal Affairs, which were published in the *Daily Telegraph* of Thursday 11 October 1973. In accordance with the practice when matters of privilege suddenly arise, I undertook to consider whether a *prima facie* case of breach of privilege had been made out and to report to the House today. I have given the matter consideration and now inform the House that in my opinion such a case has been made out. The Leader of the Opposition may now proceed, if he wishes, to move a motion to refer the matter to the Committee of Privileges.

Motion (by Mr Snedden) agreed to:

That the matter of the letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday 11 October 1973, under the heading 'Torres Strait scheme under attack', be referred to the Committee of Privileges.

APPENDIX II

Copy of *Daily Telegraph* article, Thursday, 11 October 1973

TORRES STRAIT SCHEME UNDER ATTACK

By Richard Farmer

The head of the Aboriginal Affairs Department, Mr Dexter, is under a growing attack because of a confidential report he wrote to Dr H. C. Coombs.

Some Labor members believe Mr Dexter should be dismissed.

The row is about an Aboriginal turtle farm project in the Torres Strait Islands.

The Auditor-General, Mr D. R. Steele Craik, has seized files dealing with the scheme.

Mr Craik acted after reports of a massive waste of Government money.

Senator Georges, of Queensland, raised the matter in the Senate on Tuesday night.

Mr Dexter's letter to Dr Coombs, the Prime Minister's special adviser, referred critically to the then Minister for Aboriginal Affairs, Mr Bryant.

Mr Bryant was replaced as minister in this week's Cabinet reshuffle.

Mr Dexter accused Mr Bryant of interfering with the turtle farming project by delaying the reduction in the number of turtles.

The confidential document said Mr Bryant "commandeered" a lugger being used in the project.

The document also said: "I am reluctant, however, to tamper in any way with the company structure while it continues to be under assault and the minister seeks to force his own nominees upon the directors."

Shortly before the document was written, Mr Bryant had appointed Senator Georges as chairman of the turtle farm project.

Mr Bryant was worried that the \$457,000 provided by the Government was not being properly spent.

Last night, Mr Bryant's staff denied that he had seized any lugger.

Labor backbenchers are angry because Mr Dexter's letter to Dr Coombs related to evidence to be given to the House of Representatives committee on environment and conservation.

Mr Dexter told Dr Coombs: 'We should not assume that all those we will be talking to will be interested in getting at the facts.

'I have no doubt that at least one of them seeks nothing else than the abandonment of the turtle project or in putting what remains of it after restructuring under the direct control of the Thursday Island co-operative.

We should therefore exercise discretion in what we say in particular in relation to those aspects where we may not yet have determined our own approach, such as marketing.'

Mr Dexter did not send a copy of the document to Mr Bryant even though Mr Bryant was his ministerial head.

In the Senate on Tuesday, Senator Georges said Mr Dexter worked for and succeeded in obtaining the removal of Mr Bryant as Minister for Aboriginal Affairs.

Dr Coombs could not escape some of the responsibility, Senator Georges said.

APPENDIX III

HOUSE OF REPRESENTATIVES COMMITTEE OF PRIVILEGES

LETTER ALLEGEDLY WRITTEN BY MR B. G. DEXTER, SECRETARY OF THE DEPARTMENT OF ABORIGINAL AFFAIRS, REFERRED TO AND QUOTED IN AN ARTICLE IN THE *DAILY TELEGRAPH* OF THURSDAY, 11 OCTOBER 1973.

(Matter referred to the Committee of Privileges on 15 October 1973)

NOTES PREPARED BY THE CLERK OF THE HOUSE OF REPRESENTATIVES

23 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 matter of the letter, allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday 11 October 1973.

A copy of the article referred to is reproduced in Appendix 'A' to these notes, referred to and quoted in an article in the *Daily Telegraph* of Thursday, 11 October of 11 and 15 October 1973

11 October 1973

23 ADJOURNMENT: The question was accordingly proposed: That the House do now adjourn.

Privileges Mr Snedden (Leader of the Opposition) raised a matter of privilege based upon an article published in the *Daily Telegraph* on Thursday, 11 October 1973, under the heading 'Torres Strait scheme under attack' referring to a letter allegedly written by the Secretary of the Department of Aboriginal Affairs.

Mr Snedden produced a copy of the *Daily Telegraph* containing the article and gave the name of the printer and publisher of that newspaper.

Mr Speaker stated that he would consider whether a *prima facie* case of breach of privilege had been made out and would report his opinion on the matter at the next sitting.

15 October 1973

2 PRIVILEGE — Letter allegedly written by the Secretary, Department of Aboriginal Affairs — Reference to Committee of Privileges:

Mr Speaker stated that, on Thursday night last, Mr Snedden (Leader of the Opposition) had raised a matter of privilege relating to a letter allegedly written by the Secretary of the Department of Aboriginal Affairs to the Chairman of the Council for Aboriginal Affairs, which was referred to and quoted in the *Daily Telegraph* of Thursday, 11 October 1973. Mr Speaker said that he had undertaken to consider whether a *prima facie* case of

breach of privilege had been made out and to report to the House today. He had given the matter consideration and informed the House that, in his opinion, such a case had been made out and that Mr Snedden might now proceed, if he wished, to move a motion to refer the matter to the Committee of Privileges.

Mr Snedden then moved—That the matter of the letter allegedly written by Mr B. G. Dexter, Secretary of the Department of Aboriginal Affairs, referred to and quoted in an article in the *Daily Telegraph* of Thursday, 11 October 1973 under the heading 'Torres Strait scheme under attack', be referred to the Committee of Privileges.

Question—put and passed.

The speech made by the Right Honourable B. M. Snedden, Q.C., M.P., Leader of the Opposition, in raising the matter on 11 October is reproduced in Appendix 'B'.

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 and 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).

To ascertain the law, it is necessary therefore for recourse to be had to the practice and precedents of the House of Commons. These are dealt with at length in May's *Parliamentary Practice*.

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 right 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 deal with two issues, namely, possible imputation against or reflection on Members of the Standing Committee on Environment and Conservation and the possible withholding of information in the giving of evidence or attempting to influence a witness. The relevant extracts from *May* on these matters are set out below:

Imputations or reflections

In 1701 the House of Commons resolved that to print or publish any books or libels reflecting on the proceedings of the House is a high violation of the rights and privileges of the House, and indignities offered to their House by words spoken or writings published reflecting on its character or proceedings have been constantly punished by both the Lords and the Commons upon the principle that such acts tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them.

Reflections upon Members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House. (*May 18*, pp.140-1)

Reflections upon Members. Analogous to molestation of Members on account of their behaviour in Parliament are speeches and writings reflecting upon their conduct as Members. On 26 February 1701, the House of Commons resolved that to print or publish any libels reflecting upon any member of the House for or relating to his service therein, was a high violation of the rights and privileges of the House.

'Written imputations, as affecting a Member of Parliament, may amount to breach of privilege, without, perhaps, being libels at common law', but to constitute a breach of privilege a libel upon a Member must concern the character or conduct of the Member in that capacity. (*May 18*, p.148)

The following examples are given of writings which have been held to constitute breaches of privileges or contempts:

Reflections upon the conduct of the Chairman of a Standing Committee

Imputing unfair conduct to the Chairman of a Select Committee

Imputations against Members serving on private bill committees

Imputations against Members of corruption in the execution of their duties

(May 18, pp.148-9)

Evidence by witness

Misbehaviour on the part of witnesses: The following are given as examples of contempt by witnesses:

Prevaricating

Giving false evidence

Wilfully suppressing the truth

Persistently misleading a committee

Trifling with a committee

(May 18, pp.133-4)

Conspiracy to deceive either House or Committees of either House—It has already been seen that the giving of false evidence, prevarication or suppression of the truth by witnesses while under examination before either House or before committees of either House is punished as a contempt; and that persons who present false, forged or fabricated documents to either House or to committees of either House are guilty of a breach of privilege. Conspiracy to deceive either House or any committees of either House will also be treated as a breach of privilege.

(May 18, p.137)

Tampering with witnesses—To tamper with a witness in regard to the evidence to be given before either House or any committee of either House or to endeavour, directly or indirectly, to deter or hinder any person from appearing or giving evidence is a breach of privilege.

A resolution to this effect was passed by the House of Commons on 21 February 1700, and has been regularly renewed in every succeeding session, and in numerous instances persons have been punished for offences of this kind.

Corruption or intimidation, though a usual, is not an essential ingredient in this offence. It is equally a breach of privilege to attempt by persuasion or solicitations of any kind to induce a witness not to attend, or to withhold evidence or to give false evidence.

This matter was considered in 1935 by a committee of the Commons who reported that, in their opinion, it was a breach of privilege to give any advice to a witness which took the form of pressure or of interference with his freedom to form and express his own opinions honestly in the light of all the facts known to him; and the House resolved that it agreed with the committee in their report.

(May 18, p.153)

Acts tending indirectly to deter witnesses from giving evidence—Any conduct which is calculated to deter prospective witnesses from giving evidence before either

House or before committees of either House is a breach of privilege. It is upon this principle that witnesses are protected from arrest, not only while going to or attending either House or committees of either House, but while returning from such House or committees. (May 18, p.153)

MATTERS FOR DETERMINATION BY THE COMMITTEE

It would appear to be necessary as a first requisite to determine the authenticity of the letter allegedly written by the Secretary of the Department of Aboriginal Affairs and referred to and quoted in the article in the *Daily Telegraph*. If this is so determined, it will be necessary for the Committee to decide, having in mind the privilege law and the precedents available, whether statements in the letter constitute:

- (1) imputations against or reflections on members of the Standing Committee on the Environment and Conservation in their capacity as Members of that Committee, and/or
- (2) an intention to withhold information from the Committee or an attempt to influence a witness with respect to the evidence he will give to the Committee.

If it is decided that a breach of privilege has occurred the Committee may wish to make a recommendation as to the penalty, if any, to be imposed on the person or persons responsible.

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

Imputations or reflections

House of Commons

Numerous House of Commons cases could be cited dealing with imputations or reflections on Members. The following are illustrative of these:

Complaint of publication of newspaper article by Mr Allighan, session 1946-47 (H.C. 138)

On 16 April 1947, a complaint was made (by Mr Quinton Hogg, who was then Member for Oxford) of the publication of a newspaper article written by Mr Allighan (another Member of the House) reflecting on the conduct of unnamed Members. The article alleged that Members gave away confidential information to newspapers in return for money payments or alcoholic drinks at the refreshment bar.

A report from the Committee of Privileges that they considered Mr Allighan guilty of an aggravated contempt of the House and of a gross breach of privilege was agreed to by the House on 30 October 1947. A motion by the then Leader of the House that Mr Allighan be suspended for six months with forfeiture of his parliamentary salary was proposed; whereupon an Amendment was moved by Mr Hogg to expel the Member, and this Amendment was on a division agreed to by the House. Mr Allighan was accordingly expelled.

Complaint of printed poster regarding voting of Members of Parliament in forthcoming debate (Mrs Tennants case), 1946 (H.C. 181)

A complaint was made of the wide publication in London of printed posters regarding the voting of Members in a forthcoming debate. The posters said:

Names of M.P.s voting for bread rationing in the Commons on Thursday will be published here as public enemies and dictators.

The Committee of Privileges reported that the wording of the poster was improper and that the persons responsible for the writing, printing and distribution of the poster were guilty of breach of privilege. The Committee further observed that the printers and bill posters were quite unaware of any constitutional objection to their contract,

which was carried out hurriedly at a few hours' notice and further had expressed their regret to the Committee for their part in the matter.

The Committee found that Mrs Tennant, on the other hand, instigated the publication and was responsible for the wording of the poster. The Committee were of the opinion that she acted in a desire to achieve self-advertisement and with a disregard of the respect due to Parliament. Her motive was to bring improper pressure on Members, and not to defend freedom of speech as she alleged. The Committee, however, recommended that, while her action constituted a breach of privilege, it was in fact so petty in scale and so insignificant in its result that the House would best consult its dignity by taking no further notice of the offence.

The following cases which had reference to the Members of a committee have closer relevance to the present inquiry:

Case of Alderman Bowles and Alderman Hunsman — Speeches published in Nottingham newspapers reflecting on Members of a private bill Committee:

The Privileges Committee reported that the speeches complained of contained *prima facie* reflections upon the fairness and impartiality of Members of a Committee and as such constituted a breach of privilege. However, in view of unconditional withdrawals and expressions of regret by the two offenders the Privileges Committee recommended that the House take no further action in the matter. (H.C. 95-1933)

Article in the Sunday Times Newspaper — Complaint by Mr R. Maxwell, M.P., alleging reflection upon his conduct as Chairman of a Catering sub-committee and as a Member of the Select Committee on House of Commons (Services). The Committee of Privileges reported that the article contained an attack upon the Chairman in language which in parts was, by implication, derogatory, but was of opinion that neither the question of privilege nor contempt arises.

Two memoranda on the law of Parliament by the Clerk of the House of Commons relating to the matter of the complaint were, unfortunately, not included in the report.

House of Representatives

The following is a summary of House of Representatives cases:

Newspaper misrepresentations of Members of the House (V. & P. 1951-53/111, 149, 171) — Complaint that newspaper (*Sydney Sun*) in an article had stated that Members, within minutes of the Budget details being announced, had in a mass movement from the Chambers made a concerted onslaught on the Parliamentary bar.

The Committee of Privileges considered that a breach of privilege had been committed, but that the House would best serve its own dignity by taking no further action in the matter. The House agreed.

Alleged Reflections on House Committee contained in report in Sydney Daily Telegraph (V & P. 1951-53-131, 165) — Complaint regarding newspaper report of an alleged criticism by the Prime Minister at a party meeting of a decision of the Joint House Committee to restrict use of the Parliamentary Refreshment Rooms. The Committee of Privileges reported that the right of the Prime Minister to state his views within the privacy of the Party Room could not be questioned. It expressed its disapproval of the publication but was of opinion that it did not constitute a breach of privilege.

Count-out proceedings—Report in Sydney Daily Telegraph (V & P. 1970-71/689, 863) — Complaint regarding report that 'A group of ALP Parliamentarians walked out of the Chamber when the quorum was called, well knowing that their action could cause the collapse of the House of Representatives'.

The Committee of Privileges found that the article constituted a contempt and that the writer of the article and the Editor-in-Chief of the newspaper were also guilty of a contempt of the House. It recommended that the writer of the article furnish to Mr Speaker a written apology for his inaccurate reflections on Members and that the Editor-in-Chief be required to publish a front page correction and apology.

The House resolved that it agreed with the Committee in its findings but that it was of opinion that it would best consult its own dignity by taking no further action in the matter. (V & P. 1970-71/901-2)

Tampering with witnesses

The following House of Commons cases are listed in *May* (p.153) in support of the claim that to tamper with a witness in regard to the evidence to be given is a breach of privilege:

Bond's Case, C.J. (1640-42) 81
Case of Shepherd and Lawton, C.J. (1699-1702) 400, 404
Edgcomb's Case, C.J. (1708-11) 433, 479
Gray's Case, C.J. (1727-32) 480
Satchwell and Poulter's Case, C.J. (1727-32) 711
William's Case, C.J. (1809) 35
Parl. Deb. (1809) 12, c.460
Keith's Case, C.J. (1835) 324, 421, 478, 508
Case of Hayward and Edwards, C.J. (1851) 147-48
Also Johnson's Case, Parl. Deb. (1857) 146, c.97

Case of Sir Samuel Hoare and the Earl of Derby—Interference with joint committee witnesses.—Complaint made that the action of Sir Samuel Hoare and the Earl of Derby, members of the Joint Committee on Indian Constitutional Reform, in influencing the Manchester Chamber of Commerce or any branch of it to withdraw the evidence they had already submitted to the Joint Committee and to substitute other altered evidence constituted a breach of privilege.

It was claimed that this action contravened the following Sessional Order first passed in 1700:

That if it shall appear that any person hath been tampering with any witness, in respect of his evidence to be given to this House, or any Committee thereof, or directly or indirectly hath endeavoured to deter or hinder any person from appearing or giving evidence, the same is declared to be a high crime or misdemeanour; and this House will proceed with the utmost severity against such offender.

The Committee of Privileges, after considering the language of the Sessional Order, and available precedents, and at the conclusion of a lengthy report, unanimously came to the conclusion that the advice given by Sir Samuel Hoare and the Earl of Derby at no time took the form of pressure or intimidation or interference with the freedom of the Manchester Chamber of Commerce and of the other bodies associated with them to form and express their own opinions honestly in the light of all the facts that were known to them. What was called pressure was no more than advice or persuasion. It was the unanimous judgment of the Committee that no breach of privilege had been committed. Nevertheless, some reservations were held by a Member of the Committee (Lord Hugh Cecil) and they were expressed in the report in this way:

The question is: ought there to be any limits (beyond those of honesty and truthfulness) to the action and influence of an adviser to a witness before a Select Committee charged with a legislative or administrative task? Clearly (as Lord Hugh Cecil believes) such an adviser may help a witness to present to the best advantage the evidence the witness wishes to give; he may discuss its subject-matter with him; he may even tell the witness that he is making a mistake and should change his mind or the expression of it. Such persuasion must, of course, be perfectly fair and not in the least tainted by bribery or menace. But is there no other limit to the use of persuasion by the adviser of a witness? Lord Hugh Cecil suggests that, as a matter of expediency and helpfulness to a Select Committee, there should be a limit even to the cleanest and most honourable persuasion . . . There is, of course, nothing in the least dishonourable or discreditable in the process; but applied to a witness before a Committee, it does, by destroying the spontaneity of the witness' opinion, destroy what may be a notable element in its value to the Committee. (H.C. 90, 1934)

The House agreed with the report from the Committee.

It is interesting to note that in the following year (1935) a Select Committee on Witnesses reported:

that, in their opinion, it was a breach of privilege to give any advice to a witness which took the form of pressure or of interference with his freedom to form and express his own opinions honestly in the light of all the facts known to him; and the House resolved that it agreed with the committee in their report. (*May* 18, p.153) (H.C. 84, 1934-35)

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 18, 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 18, 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 5, 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 18, 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, 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, counsel were allowed, *by leave of the House*, to examine witnesses before the Committee on behalf of both the Member who made the complaint and the parties named therein. (The last cases recorded in *May* were in the 18th century.)

(May 18, 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 th 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.

APPENDIX 'A'

Daily Telegraph — Thursday, 11 October 1973

TORRES STRAIT SCHEME UNDER ATTACK

By Richard Farmer

The head of the Aboriginal Affairs Department, Mr Dexter, is under a growing attack because of a confidential report he wrote to Dr H. C. Coombs.

Some Labor members believe Mr Dexter should be dismissed.

The row is about an Aboriginal turtle farm project in the Torres Strait Islands.

The Auditor-General, Mr D. R. Steele Craik, has seized files dealing with the scheme.

Mr Craik acted after reports of a massive waste of Government money.

Senator Georges, of Queensland, raised the matter in the Senate on Tuesday night.

Mr Dexter's letter to Dr Coombs, the Prime Minister's special adviser, referred critically to the then Minister for Aboriginal Affairs, Mr Bryant.

Mr Bryant was replaced as minister in this week's Cabinet reshuffle.

Mr Dexter accused Mr Bryant of interfering with the turtle farming project by delaying the reduction in the number of turtles.

The confidential document said Mr Bryant "commandeered" a lugger being used in the project.

The document also said: "I am reluctant, however, to tamper in any way with the company structure while it continues to be under assault and the minister seeks to force his own nominees upon the directors."

Shortly before the document was written, Mr Bryant had appointed Senator Georges as chairman of the turtle farm project.

Mr Bryant was worried that the \$457,000 provided by the Government was not being properly spent.

Last night, Mr Bryant's staff denied that he had seized any lugger.

Labor backbenchers are angry because Mr Dexter's letter to Dr Coombs related to evidence to be given to the House of Representatives' committee on environment and conservation.

Mr Dexter told Dr Coombs: 'We should not assume that all those we will be talking to will be interested in getting at the facts.'

'I have no doubt that at least one of them seeks nothing else than the abandonment of the turtle project or in putting what remains of it after restructuring under the direct control of the Thursday Island co-operative.'

'We should therefore exercise discretion in what we say, in particular in relation to those aspects where we may not yet have determined our own approach, such as marketing.'

Mr Dexter did not send a copy of the document to Mr Bryant even though Mr Bryant was his ministerial head.

In the Senate on Tuesday, Senator Georges said Mr Dexter worked for and succeeded in obtaining the removal of Mr Bryant as Minister for Aboriginal Affairs.

Dr Coombs could not escape some of the responsibility, Senator Georges said.

APPENDIX 'B'
EXTRACT FROM HOUSE OF REPRESENTATIVES
HANSARD OF 11 OCTOBER 1973

Speech of the Rt Hon. B. M. Snedden, Q.C., M.P.
Leader of the Opposition

Mr SNEDDEN (Bruce—Leader of the Opposition) (10.16):

I have a matter of privilege which I wish to raise. It is based upon an article published in the *Sydney Daily Telegraph* of today, Thursday 11 October 1973. The article appears under the heading 'Torres Strait Scheme under Attack'. I produce a copy of the *Daily Telegraph* printed and published by Mirror Newspapers Ltd of 2 Holt Street, Surry Hills on behalf of Nationwide News Pty Ltd. I should make the point immediately that the issue of privileges relates in no way to the newspaper itself. The newspaper reports a letter which was sent by Mr Dexter, who is the permanent head of the Department of Aboriginal Affairs. The letter was addressed to Dr Coombs who, among many other duties, is a special adviser to the Prime Minister (Mr Whitlam). I understand that he is Chairman of the Aboriginal Affairs Council. The report says that Mr Dexter's letter to Dr Coombs related to evidence to be given to the House of Representatives Standing Committee on Environment and Conservation. I have ascertained that both Mr Dexter and Dr Coombs in fact gave evidence before that Committee. As I have not the letter I am unable to say whether the letter was written before or after their evidence to the Committee. One must assume that it was a letter written before their appearance before the Committee having regard to the quote from the letter which is included in the newspaper report. The newspaper reports:

We should not assume that all those we will be talking to will be interested in getting at the facts.

I have no doubt that at least one of them seeks nothing else than the abandonment of the Turtle Project or in putting what remains of it after restructuring under the direct control of the Thursday Island Co-operative.

We should therefore exercise discretion in what we say in particular in relation to those aspects where we may not yet have determined our own approach, such as marketing.

I wish to refer to Erskine May's *Parliamentary Practice*. On page 114 under the heading 'Conspiracy to Deceive either House or Committees of Either House' it reads:

It has already been seen that the giving of false evidence, prevarication or suppression of the truth by witnesses while under examination before either

House or before committees of either House is punished as a contempt;

I will read the following words for the sake of completeness but I do not want any allegation to be read into my reading of them:

and that persons who present false, forged or fabricated documents to either House or to committees of either House are guilty of a breach of privilege.

The point I wish to make is contained in the next sentence, which reads:

Conspiracy to deceive either House or any committees of either House will also be treated as a breach of privilege.

It hardly needs for me to say, but I think it worth saying for what I say will no doubt be reported, that privilege in this sense does not relate in any way to the personal advantages of any member of the House. Privilege in this sense relates to the House being able to discharge its functions fearlessly without any fear of consequences or without any reward for what is done. It is on that basis that I raise this matter. Can the House or in this case the House of Representatives Standing Committee on Environment and Conservation be regarded as being defeated in getting at all the facts and all the truth of the matter which they were examining? Concerned as I was about the matter I wrote a letter to the Prime Minister. It was delivered to him this evening. I have had that letter returned to me with a notation from the Prime Minister. I notice the Prime Minister is at the table and I assume I have the authority of the Prime Minister to report what was in the letter and the reply the Prime Minister made.

Mr Whitlam—Yes.

Mr SNEDDEN—The letter reads:

My dear Prime Minister,

A serious issue has been raised concerning the administration of the Department of Aboriginal Affairs involving Dr H. C. Coombs . . .

Mr Whitlam—I suggest the essence of the letter is the last 2 sentences. Perhaps you could read them and my 2 sentences in reply.

Mr SNEDDEN—I have no objection but it is quite a short letter and it might be as well to read it in whole. The letter reads:

My Dear Prime Minister,

A serious issue has been raised concerning the administration of the Department of Aboriginal Affairs involving Dr H. C. Coombs as Chairman of

the Aboriginal Advisory Council and the Permanent Head of the Department of Aboriginal Affairs, Mr B. Dexter.

The Opposition will seek an opportunity to debate this issue but I want to bring immediately to your attention the possibility that a serious breach of privilege has occurred concerning the evidence that Mr Dexter and Dr Coombs were to give the House of Representatives Committee on Environment and Conservation.

If that report is correct (*Daily Telegraph* 11.10.1973) Mr Dexter is quoted as writing to Dr Coombs as follows:

I will not read that extract as I have already done so. The letter continues:

Will you provide me with the full text of the letter and advise whether you would support referring this matter to the Privileges Committee.

I intend to move the appropriate motion in the House tonight.

The letter was signed by me. Underneath it is written:

I have no such letter, original or copy. I support referring the matter to the Privileges Committee. 11.10.73 21.40 hours.

There is then something which I interpret to be the initials of the Prime Minister. That is the basis upon which I raise this matter of privilege.

I am aware that normally it remains for the Speaker to be satisfied that a *prima facie* breach

of privilege exists. I am in your hands, Mr Speaker, as to whether I should move a motion at this stage or wait until you have investigated the matter to see whether there is a *prima facie* case. If it were your wish, Mr Speaker, that I move the motion now I would move it in the terms that the matter of the article in the *Daily Telegraph* of Thursday 11 October 1973 under the heading 'Torres Strait Scheme Under Attack' be referred to the Committee of Privileges. I am in your hands, Mr Speaker. I believe I said earlier that the matter of privilege relates to the letter, not to the report of it. I think it is important that that distinction be made. I leave it to you, Mr Speaker, to indicate to me whether you wish me to move the motion now or whether you prefer more time to consider the matter.

Mr SPEAKER—Order! In conformity with the usual practice and standards of the House in regard to these particular matters, as the Leader of the Opposition said, it is for me to consider whether a *prima facie* case is made. I shall certainly do so. I will give it every consideration and report to the House at the next sitting.

