

**House of Representatives  
Committee of Privileges**

**Report concerning writ of summons  
served on Mr Sciacca, MP**

**MAY 1994**



## MEMBERS OF THE COMMITTEE

MR R W SAWFORD, MP (CHAIRMAN)

HON A S PEACOCK, MP (DEPUTY CHAIRMAN)

MR K J ANDREWS, MP

MR P R CLEELAND, MP

HON A C HOLDING, MP<sup>1</sup>

HON L S LIEBERMAN, MP

MR P J McGAURAN, MP

HON M J R MACKELLAR, MP<sup>2</sup>

MR L B McLEAY, MP

HON L R S PRICE, MP<sup>3</sup>

MR H V QUICK, MP<sup>4</sup>

MR A M SOMLYAY, MP<sup>5</sup>

1. *Nominee of the Leader of the House*
2. *Nominee of the Deputy Leader of the Opposition until 18 February 1994*
3. *Appointed by the House to serve in place of Mr Brown during consideration of matters referred on 28 October and 17 November*
4. *Appointed by the House to serve in place of Mr Simmons during consideration of matters referred on 28 October and 17 November*
5. *Nominee of the Deputy Leader of the Opposition from 24 February 1994*



1. On 17 November 1993 Mr Sciacca raised as a matter of privilege the fact that he had been issued with a writ naming Mr A. Robinson as plaintiff and himself as the first defendant with the Federal Capital Press (publishers of the *Canberra Times*) as the second defendant. The writ was issued by Gary Robb and Associates, Solicitors of Canberra and sought damages for libel arising from a letter Mr Sciacca had sent to Senator McMullan on 20 August 1993 about COMCAR. A copy of the writ is at Attachment "A".
2. Mr Sciacca stated that he believed that the issuing and serving of the writ on him without notice was "deliberately intended to intimidate" him as a Member and was "an attempt to seriously curtail" his continued representations on behalf of his constituents.
3. Mr Speaker responded to the matter later in the day, stating that he was prepared to allow precedence to a motion. Mr Sciacca moved the following motion, which was agreed to:

That the matter of ACT Supreme Court Writ of Summons (No. SC 617/93) issued on 21 September 1993 and lodged by Gary Robb & Associates, Solicitors, 29 Torrens Street, Braddon, ACT, on behalf of Anthony Robinson as plaintiff against the Member for Bowman as first named defendant be referred to the Committee of Privileges.

Extracts from *Hansard* are at Attachment "B".

#### The relevant parliamentary law

4. The House of Representatives has the power to punish for contempt. A contempt is an act which obstructs or impedes the House in the performance of its functions or which obstructs or impedes a Member or officer in the discharge of his or her duty, or which has a tendency directly or indirectly to produce such a result<sup>1</sup>. Attempted intimidation of Members is a well known head of contempt.

*House of Representatives Practice* states:

To attempt by any improper means to influence a Member in his or her conduct as a Member is a contempt. So too is any conduct having a tendency to impair a Member's independence in the future performance of his or her duty, subject, since 1987, to the provisions of the Parliamentary Privileges Act.<sup>2</sup>

May states:

To molest Members on account of their conduct in Parliament is also a contempt. Correspondence with Members of an insulting character in reference to their conduct in Parliament or reflecting on their conduct as Members, threatening a Member with the possibility of a trial at some future time for a question asked in the House, calling for

his arrest as an arch traitor, offering to contradict a Member from the gallery, or proposing to visit a pecuniary loss on him on account of conduct in Parliament have all been considered contempts. The Committee of Privileges has made the same judgment on those who incited the readers of a national newspaper to telephone a Member and complain of a question of which he had given notice.<sup>3</sup>

and:

Conduct not amounting to a direct attempt improperly to influence Members in the discharge of their duties but having a tendency to impair their independence in the future performance of their duty may be treated as a contempt. An example of such a case is the Speaker's ruling that a letter sent by a parliamentary agent to a Member informing him that the promoters of a private bill would agree to certain amendments provided that he and other members refrained from further opposition to the bill constituted (under the procedure then in force) a *prima facie* breach of privilege.<sup>4</sup>

Section 4 of the Parliamentary Privileges Act 1987 provides:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a Member of the Member's duties as a Member.

#### Conduct of inquiry

5. The committee received evidence from Mr Sciacca on 25 November 1993. This evidence was published to Mr Robinson, who gave evidence on 14 December. In accordance with the practice of the committee, witnesses were advised that they could if they wished have the assistance of an adviser, and each witness chose to have an adviser present during his evidence. The committee also had before it a written submission dated 10 December from Mr Robinson (Attachment "C" - this was published to Mr Sciacca), together with the *Hansard* record of proceedings when the complaint was first raised and when the Speaker gave his decision on it. In addition, the committee received a memorandum from the Clerk of the House outlining the relevant parliamentary law and precedents (Attachment "D"). On 21 December 1993, following consideration of the evidence before it, the committee communicated again with Mr Robinson, inviting a further submission from him. The Committee agreed to a request from his solicitor, Mr Redpath, that Mr Robinson be allowed until the end of February 1994 to respond. On 23 February 1994 a letter was received from Mr Redpath, with which he forwarded an opinion by Mr J. Dowd, QC, and Mr Bruce Connell. Mr Redpath informed the Committee that Mr Robinson adopted the opinion as his submission. The Committee gave further consideration to the matter in light of this opinion before considering its report to the House. The committee deliberated on the matter at ten meetings.

### Key facts

6. The committee notes that the key facts were not challenged in the evidence it received - that is:
  - that on 20 August 1993 Mr Sciacca wrote to the Minister for Arts and Administrative Services concerning government decisions on COMCAR, a letter which contained criticism of Mr Robinson;
  - that Mr Robinson caused a writ of summons to be prepared and served on Mr Sciacca seeking damages for libel arising from Mr Sciacca's letter to Senator McMullan of 20 August.

### Issues for determination

7. The committee was required to consider:

.....the matter of ACT Supreme Court Writ of Summons (No. SC 617/93) issued on 21 September 1993 and lodged by Gary Robb & Associates, Solicitors, 29 Torrens Street, Braddon, ACT, on behalf of Anthony Robinson as plaintiff against the Member for Bowman as first named defendant.
8. No claim was made to the effect that Mr Sciacca's letter to Senator McMullan which gave rise to the action complained of formed part of "proceedings in Parliament" (which would mean that it enjoyed absolute privilege). Rather, the complaint, as expressed by Mr Sciacca, was that the issuing and serving of the writ without notice was deliberately intended to intimidate him as a Member and was an attempt to seriously curtail his continued representations on behalf of his constituents.
9. Having regard to the requirements of section 4 of the *Parliamentary Privileges Act 1987*, the committee defined the key issue for determination in the following way:

Was conduct engaged in in respect of ACT Supreme Court Writ of Summons No. SC 617/93 which amounted to, or was intended or likely to amount to, improper interference with the free performance by Mr Sciacca of his duties as a Member?
10. While others were involved in the issuing and serving of the writ of summons in question, the committee proceeded on the assumption that the plaintiff, Mr Anthony Robinson, should be regarded as the person primarily responsible as the writ was issued on his behalf.

11. In forming its views on this question, the committee considered:
- the circumstances in which Mr Sciacca's letter of 20 August to Senator McMullan was written;
  - the background to and circumstances concerning Mr Robinson's action; and
  - the wider issue of the position of Members in such circumstances.

Mr Sciacca's position on the matter

12. The following points concerning Mr Sciacca's position are based on statements he made to the Committee, but they do not purport to be a comprehensive summary of his evidence. The Committee's understanding is that Mr Sciacca had been lobbied by drivers employed by the COMCAR service over a period of time on the future of COMCAR, and that at least 8 of the 35 drivers employed by COMCAR in Brisbane lived in his electorate. As a result of a meeting some months before the presentation of the 1993 budget, drivers had agreed to make Mr Sciacca the Member they would lobby primarily for the purposes of trying to ascertain information in relation to the future of Comcar. Mr Sciacca agreed to help the group and a number of matters were brought to his notice, including rumours that the COMCAR fleet in Queensland was going to be reduced substantially. He was asked to find out if this was the case. Mr Sciacca arranged for inquiries to be made to the staff of the Minister and received assurances that the rumours were not true and that they were just rumours. Mr Sciacca communicated that advice to the drivers several months prior to the Budget. On Budget night Mr Sciacca noted that indeed the changes that the drivers had spoken of were to happen. He said he was amazed and felt that he had let the drivers down badly. On Mr Sciacca's return to Brisbane on Friday 18 August, he was met by a dozen or so COMCAR drivers who were angry and who expressed their complaints to him. Mr Sciacca advised the drivers that he would be making representations. He went to his office and had the letter to Senator McMullan prepared immediately. Mr Sciacca said that before writing the letter he had considered the options available to him including going into the House and speaking on the adjournment debate or making a 90 second statement under complete privilege, but he felt that he would let the Minister know what he felt and "... then do what I always do—that is ... to give a copy of my letter to the person or the group of people for whom I wrote the letter"<sup>5</sup>.
13. Mr Sciacca said he faxed the letter and when he was collected by a driver he said: "... I have written to the Minister this morning. Here is a copy of the letter."<sup>6</sup> Mr Sciacca went on to say "...I wrote it as a member of this Parliament trying to help constituents to the best of my ability"<sup>7</sup>. Mr Sciacca also said ".....I did not make a public statement to the press. If someone who subsequently got a copy of my letter ended up giving it to the press at some later stage, it is not something that is within my control ....."<sup>8</sup>.



14. Mr Sciacca said that as a Member of Parliament he believed he should be able to properly represent his constituents without any fear or favour and without any fear of court action. He said that he had not met Mr Robinson but made the point that he (Mr Robinson) was the head of the organisation about which Mr Sciacca was writing to the Minister. It was Mr Sciacca's submission that a Member should be entitled to criticise someone who works for the Government. Mr Sciacca felt that because Mr Robinson was a public servant directly responsible to the Minister to whom he wrote, the whole issue took on a special significance and that Mr Robinson was not in the same position as an ordinary private citizen.
15. Mr Sciacca said that this matter had affected him in terms of his position as a Member. He had had a very deep interest in the whole COMCAR issue over a period of years, he said. He said that until he was served with the writ on 11 November he was the convenor of an unofficial COMCAR working group within the Labor Party Caucus, yet he could not contribute to that process because he was "under threat". He had been active in meetings before the issue of the writ from the time the matter was raised and he had been to a meeting with the Minister to tell him what he thought of the situation and how it could be fixed. Mr Sciacca said to that extent he believed that he had been intimidated, he had effectively been stopped from carrying on his duties as a Member. ".....It is now simply too dangerous for me to continue to help the drivers<sup>9</sup>", he stated. Mr Sciacca said that furthermore it followed that knowing what had happened to him, he would suspect that other Members who had an interest in this case would have to tread warily.

#### Mr Robinson's position on the matter

16. The following notes on Mr Robinson's position are taken from statements he made to the Committee - they do not purport to be a comprehensive summary of his evidence or his submissions. Mr Robinson informed the committee that he became aware of Mr Sciacca's letter to the Minister for Arts and Administrative Services about two or three days after it was written when an unknown person faxed a copy to him. Mr Robinson's described his reaction as horror and extreme anxiety "as to the consequences that it would bring<sup>10</sup>". He said that the position he had been occupying on a temporary basis had been advertised for filling permanently a matter of days before the Budget. He said that he had received phone calls informing him that the letter was appearing in other areas and being distributed "far and wide<sup>11</sup>".
17. Mr Robinson told the committee that he had advised the Minister's office of the fact that he was concerned about Mr Sciacca's letter and that he was seeking legal advice in relation to it, although he did not seek to meet with the Minister on the matter. Mr Robinson stated that he was not complaining about Mr Sciacca making representations to the Minister about the operations of COMCAR - his concerns were about what he believed to be a defamatory statement in a letter.

18. Mr Robinson informed the committee that, in issuing the writ of summons against Mr Sciacca, he had not been trying to intimidate Mr Sciacca. Mr Robinson did not accept Mr Sciacca's statements that the issuing and serving of the writ was without warning, that it was deliberately intended to intimidate him as a Member of Parliament or that it was an attempt to seriously curtail his continued representations on behalf of his constituents<sup>12</sup>.
19. Mr Robinson informed the Committee that "My sole intention in commencing proceedings was to protect my reputation<sup>13</sup>". He made it clear that he was guided by legal advice in this matter - advice he sought the day after receiving a copy of Mr Sciacca's letter. Mr Robinson said that he felt intimidated in seeing Mr Sciacca's letter going to his Minister saying what it did about him.

#### The position of Members in such circumstances

20. The work of Members in assisting constituents in their dealings with Commonwealth Departments is well recognised<sup>14</sup>. The Committee of Privileges in the previous Parliament has commented that, as a general statement, it believed that in writing to Ministers to bring to their attention matters of concern on behalf of constituents Members are indeed performing proper duties as Members (case concerning Mr Nugent)<sup>15</sup>.
21. The committee acknowledges that not every letter written by Members to Ministers could be regarded as being written in the course of the performance of the Member's duties as a Member. An example might be where a Member has a personal interest in a matter and writes to a Minister about it - perhaps the Member is involved with a sporting or cultural organisation and has occasion to write to the responsible Minister. Clearly, there are limits beyond which it would not be reasonable to regard a Member's letter to a Minister as having any substantive connection with the performance of the Member's duties as a Member.
22. It is not claimed that letters written by Members to Ministers about constituency or similar matters fall within the scope of "proceedings in Parliament" as amplified by section 16 of the *Parliamentary Privileges Act 1987*. This being the case they are not covered by absolute privilege. Nevertheless, it has been argued that the House has the ability to punish for contempt in respect of matters which may fall outside this area<sup>16</sup>. This would mean that should the House conclude that a Member has been subject to obstruction or improper interference in connection with his or her correspondence with a Minister it would be able to act and Members could be protected against obstruction. This is particularly important given the fact that so much of the work Members are expected to perform is removed from the work of the House itself and committees. Such work will often be of vital importance to constituents, so they are beneficiaries of any protection the House can offer - an important consideration, in our view.
23. While the Committee recognises the great importance of this aspect of

Members' work, and of the importance of the House being able and willing to protect Members, it is also aware of the position of the ordinary citizen. Members will rightly point to the fact that in letters to Ministers they will often be seeking to protect or further the interests of constituents but, on the other hand, citizens are entitled to argue that the law and procedures of Parliament should not be such that where a particular action on the part of a Member is not covered by absolute privilege the House does not use its powers of contempt so as to achieve a de facto extension of absolute privilege by acting against any citizen who challenges a Member in such matters.

#### Observations on Mr Sciacca's action

24. The Committee has noted Mr Sciacca's comments on the circumstances in which he wrote in the terms that he did to the Minister for Arts and Administrative Services. The Committee is of the view that in writing to the Minister as he did, Mr Sciacca was making representations on behalf of constituents and others in circumstances that, in the Committee's view, would be familiar to all Members.
25. Mr Sciacca's representations to Senator McMullan in his letter of 20 August were made on behalf of a larger group of persons than constituents with an interest in the matter - on his figures some 8 out of 35 persons presumed to be interested were constituents. Again, on this matter the Committee had no exact precedent to refer to. It notes however that Members are in the habit of making representations in relation to causes, issues and matters which will often involve persons who are not constituents.
26. While the nearest precedent (see above) concerned a threat of legal action in respect of a letter from a Member to a Minister on behalf of one constituent, the key test is whether a Member is engaged in the performance of his or her duties as a Member. The Committee has no doubt that had he not been a Member, Mr Sciacca would not have written to Senator McMullan as he did on 20 August. The fact that the letter was written on behalf of a larger group does not, in the opinion of the Committee, deprive Mr Sciacca of the right to argue that the House ought to be willing to act in respect of the action taken against him.

#### Conclusions

27. On the basis of the information before it, the committee has concluded:
  - (1) That Mr Sciacca regarded his action in writing to the Minister for Arts and Administrative Services as he did on 20 August as an action taken in the course of the performance of his duties as a Member;
  - (2) That as a result of Mr Robinson's actions in causing ACT Supreme Court Writ of Summons No. SC 617/93 to be issued and served on Mr Sciacca, Mr Sciacca felt intimidated;

- (3) That as a result of Mr Robinson's action in causing ACT Supreme Court Writ of Summons No. SC 617/93 to be issued and served on him, Mr Sciacca felt constrained in making further representations on behalf of his constituents in relation to decisions about COMCAR;
- (4) That no evidence has been presented to the committee which would establish that Mr Robinson had intended to interfere improperly with the free performance by Mr Sciacca of his duties as a Member.

Finding

- 28. The committee reports that, having regard to all the circumstances of this case and, in particular to the fact that it has received no evidence that Mr Robinson had intended to interfere improperly in the performance of Mr Sciacca's duties as a Member, a finding of contempt should not be made in respect of Mr Robinson's actions in connection with ACT Supreme Court Writ of Summons SC 617/93.

ROD SAWFORD  
Chairman

5 May 1994

NOTES

---

1. *House of Representatives Practice*, 2nd Edition, 1989, p. 686.
2. *House of Representatives Practice*, 2nd edition, 1989, p. 706.
3. May, 21st edition, 1989, p. 126.
4. May, 21st edition, 1989, p. 129.
5. Transcript of evidence taken on Thursday, 25 November 1993, p. 6.
6. Transcript of evidence taken on Thursday, 25 November 1993, p. 7.
7. Transcript of evidence taken on Thursday, 25 November 1993, p. 7.
8. Transcript of evidence taken on Thursday, 25 November 1993, p. 6.
9. Transcript of evidence taken on Thursday, 25 November 1993, p. 9.
10. Transcript of evidence taken on Friday, 17 December 1993, p. 27.
11. Transcript of evidence taken on Friday, 17 December 1993, p. 27.
12. Transcript of evidence taken on Friday, 17 December 1993, p. 22.
13. Letter dated 10 December 1993, p. 2.
14. *House of Representatives Practice*, 2nd edition, 1989, pp 166-7.
15. House of Representatives Committee of Privileges Report concerning a letter received by Mr Nugent, MP, 7 May 1992.
16. House of Representatives Committee of Privileges Report concerning a letter received by Mr Nugent, MP, 7 May 1992.



Attachment A ✓ *[Signature]*

17/11/93

IN THE SUPREME COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

No S C 617/93

BETWEEN: ANTHONY ROBINSON

Plaintiff

AND: CON SCIACCA

Firstnamed Defendant

AND: FEDERAL CAPITAL PRESS OF  
AUSTRALIA PTY. LIMITED

Secondnamed Defendant

ELIZABETH THE SECOND by the Grace of God, Queen of Australia and her other  
Realms and Territories, Head of the Commonwealth.

TO: CON SCIACCA  
Parliament House  
Canberra in the Australian Capital Territory

AND: FEDERAL CAPITAL PRESS OF AUSTRALIA PTY. LIMITED  
9 Pirie Street  
Fyshwick in the Australian Capital Territory

WE COMMAND YOU that within 8 days after the service of this Writ on you,  
inclusive of the day of such service, you cause an Appearance to be entered for  
you in our Supreme Court of the Australian Capital Territory in an action at the suit  
of Anthony Robinson of 197 Kent Street, Hughes in the Australian Capital Territory.

AND TAKE NOTICE that in default of you so doing, the plaintiff may proceed  
therein and Judgment may be given in your absence.

GARY ROBB & ASSOCIATES  
Solicitors  
29 Torrens Street  
BRADDON ACT 2601

Tel: (06) 257 1922  
DX 5683

ref: BR EB 04 6972

WITNESS the Honourable Jeffrey Allan Miles, Chief Justice of our said Supreme Court at Canberra in the said Territory the 21<sup>st</sup> day of September  
One thousand nine hundred and ninety-three.

A. TOWILL  
REGISTRAR

NB: This Writ of Summons and Statement of Claim is to be served within twelve calendar months from the date thereof or, if renewed within six calendar months from the date of the last renewal including the day of such date and not afterwards. The Defendant may appear hereto by entering an Appearance either personally or by Solicitor at the Registrar's Office, Canberra.C:\EB\BR\ROBINS.WRI





## INDORSEMENT

The plaintiff's claim against the defendants and each of them is for damages for libel arising out of the publication by the defendants and each of them in an article in "The Canberra Times" newspaper on or about 23 August 1993 entitled "McMullan accused of misleading MPs about fate of Comcar". The said defamatory material was published by the defendants and each of them in the Australian Capital Territory and throughout Australia.

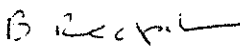
The plaintiff's claim against the second defendant is further for damages for libel arising out of the publication by him of a letter dated 29th August 1993 addressed to Senator the Hon. Bob McMullan and headed "Budget announcements relating to Comcar". the said defamatory material was published by the first defendant to the second defendant, by being displayed on the notice Board of the Comcar headquarters in Brisbane, by being published to all Comcar drivers in Brisbane and to officers of and all union delegates of the Transport Workers' Union, and in this manner and otherwise was published by the first defendant in the Australian Capital Territory and throughout Australia. The plaintiff further claims against the first defendant in respect of republication by the second defendant and by officers of the Transport Workers' Union in the Australian Capital Territory and throughout Australia.

AND the plaintiff claims damages (including aggravated and exemplary damages) and costs and interest thereon pursuant to Section 53a of the Australian Capital Territory Supreme Court Act 1933.

AND the Plaintiff claims damages and interest pursuant to Section 69 of the Supreme Court Act.

DATED this 20<sup>th</sup> day of September 1993

GARY ROBB & ASSOCIATES

Per: 

Solicitors for the Plaintiff

This Writ of Summons was issued by Messrs Gary Robb & Associates, 29 Torrens Street, Braddon in the Australian Capital Territory, DX 5683, Tel: 257 1922, solicitors for the plaintiff who resides at 197 Kent Street, Hughes in the Australian Capital Territory.

- A Personal Injury
- B Debt
- C Other (Directions required)
- D Other (No directions required)



PARLIAMENT OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

ANZ CENTRE  
28 REDLAND BAY ROAD  
(P O BOX 493)  
CAPALABA, QLD 4157  
TEL (07) 2455777  
FAX (07) 2456032

*V. Sciacca*  
17/11/93

THE HONOURABLE CON SCIACCA, M.P.  
PARLIAMENTARY SECRETARY  
TO THE MINISTER FOR SOCIAL SECURITY  
FEDERAL MEMBER FOR BOWMAN

URGENT

20th August, 1993.

Senator the Hon. Bob McMullan.  
Minister for Arts and Administrative Services.  
Parliament House,  
CANBERRA. ACT 2600.

Dear Minister,

Re: BUDGET ANNOUNCEMENTS RELATING TO COMCAR

Minister, I write with respect to the recent announcement contained in the Budget documents to the effect that the Comcar fleet throughout Australia will be decimated with only a limited service remaining.

It is my understanding that here in Queensland, the Comcar fleet will be reduced to some six or seven drivers. Some one third of the drivers are my constituents.

Naturally, I am extremely angry and upset at this turn of events. This morning, on my arrival from Canberra it was impossible for me not to notice the sense of anger, disappointment, bewilderment and betrayal on the face of every Commonwealth car driver waiting for the dozen or so politicians who arrived on the Qantas/Australian flight.

Minister, I do not blame them for one moment for feeling the way they do. Inquiries to your office have indicated that rumours about the drastic cutbacks in Comcar were nothing but rumours. When my office, and I know offices of other members, attempted to obtain information as to the truth of the rumours or otherwise, we were told that it was simply not on. We now find that indeed the rumours were true and not only were we misled as members but you have allowed us to mislead individual drivers of the Comcar fleet particularly here in Brisbane.

Minister, I along with many of my colleagues in Queensland count the Comcar drivers in this State as our friends and we are well aware as to the assistance and loyalty that almost all of them have shown to this Government. Indeed, one particular driver tells me that his heart sank when this morning one of the Opposition members made some smart remark obviously gloating at the decision because I understand the decision is exactly what the Liberal Party would have done had they won the last election.

Comcar drivers here in Brisbane and I know in other parts of the country have every reason to feel betrayed by the Labor Government, yourself and even us as individual members. I have every sympathy for the way that they must be feeling since the announcement in the Budget. Indeed, I am surprised that they are even talking to us at all.

In addition, to add to the insensitivity, the General Manager of Comcar from Canberra Mr. Robinson (who is despised by almost every driver in Australia that I come across) has the audacity to come to Queensland and tell them that they shouldn't feel too bad because there are plenty of other public servants that are being retrenched as well. The Comcar drivers that I speak to have absolutely no confidence whatsoever in this fellow Robinson and from his demeanour and actions during the last couple of months, I find it extraordinary that he would even be employed by our Government. This man seems to be quite a heartless individual who has no idea whatsoever as to how to manage people particularly people under stressful situations such as has been the case with Comcar drivers over the last three months. Using this man to "sell" the Government decision can be likened to sending General Custer to negotiate a peace treaty with the Souix Indians.

Additionally, whilst we are being advised that attractive redundancy packages will be offered and that the previous Minister, Senator Bolkus signed a memorandum of understanding guaranteeing no involuntary redundancies or forced retrenchments, the message that I am getting is that the packages that are being offered are no big deal and are basically what is offered in the public service generally.

Minister, may I remind you that Comcar drivers have been one of the lowest paid employee group of the Commonwealth Government and have never enjoyed the benefits and security offered by the Commonwealth Public Service generally. They deserve to be treated sympathetically and generously. I know that most of my colleagues feel the same way and I serve notice on you that I, along with a number of my colleagues intend to raise this matter at the first available opportunity and will be seeking explanations as to why we were misled into believing that what the drivers were saying to us was simply not true and that they were over-reacting when indeed the opposite was the case.

Your urgent comments in reply to this letter are requested prior to the next Caucus Meeting.

Yours sincerely,



CON SCIACCA, M.P.

**PRIVILEGE**

Mr SCIACCA (Bowman--Parliamentary Secretary to the Minister for Social Security)--I rise on a matter of **privilege**. On Thursday last, 11 November 1993, I was served with a writ of summons issued out of the Supreme Court of the ACT, dated 21 September, naming one Anthony Robinson as plaintiff, myself as first named defendant and Federal Capital Press of Australia Pty Ltd as the second defendant. The writ was issued by a Canberra firm of solicitors--namely, Gary Robb and Associates of 29 Torrens Street, Braddon, ACT. The writ seeks damages for libel against me arising from a letter I forwarded on Friday, 20 August of this year to Senator the Hon. Bob McMullan, the responsible minister, concerning the proposed reorganisation and restructure of the Commonwealth car fleet in Brisbane.

The plaintiff in the proceedings--namely, Anthony Robinson--is a Canberra based bureaucrat who, I understand, is the acting national manager of the Comcar organisation. I mention in passing that I do not know the gentleman personally and, to the best of my knowledge, I cannot recollect ever setting eyes on the man and I certainly bear him no malice.

For some time leading up to the 1993 budget, and indeed since that time, I have been extensively lobbied by drivers employed by the Comcar organisation throughout Australia--particularly in Brisbane--who have been concerned about their future employment prospects. There has been for some time now continual rumours of the impending closure, or at least massive scaling down, of Comcar operations in some states. A substantial number of drivers have been very concerned about their jobs.

Earlier this year, as a result of a meeting of a number of drivers in Queensland, I was approached to make representations and generally try to assist the drivers in their continual perceived struggle to secure their employment. Given that out of some 35 or so drivers working out of the Comcar Brisbane depot approximately eight of them live in my electorate of Bowman and are known personally to me--as are all other drivers in Brisbane, I might add--I agreed to help them as a group in any way I could. In the normal

course of events and in my usual practice of dealing with general constituent matters as a member of the House of Representatives, I caused inquiries to be made of the minister's office and I generally discussed the situation of the drivers with some of my parliamentary colleagues. From time to time I would report the results of my actions to various Comcar drivers.

In the budget there were decisions, of which I was unaware, which impacted quite markedly on the general operation of the Comcar organisation. I was again requested to make representations on behalf of the drivers. Accordingly, given that the budget decisions were not in accord with what I thought would be the case and following strong representations made to me on my return to Brisbane from Canberra at the end of the budget week--namely, Friday, 20 August 1993--I caused a letter to be written and faxed that same morning to Senator McMullan. The letter was forwarded by me on behalf of my constituents--namely, the Brisbane drivers employed by Comcar. As is my normal practice when I sincerely believe a constituent has a very strong case, I couched my letter in very strong terms.

It is my normal practice to provide my constituents with a copy of representations I have made on their behalf. Knowing that the drivers were anxious to learn what action I had taken, I gave a copy of my letter to the Comcar driver who, that same morning, was driving me into the city where I was to represent the Minister for Immigration and Ethnic Affairs (Senator Bolkus) at an official function.

My duty as a member of parliament is to represent the interests of my constituents and people who ask for my assistance to the best of my ability and without fear or favour. I believe that any action which inhibits me or attempts to inhibit me in carrying out my duties is a serious matter that should properly be dealt with by the appropriate forums of this House. I believe that in this instance the issuing and serving of a writ without any warning is deliberately intended to intimidate me as a member of parliament and is an attempt to seriously curtail my continued

representations on behalf of my constituents, in this case the drivers employed by Comcar in Brisbane and elsewhere.

I believe that this rather unique situation in which I find myself has wider implications for all present and future members of this House. There is no question that a member of parliament who faces the possibility of court action every time he writes a letter to a *minister which is critical of a public servant* will be naturally impeded in carrying out his representations to the fullest extent.

I believe I have a duty to my colleagues in this place to have the whole question deliberated upon by the Standing Committee of Privileges so that honourable members can be made aware of their position. I refuse to allow a senior Canberra based bureaucrat to *stop me from trying to help save people's jobs* simply because he issues a writ against me. This would create an undesirable precedent which would have ongoing repercussions for all members of this House who may from time to time wish to strongly and vigorously represent the interests of their constituents.

I make no comment as to the substance of the allegations made in the writ as I believe that would be improper and should properly be determined by a court in the normal course. But I ask that this matter, in so far as it relates to my actions as a member of parliament acting on behalf of constituents, be referred by you to the Standing Committee of Privileges and given priority.

Mr Speaker, I submit the following documents for your consideration in determining the matter: first, a copy of a letter dated 20 August 1993 to Senator McMullan; and, secondly, a writ of summons dated 21 September 1993.

Page: 2976

### PRIVILEGE

Mr PEACOCK (Kooyong)--Mr Speaker, I seek your indulgence to speak on the same matter.

Mr SPEAKER--The honourable member for Kooyong may proceed.

Mr PEACOCK--I do not want to reflect on the concern of the honourable member for Bowman (Mr Sciacca) and the grievance that he has given oral testimony to here, but I personally can recall supporting most reluctantly a bill which the honourable member voted for in 1987 and which severely curtailed the ambit of the Standing Committee of Privileges in areas such as this. I recall warning people outside this chamber that this sort of thing would happen.

When honourable members propose legislation and vote for it, if it comes round and belts them right between the eyes later on, then I think they ought to pause and reflect on their action in this House when they voted for it in the first place. This is a defamation action and the changes that curtailed the power of the privileges committee curtailed that power by giving citizens the right to institute proceedings against members of parliament--who ought to be as liable under the law for statements that they make as any other citizen, save and accept for what applies in here for the privilege that is given to elected representatives to stretch that a little bit further.

I have no qualms about this matter. I am Deputy Chairman of the privileges committee. Mr Speaker, you will determine, not me, whether the matter comes before the privileges committee. But I am sitting here as a member of the committee listening to an honourable member who voted for legislation which brought this very situation about and who says that he is severely restricted in what he can say. He has not told the House what he said in the first place. I do not know what the subject of complaint is. I have listened to an impassioned speech, but I would not have a clue what the matter is that is being complained about. The letter has not been provided to us.

I have to make a response and say that I will

view this matter objectively as Deputy Chairman of the privileges committee. But I get a little bit sick of the humbug in this House, particularly from people on the other side who complain about their rights being constrained when they are the ones who initiated the constraint to their rights.

If the letter is couched in the normal terms that we would expect of an honourable member forcibly arguing his case, then so be it. But just bear in mind that the difficulty the honourable member is referring to is brought about partly because of the way in which constraints were introduced a few years ago by the government itself.

**PRIVILEGE**

Mr SINCLAIR (New England)--Mr Speaker, with your indulgence, I do not intend to speak on the specific issue raised by my colleague the honourable member for Kooyong (Mr Peacock) but when the Parliamentary Secretary to the Minister for Social Security (Mr Sciacca) raised this matter he suggested that he was submitting certain documents for consideration. Could I suggest to him that, as parliamentary secretary, it would be more appropriate for him to table the documents which would enable us all to peruse them and to make the judgment which the honourable member for Kooyong intimated he was unable to make and which I suggest is a matter for us all. I know that, as a parliamentary secretary, he can submit them. If, on the other hand, he raises the matter as an ordinary member, I would be quite happy to assure him that leave would be given for the documents to be tabled and then they are available for wider perusal.

Mr SPEAKER--In respect of that particular matter, the documents which the parliamentary secretary indicated he was submitting as part of his submission to me on this matter are considered to be tabled now within the House and will be made available to honourable members who wish to peruse them.



**PRIVILEGE**

Mr PRICE (Chifley)--Mr Speaker, with your indulgence: I am a little taken aback by the honourable member for Kooyong (Mr Peacock), but I take his advice on board. We all should be very careful of what we do. From time to time I believe I have written letters that are exceptionally strong in language and highly critical of certain public servants, including senior public servants. I think all members of the House have done this from time to time in the belief that they have an unfettered right to vigorously represent all their constituents but especially those that feel perhaps powerless to pursue their rights and claims in other ways.

I am very concerned about the matter that the honourable member for Bowman (Mr Sciacca) has raised, because I think that it will affect us all. If, when we write to a minister, we have to consider the tone, language and content of how we represent views vigorously, I fear for the ability of honourable members to adequately represent their constituents. It would be a farce if, every time we wanted to raise something vigorously and in strong language, we had to get up and, in effect, read letters to ministers in this House. I believe that 90-second statements would take on a totally new meaning and adjournment debates could be quite interesting.

I sincerely hope, Mr Speaker, that you will consider the matters raised by the honourable member for Bowman because I think they are serious and they affect us all. If, as the honourable member for Kooyong suggests, we need to change the legislation of the privileges committee to provide protection for members of this House in this way, then that is something that we ought to contemplate.

Page: 2977

**PRIVILEGE**

Mr O'KEEFE (Burke--Parliamentary Secretary to the Minister for Transport and Communications)--Mr Speaker, with your indulgence: in respect of the submission that has been made to you, and reflecting on the comments from the honourable member for Kooyong (Mr Peacock), I counsel you that it is very easy to come into this place and say, 'I told you so'. Often, circumstances arise which give effect to the wisdom of hindsight, and that will certainly be listened to. But I certainly urge you and the members of the **privilege** committee, if the matter is referred to the committee, to consider it on its merits and not see the matter as something that proves a point which may have been made at some time in the past. So I take heed of the observation of the honourable member for Kooyong that, as Deputy Chairman of the Standing Committee of Privileges, he will give it due consideration if it comes before him.

Mr SPEAKER--I thank all honourable members for their comments in respect of the matter raised by the honourable member for Bowman. I will, of course, examine the issue with the seriousness with which he has raised it and report to the House at a later time.

**PRIVILEGE**

Mr SPEAKER--This morning the honourable member for Bowman (Mr Sciacca) raised as a matter of **privilege** the fact that on 11 November he had been served with a writ issued on behalf of a Mr A. Robinson. The honourable member explained that the writ followed a letter that he had written to the Minister for the Arts and Administrative Services (Senator McMullan) on 20 August concerning budget announcements relating to Comcar.

The substance of the honourable member's complaint is that the issuing and serving of the writ was deliberately intended to intimidate him as a member and was an attempt to seriously curtail his continued representations on behalf of his constituents. There is no doubt that intimidation or attempted intimidation of a member in connection with the performance of the member's duties as a member can be punished as a contempt. There are precedents for references to the Committee of Privileges in connection with threats to sue members on account of correspondence that they had written.

Without expressing any opinion on the substance of the matters raised by the honourable member for Bowman, I acknowledge that the issue of members' correspondence with ministers is an important one and, accordingly, I am prepared to allow *precedence to a motion in respect of this case.*

Motion (by Mr Sciacca) agreed to:

That the matter of ACT Supreme Court Writ of Summons (No. SC 617/1993) issued on 21 September 1993 and lodged by Gary Robb and Associates, Solicitors, 29 Torrens Street, Braddon,--ACT on behalf of Anthony Robinson as plaintiff against the Member for Bowman as first named defendant be referred to the Committee of Privileges.



## INQUIRY CONCERNING MR SCIACCA, MP

### Memorandum by the Clerk of the House of Representatives

#### THE REFERENCE

On 17 November 1993 the House agreed to the following motion:

That the matter of ACT Supreme Court Writ of Summons (No. SC 617/93) issued on 21 September 1993 and lodged by Gary Robb & Associates, Solicitors, 29 Torrens Street, Braddon, ACT, on behalf of Anthony Robinson as plaintiff against the Member for Bowman as first named defendant be referred to the Committee of Privileges.

The matter was raised in the House on 17 November by Mr Sciacca who said, *inter alia*, that he had been issued with a writ naming Mr A. Robinson as plaintiff and himself as the first defendant with the Federal Capital Press (publishers of the *Canberra Times*) as the second defendant. The writ was issued by Gary Robb and Associates, Solicitors of Canberra and sought damages for libel arising from a letter Mr Sciacca had sent to Senator McMullan on 20 August concerning budget decisions about COMCAR.

Mr Sciacca's statement sets out the background to his action in writing to Senator McMullan and states that he believed that the issuing and serving of the writ on him without notice was "deliberately intended to intimidate" him as a Member and was "an attempt to seriously curtail" his continued representations on behalf of his constituents<sup>1</sup>.

Mr Speaker responded to the matter later in the day, stating that he was prepared to allow precedence to a motion.

#### THE TASK BEFORE THE COMMITTEE

As I see it, the Committee will need to inform itself as to the relevant parliamentary law and precedents. It would then need to consider the facts in this particular matter.

Having gone as far as it can in seeking to ascertain the facts the Committee would then need to reach some conclusions as to the matter. It would presumably consider the question of intent, although I note that the terms of section 4 of the *Parliamentary Privileges Act 1987* make it clear that it is not technically necessary to establish an intent to cause improper interference. Technically at least, it would seem to be sufficient, in terms of the Act, to establish that certain conduct amounted or was intended or likely to amount to improper interference.

## GENERAL PROVISIONS RELATING TO PRIVILEGE AND CONTEMPT

A detailed explanation of the law and practice of the House relating to privilege and contempt is set out in House of Representatives Practice<sup>2</sup>. The nature of privilege is explained and the area of absolute privilege or immunity described, with particular reference to the *Parliamentary Privileges Act 1987*. Reference is also made to the power of the House to punish contempts and the following definition of contempt is quoted from May<sup>3</sup>:

...any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as contempt even though there is no precedent of the offence.

More information on this point is set out at pages 701-3 of House of Representatives Practice<sup>4</sup>.

Section 4 of the Parliamentary Privileges Act 1987 provides:

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a Member of the Member's duties as a Member<sup>5</sup>.

In effect this provision sets a threshold: to be a contempt an action must amount to or be intended or likely to amount to improper interference with the free exercise by a House or a committee of its authority or functions or with the free performance by a Member of the Member's duties as a Member etc.

## PARTICULAR REFERENCES RELEVANT TO THE PRESENT REFERENCE

House of Representatives Practice states:

### *Attempted intimidation of Members*

To attempt by any improper means to influence a Member in his or her conduct as a Member is a contempt. So too is any conduct having a tendency to impair a Member's independence in the future performance of his or her duty, subject, since 1987, to the provisions of the *Parliamentary Privileges Act*<sup>6</sup>.

May states:

To molest Members on account of their conduct in Parliament is also a contempt. Correspondence with Members of an insulting character in reference to their conduct in Parliament or reflecting on their conduct as Members, threatening a Member with the possibility of a trial at some future time for a question asked in the House, calling for his arrest as an arch traitor, offering to contradict a Member from the gallery, or proposing to visit a pecuniary loss on him on account of conduct in Parliament have all been considered contempts. The Committee of Privileges has made the same judgment on those who incited the readers of a national newspaper to telephone a Member and complain of a question of which he had given notice<sup>7</sup>.

197 Kent Street  
HUGHES ACT 2605

Mr Rod Sawford MP  
Chairman  
Committee of Privileges  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Dear Mr Sawford

**ENQUIRY CONCERNING MR SCIACCA MP**

Thank you for your letter of 26 November 1993 allowing me the opportunity to make a submission to your committee in relation to this matter.

Although the issue raised by Mr Sciacca concerning the extent of privilege is obviously an important one, I do not believe it is appropriate to consider this issue in the light of particular litigation. If Mr Sciacca believes that his letter is the subject of privilege, he should instruct his solicitors to plead this defence and resolve the matter in a court of law and not hide behind the workings of your committee. If he is concerned about the more general issue, he should have referred the matter to you on that basis.

As acting general manager of Comcar I accept that I am a person in a position that might attract criticism and that criticism is part of the process of accountability. This does not mean that I ought to be subjected to vilification or unfounded and unwarranted comment. It is not yet the law that as a semi-public figure I forfeit my rights to redress.

Needless to say, I maintain that the description of the Brisbane meeting is inaccurate and untrue and the comments of Mr Sciacca to the Minister about me border on the abusive. Mr Sciacca was not at the meeting in question, nor did he seek any information about it from myself or my office before sending his poison pen letter.

If the only recipient of this letter was the Minister, I could understand his claim for some form of qualified privilege. Unfortunately it was

published by Mr Sciacca to Comcar drivers in Queensland and subsequently faxed throughout the country until it was eventually published by the Canberra Times. Even if Mr Sciacca is in the habit of writing "forceful letters" it was hardly prudent or appropriate to publish it to his constituents with reckless indifference as to the consequences.

It appears from his comments to your committee that he considered his constituency to be greater than the seat of Bowman and that he somehow had a mandate from all Comcar drivers. This would appear to be beyond the terms of his election. It also appears that his motivation stems from embarrassment or shame as to the Government decision. It is not fair that I should be subject to character assassination for carrying out a decision of the Government of which Mr Sciacca is a member.

My sole intention in commencing proceedings was to protect my reputation. I have not been trying to intimidate Mr Sciacca or anyone else from discussing Comcar and I have not sought injunctions or other orders suppressing debate.

In contrast, since Mr Sciacca has become aware of the Writ, he has systematically avoided service of it and, upon being tracked down, his response has been to raise the matter in Parliament and to refer it to your committee. He has not attempted through his solicitors to right the wrong and has instead used forums to obfuscate the issues.

I have written to Mr Sciacca's solicitors requesting apologies in order to assist in remedying the damage caused to me.

I believe that the Committee should, if it wishes, consider the issues raised by Mr Sciacca on a general basis, but that it ought to allow litigation in ACT Supreme Court Writ of Summons SC 617 of 1993 to take its ordinary course.

Yours sincerely



Anthony Robinson  
10 December 1993



and:

Conduct not amounting to a direct attempt improperly to influence Members in the discharge of their duties but having a tendency to impair their independence in the future performance of their duty may be treated as a contempt. An example of such a case is the Speaker's ruling that a letter sent by a parliamentary agent to a Member informing him that the promoters of a private bill would agree to certain amendments provided that he and other members refrained from further opposition to the bill constituted (under the procedure then in force) a *prima facie* breach of privilege<sup>8</sup>.

## PRECEDENTS

There have been no exact precedents for the present matter in so far as the House of Representatives is concerned. The three closest precedents of which I am aware are:

### Case of Mr G. R. Strauss (1957)

In February 1957 a Member of the House of Commons, Mr G. R. Strauss, wrote to a Minister complaining of certain actions of the London Electricity Board and asking that the Minister look into them. The Minister referred the matter to the Board. The Board took legal advice and wrote to Mr Strauss through its solicitors stating that if he was not prepared to withdraw and to apologise he would be sued for libel. Mr Strauss complained to the House and the matter was referred to the Committee of Privileges. The Committee of Privileges gave consideration to the meaning of the term "proceeding in Parliament" and, in particular, to whether Mr Strauss' letter should be regarded as a *proceeding in Parliament*. This is important because, under the provisions of Article 9 of the Bill of Rights, "proceedings in Parliament" are absolutely privileged and Members may not be sued or prosecuted for what they say in the course of those proceedings. It has been claimed however that the House of Commons could have considered the matter from a different point of view - essentially by considering not whether Mr Strauss' letter was part of "a proceeding in Parliament" but rather whether the solicitor's letter to Mr Strauss was a contempt<sup>9</sup> - and see below.

The Committee of Privileges concluded that in writing to the Minister Mr Strauss had been engaged in a "proceeding in Parliament" and that the threat made by the Board through its solicitors to commence proceedings for statements made in the course of a proceeding in Parliament constituted a breach of privilege<sup>10</sup>. The Government moved that the House agree that a breach of privilege had occurred but an amendment was moved to the effect that Mr Strauss' letter was not a "proceeding in Parliament" and therefore the letter threatening legal action did not constitute a breach of privilege. On a free vote and by a small majority the House voted for the amendment, thus overturning the conclusion of the committee. (I note that the term "proceedings in Parliament" has not been defined in the UK, thus allowing a degree of flexibility, but this is not the case in our Parliament because section 16 of the *Parliamentary Privileges Act 1987* has set down in some detail (but not exhaustively) what the term encompasses - and see below).

Although the committee's report turned on other matters, some attention was given to the meaning of the Parliamentary Privileges Act of 1770. One section of the Act provided that any person could prosecute any action or suit in any Court against any 'Peer or Lord of Parliament of Great Britain or against any of the knights, citizens and burgesses, and the commissioners for shires and burghs of the House of Commons....and no such action....shall at any time be impeached, stayed or delayed by or under colour or pretence of any privilege of Parliament'<sup>11</sup>. The Committee of Privileges recommended that the opinion of the Judicial Committee of the Privy Council should be sought on the question of whether the House would be acting contrary to the 1770 Act if it treated as a breach of privilege the issue of a writ against a Member in respect of a speech or proceeding by him in Parliament. The Judicial Committee held that the words quoted from the 1770 Act applied only to Members 'in respect of their debts and actions as individuals and not in respect of their conduct in Parliament as Members of Parliament, and does not abridge or affect the ancient and essential privilege of freedom of speech in Parliament'. Some years later it became clear that the Judicial Committee had divided on this point, with Lord Denning taking the view that the 1770 Act gave every citizen the right to bring an action against a Member, including an action for libel, that no Member had any privilege to stop a citizen having recourse to the Courts, but that if a Member were sued in respect of a speech or proceeding in Parliament he could apply to the Courts to have the action struck out<sup>12</sup>.

#### Case of Mr O'Connell (1977)

In 1977 Mr O'Connell, a Member of the New South Wales Legislative Assembly, wrote to a Minister on behalf of a constituent who had complained to him about the alleged rudeness of a Housing Commission officer. Mr O'Connell's letter apparently expressed the view that the officer was totally unsuitable for his job. The letter was marked personal but was apparently passed down the line for comment, the officer became aware of what Mr O'Connell had said and solicitors for the officer threatened Mr O'Connell with action for defamation. As I understand it the officer eventually moved from the electorate and no further action was taken by him against Mr O'Connell although Mr O'Connell was put to some cost in seeking legal advice<sup>13</sup>.

#### Case of Mr Nugent (1992)

On 7 May 1992, the Committee of Privileges reported on a question of possible intimidation of Mr Nugent, in respect of a letter received by him from a firm of solicitors.

On 4 October 1991 Mr Nugent had written to the (then) Minister for Social Security on behalf of a constituent, a Mr Radisich and, amongst other things, the letter referred critically to a named public servant. On 18 February 1992 Mr Nugent received by fax a letter dated 13 February from a firm of solicitors acting for the public servant in question. The solicitors' letter concluded with the statement:

"... accordingly, our client requires a written apology from you together with a clarification to be sent to both the Department of Social Security and the Department

of Employment, Education and Training within seven days, failing which we are instructed to commence proceedings for libel".

The issue was referred to the Committee of Privileges. The committee received written submissions from Mr Nugent and from the solicitors involved.

Mr Nugent advised the committee in his submission that he felt at the time he received the letter from the solicitors that he was being pressured both by way of the short time scale to respond and the implication of threatened legal action with its resultant publicity, to withdraw his representations on behalf of his constituent. He asserted that he had a right and a duty to correspond with Ministers on matters affecting his constituents.

In its submissions the firm of solicitors, Dwyer and Company, explained its actions, outlining the background to its involvement on behalf of its client, and commenting on Mr Nugent's letter which gave rise to their involvement.

The committee recognised that in such cases there were competing interests: the interests of Members and the constituents they represent in the capacity of Members to be able to make representations to Ministers without the threat of actions for defamation. The committee also accepted the proposition that citizens have a basic right to protect their reputations and if necessary to have recourse to the courts of law. The committee believed that the threat to commence proceedings against a Member in respect of a letter written to a Minister on behalf of a constituent could be held to constitute improper interference with the free performance by a member of the Member's duties as a Member.

The committee stated that although the person or persons responsible for the letter from Dwyer and Company to Mr Nugent may have acted without a full knowledge of the legal and related issues involved and although the person or persons may not have intended to intimidate or influence Mr Nugent in an improper way, the terms of the letter and the circumstances of its receipt had a tendency to impair Mr Nugent's independence in the performance of his duties.

The committee expressed the view that in writing letters to Ministers on behalf of constituents, Members should not be immune from the laws of defamation and that such an extension of absolute privilege would not be warranted. Nevertheless the committee believed that the House's ability to act in respect of a particular threat of obstruction or obstruction was important if Members were to perform the work expected of them.

The report did not recommend any action, and after it was presented a motion was moved that "The House take note of the report" - merely a device to enable it to be debated. Some Members felt that the House should act and, on 1 June 1992, an amendment was moved to the motion to take note of the report, requiring the solicitors to formally apologise to Mr Nugent and to the Parliament. The House agreed to the amendment and to the motion as amended. An apology from Dwyer and Company was subsequently received by both Mr Nugent and the House of

Representatives. Mr Speaker informed the House and presented copies of the letters on 18 August 1992.

Other precedents, which are not quite as close to the present case, are summarised in Attachment 1.

## PROTECTION OF MEMBERS IN SUCH MATTERS

### Extent of absolute privilege

The precedents from the House of Commons show that its Committee of Privileges has looked at such references from the point of view of the connection between the alleged threat or obstruction and "proceedings in Parliament". This approach is reflected in the above quotations from May. As already mentioned, the significance of "proceedings in Parliament" is that actions forming part of "proceedings in Parliament" are absolutely privileged. The House of Commons has been careful to ensure that Members have been protected from improper obstruction or interference such as might threaten their capacity to participate freely in proceedings in Parliament - *see for example resolution of the House of Commons in 1947 on the Brown case (which concerned the protection of a Member from possible improper interference by a union with which he had been associated)*<sup>14</sup>.

An examination of a complaint in terms of its relationship with a Member's capacity to participate in parliamentary proceedings was also evident in the House of Representatives Committee of Privileges report on the reference concerning Mr Scholes (see Attachment 1).

This approach shows an awareness of the importance of ensuring that the scope of privilege is limited to what may be regarded as "essential" matters. While opinions may differ as to what should be held to be "essential" (and absolutely privileged), looked at from a wider perspective there are good reasons for limiting the extent of absolute privilege. By definition, the greater the rights or immunities enjoyed by one group in the community, the lesser will be the rights of others - in relation to Members, the greater the area of immunity they enjoy, the fewer opportunities are available to persons who may be aggrieved by the actions of Members and who may wish to act to protect their interests.

### Contempt

Whilst the area of absolute privilege is strictly limited, the House has the power to punish contempts - that is, the power to act to protect itself, its committees and its Members from actions which, whilst they may not breach any particular right or immunity, *are held to obstruct or impede the House, a committee or a Member*. This power enables the House to protect itself against actions which may not breach any privilege or immunity but which have the potential to seriously obstruct or impede.

In our Parliament such actions must be tested against the provisions of section 4 of the Parliamentary Privileges Act. To be a contempt an action affecting an individual Member must be found to amount or to be intended or likely to amount to an improper interference with the free performance by the Member of the Member's duties as a Member.

The House has not stated how actions might be judged in terms of the requirement of section 4. Technically, it is open to the House to find that this requirement is satisfied in respect to an action which concerns a Member other than in connection with the Member's participation in "proceedings in Parliament" - ie. the House could find that an action which went to another aspect of a Member's performance of his or her duties as a Member was a contempt. Nevertheless, the House would need to be aware of the desirability of ensuring that the flexibility and breadth of its power to punish contempts was not used as a means of extending the effective scope of privilege unreasonably.

#### ASSESSMENT OF COMPLAINT

##### *Was Mr Sciacca protected by absolute privilege?*

Section 16 of the Parliamentary Privileges Act defines the scope of absolute privilege in the Commonwealth Parliament. It contains a reference to the provisions of Article 9 of the Bill of Rights, which is the fundamental statement on absolute privilege. Section 16 then goes on to say that " 'proceedings in Parliament' means all words spoken and acts done in the course of, or for purposes of or incidental to the transacting of the business of a House or a committee...." (emphasis added). The definition then spells out some of the matters covered, including, in paragraph (c), "the preparation of a document for purposes of or incidental to the transacting of any such business".

While this definition picks up the general words of Article 9, and while it may not be an exhaustive definition, in my view its effect is that, unlike some other Parliaments where no statutory definition has been adopted (such as the British House of Commons), the Houses of the Commonwealth Parliament are not nearly as free as would have been the case previously to decide what they regard as being encompassed by the provisions of Article 9. In terms of the present complaint, the definition clearly does not encompass letters from Members to Ministers explicitly<sup>15</sup>. The question is then whether such letters should be regarded as "for purposes of or incidental to" the transacting of the business of the House or of a committee. Having examined Mr Sciacca's letter in my view it cannot be so categorised, and I note that Mr Sciacca has not based his complaint on this point.

##### *Possible contempt*

The more difficult question for the committee is whether the issuing and serving of a writ on Mr Sciacca ought to be treated as a contempt. In measuring the complaint against the requirements of section 4 of the 1987 Act, the committee

would need to consider the extent to which the action complained of could be regarded as improper interference, what the term "free performance of a Member's duties" means and whether the term "a Member's duties as a Member" encompasses the writing of letters by Members to Ministers.

In my view there is no doubt that the writing of letters to Ministers on behalf of constituents is part of the performance by a Member of his or her duties as a Member. This is not to say that every letter from a Member to a Minister should be so regarded - for example, Members could write to Ministers about matters of personal interest or in other connections, such as on behalf of organisations with which Members may be associated. Nevertheless one of the well recognised duties of Members is to act and assist with regard to the needs and interests of constituents. They perform this function in various ways. One of the frequently used means of assisting constituents is for Members to write letters, perhaps to a Department or to a Minister direct<sup>16</sup>.

It is difficult to know precisely how the words "improper interference with the free performance by a Member of the Member's duties as a Member" should be interpreted. The explanatory memorandum to the Parliamentary Privileges Bill in 1986 does not help on this point, and, in particular, as to what might be regarded as "improper" and what the "free performance of a Member's duties as a Member" might mean. The terms need to be looked at in context. The Joint Select Committee on Parliamentary Privilege recommended in 1984 the adoption of resolutions by each House to spell out what might be regarded as contempts. Under a heading "Improper influence of Members" the committee proposed the following formulation:

*A person shall not by fraud, intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence a Member in his conduct as a Member, or induce him to be absent from a House or a committee.*

Although this proposal has no direct connection with section 4 of the 1987 Act it is of interest<sup>17</sup>. The terms fraud, intimidation and force, in particular, suggest that the committee may have seen actions which would be picked up by the recommendation as having to be inherently improper or improper in themselves. The normal actions involved in suing a person would not, I believe in normal usage, be regarded as improper - on the contrary, they are steps in the processes of legitimate legal action. Nevertheless the words of section 4 would seem to be broad enough to allow a House to find that an action constituted improper interference even if such actions were in themselves, or in ordinary usage, proper.

---

If it considers that the writing of a letter by a Member to a Minister such as that written by Mr Sciacca to Senator McMullan does not form part of "proceedings in Parliament" (and is thus not an absolutely privileged action) the committee may

wish to consider whether the action of the issuing and serving of the writ could amount to a contempt. In this regard it would presumably wish to have regard to the circumstances of the actions and the knowledge and intentions of those involved. As indicated, technically it would seem that under section 4 of the *Parliament Privileges Act 1987* an action could be found to be a contempt even if it had not been the intention of a person to interfere improperly with the free performance by a Member of the Member's duties as a Member.

---

L M BARLIN  
Clerk of the House

25 November 1993

## NOTES

---

1. Hon. A. S. Peacock, MP, Rt Hon. I. M. Sinclair, MP, Hon. L. R. S. Price, MP and Hon. N. O'Keefe, MP also spoke on the matter.
2. House of Representatives Practice (2nd edition), AGPS, Canberra 1989 (chapter 19).
3. May (21st Edition) p 115.
4. *Op cit* pp. 701-3.
5. Act No. 21 of 1987.
6. *Op cit* p 706.
7. May, p 126.
8. May, p 129.
9. Report of House of Commons Select Committee on Parliamentary Privilege, H.C. 34 (1967) p xxv.
10. H.C. 305 (1956-57).
11. Halsbury's Statutes of England, 3rd Edition, 1970.
12. Re: Parliamentary Privilege Act 1770 [1958] A.C. 331, see also Parliamentary Privilege and the Courts, G.F. Lock, Public Law, Spring 1985, to which is annexed material on the Strauss case by Lord Denning.
13. Summary taken from report of Joint Select Committee on Parliamentary Privilege, PP 219 (1984), pp 45-6.
14. H.C. 118 (1947).
15. It is noted that the 1984 report of the Joint Select Committee on Parliamentary Privilege recommended against including letters from Members to Ministers in a definition of parliamentary proceedings. While the 1987 bill went beyond the 1984 recommendations (which were limited to proposing a definition for the purposes of defamation actions) in other respects the 1984 report was a very significant influence in the formulation of the Act and it is legitimate to refer to it in connection with this matter, PP 219 (1984), pp 46-7.
16. And see - House of Representatives Practice, pp 166-7.
17. PP 219 (1984), pp 136. Note that 'conduct as a Member' is not expressed as being confined to participation in 'proceedings in Parliament'.



ATTACHMENT 1  
OTHER PRECEDENTS

Benn case (1974) (UK)

In November 1973 a firm of solicitors acting for the Aims of Industry organisation wrote to Mr Benn, a Member of the House of Commons, regarding a speech he had made outside the House. Their letter quoted an allegedly defamatory passage and asked him to confirm that he had been correctly reported. The letter stated that the solicitors had been instructed not to institute proceedings forthwith but to seek Mr Benn's comments, meanwhile reserving all rights etc. It concluded:

If any further defamation of our clients is made by you, however, we must make it quite clear that we are instructed to commence proceedings and to seek damages'.

Mr Benn spoke in the House on 17 January 1974 and apparently attacked the organisation. On 21 January the solicitors wrote to Mr Benn again, saying they had considered an acknowledgment received from his office to the effect that their earlier letter had been noted, and stating that they had been instructed to commence proceedings.

Mr Benn claimed that the threat in the letter of 21 January arose from his speech in the House on 17 January and the matter was referred to the Committee of Privileges.

The committee heard Mr Benn's interpretation of the letter of 1 November, which was to the effect that he was to consider himself under threat if he made any reference to the Aims of Industry organisation that they considered defamatory whether - since there was no express exclusion of proceedings in the House - the reference was made in Parliament or elsewhere.

The committee examined the solicitors' files, and concluded:

Whilst it is true that the Solicitors' letter did not expressly distinguish between words spoken in Parliament and words spoken outside, Your committee have seen no evidence which suggests that the letter was intended to refer to words spoken in Parliament. ....

Your Committee have considered whether Mr Benn's speech in the House, or the knowledge that he was due to make a speech on company law, influenced Aims of Industry, or their Solicitors in their conduct of their clients' case. They are satisfied that there is no evidence to indicate that this was so. The letter of 21st January was a natural sequel to other communications between the Solicitors and their clients, and between them and Mr Benn, which had taken place in December and January.

Your Committee accordingly find that there was no contempt in this case.

Parry case (1982) (UK)

In this case solicitors wrote to Mr Parry, MP on behalf of a client rejecting statements Mr Parry had made in the House, expressing concern at his conduct and saying 'in due course the client would revert to it in.....proceedings if you have not in the meantime taken appropriate steps....'. It seems that an action against another party had been commenced, and that Mr Parry's speech was seen as aggravating the problem.

The solicitor apologised, but the matter was still referred to the Committee of Privileges. It noted, inter alia, that the proceedings in train involved action against another party, that the solicitor's threat 'if such it can be described' may well have had so little substance as to be barely capable of being considered to be a contempt of the House. It noted the policy of restraint in privilege matters and recommended that no further action be taken.

Scholes case (1990) (Australia)

In September 1990 Mr Scholes, MP raised as a matter of privilege a letter he had received from a solicitor representing a director of a building society. The letter asked Mr Scholes to cease distributing a document he had circulated to party members in his electorate and which dealt with the affairs of the building society. It asked Mr Scholes to refrain from making further statements relating to the activities of the building society. Mr Scholes claimed that if he were to comply with the threat contained in the letter, it would inhibit him in carrying out his duties as a Member of Parliament and would prevent the Parliament from having his services on a basis which would be right and proper.

The Committee of Privileges report shows that it recognised the need for Members to be able to act effectively and appropriately in carrying out their responsibilities. It noted that Members do not have absolute immunity in their ordinary work, rather their immunity is confined to their participation in the proceedings in Parliament.

The Committee concluded that Mr Elder's action in writing the letter should not be seen as an attempt at improper interference with Mr Scholes' work as a Member. The Committee believed that members of the public should not feel that they could not respond to Members when matters of interest arise as a result of the actions of Members. The Committee reported that there was not sufficient evidence to lead it to the conclusion that the letter represented an attempt by improper means to influence Mr Scholes in respect of his participation in proceedings in Parliament.

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Tuesday, 23 November 1993

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr McLeay

**APOLOGIES:** Mr Brown; Mr Simmons

The meeting opened at 4.51pm.

Mr Holding reported that he had been nominated by Mr Beazley to participate in the Committee's inquiries.

Minutes

The minutes of the meeting held on 16 November were amended and confirmed.

Reference concerning Mr Sciacca

The Chairman presented extracts from the *Votes and Proceedings*, No. 34 of 17 November 1993 concerning the reference involving Mr Sciacca.

The Committee deliberated.

Mr Peacock moved— That the committee:

- (1) invite a written submission from Mr Sciacca in connection with the reference; and
- (2) invite a memorandum from the Clerk of the House on the matter.

The Committee deliberated.

Mr Holding moved as an amendment— That paragraph (1) be omitted and the following paragraph substituted:

- (1) Mr Sciacca to appear before the committee at 5.00pm on Thursday, 25 November.

Amendment agreed to.  
Motion as amended agreed to.

The Committee deliberated.

At 5.23pm the committee adjourned until 5.00pm on Thursday, 25 November 1993.

Confirmed.

CHAIRMAN

**COMMITTEE OF PRIVILEGES**  
**MINUTES OF PROCEEDINGS**  
Parliament House - Canberra  
Thursday, 25 November 1993

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr MacKellar; Mr McLeay; Mr Price; Mr Quick

The meeting opened at 5.06pm.

**Minutes**

The minutes of the meeting held on 23 November were confirmed.

The Chairman presented a letter dated 23 November 1993 from Mr Beazley nominating Mr Holding to serve on the committee.

The Chairman presented an extract from the *Votes and Proceedings* No. 38 of 24 November 1993 advising of the appointment of Messrs Price and Quick to the committee in place of Messrs Brown and Simmons for the current inquiry.

The Chairman presented a memorandum from the Clerk of the House on the reference concerning Mr Sciacca.

Resolved (on the motion of Mr Cleeland) that the correspondence be received.

**Reference concerning Mr Sciacca**

The Committee deliberated.

The Hon. Con Sciacca, MP, (accompanied by Mr Gregg Rudd of his office) was called, sworn and examined.

---

The meeting was suspended from 5.45pm until 6.37pm.

---

The meeting resumed.

The witness withdrew.

The committee deliberated.

Resolved (on the motion of Mr Holding) - That the committee authorise the publication of the evidence received from Mr Sciacca to Mr A. Robinson.

Resolved (on the motion of Mr Holding) - That Mr Robinson be invited to make a written or oral submission, or both, to the committee.

The committee deliberated.

At 7.12pm the committee adjourned until 4.45pm on Tuesday, 14 December 1993.

Confirmed.

**CHAIRMAN**

# COMMITTEE OF PRIVILEGES

Minutes of Proceedings  
Parliament House - Canberra  
Tuesday 14 December 1993

**PRESENT:** Mr R W Sawford MP (Chairman)  
Hon A S Peacock MP  
Mr K J Andrews MP  
Mr P R Cleeland MP  
Hon L S Lieberman MP  
Mr P J McGauran MP  
Mr L B McLeay MP  
Hon L R S Price MP  
Mr H V Quick MP

The meeting opened at 5.05pm.

## Minutes

The minutes of the meeting held on 25 November 1993 were confirmed.

## Correspondence

The Chairman presented the following items of correspondence:

- letter dated 17 November from Mr W L Taylor MP
- letter dated 18 November from Senator W Parer
- letter dated 18 November from Senator B Cooney
- letter dated 18 November from Mr L B McLeay MP
- letter dated 23 November from Senator the Hon M Reynolds
- letter dated 23 November from Mr M A J Vaile MP
- letter dated 7 December from Mr K J Aldred MP
- letter dated 9 December from Mr T Rowe
- letter dated 10 December from Hon R J Brown MP
- letter dated 14 December from Mr L J Scott MP
- letter dated 14 December from Mr L J Scott MP (as Chairman of the Joint Committee of Public Accounts)
- letter dated 10 December from Mr A Robinson of 197 Kent Street, Hughes, ACT 2607

Resolved (on the motion of Mr Peacock) that the correspondence be received as evidence.

**Reference concerning Mr Sciacca**

The Committee deliberated.

**Resolved** (on the motion of Mr Andrews) that Mr Robinson be invited to appear before the Committee to give evidence at 9.30am on Friday 17 December.

The Committee deliberated.

**Resolved** (on the motion of Mr McLeay) that the letter dated 10 December from Mr Robinson be published to Mr Sciacca.

**Reference concerning the Public Accounts Committee**

Mr McLeay withdrew from the meeting (being a Member of the Joint Committee of Public Accounts).

The Committee deliberated.

**Resolved** (on the motion of Mr Peacock):

- (1) that the Committee invite Mr L J Scott MP, Mr W Taylor MP and Mr M Vaile MP to appear before the Committee to give evidence on Friday 17 December;
- (2) that steps be taken to arrange for Senator Parer to be invited to appear before the Committee on Friday 17 December.

The Committee deliberated.

At 5.45pm the Committee adjourned until 9.30am on Friday 17 December 1993.

Confirmed.

**CHAIRMAN**

## COMMITTEE OF PRIVILEGES

### MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Friday, 17 December 1993

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr Price; Mr Quick

The meeting opened at 9.47am.

#### Minutes

The minutes of the meeting held on 14 December were confirmed.

#### Correspondence

The Chairman presented extracts from the *Votes and Proceedings* Nos. 42 and 43 of 15 and 16 December respectively informing the committee of the reference to it concerning mail services and of the appointment of Mr Sinclair in place of Mr Lieberman for that inquiry.

The Chairman presented the following items of correspondence:

- letter dated 15 December from Senator Bishop;
- letter dated 15 December from Mr C Haviland, MP;
- letter dated 15 December from Mr E Fitzgibbon, MP;
- letter dated 16 December from Mr A Griffin, MP.

Resolved (on the motion of Mr Quick) that the correspondence be received as evidence.

#### Reference concerning the Public Accounts Committee

The Committee deliberated.

Mr L J Scott, MP, Chairman of the Joint Committee of Public Accounts (accompanied by Mr Grant Harrison, Committee Secretary) was called, sworn and examined.

The witness withdrew.

The committee deliberated.

Mr W L Taylor, MP, a member of the Joint Committee of Public Accounts (accompanied by Mr Andrew Power of his office) was called, sworn and examined.

---

The meeting was suspended from 10.50am until 11.00am.

---

The meeting resumed.

The witness withdrew.

Mr M A J Vaile, MP, a member of the Joint Committee of Public Accounts (accompanied by Mr Oakeshott of his office) was called, sworn and examined.

The committee deliberated.

*Reference concerning Mr Sciacca*

Mr Anthony John Robinson (advised by Mr William Redpath, solicitor) was called, made an affirmation and was examined.

Mr Robinson presented an extract from the report of the Joint Select Committee on Parliamentary Privilege of New South Wales.

The witness withdrew.

The committee deliberated.

At 2.05pm the committee adjourned until 8.00pm on Friday, 17 December 1993.

Confirmed.

CHAIRMAN



## COMMITTEE OF PRIVILEGES

### MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Friday, 17 December 1993  
(second meeting)

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr Price; Mr Quick

The meeting opened at 8.18pm.

#### Minutes

The minutes of the first meeting held on 17 December were amended and confirmed.

#### Correspondence

The Chairman presented a letter dated 17 December from Mr L.J. Scott, MP, Chairman of the Joint Committee of Public Accounts.

Resolved (on the motion of Mr Andrews)— That the letter be received as evidence.

#### Reference concerning Mr Sciacca

The committee deliberated.

At 9.34pm the committee adjourned until 11.00am on Saturday, 18 December 1993.

Confirmed.

CHAIRMAN

**COMMITTEE OF PRIVILEGES**

**MINUTES OF PROCEEDINGS**

Parliament House - Canberra  
Saturday, 18 December 1993

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleland; Mr Holding; Mr Lieberman; Mr MacKellar;  
Mr Price; Mr Quick

The meeting opened at 11.05am.

**Minutes**

The minutes of the second meeting held on 17 December were confirmed.

**Reference concerning Mr Sciacca**

The committee deliberated.

At 11.10am the committee adjourned *sine die*.

Confirmed.

**CHAIRMAN**

## COMMITTEE OF PRIVILEGES

### MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Tuesday, 21 December 1993

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr MacKellar; Mr Price; Mr Quick

The meeting opened at 3.11pm.

#### Minutes

The minutes of the meeting held on 18 December were confirmed.

The Chairman presented an extract from the *Votes and Proceedings*, No. 44 dated Friday 14 December 1993 concerning the appearance of Senator Parer.

#### Reference concerning Mr Sciacca

The committee deliberated. \_\_\_\_\_

The meeting was suspended from 3.15pm until 3.35pm  
\_\_\_\_\_

The Chairman presented a draft report.

Mr Cleeland moved that—

- (1) The Committee has concluded that as a result of the actions of Mr Robinson in causing ACT writ of summons SC617/93 to be issued and served on Mr Sciacca, Mr Sciacca has been constrained in the performance of his duties as a Member.
- (2) It is open to the Committee to make a finding of contempt on the basis that an action has amounted, or been likely to amount to, an improper interference with the free performance by a Member of a Member's duties as a Member. The Committee considers that it is open to it to make such a finding in respect of the actions of Mr Robinson, even though it accepts that Mr Robinson did not intend to commit a contempt. It seeks his further submission on this point before proceeding to complete it's report to the House.

Debated ensued.

Mr MacKellar moved as an amendment— That the following words be omitted—

"The Committee considers that it is open to it to make such a finding in respect of the actions of Mr Robinson, even though it accepts that Mr Robinson did not intend to commit a contempt."

and the following words substituted:

The question of improper interference is of central concern.

Debate ensued.

Mr Andrews moved as an amendment to the amendment— That the following words be omitted from the amendment—

"even though it accepts that Mr Robinson did not intend to commit a contempt"

Debate ensued.

Amendment to the amendment agreed to.

Amendment, as amended, agreed to.

Motion, as amended, agreed to viz.:

- (1) The Committee has concluded that as a result of the actions of Mr Robinson in causing ACT writ of summons SC617/93 to be issued and served on Mr Sciacca, Mr Sciacca has been constrained in the performance of his duties as a Member.
- (2) It is open to the Committee to make a finding of contempt on the basis that an action has amounted, or been likely to amount to, an improper interference with the free performance by a Member of a Member's duties as a Member. The question of improper interference is of central concern, even though it accepts that Mr Robinson did not intend to commit a contempt. It seeks his further submission on this point before proceeding to complete it's report to the House.

At 4.22pm the committee adjourned *sine die*.

Confirmed.

CHAIRMAN

## COMMITTEE OF PRIVILEGES

### MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Tuesday, 8 February 1994

**PRESENT:** Mr Sawford (Chairman); Mr Peacock; Mr Brown,  
Mr Cleeland; Mr Holding; Mr Lieberman; Mr McGauran;  
Mr MacKellar; Mr Quick; Mr Simmons

The meeting opened at 5.30pm.

#### Minutes

The minutes of the meeting held on 21 December were confirmed.

#### Reference concerning Mr Sciacca

The Chairman presented a letter dated 1 February 1994 from Mr W. Redpath.

Resolved (on the motion of Mr Cleeland) - That the committee agree to allow until the end of February to receive a further submission.

#### Reference concerning Public Accounts Committee

Resolved (on the motion of Mr Lieberman) - That Senator Parer be invited to give evidence at next the meeting.

---

At 5.45pm the committee adjourned until 11.00am, Thursday 24 February 1994.

Confirmed.

CHAIRMAN

## COMMITTEE OF PRIVILEGES

### MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Thursday, 3 March 1994

PRESENT: Mr Sawford (Chairman); Mr Peacock; Mr Andrews;  
Mr Brown, Mr Cleeland; Mr Holding; Mr Lieberman;  
Mr McGauran; Mr Quick; Mr Simmons; Mr Somlyay

The meeting opened at 9.05am.

#### Minutes

The minutes of the meeting held on 24 February were confirmed.

The Chairman advised the Committee that Mr A.M. Somlyay, MP, had been nominated by Dr M.R.L. Wooldridge, MP, Deputy Leader of the Opposition, to serve on the Committee.

#### Papers

The Chairman presented a letter dated 23 February from Mr Redpath, solicitor for Mr A. Robinson forwarding an opinion prepared by Mr John Dowd, QC, and Mr B. Connell.

Resolved (on the motion of Mr Cleeland) - That the submission be received as evidence.

#### Reference concerning Public Accounts Committee

The Committee deliberated.

#### Reference concerning Mr Sciacca

The Committee deliberated.

At 10.04 the committee adjourned until 11.00am, Thursday 24 March 1994.

Confirmed.

CHAIRMAN