House of Representatives

Committee of Privileges

Report concerning the execution of a search warrant on the electorate office of Mr E H Cameron, MP

OCTOBER 1995

MEMBERS OF THE COMMITTEE

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HON L S LIEBERMAN, MP

MR P J McGAURAN, MP[4]

HON L B McLEAY, MP

HON D W SIMMONS, MP

MR A M SOMLYAY, MP

1. Nominee of the Deputy Leader of the Opposition from 28 March 1995.
2. Appointed by the House to serve in place of Mr McGauran during consideration of the matter referred on 16 August 1995.
3. Nominee of the Leader of the House.
4. Mr McGauran was replaced by Mr Hicks during consideration of the reference of 16 August.

1. This reference arose from actions of officers of the Australian Federal Police in executing a search warrant on the electorate office of Mr E H Cameron, MP, Member for Stirling, on 26 July 1995.

2. On 28 July Mr Cameron wrote to the Speaker complaining about the matter and asking that it be referred to the Committee of Privileges (Attachment A). On 31 July the Speaker wrote back to Mr Cameron seeking more information on the matter (Attachment B). Mr Cameron provided additional information on 10 August (Attachment C). The Speaker concluded that it would be appropriate for him to refer the matter to the Committee of Privileges under the provisions of standing order 97A, which give the Speaker the power to refer matters to the Committee during long adjournment periods. On 16 August the Speaker wrote accordingly to the Chair of the Committee (Attachment D), referring the matter for the Committee's consideration in the following terms:

> Whether a contempt was committed in connection with the execution of a search warrant on the electorate office of Mr E H Cameron, MP on Wednesday 26 July 1995.

3. As required by standing order 97A, when the sittings resumed on 22 August 1995 the Speaker reported his decision to the House, which, on the motion of Mr Cameron, endorsed his action without debate (Attachment E). Although standing order 97A has operated since 1983, this was the first occasion on which the procedure had been used to refer a matter to the Committee.

The relevant parliamentary law

4. The House of Representatives has undoubted 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. Both House of Representatives Practice and May refer to a category of contempt under the heading of obstructing Members in the discharge of their duty, although neither work lists precedents relevant to the present matter.

5. 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.

This provision can be read as re-affirming the powers of the Houses in respect of contempt, but it also constitutes a limitation on the discretion they enjoy - in effect it sets a threshold before a finding of contempt can be made.

Precedents

6. The Committee is not aware of any instances in which the Committee of Privileges of either House of the Commonwealth Parliament or of the House of Commons has considered a matter on all fours with this reference. The closest example appears to be the Committee's June 1994 report concerning the disruption of mail services to Members' electorate offices. On that occasion the Committee was required to consider and report on bans placed by the Communication Workers' Union on the delivery to and dispatch of articles from the offices of Members. These bans arose in connection with a dispute between the union and the Government. A number of Members complained about the disruption caused to the work of their electorate offices. In particular, the point was made that citizens were, as a result of the bans, deprived of the right to contact their elected representatives. The Committee received evidence from Members and from the union in question. It reported that, although the actions complained of had resulted in disruption of the work of the electorate offices of a number of Members and had impeded the ability of constituents to communicate with Members, the actions complained of had not been taken with any specific intention to infringe the law concerning the protection of the Parliament. The Committee concluded that while the actions complained of were not acceptable and were to be deprecated, and that although it would be open to it to make an adverse finding, such a finding should not be made. Another case, which occurred before the enactment of the Parliamentary Privileges Act, concerned disruption caused to the electorate office of Mr Peter Coleman MP as a result of false advertisements placed in a major newspaper. The advertisements listed his electorate office telephone number, with the result that the work of his office was disrupted by a large number of telephone calls over a period of two to three days. On this occasion the Committee concluded that in the particular case a finding of contempt should not be made, although it stated that in different circumstances actions such as those complained of could be found to constitute contempts.

Conduct of the inquiry

7. In accordance with its practice, the Committee invited written submissions from Mr Cameron and from the Commissioner, Australian Federal Police. Submissions were duly received from Mr Cameron and Commissioner M J Palmer. Mr Cameron subsequently lodged a supplementary submission, and Commissioner Palmer was invited by the Committee to address certain additional matters. A further submission was received from the Australian Federal Police on 11 September 1995. On 26 October 1995, the Speaker, the Hon. Stephen Martin, MP, met with the Committee to discuss informally the general position of Members in respect of search warrants. Mr Cameron appeared before the Committee on 21 September 1995. The Committee also received a memorandum from the Clerk of the House (Attachment F). In addition, the Committee received correspondence from the President of the Senate on the matter.

Mr Cameron's evidence

8. The key points that the Committee drew from Mr Cameron's evidence were as follows:

- commencing at approximately 8.30 am on 26 July 1995 officers of the AFP entered his electorate office in Osborne Park, Western Australia. They were met by a staff member, Mr Gaspar, who advised that Mr Cameron was unavailable. The police officers read the search warrant (Attachment G) to Mr Gaspar. Mr Gaspar offered to telephone Mr Cameron so that the warrant could be read to him but was told this was not necessary;

- the officers showed Mr Gaspar four different facsimiles of which Mr Gaspar had seen one, and then proceeded to search the offices. Two other persons arrived, one of whom was a volunteer but the volunteer left because of the stress caused by the police search and the fact that she was prevented from doing her job;

- Mr Gaspar contacted Mr Cameron on his mobile phone to advise him of the matter, and Mr Cameron "advised him to give them full cooperation";

- certain disruption occurred in connection with a scheduled meeting of an Australia Remembers Committee, and a number of members of the media also arrived;

- the police asked that Mr Cameron's staff lock the office to prevent others entering and disturbing them;

- a number of areas of the office were searched and the facsimile machine was analysed and was inoperable for some time;

- the police copied, with permission, the hard disks of all computers in the office, and took away four back-up tapes and a number of 3½" floppy disks, and information held on these items included sensitive and confidential information about complaints against the AFP;

- during the copying of the material from computers staff were unable to work, and, during the whole raid, little work was done;

- the officers took away print-out samples from each printer, envelopes, envelope boxes, franking labels, facsimile machine print-outs and certain other material, they took photos of the layout of the offices and searched through filing cabinets, files and other material, briefcases and desks, and they interviewed four persons.

9. Mr Cameron stated that he had advised Mr Gaspar, after obtaining advice, to unlock the offices. He also said that some of the interviews were tape recorded, without the prior knowledge of the persons being interviewed, and he said that they had been told that the interviews were off the record, which he later found to be false. Mr Cameron also stated that one staff member recalled being told to admit to having committed a crime to save embarrassment. He also said that certain personal questions were asked of one staff member, which he regarded as a breach of privacy. Mr Cameron provided information as to subsequent interviews involving himself as well as staff members.

10. Mr Cameron also referred to certain matters which followed the searching of his office. In particular, he informed the Committee that he believed that many of his constituents feared visiting him, stating

> ...many of my constituents now fear visiting me, passing information on to me or seeking my assistance as a Member of Parliament because they fear any information they pass on to me may, in the future, be accessed by the police.

11. Mr Cameron gave as an example of this responses to a survey he was conducting concerning law and order issues. He presented the Committee with copies of forms bearing messages indicating the concern of people about the confidentiality of information that they may pass to him. He went on to say

> I am utterly concerned that the actions of the police have turned people, in need of assistance, away, not just from my office, but from any MP's office for fear of their contact not being confidential.

12. Mr Cameron also commented on the personal stress caused to staff members by the actions complained of, and the legal costs he had incurred. He also informed the Committee that he had been advised that the AFP investigation had been completed and that charges would not be laid.

Evidence from the AFP

13. The Committee summarises the key points in the submission dated 30 August 1995 from Commissioner Palmer as follows:

- on 15 June a senior AFP officer had received a telephone call from Senator Crichton-Browne to the effect that someone had threatened to disclose personal information designed to embarrass him and his family unless he resigned from office; the threats were said to be contained in a letter and facsimile messages, some of which had been passed to others in Canberra;

- Senator Crichton-Browne provided documents to the AFP, and these were examined by an officer of the Perth office of the Director of Public Prosecutions who was of the opinion that the content of the letter and the faxed messages may constitute offences under the Crimes Act;

- in light of the information supplied and prior to interviews taking place Telecom records were examined, and a search warrant was prepared in consultation with an officer of the DPP's Office who "was satisfied as to the validity of executing the search warrant and that, based on the results of the investigation and the documentary evidence provided to him, the issue of the warrant was justifiable";

14. Commissioner Palmer went on to state that the warrant was executed on Mr Cameron's office commencing at 8.34 am on 26 July. He stated that in order to minimise the inconvenience to the running of the office the search team consisted of four investigators assisted by three forensic personnel. The submission stated that the search concluded at 2.21 pm and that although Mr Cameron had not been present he did speak to the senior investigator by telephone at about 9.32 am, and that he was given an explanation of the reasons for the execution of the warrant. The Commissioner stated that Mr Gaspar had read part of the warrant to Mr Cameron over the phone (and see below). The submission stated further that the senior investigator had informed Mr Cameron of the difficulties being experienced in examining the data on the computers and that upon request he (Mr Cameron) "therefore gave his approval for the downloading of all computer files by copying on to tape or disk for subsequent examination at the AFP's regional office". Commissioner Palmer said that Mr Cameron was given an undertaking that only one person would examine the material and that it was possible to extract the material without physically examining each file. An undertaking was also given that the AFP disk containing the back-up material would be destroyed after the process had been completed, the Committee was advised. Commissioner Palmer provided a copy of an authorisation provided by Mr Gaspar for the copying of the records. Commissioner Palmer stated that with the exception of one tape containing certain evidence relating to the inquiry all tapes and disks were returned to Mr Cameron's office on 1 August.

15. The AFP submission stated that during the search one of the officers had asked Mr Gaspar to close the front door. Mr Gaspar had, the AFP stated, explained that he wanted the door left open to allow access by constituents but "accepted that the door be closed to prevent any interference with the search, to prevent members of the public becoming aware of police activity and to avoid any intrusion by the media". The submission went on to record that subsequently Mr Cameron telephoned his office to indicate that on advice the door was to remain open, and he instructed his staff to open the door. Commissioner Palmer stated that the AFP had no objection to this apart from concern regarding the media but that another person in the electorate office had insisted that the door remain closed and accepted responsibility for that course of action.

16. The AFP provided a copy of advice prepared by the DPP in response to alleged statements attributed by the media to Mr Cameron relating to the issues of privilege. The substance of the advice was that the execution of the search warrant at a Member's electorate office did not breach parliamentary privilege. Commissioner Palmer stated that the AFP was aware of the particular sensitivities of investigations concerning persons in occupations attracting privileged information, including Members of Parliament, and that the AFP was alert to the protocols applying to police inquiries in Parliament House. The submission stated "The sensitivities relating to the seizure of documents from a Member's electorate office were considered at the time the search warrant was prepared".

Evaluation of the evidence

17. The Committee would summarise Mr Cameron's evidence as follows: his office was subject to "severe disruption" during the course of the execution of the search warrant on 26 July, the effects of the disruption continued for a considerable period (Mr Cameron nominated four weeks in his supplementary submission) and in other respects the actions had had an ongoing effect (in terms of the perceptions held by some constituents as to their dealings with Mr Cameron's electorate office).

18. The Committee would summarise the AFP's position in the following terms: a senior officer received a complaint, documentary material was provided, AFP officers considered this material and received advice from the Perth office of the Director of Public Prosecutions, and consulted with an officer of the DPP in the preparation of the search warrant. The AFP's position is that the complaint and subsequent action were handled with an awareness of the sensitivities involved, but also with regard to the provisions of the law.

19. There are some conflicts in the evidence received. One example concerns the number of persons participating in the search - the AFP indicated that seven persons were involved, whereas Mr Cameron reported that his staff had counted eight persons. Further, Mr Cameron rejected the statement made in the AFP submission that "Mr Gaspar also read part of the warrant to Mr Cameron over the telephone", Mr Cameron stated that in fact Mr Gaspar had been reading material to another person. In addition, with regard to the issue of the copying of material from computers in the office, Mr Cameron stated that in granting permission for the provision of back-up tapes and the copying of hard drives, his staff were under the impression that they had no choice. Mr Cameron also disputed the AFP account concerning the closing of his office, stating that he had telephoned his office to advise them to unlock the front door, and that Mr Gaspar had done this immediately and that although another person had expressed concerns this other person had not insisted that it remain locked.

20. The Committee noted Mr Cameron's statements that he did not believe that the execution of the warrant by the AFP was improper, that he did not think that the police officers were motivated by anything other than the proper exercise of their duty or that they acted with any objective other than the proper issue of the warrant, stating "...I believe they acted completely properly...". He stated that although information in his files concerned complaints against the Australian Federal Police and that correspondence with the Ombudsman should lead him to ask for an apology from the AFP, he did not believe that the AFP actions in this matter were any sort of retaliation. Mr Cameron also acknowledged that consent had been given, albeit inadvertently, for the removal of data from his office. He also made it clear to the Committee that his complaint concerned the disruption of his office and that it had nothing to do with Senator Crichton-Browne.

21. Despite these areas of disagreement, the Committee considered that the key facts were not in dispute: that a group of investigators and forensic experts executed a search warrant on Mr Cameron's electorate office over several hours on 26 July, that certain material was examined and copied, and that for part of the time the operation of and access to the office was restricted.

Issues for determination

22. Having examined the evidence in connection with the actions complained of, the Committee then considered the issue of whether or not a contempt had been committed by any of those responsible.

23. The Committee notes that the House has the power to punish any action which, whilst it may not breach any particular right or immunity, is found to amount to improper interference with the free performance by the 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. The Committee is conscious of the care with which the House's power to punish contempts should be exercised. In particular, it considers that the breadth of the power to deal with contempts should not be used to achieve a *de facto* extension of the strictly limited scope of absolute privilege, the essential elements of which can only be changed by legislation.

24. Reports by the committee in cases concerning letters from Members to Ministers (those concerning Mr Nugent (1992) and Mr Sciacca (1994)) and its report concerning the disruption caused by industrial bans on the delivery of mail to electorate offices (1994) demonstrate its acceptance that in some circumstances a contempt could be committed even if the action complained of was not connected with "proceedings in parliament".

25. In this regard, the Committee has again considered the provisions of section 4 of the *Parliamentary Privileges Act 1987*, viz.:

> 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.

Background information on this section and comments on its meaning and application are provided in the Clerk's memo (Attachment F).

Critical questions

26. Turning to the present case, two questions arise in respect to section 4. The first is whether the maintenance and operation of an electorate office should be regarded as being encompassed by the term "the performance by a Member of the Member's duties as a Member". The second is whether the particular actions complained of should be regarded as constituting improper interference.

27. The Committee is not aware of any definition or authoritative statement as to what the term "Member's duties as a Member" means. As well as participating in "proceedings in Parliament" Members perform other tasks, including the provision of assistance and advice to constituents. In this they receive official recognition and assistance (in terms of the provision of office accommodation, facilities and staff support). Further, the Committee has had regard to the ordinary meaning of the word "duties", noting meanings include "that which one is bound to do by moral or legal obligation", and "action required by one's position or occupation; office; function..." (Macquarie Dictionary). The Committee considers that the maintenance and operation of electorate offices, while not legally imposed on Members, could be regarded as falling within the term "the performance of their duties as Members".

28. The second question is whether the actions complained of should be regarded as constituting improper interference. In this regard, if it is accepted that the execution of the search warrant on Mr Cameron's electorate office caused disruption to the work of the office, this could be regarded as interference in terms of clashing with or coming into opposition to the normal or ordinary operation or workings of the office. The Committee has no difficulty in accepting that the actions complained of amounted to interference. In considering the further question of whether this interference should be regarded as improper the Committee believes that regard should be had to whether there was evidence of unusual or inherently improper, wrongful or deceptive action on the part of those responsible, to their intentions and motives and to whether there were any unusual circumstances in connection with the actions complained of (in terms of what might normally be expected in connection with the execution of a search warrant). While, to

use his own words, Mr Cameron felt that the officers "...perhaps...went too far...", he did not argue that the officers acted improperly, and there was no evidence to this effect.

Findings

29. In light of the evidence presented to it, the Committee finds

(1) that the execution on the electorate office of Mr E H Cameron, MP on 26 July 1995 of a search warrant issued to a member of the Australian Federal Police caused disruption to the work of Mr Cameron's electorate office;

(2) that the execution of the search warrant did impede the ability of constituents to communicate with Mr Cameron and apparently had a prejudicial effect on the willingness of some persons to do so;

(3) that the disruption caused to the work of Mr Cameron's electorate office in connection with the execution of the search warrant amounted to interference with the free performance by Mr Cameron of his duties as a Member;

(4) that there is no evidence that the actions of the AFP officers involved in this matter were taken with any intention to infringe against the law concerning the protection of the Parliament; and

(5) that there is no evidence that the interference caused to the work of Mr Cameron's electorate office should be regarded as improper.

Conclusion

30. On the basis of its findings, the Committee has concluded that, although the work of Mr Cameron's electorate office was undoubtedly disrupted by the actions complained of, and although these actions amounted to interference in the free performance by Mr Cameron of his duties as a Member, this interference should not be regarded as improper interference for the purposes of s.4 of the *Parliamentary Privileges Act 1987.* Accordingly, the Committee concludes that no contempt was committed by the AFP officers involved.

The general issue

31. The Committee has also considered the general issue of the execution of search warrants on Members' electorate offices. It is no reflection on the AFP to note that the present reference has illustrated the extent to which the execution of a search warrant can disrupt the work of an

electorate office and unintentionally prejudice the role of a Member of Parliament in relation to his or her electorate or constituents. The Committee acknowledges that there is no parliamentary immunity which would exempt electorate offices from the execution of such search warrants. It recognises, however, that Members' electorate offices are vital to the performance of their duties as Members and are important to constituents. Members and their assistants are called upon to help in many matters, and they come into possession of much confidential and sensitive information. As an interim measure, the Committee considers that the proper operation of electorate offices, and the assistance and services provided to constituents, would justify the negotiation of an understanding (which would not impede the operations of the law enforcement authorities) between the Minister responsible for the AFP and the Speaker in respect of search warrants. Such an understanding would not create any immunity for Members, it would not seek to change the statutory provisions, but it would enable some ground-rules to be agreed (at least in so far as the AFP was concerned) so as to recognise the reasonable interests of Members and their constituents, particularly in respect of sensitive or confidential information which was not related to the subject matter of the warrant. It could, for example, be agreed that a "third party" be given custody of documents a Member wished to withhold, and that such documents could be held pending resolution of the Member's claim. The Committee therefore recommends that the House requests the Speaker to initiate discussions with the Minister for Justice with the objective of reaching such an understanding. The Committee would be very pleased to assist in this process. The President of the Senate, who has corresponded with the committee on this matter, could also be involved on behalf of the Senate. The Committee notes that the possibility of arrangements being negotiated in such a matter is not unprecedented - an agreement exists between the AFP and the Law Council of Australia in respect of searches of lawyers' offices and the premises of Law Societies.

ROD SAWFORD
Chairman

26 October 1995

PARLIAMENT OF AUSTRALIA  HOUSE OF REPRESENTATIVES

ATTACHMENT A

Eoin Cameron, MP

Federal Member for Stirling

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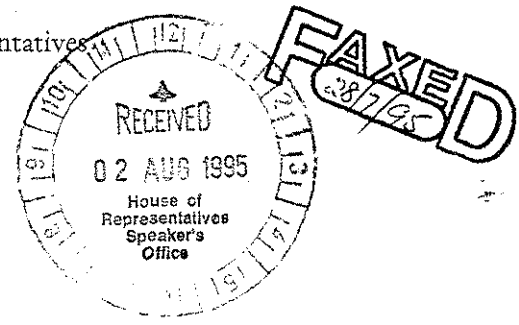
Osborne Park WA 6017
(Postal: PO Box 1414)
Phone: (09) 444 4699
Fax: (09) 242 5884
A/H: 015 191 980

The Hon Stephen Martin
Speaker of the House of Representatives
Parliament House
CANBERRA ACT 2600



Dear Mr Speaker,

I am writing on a matter of grave concern following a raid on my office by the Australian Federal Police on Wednesday, 26 July 1995.

The Police executed the attached Search Warrant at 8.30am on the above date. I was down south with my wife, my personal assistant was also on holiday, and at the time the police arrived, the only persons present were my research officer, Andrew Gaspar, and a volunteer.

The police read the warrant out to my research officer who asked them if they wanted to read it to me on the telephone. They refused the offer and said that my research officer could have it read to him.

Following the reading of the warrant, my staff gave the Police total cooperation.

The police seized various items from my office, and on the advice of others, I believe that this could be in breach of privilege.

In particular, the total duplication of all hard drives on every computer in the office took place. These computers contain complaints against the federal police, as well as correspondence between myself and constituents, which is of the utmost privacy. Words cannot express my outrage at the invasion of privacy on my constituents, at the disruption to my office, and therefore the way I perform as a Member of Parliament, by the raid and the confiscation of various items from my office, as well as the stress caused to my staff in the performance of their duties as officers of a Member of Parliament.

Another matter which disturbed me was that my staff were ordered to lock my office to keep constituents (and media) out. It was subsequently opened when I received advice from the Acting Clerk of the House of Representatives that the Police could not order that it be locked, however, I believe that them ordering that it be locked in

FAXED 28/7/95

the first place is cause for concern. A meeting for my Australia Remembers committee was arranged for that morning, and they were - to say the least - inconvenienced by the lock-out.

If you would like any further information, I or my staff can supply it verbally, or forward more details, however, I am concerned a breach of privilege may have occurred and in view of this, would like the matter referred to the Privileges Committee.

I look forward to your response.

Yours sincerely,

Eoin Cameron

28 July 1995

ATTACHMENT B

31 July, 1995

Mr E H Cameron MP
Member for Stirling
PO Box 1414
OSBORNE PARK WA 6917

FAX NO. (09) 242 5884

Dear Mr Cameron

Thank you for your letter of 28 July concerning actions by the Australian Federal Police in searching your electorate office on 26 July.

During an adjournment period I am able, under standing order 97A, to refer complaints to the Committee of Privileges. Two conditions must be fulfilled: I must be satisfied that a prima facie case of breach of privilege has been made out, and I must be satisfied that the matter is one upon which urgent action should be taken.

The question of whether a prima facie case has been made out is relevant to a complaint whether it is raised on a sitting day or during a long adjournment. On this aspect I believe that regard should be had to the provisions of section 4 of the *Parliamentary Privileges Act 1987*, which refers to improper interference with the free performance by a member of a member's duties as a member. While I do not question the gravity of this matter or the extent of your concerns, to help me to make a decision on this point, I would be grateful to receive any further information you may be able to provide as to whether there is anything to suggest that the actions complained of went beyond what might be proper actions by police officers in the investigation of alleged crimes.

I would also appreciate any comment you could provide on the question of urgency in so far as any possible reference to the Committee of Privileges is concerned.

Yours sincerely

Sgd STEPHEN MARTIN
Speaker

STEPHEN MARTIN

PARLIAMENT OF AUSTRALIA HOUSE OF REPRESENTATIVES

ATTACHMENT C

Eoin Cameron, MP
Federal Member for Stirling

402 Scarborough Beach Road
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(Postal: PO Box 1414)
Phone: (09) 444 4699
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A/H: 015 191 980

The Hon Stephen Martin, MP
Speaker of the House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Mr Speaker,

I am in receipt of your letter of 31 July 1995 and I thank you for your prompt reply.

I believe there are a number of areas where the raid on my office improperly interfered with my free performance as a Member in conducting my duties as a Member of Parliament.

My utmost concern is for the privacy of my constituents.

Just recently, I had constituents make representations to me where they brought in evidence relevant to their case, which my electorate officer photocopied. Prior to leaving, the constituents asked that when our representations cease, could we return all copies of their file so that I have no record in my office for fear of it being taken by the police. In other words, many of my constituents now fear visiting me, passing information onto me, or seeking my assistance as a Member of Parliament because they fear any information they pass on to me may, in the future, be accessed by the police. If constituents are now reluctant to access me as their Federal Representative, as a result of a police raid on my office, then obviously it seems the raid has interfered with my free performance as a Member to conduct my duties as a Member of Parliament.

Another example is concerned with a Law and Order survey I am conducting throughout my electorate. On the survey, I ask for the names of the respondents, however, a couple of respondents have replied that they will not provide their name because they fear their concerns may be held against them in view of the raid on my office. Indeed, responses to the request for one's name include "How can one leave one's personal details in your 'secure' office?" and "I would like to but in view of raids on your offices, I would feel unsafe in do doing, my apologies" and No, we don't want the Fed's around". As you can see, when constituents are discouraged by the actions of others from contacting their local Member of Parliament, then how on earth can that Member of Parliament conduct their duties freely.

Another example of my duties being interfered with is the locking of my office, during the day, to prevent constituents coming in the office while the Police were present. I respect the fact that the Police were exercising their duty by following up a complaint, however, the warrant gave them no right to keep constituents out of my office, for six and a half hours, during normal office hours. Having constituents prevented from visiting the office of their local member of Parliament is anathema to our democratic processes, and a prevention of the free performance by a member, to do the duties of a member. Similarly, telephone lines were cut off to enable my staff to cooperate with the Police, however, it prevented constituents from contacting my office and enabling my staff to do their job which is as much a breach as preventing me from doing my job.

I am also concerned at the taking of various floppy disks and backup tapes, as well as copying the hard disks off all the computers in my office. This has extremely confidential information on, as you would be aware, and while I appreciate the Federal Police have an investigation to coordinate, I cannot allow the private correspondence between myself and constituents, colleagues, Ministers, Departments, and others, policy information and campaign information to be taken simply because someone has alleged an offence has been committed. This will scare constituents into not contacting their Member of Parliament, it will also mean that if one has a gripe with a Member of Parliament, they can disrupt them by lodging a complaint with the Police. It has taken a good two weeks for my office to return to fully operative status since the raid.

Furthermore, on the computers are complaints against the Federal Police (one of which, they were forced by the Ombudsman to apologise to a constituent of mine), family law matters of a very confidential nature, complaints about the State Attorney General and complaints against the State Police Commissioner. I know that the Federal Police have communicated with the State Police in their investigations, and I am utterly concerned that such information could have been accessed and disseminated.

I reiterate that neither I, nor my staff, have committed an offence. Each of us are now being victimised by the Federal Police, perhaps because of circumstantial evidence, but with no substantial proof of any of us committing an offence, and as a result, my office has been awfully disrupted.

The raid has also caused extreme stress on myself, my staff, my volunteers, and our families. Myself and two staff members have had to go to the Doctor for stress

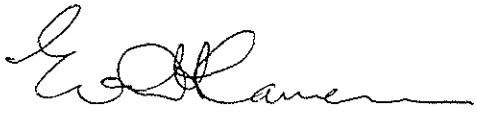
induced conditions, we have called in a professional counsellor and since the raid, not one of us have had a full night's sleep.

Since the raid, to cooperate with Police, and to return the office to normality, I have had to cancel scheduled constituent meetings, campaign meetings, reschedule a trip to Melbourne for a Conference of Parliamentary Environment Committees, cancelled my trip to K95, and if this is not an interference with the free performance by a member of the member's duties as a member, then an awful precedent has been set to disrupt the work of Members of Parliament.

I and my staff are scrupulously honest, yet we feel that the raid on the office has caused us to feel as though we have been violated and defamed. The subsequent interviews with the police have cast aspersions on our office, which saddens us greatly.

I feel this matter should be referred to the Privileges Committee, and ask that you do this at the earliest possible time. I will also be bringing the matter up in Parliament and referring it to the Minister for Justice and the Commonwealth Ombudsman.

Yours sincerely,



Eoin Cameron

10 August 1995
Ref:ASG95541

ATTACHMENT D

16 AUG 1995

Mr Rod Sawford
Chairman
House of Representatives Committee of Privileges
Parliament House
CANBERRA ACT 2600 Fax: (08) 240 0018

Dear Mr Sawford

On 28 July Mr E H Cameron, MP raised with me as a matter of privilege actions of the Australian Federal Police in searching his electorate office on 26 July 1995.

In order to help me make a decision as to whether or not I should refer the matter to the Committee of Privileges under standing order 97A, I wrote to Mr Cameron on 31 July seeking more information. On 11 August I received a further letter from Mr Cameron providing additional information.

I have concluded that it would be proper to refer Mr Cameron's complaint to your Committee as allowed by s.o 97A, and accordingly I refer the following matter for consideration by the Committee:

> Whether a contempt was committed in connection with the execution of a search warrant on the electorate office of Mr E H Cameron, MP on Wednesday, 26 July 1995.

Attached please find:

- copies of letters from Mr Cameron dated 28 July and 10 August 1995;
- copy of search warrant provided by Mr Cameron on 28 July;
- copies of faxes from Mr Cameron dated 7 and 14 August;
- copies of letters from me to Mr Cameron.

Yours sincerely

Sgd STEPHEN MARTIN
Speaker

STEPHEN MARTIN

ATTACHMENT E

[P R O O F]

PRIVILEGE

Mr SPEAKER: I wish to advise the House that on 28 July the honourable member for Stirling (Mr Cameron) raised with me as a matter of privilege actions of the Australian Federal Police in searching his electorate office on 26 July. Under standing order 97A, members are able to bring to the attention of the Speaker matters of privilege arising during the long adjournment periods. The Speaker is able to refer such matters to the House of Representatives Standing Committee of Privileges, provided that such referrals are reported by the Speaker at the next sitting. If the House endorses such a referral, the reference to the committee stands and the inquiry proceeds. If, of course, a referral is not supported, the committee of privileges can take no further action on such a matter.

In order to help me to make a decision as to whether to refer the member for Stirling's complaint to the committee, I wrote to him on 31 July seeking additional information. On 11 August I received further information from him. I concluded that it would be proper for Mr Cameron's complaint to go to the Committee of Privileges as allowed by standing order 97A. Accordingly, I referred the matter to the committee in the following terms: whether a contempt was committed in connection with the execution of a search warrant on the electorate office of Mr E. H. Cameron MP on Wednesday, 26 July 1995.

I present copies of letters from Mr Cameron dated 28 July and 10 August 1995; a copy of the search warrant provided by Mr Cameron on 28 July; copies of faxes from Mr Cameron dated 7 and 14 August; copies of letters from me to Mr Cameron; and a copy of a letter from me to the chair of the committee of privileges.

Motion (by **Mr Cameron**) agreed to:

That the reference of this matter to the Committee of Privileges by the Speaker be endorsed by the House.

PARLIAMENT OF AUSTRALIA
HOUSE OF REPRESENTATIVES

PARLIAMENT HOUSE
CANBERRA ACT 2600
TEL: (06) 277 4111
FAX: (06) 277 2006

OFFICE OF THE CLERK OF THE HOUSE

ATTACHMENT F

Mr Rod Sawford
Chairman
House of Representatives
Committee of Privileges
Parliament House
CANBERRA

INQUIRY CONCERNING MR CAMERON

The reference

On 15 August 1995 Mr Speaker referred this matter to the Committee in the following terms:

> Whether a contempt was committed in connection with the execution of a search warrant on the electorate office of Mr E.H. Cameron, MP on Wednesday, 26 July 1995.

It is interesting to note that although standing order 97A has existed since 1983 and although on a number of occasions Members have discussed informally concerns about possible contempts arising during longer adjournments, this is the first occasion on which the procedure has been used to refer a matter to the Committee. As required by the standing order, the Speaker reported his decision to the House when it met on 22 August, and the House endorsed his action.[1]

Summary

In summary, as I see it the following steps and questions commend themselves:

- discovery of the facts of the matter, including
  - any unusual circumstances surrounding the execution of the search warrant;
  - identification of the material removed from Mr Cameron's office and the reasons why it was removed.

- consideration of the intentions of the persons executing the search warrant and their knowledge of the implications of their actions;

- consideration as to whether there is evidence of wrongful, improper or deceptive action;

- consideration of whether the operation of a Member's electorate office should be regarded as being encompassed by the term "performance of his duties as a Member".

I believe, in summary, that it would be possible to conclude in certain circumstances that otherwise proper actions constituted improper interference in the operation of a Member's electorate office and amounted to a contempt.

The complaint

Judging from his letters to the Speaker the essence of the facts as alleged by Mr Cameron are as follows:

- from 8.30 am on Wednesday, 26 July 1995 Australian Federal Police officers executed a search warrant on his electorate office in Osborne Park, Western Australia;
- neither Mr Cameron nor his personal assistant was present although his research officer was, and staff present gave the police total cooperation;
- the officers took from his office floppy disks and back-up tapes, and "the total duplication of all hard drives on every computer in the office took place", this material containing among other things correspondence between Mr Cameron and constituents;
- his staff were ordered to lock his office "to keep constituents (and media) out", although it was opened following contact with the Acting Clerk of the House;
- the execution of the search warrant (apparently) took some 6½ hours;
- his phone lines were cut off during the search to enable the staff to cooperate with the police.

Mr Cameron has claimed that the search of his office has caused disruption to his office, and therefore to "the way I perform as a Member of Parliament, by the raid and the confiscation of various items from my office". In his letter dated 11 August he says that he believes "there are a number of areas where the raid on my office improperly interfered with my free performance as a Member in conducting my duties as a Member of Parliament".

Mr Cameron has stated that there have been indications that constituents have had concerns about passing material to his office or leaving it there because of the police search - "constituents are now reluctant to access me as their Federal Representative, as a result of the police raid...". He says that it took his office "a good two weeks" to regain fully operational status. Mr Cameron also says that neither he nor his staff have committed an offence, yet "each of us are now being victimised by the Federal Police, perhaps because of circumstantial evidence, but with no substantial proof of any of us committing an offence". He says that his office has been "awfully disrupted", and that the raid has caused extreme stress to himself, his staff, his volunteers and to their families, and that he and two staff members have had to seek medical advice for stress induced conditions.

Relevant law

It is not claimed that the work of Mr Cameron's electorate office enjoyed any absolute privilege, rather the complaint is cast in terms of interference with Mr Cameron's performance of his duties as a Member.

Contempt is defined in *May* as

> ...any act or omission which obstructs or impedes either House...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...[2]

Because the House of Commons had the power to punish for contempts at 1901, by virtue of section 49 of the Constitution, each House of the Commonwealth Parliament gained this power. More information on this matter is set out in *House of Representatives Practice*.[3]

There are now two pertinent points that can be made about the exercise of this power by the House. First, section 4 of the *Parliamentary Privileges Act 1987* imposes a significant qualification on the power by providing that conduct does not constitute an offence against a House (ie a contempt) unless it amounts or is intended or likely to amount to an improper interference with the free performance 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 (and see below). A further point is that it appears that in the House of Commons there have been no cases where complaints have been pursued in connection with disruption etc of Members in connection with their work with constituents and so on - it seems that in the House of Commons a connection with a Member's participation in the work of the House itself is seen to be necessary[4].

Relevant precedents

I am not aware of any exact precedent for the matter complained of, but the following instances may be of interest to the Committee:

Case involving Mr Coleman

In 1986 the Committee of Privileges reported on the disruption caused to a Member's electorate office as a result of false advertisements placed in the *Sydney Morning Herald*. The advertisements in question were placed in the *Sydney Morning Herald* on a Saturday and the work of Mr Coleman's electorate office was obstructed the following week because of the volume of phone calls received. The Committee of Privileges stated that the actions which gave rise to the calls were to be deprecated. It stated that harassment of a Member in the performance of his work as a Member by means of repeated or nuisance or orchestrated telephone calls could be judged a contempt. It referred to the reluctance to extend the ambit of the Parliament's penal jurisdiction, and recommended that further action would be inconsistent with the dignity of the House[5]. This case preceded the enactment of the *Parliamentary Privileges Act 1987*.

Case of Mr Lewis

In 1956 the House of Commons Committee of Privileges reported on a case involving a Mr Lewis[6]. Mr Lewis' private telephone number had been listed in a newspaper article highly critical of a question he had lodged. The article had said "if you agree with us, please don't write and tell him so. Ring Mr Lewis and tell HIM. His number is...". I mention this case because it concerned disruption "away from the House". The Committee was mindful that there was no precedent for a finding in respect of harassment of that kind, although it found

that the breach was serious. It commented that although it could not discover a similar case in the past this did not prevent a finding of contempt. It quoted with approval from an Appeal Court case where a judge had said "It is, I think, an error to attempt to draw up a closed list of the sort of cases in which the principle operates: such a list only provides instances of its general application, whereas what really matters is the principle itself and the proper application to the particular circumstances...". Although the Committee concluded that the editor was guilty of a breach of privilege, it received a full apology from him and recommended that no further action should be taken by the House. A key difference for present purposes is however that there was a direct connection with Mr Lewis' participation in proceedings of the House.

The *Parliamentary Privileges Act 1987*

The *Parliamentary Privileges Act 1987* is not a full codification of the law in respect of privilege or contempt, nor does it displace the link with the powers, privileges and immunities of the House of Commons as at 1901. Section 5 provides that, except to the extent that the Act expressly provides otherwise, the powers, privileges and immunities of the Houses and their members and committees in force under section 49 continue.

Section 4 of the 1987 Act is very important and it is relevant to the present reference. It states:

> 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.[7]

Little guidance is available on the application of the provisions of the section. The explanatory memorandum presented with the bill states:

> This clause provides that conduct does not constitute an offence against a House unless it amounts to an improper interference with a House, its committees or members. Such a provision was not recommended by the Joint Committee, but is thought to be a useful adjunct to clause 9, and together the two clauses will provide for review by the courts of any imprisonment of a person by a House (see notes on clause 9).[8]

I think it is clear from the background to the legislation that the provision was intended to impose a restriction on the great discretion that each House had enjoyed in the punishment of contempts up to that time. The 1987 Act was very largely concerned with implementing the recommendations of the 1984 report of the Joint Select Committee on Parliamentary Privilege and paragraph 15AB(2)(c) of the *Acts Interpretation Act 1901* allows such a report to be considered as an extrinsic aid in the interpretation of the Act. That report recommended the adoption of a "policy of restraint" in the exercise of the penal jurisdiction[9]. The Committee recommended the adoption of such a policy by means of a resolution of each House, so that each House, each Presiding Officer, each Committee of Privileges, and Members and Senators would need to have regard to this policy. Such an approach had been followed by the House of Commons for several years, having been recommended by a Select Committee on

Parliamentary Privilege in 1967. It is clear from the report of our own joint select committee that the recommendation was intended to help the Houses and their members by ruling out some of the more trifling or insubstantial areas of complaint. The Committee was also concerned with the protection of the rights of persons who may be involved in issues of contempt or breach of privilege, and the combined effect of s.4 and s.9 of the 1987 Act, and the purpose of other recommendations, was to confer certain rights on such persons. Such proposals were however balanced against the need to ensure that the Houses, their committees and Members had privileges, immunities and protections relevant and appropriate to the times.

There are two aspects of the section in particular which merit further consideration: the term "improper interference" and the term "free performance by a member of the member's duties as a member".

Improper interference

The Joint Select Committee recommended 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.[10]

Although this proposal has no direct connection with section 4 of the 1987 Act it is of interest. The terms fraud, intimidation and force, in particular, suggest that the committee may have seen actions which would be caught by the recommendation as having to be inherently improper or improper in themselves.

The actions involved in executing a search warrant could not, I believe, in normal circumstances 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, or elements in an action, constituted improper interference even if such actions were in themselves, or in ordinary circumstances, proper. In its consideration of complaints in respect of the initiation or threat of actions against Members in respect of letters to Ministers, the Committee has implicitly accepted that actions which may be proper in themselves (such as suing a person for defamation) could, in certain circumstances, amount to contempt[11]. Relevant factors in judging whether such an otherwise proper action could be found to be contempt would naturally depend on the circumstances, and, in particular, regard would need to be had to the intent or motivation of the person or persons involved, to the issue of whether they may have acted wrongfully, or deceptively or with reckless indifference and to their state of knowledge of the implications of their actions.

The following references from judgments[12] (taken from dictionaries of legal terms), while not concerning parliamentary matters, may be of assistance (emphasis added in each case):

- " 'Improper' really means '**wrongful**' - this is otherwise than by inevitable accident"[13].

- " 'improper' means what it has been understood to mean in this context for at least half a century. The adjective covers, but is not confined to, conduct which would ordinarily be held to justify disbarment, striking off, suspension from practice or other serious professional penalty. It covers **any significant breach of a substantial duty** imposed by a relevant code of professional conduct. But it is not in our judgment limited to that. Conduct which would be regarded as improper according to the consensus of professional (including judicial) opinion can be fairly stigmatised as such whether or not it violates the letter of a professional code."[14].

Free performance by a member of the member's duties as a member

The House has given us no guidance as to this term or as to what constitutes a Member's duties as a Member. It would seem to me that the first part of this phrase, (...free performance...) does not present particular difficulties. The literal interpretation of the term, in context, would seem to be properly characterised as meaning "independent" and "not subject to special regulation or restriction" - but not "unrestrained", "loose" or "informal"[15]: perhaps "unconstrained by improper means".

The term "member's duties as a member" is more difficult. The House has not defined it. Members clearly perform a wide range of tasks, from those unquestionably forming part of "proceedings in Parliament" (such as speaking in debates, asking questions, voting and participating in committee meetings), to participating in other parliamentary functions (delegations, for example), to party activities and to actions in their electorates or in connection with assistance to and representation of constituents[16].

The work of Members in these diverse activities is implicitly recognised in that official support is given by way of facilities etc. Nevertheless, in ordinary language "duties" has a different meaning to "tasks". The Macquarie Dictionary lists three relevant meanings[17]:

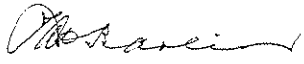
- "that which one is bound to do by moral or legal obligation"; and
- "the binding or obligatory force of that which is morally right; moral obligation";
- "action required by one's position or occupation; office; function...".

In the Herscu case in 1991 the High Court[18], in considering the application of an "anti corruption" provision of the Queensland Criminal Code stated, in respect of duties of office:

> In ordinary speech, "the discharge of the duties" of the holder of a public office connotes far more than performance of duties which the holder of the office is legally bound to perform: rather the term connotes the performance of the functions of that office. The functions of an office consist in the things done or omitted which are done or omitted in an official capacity. The phrase "being charged with the performance of any duty" thus means no more than being responsible for performing the functions of the public office. That phrase distinguishes the holder of a merely honorific public office from the holder of a public office responsible for the performance of official functions...[19]

While it would seem wrong to characterise Members as holders of public office (because they are not "officials"), in other respects they may be thought of as "holding office" - but as members of the legislature. As such, they perform functions which, although not legally imposed, may be characterised as "actions required by [their] position ". In this way, the maintenance of an electorate office, and the servicing of the needs of constituents, could be seen as falling within the performance of their duties as Members.

If the Committee is willing to accept this view it will still, no doubt, be alert to the dangers of allowing the flexibility enjoyed in respect of findings of contempt to allow a *de facto* extension of the scope of parliamentary privilege, when the Houses have made considered decisions, on the advice of a committee, to limit the scope of absolute privilege. This is not to say that findings of contempt should not be made in appropriate cases, but rather to underscore the difficulties that can arise in the exercise of the power to punish contempts.



L M BARLIN
Clerk of the House

31 August 1995

NOTES

[1] House of Representatives Debates (22 August 1995), p.1.
[2] *May*, Parliamentary Practice, 21st edn, p.115.
[3] *House of Representatives Practice*, 2nd edn, AGPS, 1989, pp 701-3.
[4] *May*, op. cit., pp. 115-129, esp. p.125.
[5] PP 282 (1986).
[6] HC 27 (1956-57).
[7] Act No. 21, 1987.
[8] Parliamentary Privileges Bill 1987, Explanatory Memorandum, p.3.
[9] PP 219 (1984).
[10] PP 219 (1984), p.136.
[11] Cases involving Mr Nugent and Mr Sciacca, for example.
[12] Words and Phrases legally defined, 3rd edn, supplement, Butterworths, 1994;
Stroud's Judicial Dictionary from which references at notes 13, 14 and 19 have been taken.
[13] Brett M.R., *The Warkworth*, 53 L.J.P.D. & A. 66.
[14] *Ridehalgh v Horsefield* [1994] 3 All ER 848 at 861-862 CA, per Sir Thomas Bingham M.R.
[15] Macquarie Dictionary, p.564.
[16] *House of Representatives Practice*, op. cit., pp 165-7.
[17] Macquarie Dictionary, p.564.
[18] from Words and Phrases legally defined, pp 63-4.
[19] *Herscu v R* (1991) 103 ALR 1 at 9, per Brennan J.

ATTACHMENT G

COMMONWEALTH OF AUSTRALIA

CRIMES ACT 1914: Section 3E

SEARCH WARRANT

To: Detective Sergeant Ivan White
a member of the Australian Federal Police, who is the executing officer in relation to this warrant;

AND TO any other constable whose name may be written on this warrant in accordance with section 3C(1) of the Crimes Act 1914, in which event that constable shall be the executing officer in relation to this warrant:

WHEREAS, I.....NORMAN LENNARD ROBERTS..... an issuing officer within the meaning of section 3E of the Crimes Act 1914, am satisfied by information on oath that there are reasonable grounds for suspecting that there is (or that there will within the next 72 hours be) at premises located at:

The Stirling Electoral offices of Mr Eoin Cameron, MP situated on the first floor at 402 Scarborough Beach Road, Osborne Park, Western Australia.

evidential material which satisfies ALL of the following THREE conditions, namely:

FIRST CONDITION: Things which are:

– originals or copies of any one or more of the following including any of them which are stored on magnetic or electric storage medium:

(a) documents concerning or forming part or all of facsimile transmissions from a facsimile machine attached to telephone number 09 242 5884 in Perth and sent to Parliament House in Canberra on telephone number 06 277 3108 on 27 March 1995 at or about 9.17am and 9.18am WST; to telephone number 06 277 3504 on 27 March 1995 at or about 10.26am WST; to telephone number 06 273 4120 at or about 11.55am WST; and to telephone number 06 277 3108 on 7 June 1995 at or about 11.24am WST;

(b) facsimile machine activity journals for the facsimile machine attached to telephone number 09 242 5884 covering the period 27 March 1995 to 7 June 1995 inclusive;

(c) details of the nature, type and font of facsimile machine header details printed by the facsimile machine attached to telephone number 09 242 5884 on out-going facsimile transmissions;

FAXED 28/7/95

(d) telephone account statements for telephone number 09 242 5884 for the dates 27 March 1995 and 7 June 1995;

(e) undated and unsigned correspondence addressed to "Senator Noel Crichton-Browne, Wife Basher and Senator for Western Australia" and sent on or about 2 April 1995;

(f) documents forming part or all of a facsimile transmission from the facsimile machine attached to telephone number 09 242 5884 and sent to the WA State Attorney General, Ms Cheryl Edwards on or about 4 April 1995, being an amended copy of the abovementioned undated and unsigned correspondence;

(g) incoming and/or outgoing correspondence register for letters and/or facsimiles;

(h) postage paid envelopes;

(i) self adhesive addressee labels;

(j) employee records for the period 27 March to 7 June inclusive;

SECOND CONDITION: **Things which relate to any one or more of the following:**

(a) Eoin Cameron;

(b) Warren Gillespie;

(c) Andrew Gaspar;

(d) Ryan Cameron:

THIRD CONDITION: **Things as to which there are reasonable grounds for suspecting that they will afford evidence as to the commission of the following offences against the laws of the Commonwealth:**

(1) That on or about 27 March 1995, 2 April 1995, 4 April 1995 and 7 June 1995 any or all of the abovenamed persons wrote and/or sent facsimile transmissions and/or letters conveying threats or intimidation to hinder or interfere with the free exercise or performance by Senator Noel Crichton-Browne of his political right or duty in an effort to influence him to resign or withdraw from preselection or to withhold his nomination as a Senator within the Liberal Party, contrary to Section 28 of the Crimes Act 1914.

(2) That on or about 27 March 1995 and 7 June 1995 any or all of the abovenamed persons did knowingly or recklessly use a telecommunications service supplied by a carrier to menace or harass Senator Noel Crichton–Browne in that they wrote and/or sent facsimile transmissions in an effort to influence him to resign or withdraw from preselection or to withhold his nomination as a Senator within the Liberal Party, contrary to Section 85ZE(a) of the Crimes Act 1914.

(3) That on or about 27 March 1995, 4 April 1995 and 7 June 1995 any or all of the abovenamed persons did knowingly or recklessly use a telecommunications service supplied by a carrier in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive in that they wrote and/or sent facsimile transmissions in an effort to influence Senator Crichton–Browne to resign or withdraw from preselection or to withhold his nomination as a Senator within the Liberal Party, contrary to Section 85ZE(b) of the Crimes Act 1914.

(4) That on or about 2 April 1995 any or all of the abovenamed persons did knowingly or recklessly use a postal service supplied by Australia Post to menace or harass Senator Noel Crichton–Browne in that they wrote and/or sent a letter to Senator Crichton–Browne in an effort to influence him to resign or withdraw from preselection or to withhold his nomination as a Senator within the Liberal Party, contrary to Section 85S(a) of the Crimes Act 1914.

(5) That on or about 2 April 1995 any or all of the abovenamed persons did knowingly or recklessly use a postal service supplied by Australia Post in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive in that they wrote and/or sent a letter to Senator Crichton–Browne in an effort to influence Senator Crichton–Browne to resign or withdraw from preselection or to withhold his nomination as a Senator within the Liberal Party, contrary to Section 85S(b) of the Crimes Act 1914.

I HEREBY AUTHORISE the executing officer, any person assisting who is a constable, and any other person who has been authorised by the executing officer to assist in executing this warrant, to do all of the following;

- to enter the said premises;
- to search for and record fingerprints found at the premises and to take samples of things found at the premises for forensic purposes;

FAXED 28/7/95

- to search the premises for any evidential material that satisfies ALL of the THREE conditions specified above and to seize any such evidential material that may be found;

- to seize any other thing found at the premises in the course of the search that the executing officer or the person assisting believes on reasonable grounds to be:
  - evidential material in relation to an offence to which this warrant relates; or
  - evidential material in relation to another offence that is an indictable offence;

  if the executing officer or the person assisting believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence; and

- to seize any other thing found at the premises in the course of the search that the executing officer or the person assisting believes on reasonable grounds to be a thing that would present danger to a person or that could be used to assist a person to escape from lawful custody.

AND, by virtue of Division 2 of Part 1AA of the Crimes Act 1914, in executing this warrant:

- **the executing officer may obtain such assistance as is necessary and reasonable in the circumstances;**

- **the executing officer, and any person assisting who is a constable, may use such force against persons or things as is necessary and reasonable in the circumstances; and**

- **any person who has been authorised by the executing officer to assist in the execution of this warrant, but who is not a constable, may use such force against things as is necessary and reasonable in the circumstances;**

and the executing officer and a person assisting may exercise such other of the powers available under Division 2 of Part 1AA of that Act as are appropriate in the circumstances of the case.

THIS WARRANT MAY BE EXECUTED BETWEEN THE HOURS OF 7.00AM AND 7.00PM.

THIS WARRANT REMAINS IN FORCE FOR A PERIOD OF SEVEN DAYS.

GIVEN under my hand at Perth
in the said State of Western Australia this

.....25..... day of.....July..... 1995.

.....M. L. Roleanto.....

A Magistrate (or Justice of the Peace or other as appropriate)
In and for the State of Western Australia.

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra
Thursday, 24 August 1995

PRESENT: Mr Sawford (Chairman), Mr Andrews; Mr Atkinson; Mr Brown; Mr Cleeland, Mr Hicks, Mr Holding; Mr Lieberman; Mr Somlyay.

The meeting opened at 11.33 am.

Minutes

The minutes of the meeting held on 2 March 1995 were confirmed.

Membership

The Chairman reported the appointment of Mr Hicks to serve on the committee during the consideration of the reference concerning Mr Cameron, in place of Mr McGauran.

Reference concerning Mr Cameron, MP

The committee deliberated
Mr Cleeland informed the committee that his daughter was a member of the Australian Federal Police.
Resolved (on the motion of Mr Somlyay) - That
1) Mr Cameron be invited to lodge a submission in connection with the reference.
2) the Commissioner of the Australian Federal Police be invited to lodge a submission in connection with the reference.
3) the Clerk be invited to provide a memorandum on the matter.

At 12.16 the committee adjourned until 11.30 am, Thursday, 31 August 1995.

Confirmed

CHAIRMAN

Resolved (on the motion of Mr McLeay) - That the Commissioner of the Australian Federal Police be invited to make a written submission concerning the practice and procedure of the Australian Federal Police in respect of the use of search warrants insofar as Members of Parliament, Ministers, members of the judiciary and other citizens were concerned, and that the Australian Federal Police be informed that the Committee may invite representatives to give oral evidence on these matters.

The Committee deliberated.

Resolved (on the motion of Mr Cleeland) - That the Clerk be asked to prepare advice for the Committee concerning the position of Members in respect of search warrants, how Members could claim privilege in respect of sensitive or confidential material that may be held in their offices, and the ways in which the legislation could be amended to enable Members to claim privilege in certain circumstances in such matters.

Resolved (on the motion of Mr Lieberman) - That the Clerk's advice also include reference to any other issues in respect of the Committee's consideration of the present reference.

The Committee deliberated.

Resolved (on the motion of Mr McLeay) - That the Committee authorises the publication to Mr Cameron of the submission received from the Commissioner of the Australian Federal Police.

At 12.28 the committee adjourned until 11.30 am, Thursday, 21 September 1995.

Confirmed

CHAIRMAN

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra
Thursday, 31 August 1995

PRESENT: Mr Sawford (Chairman), Mr Andrews; Mr Atkinson; Mr Brown; Mr Cleeland, Mr Hicks, Mr Holding; Mr Lieberman; Mr McLeay; Mr Simmons; Mr Somlyay.

The meeting opened at 11.34 am.

Minutes

The minutes of the meeting held on 24 August 1995 were confirmed.

Extract from Votes & Proceedings

The Chairman presented extracts from the *Votes & Proceedings:*

(a) of 22 August conveying the terms of the resolution of the House on the reference concerning Mr Cameron; and
(b) of 23 August concerning the appointment of Mr Hicks to serve on the committee during the consideration of the reference concerning Mr Cameron, in place of Mr McGauran.

Reference concerning Mr Cameron, MP

The Chairman presented

- a submission dated 29 August 1995 from Mr Cameron;
- a submission dated 30 August 1995 from the Commissioner, Australian Federal Police.

Resolved (on the motion of Mr Atkinson) - That the submissions be received as evidence.

The Chairman presented a memorandum dated 31 August 1995 from the Clerk of the House on the reference.

The committee deliberated.

Resolved (on the motion of Mr Cleeland) - That Mr Cameron be invited to give oral evidence to the Committee, at an *in camera* hearing, in accordance with the practice of the Committee.

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra
Thursday, 21 September 1995

PRESENT: Mr Sawford (Chairman), Mr Andrews; Mr Atkinson; Mr Brown; Mr Cleeland, Mr Hicks, Mr Holding; Mr Lieberman; Mr McLeay; Mr Simmons; Mr Somlyay.

The meeting opened at 11.34 am.

Minutes

The minutes of the meeting held on 31 August 1995 were confirmed.

Reference concerning Mr Cameron, MP

The Chairman presented

- a supplementary submission dated 20 September 1995 from Mr Cameron;
- an additional submission from the Australian Federal Police.

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

The Chairman presented a briefing paper on the issue of search warrants and a letter dated 11 September 1995 from the President of the Senate.

Mr E H Cameron, MP (accompanied by Mr A Gaspar of his office) was called, sworn and examined.

Mr Cameron presented copies of four survey forms distributed in his electorate.

The witness withdrew.

The committee deliberated.

At 1.26 pm the committee adjourned until 11.30 am, Thursday, 28 September 1995.

Confirmed

CHAIRMAN

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra
Thursday, 28 September 1995

PRESENT: Mr Sawford (Chairman), Mr Andrews; Mr Atkinson; Mr Brown; Mr Cleeland, Mr Hicks, Mr Holding; Mr Lieberman; Mr Simmons; Mr Somlyay.

The meeting opened at 11.38 am.

In the absence of Mr Sawford, Mr Andrews, Deputy Chairman, took the Chair.

Minutes

The minutes of the meeting held on 21 September 1995 were confirmed.

Reference concerning Mr Cameron, MP

The Committee deliberated.

Resolved (on the motion of Mr Simmons) - That in respect of the complaint

- no contempt had been committed, but that the actions of the Australian Federal Police had disrupted the work of Mr Cameron's electorate office, impeded the ability of constituents to communicate with their local member and prejudiced their willingness to do so;

- the actions of the Australian Federal Police had not been taken with any specific intention to infringe against the law concerning the protection of the Parliament.

The committee deliberated.

At 12.38 pm the committee adjourned until 11.30 am, Thursday, 19 October 1995.

Confirmed

CHAIRMAN

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

Parliament House - Canberra
Thursday, 19 October 1995

PRESENT: Mr Sawford (Chairman), Mr Andrews; Mr Atkinson; Mr Brown; Mr Cleeland, Mr Hicks, Mr Holding; Mr Lieberman.

The meeting opened at 11.34am.

Minutes

The minutes of the meeting held on 28 September 1995 were confirmed.

Reference concerning Mr Cameron, MP

The Committee deliberated.

The Chair presented a draft report.

Paragraphs 1-18 agreed to.
Paragraph 19 amended and agreed to.
Paragraphs 20-30 agreed to.

The Committee deliberated.

At 12.42 pm the Committee adjourned until 11.30 am, Thursday, 26 October 1995.

Confirmed

CHAIRMAN