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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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THE SENATE

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THIRTIETH REPORT  
FROM THE STANDING COMMITTEE  
ON REGULATIONS AND ORDINANCES

(Being the Second Report of the 1970 Session,  
and the Thirtieth Report since the formation  
of the Committee)

PERSONNEL OF COMMITTEE

Chairman:

Senator I.A.C. Wood

Members:

Senator J.L. Cavanagh  
Senator G.S. Davidson  
Senator D.M. Devitt  
Senator I.J. Greenwood  
Senator A.G.E. Lawrie  
Senator J.M. Wheeldon

FUNCTIONS OF COMMITTEE.--Since 1932, when the Committee was first established, the principle has been followed that the functions of the Committee are to scrutinize regulations and ordinances to ascertain-

- (a) that they are in accordance with the statute;
- (b) that they do not trespass unduly on personal rights and liberties;
- (c) that they do not unduly make the rights and liberties of citizens dependent upon administrative rather than upon judicial decisions;
- (d) that they are concerned with administrative detail and do not amount to substantive legislation which should be a matter for parliamentary enactment.

SENATE STANDING COMMITTEE ON REGULATIONS AND  
ORDINANCES

THIRTIETH REPORT OF THE COMMITTEE

The Senate Standing Committee on Regulations and Ordinances has the honour to present its Thirtieth Report to the Senate.

Norfolk Island Ordinance, 1969, No.8

Health Ordinance 1969

2. The Committee has been concerned with Sections 24.(2)(c)(i) and 24.(4.) of this Ordinance, which read as follows:

"24.(2) for the purpose of enforcing the regulations, a health inspector may, at any reasonable time, enter on and inspect any land or premises and do all or any of the following things:-

. . . . .

(c) in the case of a hairdressing establishment -

(i) remove from the establishment for examination anything (other than a fixture) that in his opinion has been, is being, or may be used in connexion with the business of the establishment"; and

"24.(4.) A health inspector who, under sub-paragraph (i) of paragraph (c) of sub-section (2.) of this section, removes anything from a hairdressing establishment shall cause it to be returned within fourteen days after its removal, unless it is required for use in connexion with a prosecution for an offence under the regulations."

3. It appears to the Committee that these sections would allow a health inspector to remove from a hairdressing establishment anything whatsoever and to keep it for a period of fourteen days. This could have the effect of closing down the establishment for that period, and the owner of the establishment would have no right of recovery or redress

under the terms of the Ordinance.

4. The Committee believes that the Ordinance should set out the circumstances in which the health inspector is to use the above - mentioned powers and the objects which he may remove from a hairdressing establishment.

5. The Committee appreciates that it is unlikely that a health inspector, acting reasonably, would in reality take action of the kind envisaged in paragraph 3. However, the Ordinance confers a power which in the opinion of the Committee exposes individuals to the danger of arbitrary interference with their rights and liberties, and therefore offends against the principles which the Committee has always upheld.

6. For these reasons, the Committee recommends the disallowance of the proposed new sections 24.(2.)(c)(1) and 24.(4.) of the Norfolk Island Health Ordinance, as contained in Section 4 of Norfolk Island Ordinance 1969, No.8, made under the Norfolk Island Act 1957-63

Regulations and Ordinances Committee Room,  
Tuesday, 21 April, 1970.

IAN WOOD  
CHAIRMAN