



**House of Representatives
Committee of Privileges**

**Report concerning the unauthorised disclosure of the report
by the House of Representatives Standing Committee on Economics,
Finance and Public Administration**

June 1999

The Parliament of the Commonwealth of Australia

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Canberra

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Membership of the Committee

Chair Hon A M Somlyay MP

Deputy Chair Mr R W Sawford MP

Members Mr K J Andrews MP

 Mr M Danby MP

 Hon D F Jull MP

 Hon L B McLeay MP

 Mrs M A May MP

 Mr P C Neville MP

 Mr R C G Sercombe MP

 Dr A J Southcott MP

 Mr R McClelland MP

Committee Secretariat

Secretary Mr David Elder

Research Officer Ms Catherine Cornish

Administrative Officer Ms Celeste Italiano

The complaint

- 1.1 On 22 March 1999 Mr Martin raised in the House a matter of privilege under standing order 346. He stated that in a newspaper published that morning, and in a radio program broadcast that morning, recommendations of the report of the Standing Committee on Economics, Finance and Public Administration entitled *Regional banking services: money too far away* were given 'fairly accurate and extensive coverage' before the report was presented to the House later that day.
- 1.2 The Speaker, on 23 March 1999, indicated that, in the first instance the committee itself must:
- consider whether in its opinion, the matter has caused or is likely to cause substantial interference with its work, with the committee system or with the functioning of the House; and
 - take whatever steps it could to ascertain the source or sources of any disclosure.
- 1.3 The Speaker asked the committee to inform the House of the results of its considerations, and, if it concluded that substantial interference had occurred, it should explain why it had reached this conclusion. On 24 March 1999, the Chair of the Standing Committee on Economics, Finance and Public Administration, Mr Hawker, reported to the House that, despite inquiries of staff and members of the committee, the committee had not been able to identify the source of the disclosure. Mr Hawker also advised that the committee had resolved that the disclosure did not constitute a substantial interference with its work but that it did constitute a substantial interference with the committee system. He stated that the actions brought into question the public credibility of the committee and the committee system and put at risk the bipartisan cooperation that the committee and others enjoyed and demand for their effective functioning.

- 1.4 On 25 March 1999 precedence was given to a motion to refer this matter to the Committee. Mr Hawker presented to the House a copy of the article from the *Financial Review* of 22 March 1999 and a copy of the transcript of the AM program of that day. The following motion was moved by Mr Hawker and agreed to:

That the following matter be referred to the Committee of Privileges for inquiry and report: Whether there was an unauthorised disclosure of the *Regional banking services: Money too far away* report of the Standing Committee on Economics, Finance and Public Administration.

Relevant law and practice

- 1.5 House of Representatives standing order 346 provides:

- (a) A committee or subcommittee shall have power to authorise publication of any evidence given before it or any document presented to it.
- (b) The evidence taken by a committee or subcommittee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, shall not, unless authorised by the House or the committee or subcommittee, be disclosed or published to any person other than a member or officer of the committee.

Provided that a committee may resolve to:

- (i) publish press releases, discussion or other papers or preliminary findings for the purpose of seeking further input to an inquiry; or
- (ii) divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry.

- 1.6 House of Representatives Practice states:

... the publication or disclosure of evidence taken in camera, of private deliberations and of draft reports of a committee before

their presentation to the House, have been pursued as matters of contempt ...¹

Unauthorised disclosure of a committee report may be found by the House to be a contempt, that is:

... any act or omission which obstructs or impedes ... (it) ... in the performance of its functions, or which obstructs or impedes any Member or officer ... in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results ... even though there is no precedent of the offence.²

However, section 4 of the *Parliamentary Privileges Act 1987* poses a qualification against which possible contempts must be judged:

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

- 1.7 The Committee invited the Chair of the Standing Committee on Economics, Finance and Public Administration and the complainant, Mr Martin, to make a written submission on the matter. In addition, the Clerk of the House of Representatives provided a memorandum to the Committee, a copy of which is at **Appendix A**. The Clerk's memorandum set out the relevant standing orders and practice, the issues, and relevant precedents considered by the Committee.

Evidence received

- 1.8 A written submission was received from Mr Hawker on 1 June 1999, in response to the Committee's invitation (copy at **Appendix B**).
- 1.9 The main points made by Mr Hawker were that:
- on 24 March the matter was considered by the whole committee (with the exceptions of Mr Somlyay and Dr Southcott, as members of the Committee of Privileges) and secretariat staff;

1 *House of Representatives Practice*, 3 ed., p. 706.

2 *Ibid.*, p. 696 and *May*, p.115.

- the secretary to the committee advised that she had spoken to all staff and been informed they had no knowledge of how the disclosure had occurred;
 - members indicated they had no knowledge of how the breach occurred;
 - the previous secretary to the committee advised Mr Hawker he had no such knowledge;
 - the committee decided not to approach the journalists concerned as it believed they would claim their sources were confidential;
 - the committee concluded that the Chair would report that the disclosure had not interfered with the committee's work but that it did constitute substantial interference with the committee system; and
 - no further evidence had come to the attention of the Chair.
- 1.10 Mr Martin wrote to the Committee on 9 April 1999 and advised of his concern that the standing orders of the House appeared to have been deliberately breached with the release of detailed information about the committee's report; this was one of the most serious breaches he had seen (copy at **Appendix C**).
- 1.11 The Committee determined not to investigate the matter further as, in the circumstances, it did not consider any further investigation would have altered the Economics, Finance and Public Administration Committee's assessment of the seriousness of the matter or have revealed the source of the disclosure.

Findings

- 1.12 The Committee finds that a person or persons with access to the information disclosed such information concerning the report of the Standing Committee on Economics, Finance and Public Administration without authorisation. If such person or persons acted deliberately, then he or she (or they) were guilty of a serious breach of the prohibitions. The Committee views such unauthorised disclosures very seriously as they, in the words of a predecessor Committee 'display an offensive disregard for the committee itself and others associated with it, and ultimately a disregard for the rules and conventions of the Houses'. Unfortunately, it has not been possible to ascertain the identity of the person or persons responsible on this occasion.

Recommendation

- 1.13 The Committee is unable to make any recommendation on the particular matters complained of, although in the sections that follow it reiterates proposals made by a predecessor Committee for the consideration of the House. The Committee's hope is that these proposals will assist in any future cases of a similar nature.

The general issue

- 1.14 In May 1994 the Committee reported on the unauthorised disclosure of information regarding the Joint Committee of Public Accounts (the 1994 report). The report outlined the major issues and concerns arising from such disclosure of committee proceedings and evidence. These concerns remain relevant and are therefore repeated. They comprise:
- the need to ensure that the ability of a particular committee to gather evidence, sometimes on sensitive matters, is not damaged;
 - that efforts by a committee to reach agreement on a matter are not made more difficult by premature disclosure of evidence, draft reports, or the detail of discussions. Such disclosure can, as well as destroying the trust between members of a committee, expose committee members to representations and pressures additional to those arising in the course of the normal inquiry process; and
 - that continuing unauthorised disclosures can harm the committee system itself. For example, if it becomes clear that evidence or material presented to parliamentary committees may not be held in confidence, then witnesses and prospective witnesses may become more reluctant to participate in committee inquiries.
- 1.15 In the 1994 report it was acknowledged that difficulties can be faced in ascertaining the source of such disclosures: those who make them are unlikely to identify themselves and media representatives are likely to claim that under their professional code of ethics they are unable to reveal their sources. The Committee noted that neither House has accepted the existence of such a code or convention. It also noted that while the present rules remained the House should be prepared to act against Members or others responsible for disclosure – should they be identified. These are the person(s) most culpable. Where necessary, the Committee added, the Houses should be willing to proceed against those who knowingly publish the material.

- 1.16 In the May 1994 report the Committee also endorsed steps followed by Speakers McLeay and Martin – requiring that committees from which there had been unauthorised disclosure should consider the matter themselves to seek to ascertain the source of the disclosure and to reach a conclusion as to whether substantial interference has occurred.
- 1.17 The Committee in 1994 recommended changes to the arrangements then in place. It proposed that the House formalise the procedures which had been followed, by adopting a detailed resolution covering the main elements, and by arguing that committees which suffered from unauthorised disclosure should themselves present written reports to the House on these matters, after giving them careful and thorough consideration.
- 1.18 In March 1995 the Committee’s predecessor presented a report on the authorised publication of information concerning an inquiry by the Standing Committee on Environment, Recreation and the Arts (the 1995 report). In that report, after endorsing the 1994 report, the Committee repeated that the problem is essentially one for the committees in question. Accordingly it proposed further changes which, while acknowledging the justification for the prohibitions on unauthorised disclosure of certain information concerning committee inquiries, recognised the importance of the resolution of issues by the committee concerned.
- 1.19 As they do not appear to have been implemented in their entirety, the Committee again recommends that these changes be implemented. These were that:
- all new Members, together with all new staff members who may be involved with committee inquiries, should be informed as to the rules against unauthorised disclosure of committee information;
 - applicants for press gallery passes should also be informed of the rules in these matters, and consideration should be given to having passes incorporate reference to the rules including the possibility that a pass may be withdrawn for a period for contravention of these rules;
 - consideration should be given to the use of stamps in appropriate places on certain documents to indicate that they should not be published without a check to ascertain whether publication has been authorised;
 - as well as being required to present written reports concerning their conclusions and actions in connection with claims of the unauthorised disclosure or publication of committee material, committees should be required to spell out precisely what facts constitute substantial

interference and also to spell out precisely what has led them to conclude that substantial interference has occurred (if this is their conclusion); they should be required to spell out the benefits they see in further action on the matter, such as reference to the Committee of Privileges, and they should be required to comment on the prospects that the source(s) will be discovered; and

- in considering complaints in this area, and notwithstanding the provisions of standing order 96, the House in addition require that the Speaker should not allow precedence to a motion on such a matter unless, in the light of the information presented to the Speaker, he or she is of the opinion:
 - ⇒ that there is sufficient evidence that will enable the Committee of Privileges to ascertain the source or sources of the disclosure(s); or
 - ⇒ that there are special circumstances in the matter such that the protection of the committee system, or the protection of committee sources or witnesses are such as would warrant reference to the Committee of Privileges.

1.20 To give effect to the fourth and fifth points of the proposed changes a draft resolution is at **Appendix D**.

Recommendation

1.21 **The Committee recommends that the House adopt the resolution at Appendix D of this report at the earliest opportunity.**

1.22 In summary, the Committee notes that this case again highlights the difficulties of resolving matters surrounding the unauthorised disclosure and publication of committee material and demonstrates that these matters are best assessed, in the first instance, by the committee concerned. The Committee again asks that the House adopt procedures that would place the initial onus to assess an unauthorised disclosure or publication concerning a committee on the committee itself. It would also give the Speaker discretion to determine whether precedence should be given to a motion to refer the matter to the Committee of Privileges.

HON A M SOMLYAY MP
Chairman

28 June 1999



Appendix A

Clerk's Memorandum

INQUIRY CONCERNING THE STANDING COMMITTEE ON ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION

Memorandum by the Clerk of the House of Representatives

THE REFERENCE

On 25 March the House referred to the Committee the following question:

Whether there was an unauthorised disclosure of the 'Regional banking services: Money too far away' report of the Standing Committee on Economics, Finance and Public Administration.

This matter was first raised by Mr Martin on 22 March. On 23 March the Speaker indicated that, in the first instance, the Committee should examine the matter to consider whether substantial interference had occurred and that it should take steps to try to ascertain the source of any disclosure. On 24 March Mr Hawker, Chair of the Committee, reported that, despite inquiries of staff and members, the Committee had not been able to identify the source. He also advised that the committee had resolved that the disclosure did not constitute a substantial interference with its work but that it did constitute a substantial interference with the committee system.

On 25 March precedence was given and Mr Hawker moved the motion quoted above.

Copies of a report in the *Financial Review* of 22 March 1999 and of a transcript of a radio program are attached at **A** . Relevant Hansard extracts are at **B** .

TASK BEFORE THE COMMITTEE

The Committee's responsibility is to consider the reference and report to the House on it.

Presumably, it will want to ascertain, or confirm, the facts of the matter and to reach conclusions, having regard to the relevant practice.

As far as the facts are concerned, it seems that the question of whether there was unauthorised disclosure of the report on regional banking services has been answered by Mr Hawker in his statement of 24 March, but the question of the relevant facts is for the Committee of Privileges.

RELEVANT STANDING ORDERS AND PRACTICE

Standing order 346 provides:

- (a) A committee or subcommittee shall have power to authorise publication of any evidence given before it or any document presented to it.
- (b) The evidence taken by a committee or subcommittee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, shall not, unless authorised by the House or the committee or subcommittee, be disclosed or published to any person other than a member or officer of the committee.

Provided that a committee may resolve to:

- (i) publish press releases, discussion or other papers or preliminary findings for the purpose of seeking further input to an inquiry; or
- (ii) divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry.

House of Representatives Practice states:

“.....the publication or disclosure of evidence taken in camera, of private deliberations and of draft reports of a committee before their presentation to the House, have been pursued as matters of contempt
(*House of Representatives Practice* 3rd edn. P.706)

It is possible for the unauthorised disclosure of a committee report to be found by the House to be a contempt - that is:

.....any act or omission which obstructs or impedes(it).... in the performance of its functions, or which obstructs or impedes any Member or officer ... in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results even though there is no precedent of the offence.

(*House of Representatives Practice*, 3rd edn. P. 696)

The breadth of the power to find that a matter constitutes a contempt is important because it gives the House a degree of flexibility, and an ability to deal with new or unusual threats. An important qualification is however imposed by section 4 of the *Parliamentary Privileges Act 1987*. It 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 section thus establishes a test against which possible or alleged contempts must be judged: the conduct in question must amount, or be intended or likely to amount, to “improper interference with the free exercise by a House or committee of its authority or functions.....”

PRECEDENTS

There are a number of precedents in which the Committee of Privileges of the House of Representatives has considered the problems of the unauthorised disclosure and publication of committee evidence or reports - a full list is published at **C** .

The Committee has reported on three such matters since 1988. In no case was the source of the disclosure(s) ascertained. It is also notable that in no case did the Committee find that a contempt had been committed - presumably this was because of the test imposed by section 4 of the *Parliamentary Privileges Act*. In two cases, while taking a serious view of such actions and deprecating them, the committee's findings were to the effect that, if they had acted deliberately, the persons responsible *were guilty of a serious breach of the prohibitions* (ie. there are no findings of contempt). (The third case involved the disclosure of a confidential submission, but because of the large number of people associated with the group which had lodged the submission and their possible ignorance of the rules, the Committee concluded that it was unlikely that further investigations would result in a more satisfactory conclusion).

I point this recent history out not to suggest that the leaking, or publication, of confidential committee information, draft reports or reports is not an important matter, but to say that the requirement of section 4 is recognised as a significant test which must be passed before any matter can be found to be a contempt.

THE OFFENCE AND ITS EFFECTS - GENERAL COMMENT

It is clear that the unauthorised disclosure or publication of committee evidence, documents, proceedings and reports which have not been reported to the House is a breach of the standing orders, and that such actions can be dealt with. What is not entirely clear is the effect of such actions, either on the committee concerned or more generally.

The circumstance of each case will be different. It is not difficult to envisage some situations in which there could be very adverse effects for a committee. For example, the disclosure and publication of a draft report on a sensitive matter, before the report had been considered by the committee, could expose Members to additional pressure, and make it harder for common ground to be found. In other circumstances, witnesses' confidence in the integrity of the processes could be eroded and this could influence some witnesses or prospective witnesses. In other cases there may be little practical effect, but no doubt a feeling of disappointment or disillusion on the part of Members who do respect the rules and practices of the House may occur. It is perhaps in these circumstances that a committee might conclude that, while it had not suffered substantially as a result of a particular case, "the system" did.

In his statement on 24 March, Mr Hawker reported his committee's view that:

“the disclosure did not constitute a substantial interference to its work but that it did constitute a substantial interference with the committee system.”

Mr Hawker also noted that the committee considered that failure to comply with the procedures was a serious matter.

If the facts are as alleged, then there has been a breach of the provisions of standing order 346, it would seem in respect of both disclosure and publication. The Committee may wish to consider whether it wishes to make any further inquiry in respect either of the issue of disclosure or publication. The Committee may also wish to consider the question of the effect of the actions complained of. Finally, I note that in the Committee's two most recent reports on such matters it has also made observations on the treatment of complaints in this area. These observations have been intended to help the House in dealing with this somewhat intractable problem.

I will be happy to provide any additional assistance the committee may require.

A handwritten signature in black ink, appearing to read 'I C Harris', written in a cursive style.

I C HARRIS

6 May 1999

Report demands banks lift game in bush

Steve Lewis

The major banks have been put on notice that they will have to improve service levels to the bush before the Federal Government will consider removing the "four pillars" policy which prohibits mergers.

A high-level parliamentary committee has criticised the banks for their treatment of customers in regional areas and called for tougher measures to ensure services are delivered to remote parts.

But the House of Representatives committee, chaired by Liberal backbencher Mr David Hawker,

has stopped short of imposing a moratorium on rural bank branch closures.

Instead, the committee's report, to be released today, calls on the banks to give local communities three months' notice of potential branch shutdowns.

The bipartisan committee has also recommended that the Government negotiate with Australia Post to extend giroPost to include business banking services.

It is understood the committee's report is highly critical of the actions of the major banks, which have provoked community outrage over

recent years with their perceived cavalier attitude to rural banking.

The committee has recommended the industry adopt a branch closure protocol, to ensure rural communities are offered better treatment by the finance sector.

This would include measures to consult with communities about potential branch closures to ensure that alternative forms of financial services are made available.

Other recommendations in the report include calling on the States to provide exemptions for stamp duties on any mortgages where customers are forced to transfer their loans as a

result of branch closures. The committee also wants the Treasurer, Mr Peter Costello, to examine possible alternative forms of delivering pensions and other government payments to rural centres.

The release of the committee's report is expected to provoke a new round of "bank bashing", particularly from regional communities which have often fallen victim to cost-efficiency drives.

The committee suggests the Guild Bank development (involving local councils) be monitored to consider whether the service could be expanded throughout rural Australia.

bankin-1.doc

PARL LIBRARY (MTS)



Page 1

This transcript is taken from a tape recording, and freedom from errors, omissions or misunderstandings cannot be guaranteed.

HAMISH ROBERTSON: Australia's largest bank, the National Australia Bank, has been singled out in a government report for failing to respond adequately to the concerns of rural customers. It's understood a parliamentary inquiry into regional banking services to be tabled today also recommends that banks be required to give three months notice before closing down a rural branch.

But, as Petria Wallace reports from Canberra, the committee has stopped short of recommending the government enforce a ban on further bush branch closures.

PETRIA WALLACE: The pressure of a high-profile parliamentary inquiry has already prompted the big banks to offer some concessions to counter the widespread anger in the bush over branch closures - not enough, it seems, to allay the concerns of the House of Representatives committee chaired by Liberal backbencher, David Hawker. It's understood the report into the availability of regional banking services recommends the government enforces much tougher measures on banks. They'd be required to give customers and the local council three months notice of a branch closure. Banks would like to limit the period to only six weeks. Financial institutions would have to waive any fees or expensive penalties a customer incurs as part of transferring accounts or loans because of a local branch closure. Communities would also be consulted about their preferred alternative banking arrangements.

It's believed the report is highly critical of the way the major banks have treated rural customers, singling out the National Australia Bank for what's described as its nonchalant response to their concerns. The NAB raised eyebrows at the inquiry last year when, in the midst of the backlash over bank closures, its chief executive said he wasn't in the business of providing for people who want to have a social experience at the local bank.

However, the industry will be relieved the report stops short of recommending a moratorium on further closures, something demanded by many critics. It's understood the report also backs the banks' argument that new technologies like Internet and phone banking provide a valuable service to regional customers.

HAMISH ROBERTSON: Petria Wallace reporting.

One person who's been following the inquiry closely is Janet Savage, shire president of Gnowangerup in Western Australia. Her town of 350 people was devastated when its bank closed last year. Mrs Savage, a member of the local National Party, told Denise Knight that her community wanted the government to force banks to restore services in the bush.

JANET SAVAGE: I was hoping that they would have at least put a moratorium on any further bank closures. I don't believe that this is going to stop any banks closing in country areas, and I certainly can't see that it's going to put banking services back in towns that have previously lost it. I'm quite disappointed about that, because it's really not telling the bank to do anything that they're not already doing.

DENISE KNIGHT: Would it have a positive impact, do you think, in your community?

JANET SAVAGE: I can't see that it will do anything for my town or the people of my town, no.

DENISE KNIGHT: It's been recommended that banks will have to give customers and local councils three months notice if they're intending on closing their branch. Surely that's a lot better than your experience.

JANET SAVAGE: Yes and no. We certainly had a lot less notice than that. I'm not sure that giving the town notice that it's going to close the branch is actually a lot of use. All they're going to do is prolong the agony. They'll probably find that in that three month period if they think they're going to pick up extra business they'll probably lose it because people will then say: well, we're not going to be hanging around with you any longer, you haven't give us any loyalty, why should we give you any?

DENISE KNIGHT: How do the banks fare then, do you think, in this process?

JANET SAVAGE: I don't think they're bearing very much of the pain at all, to be perfectly honest. It all seems to be one way.

DENISE KNIGHT: And this report, you don't think, really addresses that imbalance?

JANET SAVAGE: I think probably it just tells us what we already knew anyway, that really no one seems to have much power in stopping the banks withdrawing their services.

HAMISH ROBERTSON: Janet Savage.

Mr REITH—I thank the member for Dunkley for his question. There is a lot to be said about what the government is doing in implementing its reforms, because small business is terribly important. The small business community have been creating more jobs. The more help you give them in a reasonable way, the more jobs you will see. I compliment the member for Dunkley. He is the member for all the people in Dunkley but he is a great advocate for small business in Dunkley and right across the Mornington Peninsula. It is very important that they have a strong voice in the parliament, and he has done that.

It is a copybook classic case of good policy making: we had the Reid committee. We announced the results of the Reid committee. We introduced the legislation and we passed the legislation. We have set up a disputes mediation adviser and we have been given more funds to the ACCC. The ACCC is taking complaints on the unconscionable conduct provisions. I believe there is a test case already under way. We also have small business ACCC specialists in each state to help small business. This is a classic case where we said we would look after small business, where we had a clear policy and where we have ploughed ahead with the implementation of that policy for the benefit of small business. This Prime Minister and this government are unashamedly pro small business.

Mr Howard—Mr Speaker, I ask that further questions be placed on the *Notice Paper*.

BANKING: REGIONAL SERVICES

Mr MARTIN (Cunningham) (3.04 p.m.)—Mr Speaker, I raise a matter of privilege with you under standing order 346. I wonder whether your attention has been drawn to a newspaper story this morning in the *Australian Financial Review* under the heading 'Report demands banks lift game in the bush' and also to a program that went to air on the AM program this morning in respect of the pending tabling of an inquiry report of the House of Representatives Standing Committee on Economics, Finance and Public Administration entitled *Regional banking services: money too far away*.

My concern to raise with you is that the chairman of that committee tabled this report in the parliament some time after 1 o'clock today and other members then had the opportunity to speak on it. From my reading of the newspaper report today and also, as I understand, the AM program, they both gave fairly accurate and extensive coverage of the recommendations flowing from that report. Mr Speaker, under that particular standing order, standing order 346, I wonder whether you might look to see whether there is a prima facie case of privilege involved in this matter and whether you would therefore subsequently be prepared to entertain a motion to refer it to the Privileges Committee.

Mr SPEAKER—I thank the member for Cunningham, not only in the former capacity he had in this chair but also as chairman of that committee. I, too, heard the AM report and I must say similar thoughts crossed my mind. I will take a look at the reports that he refers to and come back to him and the

House with a comment as to how it should be appropriately dealt with.

QUESTIONS TO MR SPEAKER

Questions on Notice

Mrs CROSIO (Prospect)—Mr Speaker, under standing order 150, I request that you write to the Minister representing the Minister for Justice and Customs over question No. 61 on the *Notice Paper* since 11 November 1998; over question No. 77 on the *Notice Paper* on 12 November 1998 to the Prime Minister; and over question No. 82 on the *Notice Paper* on 23 November 1998 to the Minister for Health and Aged Care. More than 60 days certainly have passed since then.

Mr SPEAKER—I will undertake that action on behalf of the member for Prospect.

PERSONAL EXPLANATIONS

Mr FITZGIBBON (Hunter) (3.07 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr FITZGIBBON—Yes.

Mr SPEAKER—Please proceed.

Mr FITZGIBBON—Last Thursday I telephoned the Prime Minister's office to ask a simple question about his Tough on Drugs program.

Honourable members interjecting—

Mr SPEAKER—The member for Hunter has been in the House long enough to know that he must proceed to where he has been misrepresented. I am happy to hear him out, providing he stays within the standing orders, obviously.

Mr FITZGIBBON—I expressed no view on the program during that telephone conversation. You will understand my surprise, Mr Speaker, when I read a transcript of an answer the Prime Minister gave the next day on radio station 3LO when he said:

I don't think there is any whiteboard element, because one of the very supportive phone calls that my office got yesterday was from a Labor frontbencher representing a seat in the Hunter Valley. We made money available to a program in Cessnock which is in the federal Labor seat, and the federal member for that electorate rang my office and spoke to the adviser on my staff who deals with this issue, and wanted to express his gratitude for the fact that a group in his electorate had received a grant, and generally expressed support for yesterday's announcement, which I think is a good thing, because I am not seeking to politicise this issue in any way.

Honourable members interjecting—

Mr SPEAKER—The member for Hunter has indicated that he was misrepresented in that statement.

Mr FITZGIBBON—I have not come to the key point. He said:

He is a Labor member. He is a Labor frontbencher, a Labor federal member and he expressed a lot of satisfaction.

Mr Speaker, this is a total misrepresentation of the conversation I had with the Prime Minister's office.

adding industries providing this information about the very markets in which they are attempting to win market share with EMDG assistance—whether they are SMEs; most of them are around the 20,000 cut-off point—is not prudent. And, as such, we do not support these amendments.

Amendments not agreed to.

Third Reading

Bill (on motion by Mr Anthony)—by leave—read a third time.

COMMITTEES

Economics, Finance and Public Administration Committee

Report

Mr HAWKER (Wannon) (6.14 p.m.)—by leave—On Tuesday the Speaker asked the Standing Committee on Economics, Finance and Public Administration to consider the unauthorised disclosure of details of the committee's report *Regional banking services: money too far away*. That report was tabled in the House on Monday, 22 March this year. This material was reported both in an article in the *Australian Financial Review* and on the *AM* program on 22 March 1999—that is, prior to the tabling. The disclosure was raised in the House as a matter of privilege on Monday, 22 March by the honourable member for Cunningham.

The committee considered this matter and, despite inquiries with staff and members, has been unable to identify the source of the disclosure. The committee also considered whether the disclosure constituted a substantial interference with its work, the committee system or with the functioning of the House. The committee resolved that the disclosure did not constitute a substantial interference to its work but that it did constitute a substantial interference with the committee system.

The committee considers it a serious matter that compliance with the procedures of the House related to the disclosure of a committee report has been breached. The actions bring into question the public credibility of this committee and the committee system and put at risk the bipartisan cooperation that this committee and others have enjoyed and demand for their effective functioning. The committee recommends that the Speaker refer this matter to the Privileges Committee for further investigation.

Mr DEPUTY SPEAKER (Hon. I.R. Causley)—I thank the honourable member for Wannon. I will bring the matter to the attention of the Speaker.

QUARANTINE AMENDMENT BILL 1998

Second Reading

Debate resumed from 3 December 1998, on motion by Mr Vaile:

That the bill be now read a second time.

Mr O'CONNOR (Corio) (6.16 p.m.)—The Quarantine Amendment Bill 1998 we are debating here today underpins in a legislative sense the government's response to the Nairn committee report on Australian quarantine matters. The bill finally gives legislative

effect to a review process that was commenced by the former Labor government in 1996. I pay tribute here to the foresight of the Labor agriculture minister at the time, Senator Bob Collins, in initiating this particular review. Like so many other areas of agricultural policy over the 13 years that Labor was in government, we came to grips with the great process of structural adjustment that was taking place in many rural industries over that period and the big issues surrounding marketing structures and expanded market access for the output of the rural sector.

Part of the great reform process initiated by Labor over that 13 years was the Nairn review of Australia's quarantine service and procedures, a report which was completed in the first term of the coalition and has now been given legislative backing in its second and what we consider to be its final term of office. I must express some concern yet again about the time it has taken to bring this legislation onto the floor of this parliament.

We notice in many areas of government policy, and I refer here to industry policy relating to textile, clothing and footwear and automotive manufacturing, that the government has responded to various reviews and various studies of those industries and yet has taken an inordinate amount of time to put any legislative framework in place to underpin its financial and policy responses to those reports. A similar situation has occurred with regard to Australia's quarantine service. The review was initiated in January 1996. There was a thorough review process and the Nairn committee report was presented to the minister in late 1996. We have had this legislation on the *Notice Paper* in the parliament throughout 1998 and only now have we had this legislation to debate on the floor of the House.

The degree of public interest generated by the review was gauged by the number of written submissions that were received. There were some 167 submissions made to the Nairn committee. Extensive consultations were held with stakeholders. When the report was tabled, it contained some 109 recommendations relating to all aspects of Australia's quarantine policies, structures and procedures.

The magnitude of the task undertaken by the Nairn committee ought to be understood against the backdrop of significant developments taking place in Australia's engagement with the world in a trading sense against our international obligations generated by a significant increase in Australia's trade with the rest of the world and the massive increase in the mobility of citizens around the world. This combination of events had put great pressure on Australia's quarantine service.

Australia, possessing a unique natural environment due to its geographical location, faces a very real challenge in the light of these developments to maintain, through its quarantine policies and procedures, that unique environment free from exotic pests and diseases. Indeed, it has been the pristine nature of our production environment which has delivered us a very strong marketing advantage as a nation in the export of clean foods with a strong, clean green image. It is important to the future success of many

electorate of Batman at the moment. It relates to the decision by the Victorian government to close the Preston and Northcote Community Hospital, better known as PANCH, and to relocate what has been a wonderful community hospital to the new Northern Hospital at Epping.

In making this decision, I also point out to the House that the state government made promises to the local community that, unfortunately to date, have not been honoured. Those promises related to the fact that, in relocating PANCH, the Victorian government would open a new integrated care centre on the site currently occupied by PANCH. The Kennett government stated that the integrated care centre was to provide a range of day surgery, renal dialysis, chemotherapy, medical procedures, outpatient clinics, diagnostics and aged care programs.

The problem is that the decision by the Victorian government to break that promise represents the loss of very important health services to the northern suburbs of Melbourne. The community is also upset, not only by the decision of the government, but by the failure of the Minister for Health and the Premier to be accountable to the northern suburbs with respect to this issue and by the fact that these ministers have refused to attend two community meetings held to discuss this issue.

On that basis, the following mocking letter about the attitude of the Victorian government was read out at a major community meeting held at the Northcote town hall last week. It represents a supposed response to an invitation to the Victorian Premier, Mr Kennett, to attend this community meeting. The letter reads as follows:

When I first heard of your little rally and your fight to save PANCH I felt physically sick. You really are a disloyal whinging un-Victorian rabble.

Have any of you ever stopped to think about how I feel? No you just greedily ask for basic health services without a thought for me. You all know how much I have given to the Preston and Northcote areas during my term as your premier.

But let me outline my record for those of you with short memories.

I've removed all those annoying schools, I've locked up the toilets on stations, I've taken the conductors off your trams and the staff off your stations, I put up your water and gas rates, I sold off your council owned electricity departments, I've taken funding away from your roads and creeks and I even sacked your elected council. Yet after all this service to your community you people still have the temerity to question my decision to remove your hospital.

I am sick to the stomach at your lack of gratitude. I am also broke. I'd like to see some of your Preston pensioners get by on my wage and my super. I'll be lucky to walk away from this Premier job with \$1 million in super. After years of making my mates Lloyd Williams, Kerry Packer and Ron Walker rich beyond their wildest dreams I will retire a practical pauper.

So I have thought about my plight and I've thought about your plight and I've come up with a solution.

I've decided to resign next year and restore medical facilities to PANCH that I will personally run.

The site will have full facilities, a maternity ward, a cardiac unit, and childcare services and will be known as 'The Jeff Kennett Memorial PANCH Casino'.

The cardiac unit will be placed next to the pokies hall so that any heart attacks can be promptly treated and the customers can be wheeled back to the pokies machines with a minimum of fuss.

Child care will be provided in a most modern manner by a car park attendant who will monitor that all cars have the windows down to allow the children to breath.

A maternity ward will be provided adjacent to the black jack room so those mothers can gamble right through the full gestation period.

This proposal will not only provide you with medical services but it will give me the tens of millions of dollars that I deserve in my retirement.

Now please go home and don't annoy me again.

Yours sincerely,

JEFF KENNETT, Sole director of PANCH Casino and Premier of Victoria

Spring Street, Melbourne.

The letter speaks for itself. The Kennett government has taken away vital community services from the northern suburbs of Melbourne. It is yet another broken promise, similar to the broken promises of the Howard government.

Give the site back to the community. They built the hospital by raising money through raffles and cooking cakes. It is a community hospital. We are entitled to have an integrated care centre on our site, rather than Jeff Kennett's mates—Walker and the rest of them—yet again getting access to a major community site. Let us make sure we put community services where they are entitled to be—on a community site that was built and developed by the communities of Preston and the northern suburbs of Melbourne.

COMMITTEES

Economics, Finance and Public Administration Committee

Report

Mr SPEAKER—I thank the House for the facility, in the absence of this statement earlier. On Monday, 22 March 1999, the member for Cunningham raised as a matter of privilege the alleged premature publication of the contents of the report of the Standing Committee on Economics, Finance and Public Administration on regional banking services. In accordance with the practice of the House in such matters, the matter was required to be considered by the committee in the first instance. Yesterday, the honourable member for Wannon, as chair of the committee, reported on the committee's consideration of the matter. I am grateful to the Deputy Speaker for drawing the matter to my attention.

While there might be circumstances where expeditious decisions may be desirable, I believe that in the normal course of events it is preferable for a motion, such as a possible reference of a matter to the Committee of Privileges, to be decided after the House has been provided with appropriate time to consider the proposed reference.

The member for Wannon informed the House yesterday that the committee had concluded that substantial interference with its work had not occurred. The member indicated that substantial potential interference with the committee system might have resulted from the disclosure. The committee was

unable to ascertain the source of any disclosure. In accordance with the procedure adopted by previous Speakers, in these circumstances I am willing to allow precedence to a motion on this matter. I call the chairman of the committee, the honourable member for Wannon.

Mr HAWKER (Wannon)—Thank you, Mr Speaker, for facilitating this opportunity. I present to the House a copy of the article that was in the *Financial Review* on Monday, 22 March 1999, and a copy of the transcript of the AM program of the same day. I move:

That the following matter be referred to the Committee of Privileges for inquiry and report: Whether there was an unauthorised disclosure of the 'Regional banking services: Money too far away' report of the Standing Committee on Economics, Finance and Public Administration.

Question resolved in the affirmative.

ADJOURNMENT

Motion (by Mr Anthony) proposed:

That the House do now adjourn.

Drugs: Tough on Drugs Strategy

Mrs DRAPER (Makin) (5.34 p.m.)—Members of the House are well aware of my strong support for the government's Tough on Drugs program and of the work that we commenced with parents and school principals during my previous term serving the electorate of Makin. Today I would like to speak briefly about another important aspect of the Tough on Drugs program—treatment and rehabilitation of those who have fallen victim to the scourge of drug addiction. While I have talked on these issues before, I think my comments are worth reiterating this evening.

Calls from some sectors of our community for heroin to be legally available to drug addicts failed to take into account the many advances that have been made in recent times in the area of treatment of drug addiction. Firstly, there are a number of drugs that are able to be used in the context of detoxification and/or maintenance. For example, heroin addicts can be stabilised for short periods of time with the use of codeine linctus taken with doloxene, until they can be detoxed in a program involving naltrexone. Some may be aware that naltrexone has been used very effectively to block the brain's receptors and eliminate the physical craving for heroin.

Another initiative that should be embraced is the development of drug courts in all of our states, so that drug addicts who have also become criminals can be given the option of entering into treatment, rehabilitation, detoxification and follow-up counselling rather than going to gaol. This could potentially have an enormous impact on breaking the cycle of addiction and crime that has held so many drug users in its grip. I sincerely hope that my parliamentary colleagues in South Australia, and particularly my colleague Martin Hamilton-Smith, chair of the select committee investigating the options available in the fight against heroin addiction, give thought to this process.

I congratulate my colleague the member for Hughes for her work in raising this issue in her home state of New South Wales. I understand that this concept is

being pursued in both New South Wales and Victoria. I also commend Mr Ross Goodridge for his analysis of the research in this area which shows that the use of drug courts may be expected to result in: a cost saving in judicial time—that is, one judge does the work of seven; re-offend rates down from 85 per cent to as low as 15 per cent; cost savings per arrestee of approximately \$18,000; a real improvement in crime and drugs in society; as well as a significant decrease in suicides and health costs.

With so many positive initiatives being undertaken to help people break the cycle of despair that is the hallmark of drug addiction, it is disappointing that we should have to put up with the antics of an irresponsible performer who has seen fit to encourage young people into illicit drug use. Recently my eldest son attended the Big Day Out Concert which was held in Adelaide. One of the performers there was a person by the name of Marilyn Manson. Mr Manson is one of a long line of rock stars who set out deliberately to shock and offend. Mr Manson, while portrayed as shocking and outrageous, is merely disgusting and pathetic.

If you consider that in our day we experienced the performances of Alice Cooper, David Bowie, Lew Reed and Kiss, then Manson is downright boring and, according to many of our young people, a big joke. His act included spitting into the crowd and, more alarmingly, exhorting the crowd of mostly young people to consume illicit drugs. It is bad enough that Mr Manson should choose to engage in such a low rent, disgusting activity as spitting at people, but my concern is that should he have hepatitis C or any other health problem, then his sharing of bodily fluids would not just be disgusting, it would be dangerous, irresponsible and life threatening.

The question is being asked of me by some people as to why Marilyn Manson was allowed into Australia. Upon speaking to the minister for immigration, I was advised that as Mr Manson does not have a criminal record, there was no legal reason for him to be kept out of the country by the federal government.

I raise the issue of Mr Manson as a potential role model from the music industry for our young people, and *The Big Day Out* concert in which he appeared, on behalf of Ms Ros Phillips of the Festival of Light, who had raised some of these issues with me as her local federal member. In relation to *The Big Day Out* concert, initially I did have very grave concerns for my son who was attending the concert. However, when I sat down to discuss this with my son, my concerns and fears were allayed. When I asked my son's opinion of Manson, he just laughed and said, 'Not only was his music a joke, but so was he.'

However, there still remains the issue of Manson's inappropriate violent and health endangering behaviour at the concert. Let us promote real talent in Australia. We have got plenty of great local bands just waiting for their chance, and they do not spit at or violently assault their patrons.

(Time expired)

Mr SNOWDON (Northern Territory) (6.39 p.m.)—Thank you, Mr Speaker. I rise this afternoon to

APPENDIX C

*Findings and recommendations of
Committee of Privileges*

Action by Speaker

Matter

Date

Motion, that matter be referred to the Committee of Privileges, debated and agreed to.

Premature publication in article in the Sun of matter relating to the contents of a draft report of a parliamentary committee. (VP 1973-74/368)

20 September 1973

Report presented; consideration made an order of the day for the next sitting. (VP 1973-74/502)

8 November 1973

Findings:

- (a) A breach of privilege had occurred.
- (b) Editor and journalist were guilty of a contempt of the House.

Recommendations:

- (a) Editor be required to publish a prominent and adequate apology.
- (b) As the editor accepted responsibility, no action be taken against the journalist.
- (c) Speaker communicate with the president of the press gallery and bring to notice of all journalists the long-standing rule against premature publication or disclosure of committee proceedings, evidence or reports.
PP 217 (1973)

Motion, that the House agreed with the findings, that in view of editor's death no further action be taken regarding publication of an apology, and that the Speaker communicate with the president of the press gallery as recommended, debated and agreed to. (VP 1973-74/518)

13 November 1973

- 17 November 1986
Press reports relating to purported contents of report of Joint Select Committee on Telecommunications Interception yet to be presented to House. (VP 1985-87/1315)
- 18 November 1986
Speaker prepared to accord precedence to a motion. Motion to refer matter to the Committee of Privileges, agreed to. (VP 1985-87/1321)
- 26 November 1986
Special report presented. (VP 1985-87/1361)
Asking House to consider sending message to Senate asking it to grant leave for Senators who served on the joint select committee to attend before the Committee of Privileges of the House.
- 27 November 1986
House resolved that a message be sent to the Senate asking it to grant leave to Senators to attend before House Committee of Privileges for examination. (VP 1985-87/1365)
- 5 December 1986
Senate granted leave for four Senators to attend committee if they thought fit. (J 1985-87/1576)
- 12 May 1987
Report presented; consideration made an order of the day. (VP 1985-87/1654)
Findings:
(a) Confidential committee deliberations had been disclosed, without authorisation, by persons with access to information. These persons were guilty of contempt.
(b) The various acts of publication revealing confidential deliberations constituted contempts.

Recommendations:

- (a) Having been unable to identify the person(s) responsible for the disclosure, the committee could make no recommendation on that matter.
- (b) If the House believed penalties were warranted, it should refer the matter back to the committee for consideration of an appropriate penalty, in which case the committee would recall witnesses. (Four dissenting reports also presented.) PP 135 (1987)

House had not considered matter further when both Houses dissolved on 5 June 1987.

17 September 1990

Article published in the Sunday Herald (Melbourne) appeared to reveal a knowledge of a confidential submission to Joint Standing Committee on Migration Regulations. (VP 1990-92/187)

Speaker prepared to accord precedence to a motion. Referred matter back to Joint Standing Committee to further investigate in first instance. (VP 1990-92/188-89)

18 September 1990

Committee concluded the article had seriously impeded its deliberations and work. (VP 1990-92/191-92)

19 September 1990

Motion to refer matter to Committee of Privileges, agreed to. (VP 1990-92/195-96)

4 December 1990

Report presented. (VP 1990-92/398)

Findings:

- (a) One or more persons involved with the disclosure(s) of the submission may have committed a contempt.
- (b) Persons responsible for the disclosure(s) did not act with deliberate intent to breach the prohibition on unauthorised disclosure.

Recommendation:

That no further action should be taken by the House.

(Dissenting report also presented.)
PP 429 (1990)

27 October 1993

Articles in the Australian and the Financial Review which made reference to a draft report of Joint Committee of Public Accounts. One of the articles in the Financial Review and an item on WIN television evening news purported to reveal private proceedings of the committee. (VP 1993-95/436)

28 October 1993

Speaker prepared to accord precedence to a motion. Motion to refer matter to Committee of Privileges, agreed to.
(VP 1993-95/444)

15 December 1993

Chairman of Privileges Committee made statement to House regarding the committee's wish to take evidence from Senators. Motion to send message to Senate, requesting leave be given to Senators to appear before the committee, agreed to.
(VP 1993-95/596)

17 December 1993

Message from Senate reported, authorising Senators to appear before the committee.
(VP 1993-95/649)

9 May 1994

Report presented; ordered to be printed. (VP 1993-95/939)

Findings: Confidential deliberations of the Joint Committee had been disclosed without authorisation by a person or persons with access to the information. If such a person or persons acted deliberately he or she (or they) were guilty of a serious breach of the prohibitions. Unfortunately the committee was unable to ascertain the identity of the person or persons responsible on this occasion.

Recommendation: The committee was unable to make any recommendation on the particular matters complained of, although it went on to make proposals for the consideration of the House in order to assist any future cases. PP 77 (1994)

24 February 1994

Articles published in several newspapers purporting to reveal conclusions reached by Standing Committee on Environment, Recreation and the Arts. (VP 1993-95/811)

Speaker prepared to allow precedence to a motion, although before a motion was moved the committee should attempt to ascertain the source(s) of disclosure. (VP 1993-95/818)

12 May 1994

Committee stated that it had been unable to identify the source of the disclosure. Speaker stated that as the committee had now reported substantial interference with its work, he would allow precedence to a motion. Motion to refer matter to Committee of Privileges agreed to. (VP 1993-95/981)

6 March 1995

Report presented; ordered to be printed. (VP
1993-95/1902)

Findings:

The committee found that information concerning the draft report of the standing committee was disclosed without authorisation by a person or persons with access to the information. If such person or persons acted deliberately he or she (or they) were guilty of a serious breach of the prohibitions. The committee took a serious view of such actions.

Unfortunately the committee was unable to ascertain the identity of the person or persons responsible on this occasion.

Recommendation:

In light of its findings, the committee was unable to make any recommendation on the particular matters complained of, although it again made proposals for the consideration of the House in order to assist in any future cases.

PP 26 (1995)

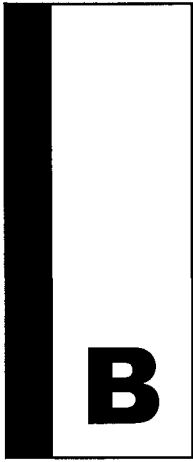
20 November 1997

Alleged unauthorised disclosure of the report or the minority report of the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the Native Title Amendment Bill 1997, or of correspondence or other information concerning the committee's inquiry.

Motion, that the matter be referred to the Committee of Privileges, agreed to.

30 August 1998

Reference lapsed on the dissolution of the House at the conclusion of the 38th Parliament.



Appendix B

Submission from Mr Hawker MP



HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON ECONOMICS,
FINANCE AND PUBLIC ADMINISTRATION

Parliament House
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<http://www.aph.gov.au/house/committee/efpa/>

Hon A. Somlyay, MP
Chair
Committee of Privileges,
Suite: R1 44 Telelift: 00-6

Dear Mr Somlyay *Alex*

SUBMISSION: *Whether there was unauthorised disclosure of the Regional Banking Services: Money too far away report of the Standing Committee on Economics, Finance and Public Administration*

The following submission is provided in response to your letter dated 30 March 1999.

Background

On 22 March 1999 the honourable member for Cunningham raised, as a matter of privilege, the publication in certain media outlets of information concerning the Standing Committee on Economics, Finance and Public Administration's report *Regional banking services: Money too far away*.

A copy of the report (presented later that day), a copy of an article by Steve Lewis published in the *Australian Financial Review* of 22 March 1999, and a transcript of an item broadcast in the *AM* program on the morning of 22 March 1999 (journalists Hamish Robertson and Petria Wallace) are at Attachments A-C. Any reading of the articles demonstrates that no attempt was made to hide the breach of privilege.

In accordance with the procedures applicable to such matters, the Speaker advised the Committee that in the first instance it must consider the matter itself (Speaker's letter as Attachment D).

Actions taken by the Committee

At a private meeting of the Committee on Wednesday 24 March 1999, the matter was considered by the Committee. You did not attend that meeting as you advised the Committee that there may be a conflict of interest as you are the Chair of the Committee of Privileges. Dr Southcott withdrew from the meeting as he is also a member of the Committee of Privileges and considered that there may have been a conflict of interest. All other members of the Committee attended.

All secretariat staff were asked to attend the meeting.

At the meeting I asked the Secretary, Ms Forbes, whether the secretariat had any knowledge of how this disclosure had occurred. Ms Forbes advised that she had spoken to all staff separately and that they advised her that they had no knowledge of how the disclosure occurred.

I also asked members if they had any knowledge of this matter. Members indicated that they were unaware of how the disclosure may have occurred.

Since then I have contacted Mr Christopher Paterson, the former Committee Secretary, and he advised that he has no knowledge of how the breach occurred.

The Committee decided not to approach the journalists concerned as the Committee believed that they would merely claim confidentiality of their sources.

At that meeting the Committee determined that I should report to the House that the disclosure had not interfered with the Committee's work, but that it did constitute substantial interference with the Committee system. This I did on Wednesday 24 March 1999 (see Attachment E).

On Thursday 25 March 1999 the Speaker allowed precedence to the motion of this matter. I presented to the House a copy of the article published in the *Australian Financial Review* and a transcript of the item broadcast in the *AM* program and moved that the matter be referred to the Privileges Committee for inquiry and report. The House agreed.

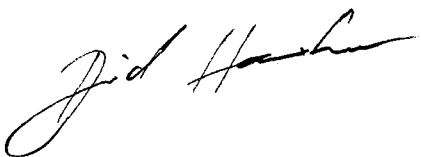
Current situation

No further evidence on this matter has come to my attention over the past two months. However, I remain firmly of the view that this is a serious matter. As I outlined to the House on 24 March 1999, the actions bring into question the public credibility of this Committee and the committee system and put at risk the bipartisan cooperation that this Committee and others have enjoyed and demand for their effective functioning.

I believe the Committee has taken all possible action within its powers to determine the source of the breach.

I believe that further investigation of the matter by the Privileges Committee is warranted.

Yours sincerely



David Hawker, MP
Chair
1 June 1999



Appendix C

Letter from Mr Martin MP



Hon Stephen Martin MP

SHADOW MINISTER FOR DEFENCE
FEDERAL MEMBER FOR CUNNINGHAM



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9 April 1999

Hon Alex Somlyay MP
Chair
House of Representatives Committee of Privileges
Parliament House
CANBERRA ACT 2600

Dear Mr Somlyay

Thank you for your letter seeking a submission from me in respect of the Committee's investigation into the unauthorised disclosure of the Regional Banking Service Report of the Standing Committee on Economics, Finance and Public Administration.

This issue was raised by me in the Parliament following an article by Stephen Lewis in the Australian Financial Review on the day the Report was to be released. The article was a full and frank disclosure of the major recommendations of the Report, a fact substantiated by reading the Report after it was tabled in the Parliament.

That same morning based on the Lewis article, the ABC's AM program also dealt with the matter extensively.

You would be aware that I have had extensive experience as Chairman of the Banking, Finance and Public Administration Committee, forerunner to the present Committee. As well, when Speaker, issues regarding the premature release of information from Committees were occasionally raised with me.

My criticism is certainly not of the media, who after all are simply doing their job. My concern however is that the Standing Orders of the House of Representatives appear to have been deliberately breached with the release of such detailed information about the Committee's Report.

Accordingly I consider this one of the most serious breaches I have seen in my time in Parliament. I wish your Committee well in endeavouring to get to the bottom of this issue.

Yours sincerely

STEPHEN MARTIN MP



Appendix D

Suggested resolution concerning the consideration of the unauthorised disclosure or publication of committee evidence or proceedings

- (1) That the House adopt the following resolution concerning the consideration of the unauthorised disclosure or publication of committee evidence or proceedings:
 - (a) Notwithstanding the provisions of standing orders 95, 96 and 97A, a complaint concerning the unauthorised disclosure or publication of evidence taken by a committee, or proceedings of a committee or documents concerning a committee, must be raised at the first opportunity at a meeting of the committee in question; and the House must be advised that the matter is to be raised, or has been raised, with the committee.
 - (b) A committee concerning which a complaint of unauthorised disclosure or publication has been made must consider whether the matter has caused substantial interference with its work, with the committee system or with the work of either House, or whether it is likely to have such an effect.
 - (c) If a committee wishes to consider such a matter further, it must seek to ascertain the source of any unauthorised disclosure and in order to do so letters must be written to all members of the committee and its staff asking if they have any knowledge as to the source of the disclosure.
 - (d) If a committee concludes that the unauthorised disclosure or publication in question has caused substantial interference, or is likely to do so, and it wishes the matter to be proceeded with, it must

set out its findings in a Special Report which must be presented to the House at the first available opportunity. Such a Special Report should spell out precisely what facts constitute substantial interference and precisely what has led the committee to conclude that substantial interference has occurred, details of the steps the committee has taken to ascertain the source of any unauthorised disclosure, the committee's views as to the benefits of any further action on the matter, and its views as to the prospects of the source(s) of the disclosure(s) being discovered.

- (e) In considering complaints in this area, and notwithstanding the provisions of standing order 96, the Speaker should not allow precedence to a motion on such a matter unless, in the light of the information presented to the Speaker, he or she is of the opinion:
 - (i) that there is sufficient evidence that will enable the Committee of Privileges to ascertain the source or sources of the disclosure(s); or
 - (ii) that the circumstances of the case are such that the issues of the protection of the committee system, or the protection of committee sources or witnesses are such as would warrant reference to the Committee of Privileges.



Appendix E

PRIVILEGES COMMITTEE

MINUTES OF PROCEEDINGS

NO. 4

Tuesday, 30 March 1999

at Canberra

Present: Mr A M Somlyay (Chair), Mr K J Andrews, Mr M Danby,
Hon D F Jull, Mrs M May, Mr McClelland (nominee of
Mr S F Crean), Mr R C G Sercombe, Mr R W Sawford

Apologies: Mr P C Neville

The Committee met at 5.04 pm.

..... (section deleted)

NEW REFERENCE - ECONOMICS, FINANCE AND PUBLIC
ADMINISTRATION COMMITTEE

The Chair informed the committee that he was a member of the Standing Committee on Banking, Finance and Public Administration, but that he had not participated in any consideration of the alleged unauthorised disclosure concerning the committee.

Resolved (on the motion of Mr Andrews) -

That the committee note the Chair's statement.

The committee deliberated.

Resolved (on the motion of Mr Sercombe) -

That

- (1) Mr Martin (who had raised the complaint), and Mr Hawker (Chair of the Committee concerned) each be invited to make a written submission to the committee, and
- (2) the Clerk be asked to provide a memorandum on the matter.

..... (section deleted)

MINUTES:

The minutes of proceedings of 23 March 1999 were confirmed

ADJOURNMENT:

At 5.37 pm the committee adjourned to a date, time and place to be fixed by the chair.

CONFIRMED

HON A M SOMLYAY MP
CHAIR

PRIVILEGES COMMITTEE
 MINUTES OF PROCEEDINGS
 NO. 6

Wednesday, 9 June 1999

at Canberra

Present: Mr A M Somlyay (Chair), Mr R W Sawford (Deputy Chair),
 Mr K J Andrews, Mr M Danby, Hon D F Jull, Hon L B McLeay,
 Mr P C Neville, Mr R C G Sercombe

Apologies: Mrs M A May, Dr A J Southcott

The Committee met at 5.35 pm.

MINUTES

The minutes of proceedings of 31 March 1999 were confirmed.

..... (section deleted)

REFERENCE IN RELATION TO ECONOMICS, FINANCE AND PUBLIC
 ADMINISTRATION COMMITTEE REPORT

The Committee deliberated.

Resolved (Mr Andrews)

That a report be prepared indicating that the Committee did not propose to investigate the matter further and reiterating previous resolutions for how the House can deal with similar issues.

..... (section deleted)

ADJOURNMENT

The Committee adjourned at 6.00 pm to a date and time to be fixed by the Chair.

CONFIRMED

HON A M SOMLYAY MP
CHAIR

PRIVILEGES COMMITTEE
MINUTES OF PROCEEDINGS

NO. 7

Monday, 28 June 1999

at Canberra

Present: Mr A M Somlyay (Chair), Mr R W Sawford (Deputy Chair),
Mr K J Andrews, Mr M Danby, Mrs M A May, Hon L B McLeay,
Mr P C Neville, Mr R C G Sercombe, Dr A J Southcott

The Committee met at 5.20 pm.

MINUTES

The minutes of the meeting held on 9 June 1999 were confirmed.

REPORT INTO UNAUTHORISED DISCLOSURE OF REPORT OF THE
ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION
COMMITTEE

The Chair brought up for consideration his draft report on the unauthorised disclosure of the report of the Economics, Finance and Public Administration Committee.

By leave, report taken as a whole.

Resolved (Mrs May)

That the report be the report of the Committee.

..... (section deleted)

ADJOURNMENT

The Committee adjourned at 5.45 pm to a date and time to be fixed by the Chair.

CONFIRMED

HON A M SOMLYAY MP
CHAIR