



**The Parliament of the
Commonwealth of Australia**

**SENATE STANDING COMMITTEE
OF PRIVILEGES**

**Report on the Improper
Disclosure and Misrepresentation
by a Departmental Officer of an
Amendment Prepared for Moving
in the Senate**

Ninth Report of the Series

September 1985

*Presented and
ordered to be printed 16 September 1985*

**Parliamentary Paper
No. 506/1985**

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Canberra 1986

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THE SENATE
COMMITTEE OF PRIVILEGES

MEMBERS OF THE COMMITTEE

SENATOR B.K. CHILDS (CHAIRMAN)

SENATOR T. AULICH *
SENATOR N. BOLKUS
SENATOR P.F.S. COOK +
SENATOR D.S. JESSOP

SENATOR M.J. MACKLIN
SENATOR A.J. MISSEN
SENATOR R.F. RAY

TERMS OF REFERENCE

The improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate.

- * Appointed 11 September 1985
- + Discharged 11 September 1985

COMMITTEE OF PRIVILEGES

REPORT ON THE IMPROPER DISCLOSURE AND
MISREPRESENTATION BY A DEPARTMENTAL
OFFICER OF AN AMENDMENT PREPARED FOR
MOVING IN THE SENATE

1. On 23 April 1985, on the motion of Senator Haines, the Senate referred the following matter to the Committee of Privileges:

"The improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate."

A Hansard extract of the debate on the motion is attached as Appendix A to this report.

2. On 30 April 1985, the Committee resolved not to proceed with the reference until it had reported to the Senate on its reference concerning the question of appropriate penalties arising from the report of the Committee of Privileges on 17 October 1984. The Committee reported to the Senate on that matter on 23 May 1985.

3. Accordingly, on 31 May 1985 the Committee met again to consider the above reference. At that meeting, it was resolved that Senator Haines be asked to provide written information relating to the Committee's terms of reference. A copy of the Committee's letter and Senator Haines' response, together with an attachment, is at Appendix B.

4. In the Committee's view, Appendices A and B set out fully the circumstances of the case, and the Committee makes no comment on them. The Committee regards it as unfortunate that the present situation has arisen and emphasizes that officers who receive information in the course of their employment have an obligation to treat it in accordance with their responsibility as public servants.

5. The Committee considers, however, that further action is not appropriate and therefore recommends to the Senate that the matter be not further pursued.



B.K. Childs

Chairman

16 September 1985

Extract from
SENATE HANSARD
 23 April 1985

Pages 1390-1

**SUPPORTED ACCOMMODATION
 ASSISTANCE BILL 1985**

Privilege

Senator HAINES (South Australia)—I raise a matter of privilege pursuant to standing order 118. Recently amendments were prepared for moving in the Senate in respect of the Supported Accommodation Assistance Bill. These amendments were prepared purely for the purpose of the proceedings in the Senate and were not disclosed except to honourable senators, and only to some honourable senators, for the purpose of discussion of the forthcoming proceedings. It appears that a departmental officer has improperly discussed the amendments with interest groups, has misrepresented the nature of the amendments and has caused those interest groups to approach honourable senators on the basis of the misrepresentation.

I received a telephone call prior to Question Time from a worker in a non-government organisation with regard to an amendment which she alleged I was moving to this legislation. I was rather puzzled, because, as the conversation ensued, she was clearly referring to an amendment foreshadowed by another honourable senator during the debate last night, although I had in fact prepared an amendment to that amendment. Although I had prepared an amendment to that amendment, I was puzzled as to how she could have known about the amendment I had prepared, as it had had fairly limited circulation at that stage. Some time later, near the end of Question Time, I received a note from a

member of Senator Chipp's staff who had been contacted by welfare organisation representatives saying that they had been told by a departmental officer that Senator Haines, on behalf of the Australian Democrats, had an amendment which the Department did not like.

Since then, my office in South Australia has been inundated with phone calls from representatives of organisations concerned that a Democrat amendment is to be introduced with the apparent intention, deliberate or otherwise, to hold up or destroy the Supported Accommodation Assistance Program legislation. Apart from the fact that the amendment I prepared this morning could not do any of those things, I am concerned about suggestions that it could. Similar calls have gone to Senator Chipp's office in Melbourne and to his office here and, I understand, to Senator Grimes's office here. None of the callers appears to know what is in the alleged amendment but are acting on information that has come, directly or indirectly, as I understand it from the departmental officer concerned that the amendment would, in fact, damage the Supported Accommodation Assistance Bill and, therefore, funding to non-government organisations.

As you are aware, Mr President, there are sound authorities for the proposition that the protection which applies to proceedings in either House under section 49 of the Constitution also extends to the preparation of and dealing with documents which are prepared wholly for the purpose of those proceedings. Therefore, it would be open to the Senate to treat as a contempt improper dealings with such a document, for example, an amendment which has been prepared for moving in the Senate. Therefore, I move:

That the following matter be referred to the Committee of Privileges - The improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate.

In moving the motion, I indicate that, should the matter be referred to the Committee, I will provide the Committee with whatever further details of the incident I have outlined it requires.

Senator BUTTON (Victoria—Leader of the Government in the Senate)—On behalf of the Government, I indicate that we have no objection to the motion moved by Senator Haines. Of course, she will provide the Committee of Privileges with further information.

Question resolved in the affirmative.



AUSTRALIAN SENATE
CANBERRA, A.C.T.

COMMITTEE OF PRIVILEGES

31 May 1985

Senator J. Haines
Room U47
Parliament House
CANBERRA A.C.T. 2600

Dear Senator Haines,

The Committee, having completed its reference relating to in camera proceedings of Select Committees, is now in a position to proceed with the matter, referred by the Senate on your motion of 23 April 1985, of the improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate.

The Committee noted from your speech in moving the motion your willingness to "provide the Committee with whatever further details of the incident the Committee requires".

On this basis, the Committee would appreciate your making available to it written information on any further details which you may have in relation to the incident.

Yours sincerely,

A handwritten signature in cursive script that reads 'B.K. Childs'.

B.K. CHILDS
Chairman



PARLIAMENT OF AUSTRALIA · THE SENATE

110 HURTT STREET,
ADELAIDE, SA 5000
TELEPHONE 08 223 1866

16th July, 1985

Senator B.K. Childs
Chairman
Senate Committee of Privileges
Parliament House
CANBERRA. ACT. 2600

Dear Senator Childs,

Thank you for your letter regarding the motion I moved on April 23, 1985 to have a matter referred to the Privileges Committee.

You may recall that the Senate was debating the Supported Accommodation Assistance Bill on April 22nd. Although I was on the Speakers' List, the Senate adjourned before I was able to speak. The only non-Government speaker on the Bill that day was Senator Messner.

Part of Senator Messner's speech was devoted to discussing a proposed Opposition amendment, the aim of which was to have guidelines treated as regulations and hence made subject to Parliamentary scrutiny.

While I could see some merit in this proposal, I felt that there had already been long delays in establishing the guidelines. Furthermore, the possibility of the already determined guidelines being subject to disallowance was going to cause, or was likely to cause, additional delays because State Governments and non Government organisations were also involved. As a result, I indicated privately to both Senator Messner and Senator Grimes that I would be recommending to my Party colleagues that we amend Senator Messner's amendment so that the requirement for Parliamentary scrutiny affected future guideline changes only. The draft of my amendment was not available until the morning of April 23rd. It was not distributed to anyone other than Senator Messner's office.

It was with some surprise, therefore, that I took a phone call from a woman who said she represented a Youth Housing Group in Canberra and who expressed concern at my (i.e. the Democrat's) amendment to the SAAP guidelines' status. The bells were ringing for Question

Time so I pointed out her mistake and thought no more about it. Later in the afternoon one of Senator Chipp's staff expressed concern that Don's offices in Parliament House and Melbourne were receiving calls from people affected by SAAP who were worried about the "Democrats' amendment" (sic)

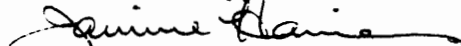
Further probing indicated that the information about the alleged amendment came from someone named Carolyn in the Department of Community Services who had rung one or more organisations to suggest that people lobby the Democrats to stop us from going ahead with the amendment. (At least one phone call had also been received by Senator Grimes' office in Parliament House. Eminently sensible as usual, Netta Burns expressed lack of knowledge of the matter and suggested I be contacted -- something which few callers had thought to do!)

By this stage I was extremely angry indeed. Clearly one of two things had happened: either a well meaning Departmental Officer had misheard the previous night's debate (although how anyone can confuse me with Tony Messner I can't understand), or somehow a copy of my own amendment (which had not even been alluded to in the Parliament) had "leaked".

Since every caller was quite adamant that the amendment she/he was concerned about was a Democrat one, the second of those possibilities seemed the more likely. Debate on the Bill was not due that day and I was advised that the only way to clear the matter up was to refer it to your Committee. This I did.

Subsequent inquiries elicited the identity of the officer who had delivered to me a letter indicating that it had not been her intention to mislead anyone and I enclose a copy of her letter.

Yours sincerely,



JANINE HAINES
Senator for South Australia

16 Hartley Street
Turner ACT 2601

8 May 1985

Dear Senator Haines

I am writing to you regarding the matter of privilege which you raised in connection with the Supported Accommodation Assistance Bill 1985 in the Senate on 23 April 1985.

I am a Clerk Class 10 officer working in the Department of Community Services. I am on secondment from the Office of the Commonwealth Ombudsman where I was Principal Investigation Officer for three years.

In the past fourteen months I have been responsible for consultations on the Supported Accommodation Assistance Program (SAAP) with the non-government sector. It has been my practice, during this time, to keep in touch with major organisations, to discuss progress in the development of SAAP, and to clarify those many aspects which had been misunderstood by the non-government sector.

In this context, on the morning of Tuesday 23 April 1985, I discussed with two non-government organisations publicly known matters relating to the progress of the SAAP Bill through Parliament. The discussions related to the effect of the Liberal Party amendment proposed (and defeated) in the House of Representatives on the previous Friday. We also discussed what might happen to the Liberal Party amendment in the Senate, to be debated that day. The position taken by the Australian Democrats would clearly be important to any interested person. I suggested that if the organisations wanted clarification of the Australian Democrats' position they should ask you, as the spokesperson on welfare matters.

Your statement in the Senate indicates that the suggestion I made, together with other information, e.g. Parliamentary ^{case} broad, rumours arising in the non-government sector, led to representations being made to several members of the Senate.

I was not aware of any Australian Democrat amendment until just after Question Time on the same day (2pm) when Rae Porter of Shelter informed me about the conversation she had had with you. She told me that you had said that you wanted the SAAP guidelines to be subject to parliamentary scrutiny as regulation but were willing to let them go through now.

I spoke to no other organisation until approximately 4pm when I spoke to Ian Corr of ACOSS. I believe in that conversation I referred only to the Liberal Party amendment.

You have my sincere assurance that I did not seek at any time to hinder your role as Senator. I would be happy to discuss these matters further with you at any time.

Yours sincerely

Carolyn L. Street

8/5/85



AUSTRALIAN SENATE
CANBERRA A C T

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

NO. 12

31 MAY 1985

1. PRIVATE MEETING OF THE COMMITTEE

The Committee met at 8.50 am in Senate Committee Room No. 5.

2. RESOLUTION RE CHANGES IN MEMBERSHIP

The Chairman reported the Resolution of the Senate of 29 May 1985 discharging Senators Coates, Peter Rae and Withers from attendance on the Committee and appointing Senators Bolkus, Jessop and Missen to be members of the Committee.

3. CONSIDERATION OF NEW REFERENCE

The Chairman drew attention to the following reference, moved by Senator Haines on 23 April 1985 and agreed to by the Senate on that day, which the Committee had decided, at a meeting on 30 April 1985, to postpone till after its previous reference had been completed:

The improper disclosure and misrepresentation by a departmental officer of an amendment prepared for moving in the Senate.

It was resolved, on the motion of Senator Jessop, that:

- (a) the Chairman write to Senator Haines, on behalf of the Committee, requesting written information relating to the incident outlined in her speech in the Senate on 23 April 1985; and
- (b) depending on Senator Haines' response, which would be circulated to Committee members on receipt, a possible approach could be to write to the Minister responsible for the actions of the departmental officer, seeking the Minister's comments on Senator Haines' statement in the Senate and her written information. That response, too, would be circulated to the members of the Committee.

It was also agreed that the draft letter to Senator Haines, circulated to members of the Committee, be approved.

4. **CIRCULATION OF RELEVANT MATERIAL TO FORMER MEMBERS**

It was resolved, on the motion of Senator Missen, that pursuant to Standing Order 308, the Committee authorises release of documents which may be received by the Committee, in relation to the reference on penalty the subject of the Committee's report of 23 May 1985, to Senators Coates, Peter Rae and Withers.

5. **NEXT MEETING**

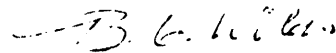
It was agreed that the Committee meet in Canberra on a day to be fixed in August, subject to any response which may be received from Senator Haines, and, if applicable, from the Minister responsible for the conduct of the officer.

6. **ADJOURNMENT**

The Committee adjourned at 8.55 am.

7. **ATTENDANCE**

Present: Senator Childs (Chairman), Senators Bolkus, Cook, Jessop, Macklin, Missen and Robert Ray.



B.K. CHILDS
Chairman



AUSTRALIAN SENATE
CANBERRA A.C.T.

COMMITTEE OF PRIVILEGES

MINUTES OF PROCEEDINGS

NO. 13

12 SEPTEMBER 1985

1. PRIVATE MEETING OF THE COMMITTEE

The Committee met at 11.35 am in Senate Committee Room No. 5.

2. RESOLUTION RE CHANGE IN MEMBERSHIP

The Chairman of the Committee reported the Resolution of the Senate of 11 September 1985 discharging Senator Cook from further attendance on the Committee and appointing Senator Aulich a member of the Committee.

3. MINUTES

On the motion of Senator Jessop, the minutes of Meeting No. 12 of 31 May 1985 were confirmed.

4. CIRCULATION OF RELEVANT MATERIAL TO FORMER MEMBER

It was resolved, on the motion of Senator Robert Ray, that, pursuant to Standing Order 308, the Committee authorises release of documents which may be received by the Committee, in relation to the reference on penalty the subject of the Committee's report of 23 May 1985, to Senator Cook.

5. CORRESPONDENCE FROM SENATOR HAINES

The Chairman reported receipt of a letter, dated 17 July 1985, together with an attachment, from Senator Haines, in response to the letter of 31 May 1985 from the Committee.

It was agreed that the letter and the attachment be considered during the Committee's consideration of the Chairman's draft Report.

6. CONSIDERATION OF CHAIRMAN'S DRAFT REPORT

The Committee considered the Chairman's draft Report.

It was resolved, on the motion of Senator Missen, that the Chairman's draft Report on The Improper Disclosure and Misrepresentation by a Departmental Officer of an Amendment Prepared for Moving in the Senate be adopted without amendment as the Report of the Committee.

It was agreed that Appendices A and B, and the Minutes of Proceedings, be included with the report, and that the report be presented to the Senate on Monday, 16 September 1985.

7. ADJOURNMENT

The Committee adjourned at 11.51 am.

8. ATTENDANCE

Present: Senator Childs (Chairman), Senators Aulich, Bolkus, Jessop, Missen and Robert Ray.

Apology: Senator Macklin

B. K. Childs

CERTIFIED CORRECT

(B.K. CHILDS)
Chairman

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