

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF PRIVILEGES

PERSON REFERRED TO IN THE SENATE

(MR I.R. CORNELIUS)

(13TH REPORT)

DECEMBER 1988

MEMBERS OF THE COMMITTEE

Senator Patricia Giles (Western Australia), Chair

Senator John Black (Queensland)

Senator Bruce Childs (New South Wales)

Senator John Coates (Tasmania)

Senator the Honourable Peter Durack, Q.C.
(Western Australia)

Senator Janet Powell (Victoria)

Senator Baden Teague (South Australia)

The Senate
Parliament House
CANBERA A.C.T. 2601.

REPORT

1. On 7 December 1988 the Committee of Privileges presented to the Senate a report recommending that a response by Mr T. Motion to references to him made in the Senate by the Minister for Finance, Senator the Honourable Peter Walsh, be incorporated in Hansard. The circumstances giving rise to the Committee's recommendation are outlined in that report. The Committee's report was adopted by the Senate on 13 December 1988. Debate on the motion for the adoption, moved by the Chair of the Committee (Senator Giles), is at Appendix 1 to this Report.
2. On 12 December 1988, another person, Mr I.R. Cornelius, referred to by Senator Walsh at the same time as Mr Motion, similarly wrote to the President. On the same day, the President referred Mr Cornelius' letter to the Committee of Privileges (see Appendix 2), having accepted it as a submission for the purposes of the Resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate.
3. The Committee, pursuant to Privileges Resolution 5(3), decided to consider the submission from Mr Cornelius, and met in private session on 13 December 1988. In considering the submission, the Committee did not find it necessary to confer with either Mr Cornelius or the Minister. After deciding to recommend to the Senate that an agreed statement be incorporated in Hansard, the Committee contacted Mr Cornelius and the statement at paragraph 4 below has been agreed to by Mr Cornelius and the Committee in accordance with Resolution 5(7)(b).

4. The Committee recommends:

That a response by Mr I.R. Cornelius, in the terms specified below and agreed to by Mr Cornelius and the Committee, be incorporated in Hansard:

RESPONSE BY MR I.R. CORNELIUS
AGREED TO BY MR CORNELIUS AND THE COMMITTEE OF PRIVILEGES
PURSUANT TO RESOLUTION 5(7)(b) OF THE SENATE OF 25 FEBRUARY 1988

On 10th November, 1988 in the Senate, Senator Walsh falsely attacked me by describing me as a spiv who lounged around in Perth and who had done so for as long as he could remember.

Senator Walsh further claimed that I had been gaoled although not for as long as I should have been.

His allegation is that I conspired to defraud the Commonwealth.

In respect to the allegation of my having spent time in gaol, that is utterly and absolutely untrue and, to my knowledge, Senator Walsh had no grounds for making that claim. He certainly did not enquire of me or my office as to the truth of the allegation before making it.

I do not know Senator Walsh and I have never met him nor, to my knowledge, do we have mutual acquaintances.

Senator Walsh's remarks are not only highly offensive but certainly defamatory and libellous and, had they been made outside the Parliament, he would of course have been subject to the same legal proceedings as all other citizens.

I have never been to gaol nor of course have I been charged or convicted of any criminal offence, never mind that of conspiring to defraud the Commonwealth.

I am a director of a number of public companies and Senator Walsh's attack and accusations have done harm to myself and the companies on whose boards I sit. I have found it necessary to assure those with whom I have commercial relationships that Senator Walsh's allegations are totally without foundation. His claims have caused me and my family considerable hurt and embarrassment.

My only communication with Senator Walsh was in the form of a telephone call from him some years ago when I authorised a newspaper advertisement which was opposed to the government's position.

IAN RAYMOND CORNELIUS

Patricia Giles
Chair

14 December 1988

APPENDIX 1

COMMITTEE OF PRIVILEGES

Senator GILES (Western Australia) (7.48)—I present to the Senate a report from the Committee of Privileges concerning a matter raised by a person raised under Privileges Resolution 5.

Ordered that the report be printed.

Report—by leave—adopted.

Senator GILES—I seek leave to have my speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

As Honourable Senators are aware, the Privileges Resolutions agreed to by the Senate on 25 February 1988 not only provide for the protection of witnesses before Committees, the procedures to be followed by the Committee of Privileges, etc, but also provide a means by which a person who has been referred to in the Senate may make a submission to the President claiming that he or she has been adversely affected by the reference and seeking the publication of an appropriate response. The President is empowered to refer the submission to the Committee of Privileges, if he is satisfied that a reference is justified having regard to certain criteria under Resolution 5 (1).

On 30 November, the President, having considered such a request from Mr Tony Motion relating to remarks made in this Chamber by the Minister for Finance on 10 November, referred the matter, pursuant to Resolution 5, to the Committee for consideration.

The Committee considered the submission and has recommended that a response agreed to by Mr Motion and the Committee be incorporated in *Hansard*.

In making this recommendation to the Senate, the committee is mindful that this is the first time that the Committee has considered a submission under these provisions of the Privileges Resolutions. The Committee wishes to assure the Senate that, given the Committee's appreciation that consideration of this matter will inevitably be taken to be a guide to future cases, the Committee examined with care all the options open to the President, to the Committee and to the Senate itself.

Having decided to consider the submission under Resolution 5 (3), the Committee took particular note of the provision in Resolution 5 (8) concerning documents to be presented to the Senate pursuant to the Resolution, that is, that a response by a person who makes a submission shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character.

In applying this criterion, the Committee took into account the rules that apply to Senators claiming to have been misrepresented, and the agreed statement is recommended for incorporation on that basis.

I commend the Report to the Senate.

Senator GILES—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEE OF PRIVILEGES

Debate resumed from 7 December, on motion by Senator Giles:

That the report be adopted.

Senator DURACK (Western Australia) (4.00)—I rise to support the recommendation of the Senate Standing Committee on Privileges which was submitted last week by the chairperson of that Committee, Senator Giles. This report makes a recommendation for the incorporation in *Hansard* of a reply from a Mr Tony Motion, who claimed that he had been adversely affected by statements made in the Senate by a senator on 10 November last. This recommendation is the first to be made by the Senate Privileges Committee, under these new powers and rights that have been accorded by the Senate, to enable people who have been defamed in some way in the Senate to make a reply. The resolution is set out amongst the various privilege resolutions agreed to by the Senate on 25 February 1988 and it is really based on the need for members of parliament to exercise restraint in the use of their great powers of free speech in the Parliament that they have had under the Bill of Rights since 1689. It is rather interesting that there will be a tercentenary celebration of the Bill of Rights later this evening in this very Parliament House. So this is really quite an historic event and it is very good that it is occurring at the same time as we are recalling the rights and privileges that we, as parliamentarians, have enjoyed for the last 300 years.

The right of free speech enjoyed by members in the other place, by senators, and by all Westminster style parliaments has been a most invaluable one which should continue; there is no suggestion in the Senate's resolutions that it should not continue. But the Senate's resolutions recognise the down side of that—namely, that occasionally senators, and indeed members in other parliaments, from time to time make somewhat extravagant and sometimes unjustified statements about other people affecting their reputations, affecting them in their business affairs and, no doubt, greatly affecting their families. So the resolutions passed in February this year in this chamber give a person a right to seek to have a reply incorporated in *Hansard*. The determination of that matter is made in the first place by the Privileges Committee, which has now brought down this report in the Senate, and it is for the Senate to make the final decision. I hope that, in accord with the motion that has been moved by Senator Giles, this chamber will support the incorporation in *Hansard* of a reply by Mr Motion in response to an attack that was made on him by Senator Walsh.

Paragraph 9 of the resolutions that we adopted also draw the attention of honourable senators to the need to exercise some care and restraint in the use of our privilege of freedom of speech. In my many years of experience in this chamber, by and large honourable senators exercise restraint and care in the use of these privileges. It is only really in exceptional cases that those rights are abused by senators, but it is certainly appropriate that some opportunity should be given to people to reply in those cases. The privilege of doing so is accorded only in this chamber. A joint report by this Committee and the House of Representatives Standing Committee on Privileges made this recommendation to both Houses of this Parliament, but it has only been taken up by the Senate. I hope that it will not be long before the House of Representatives acts upon the same recommendation. I think there may be more business for a committee in that chamber or more need for a right of reply in that chamber than there is in the Senate.

It is pleasing that, on this first occasion on which this matter has arisen under these new resolutions of the Senate, the reply by Mr Motion was tendered very much within the terms of the resolutions—namely, that it should be succinct, relevant and should not in any way be offensive. It has been a very easy task for the Senate, subject to some minor changes, to agree with Mr Motion to report to the Senate promptly. I am glad that the Senate will have the opportunity of promptly making a decision. If these rights are to be properly exercised and enjoyed, I think it behoves everyone to act promptly and for those seeking to take advantage of this right to take care in the replies they make as that, in our experience in the Privileges Committee, will greatly assist in having a prompt resolution of the matter. For all those reasons I am very pleased to support the motion. I hope that the Senate will give this matter speedy attention and passage.

Senator GILES (Western Australia) (4.05)—Briefly, I would like to endorse Senator Durack's comments and assure the Senate and anybody else who is interested that the fact that we have dealt with this briefly is not an indication that we have not taken it very seriously, but is because of the exigencies of the Senate program at this time

of the year and the desirability, we felt, of dealing with the matter before we rise for the Christmas break. As Senator Durack has said, we were able to deal with Mr Motion's petition expeditiously because his letter is in a form which is appropriate for incorporation in *Hansard* if the Senate adopts the recommendation of the Senate Standing Committee on Privileges.

I also remind individuals who feel that they have a grievance because of statements made in the Senate that we, as senators, have a responsibility not only to be careful of the reputations of our constituents but also to advise our constituents on the range of measures that we can take to guard their reputations. I am grateful to the Committee for the attention and great thought that it has given to this issue. I commend the Committee's recommendations to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Zakharov)—The question is: That the report of the Privileges Committee be adopted. Those of that opinion say 'Aye'—

Senator Crichton-Browne—Madam Acting Deputy President, I seek leave to make a statement on the matter.

The ACTING DEPUTY PRESIDENT—I am sorry, Senator Crichton-Browne. The mover of the motion has replied.

Senator Jones—Madam Acting Deputy President, I take a point of order. I think a vote was called. I do not know whether the vote has been finalised in relation to this Committee report. It is up to Senator Crichton-Browne as to whether he seeks leave to speak at a later stage. You had half asked the Senate to make a decision and I think that matter should be completed.

The ACTING DEPUTY PRESIDENT—I will put the question. If Senator Crichton-Browne then wishes to seek leave to make a brief statement, he can do so.

Question resolved in the affirmative.

The response read as follows—

RESPONSE BY MR T. MOTION,
AGREED TO BY MR MOTION AND THE
COMMITTEE OF PRIVILEGES
PURSUANT TO RESOLUTION 5 (7) (b) OF
THE SENATE OF 25 FEBRUARY 1988

Remarks made by Senator Walsh in the Senate on 10 November in relation to myself appeared in the West Australian newspaper on November 11.

Senator Walsh stated that I was a 'spiv' who has 'lounged' around Perth for as long as he can remember. Senator Walsh used the word spiv 3 times so it appears that it was a deliberate choice of word.

The Oxford Dictionary defines 'spiv' as a 'shady character who avoids honest work and lives by his wits especially in black market traffic'. The same source defines lounge as 'go lazily, saunter; loll, recline; idle etc'.

I regard Senator Walsh's use of the words in relation to myself as defamatory, especially in view of the following facts.

Since the mid 1970's I have been engaged full time in the Tourist/Hospitality industry.

Since 1982 I have lived and worked at the above address [Northam, Western Australia] which is 110 km from Perth. My wife and I have spent considerable funds and energy restoring Buckland and opening it to the public. To make ends meet we also accept overnight guests.

Like many people in the hospitality industry we work incredibly long hours, seven days a week and have done so for many, many years.

I have also been involved with numerous voluntary committees and associations since arriving in Australia in 1969. One that gives me particular satisfaction was the commencement of a scheme for unemployed youth in this area. The culmination of that initiative takes place this afternoon with the launching of the Group Apprentice Training Scheme here in Northam by the Minister of Employment and Training.

I have the honour to have been presented by the Town of Northam with a certificate as a token of appreciation for my services in local community work.

In the early 1970's in company with Mr John Tonkin, Mr Brodie Hall and other distinguished persons I addressed a public meeting on the subject of 'the gold tax'. Is this the event that Senator Walsh takes such exception to? Ironically, at that meeting, I suggested a graduating tax over the years—say ten years! I was, at the time, Chairman of Metramar Minerals Limited.

Senator Walsh's remarks have caused my family considerable distress and quite unjustifiably. This would be a classic example of why the general public hold political institutions in such disdain.

Tony Motion
Winner of the Sir David Brand Medal for Tourism
1984
Former Chairman West Australia Tourist Advisory
Council
Former President WA Restaurant Association
Former Councillor WA Australian Hotel
Association
Former Member of Executive Committee Festival
of Perth
Former Member of the Board of the WA Ballet
Company
Former Chairman Avon Valley Tourist Association



PRESIDENT OF THE SENATE

PARLIAMENT HOUSE
CANBERRA

12 December 1988

Senator P. J. Giles,
Chair,
Committee of Privileges,
The Senate,
Parliament House,
CANBERRA, A.C.T. 2600.

Dear Senator Giles,

Attached is a letter from Mr I.R. Cornelius, of East Perth, concerning remarks made about him in the Senate.

I have accepted this letter as a submission for the purposes of the resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate, and pursuant to that resolution I refer the letter to the Committee of Privileges.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Kerry W. Sibraa'.

(Kerry W. Sibraa)



