

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF PRIVILEGES

POSSIBLE IMPROPER INFLUENCE OR PENALTY ON A WITNESS

IN RESPECT OF EVIDENCE BEFORE A SENATE COMMITTEE

(30TH REPORT)

MARCH 1991

REPORT

Introduction

1. On 18 October 1990 the following matter was referred to the Committee of Privileges on the motion of the Chairman of the Senate Standing Committee on Environment, Recreation and the Arts, Senator Crowley:

Having regard to the report of the Standing Committee on Environment, Recreation and the Arts presented on 17 October 1990, whether an attempt was made improperly to influence a witness in respect of the witness's evidence, or to penalise a witness in respect of the witness's evidence, and whether any contempt was committed.

The statement made by the Acting Deputy President (Senator Bjelke-Petersen), on behalf of the President of the Senate, informing the Senate that precedence had been given to a notice of motion to refer the matter is at Appendix A to this report.

Background

2. On 17 October, a report of the Environment, Recreation and the Arts Committee, entitled Report on the Harassment of a Witness - Drugs in Sport Inquiry, was tabled in the Senate. The report gave details of a complaint by Mr Glen Jones, National Drug Testing Officer of the Australian Drug Free Powerlifting Federation (ADFPF), that Mr Chris Turner, another member of the Federation, sent to Mr Jones a letter containing an implied threat that, if Mr Jones did not withdraw from a contest for an office in the Federation, Mr Turner would publish to members of that organisation certain documents

containing certain allegations against Mr Jones. One of those documents contained the allegation that Mr Jones gave false evidence to the Standing Committee during its inquiry into drugs in sport.

3. That Committee, having examined documents provided by Mr Jones, concluded, at a private meeting on 18 September, that the matter should be reported to the Senate. The Committee indicated in its report that it viewed the matter most seriously.
4. The matter was referred to the Committee of Privileges on Senator Crowley's motion, without debate. The Committee of Privileges, having given initial consideration to the matter, sought and received from both Mr Jones and Mr Turner submissions in relation to the matter.

Matters for consideration

5. The Committee of Privileges is required to take the criteria set out in paragraphs 3(a) to (c) of the Privilege Resolutions of 25 February 1988 into account in coming to a determination on matters referred to it. The Committee's application of these criteria has been set out in detail in previous reports, notably in paragraphs 27 to 30 of the 18th Report (June 1989, Parliamentary Paper 461 of 1989), and the Committee does no more here than indicate that it was mindful of the criteria when making its findings in relation to the present matter.
6. The essence of the case before the Committee of Privileges was that a person (Mr Turner) threatened another person (Mr Jones), who gave evidence before a Senate committee, with the publication of an allegation that such evidence was false, in order to influence the person who gave the evidence in relation to another matter, namely, an election to an office in an association (the ADFPF). The question that potentially the Committee of Privileges was called on to decide was whether the conduct of Mr Turner constituted improper interference with a witness, having regard to the fact that his presumed purpose was not to influence Mr Jones in respect of his evidence before the Committee, but rather to influence him in respect of the unconnected matter of an election to the ADFPF.

7. In practice, however, the Committee agreed that it did not need to reach a concluded view on the question. Mr Turner indicates in his lengthy submission that he had no intention of interfering with Mr Jones on account of his having given evidence before a Senate committee, and as indicated in previous reports the Committee, in reaching its conclusions on matters referred to it, has always given the question of intent substantial weight when applying the criteria in paragraphs 3(a) to (c) of the Privilege Resolutions.
8. As both the report of the Environment, Recreation and the Arts Committee and the submissions indicate, it is clear that there were significant differences of opinion, and significant rivalries, between members of the organisation, focussed upon the conflict and antagonism between the persons who are the subject of the Privileges Committee inquiry.
9. The Committee notes a similarity between the present case and the matter on which it reported in its 18th Report, referred to at paragraph 5 above, concerning possible interference with witnesses before the Senate Select Committee on the Administration of Aboriginal Affairs. In that case, the Committee had cause to point out the turbulent circumstances surrounding the internal operations of the Aboriginal Development Commission and drew attention, in particular, to the use by certain people at that time of any weapons at their disposal to pursue their particular ends. A majority of the Committee found in that case that the reference in a motion of no confidence to a witness appearing before a Senate committee was not sufficient evidence of the required intention to interfere with that witness in consequence of giving evidence to the committee. The minority found that, although a technical breach of privilege was committed, the circumstances in which this occurred, and the background of conflict and antagonism which had existed in that organisation, raised the question whether the Senate should exercise its power to deal with a contempt in the particular circumstances of that case. The minority decided that it was not necessary to do so.
10. In the circumstances of the present case, all members of the Committee have concluded that the proposal to publish a document claiming that false evidence had been given to a Senate committee was not sufficient evidence of the required intention to interfere with a witness on account of his having given evidence to a Senate committee. In addition, all members of the

Committee have concluded that, even if the Committee had decided that a technical breach of privilege had been committed, it would have recommended to the Senate in these circumstances that it should not exercise its power to deal with the matter as a contempt.

Finding

11. The Committee has concluded that no contempt of the Senate has been committed.

Patricia Giles
Chair

EXTRACT

SENATE HANSARD
17 October 1990

PRIVILEGE

**Report by the Standing Committee on
Environment, Recreation and the Arts on
Harassment of a Witness**

The **ACTING DEPUTY PRESIDENT** (Senator Bjelke-Petersen)—I read the following statement on behalf of the President. The Standing Committee on Environment, Recreation and the Arts was kind enough to provide me with an advance copy of this report, so that I could consider the matter raised by the Committee and make a determination under the Privilege procedures as soon as the report was presented. The Committee reports that it considers that a witness has been harassed in respect of the witness's evidence.

Under the procedures provided by the Privilege Resolutions of 25 February 1988, I am required to determine whether a motion to refer the matter to the Committee of Privileges should have precedence over other business having regard to the criteria laid down in the Senate's resolution. I have explained to the Senate in previous statements the effect of the criteria and the way in which I make the required determinations. The matter raised by the Committee clearly meets the prescribed criteria, and I therefore determine that a notice of motion to refer the matter to the Committee of Privileges should have precedence.