



Dramatic events on 10 June 1955: the Serjeant-at-Arms, Jack Pettifer (left) escorts Frank Browne (wearing spectacles) and Raymond Fitzpatrick (in front) from King's Hall, Parliament House, after the House of Representatives had ordered that they be imprisoned for three months. Photo: The Fairfax Photo Library

PARLIAMENT SENDS TWO MEN TO PRISON

CANBERRA, Friday. – The House of Representatives today committed Raymond E. Fitzpatrick and Frank C. Browne to prison for three months for contempt of Parliament. After the parliamentary debate the men were taken into custody by the Serjeant-at-Arms of the House of Representatives and lodged in the cells at Canberra Police Station.¹

Unprecedented events unfolded in the Federal Parliament on 10 June 1955. For the first time in its history, the House of Representatives used its powers and imprisoned the owner and the editor of a suburban newspaper, the *Bankstown Observer*, for printing articles about a Member of the House.

Now the House of Representatives has made history again by agreeing to the public release of the evidence that led to the committal of Fitzpatrick and Browne. The previously sealed records of the House of Representatives Privileges Committee, which conducted the *Bankstown Observer* investigation, have been made available to the public through the National Archives.

Fitzpatrick and Browne grabbed the national spotlight in 1955 after they printed a series of articles in the *Bankstown Observer* alleging that the then Federal Member for Reid, Charles Morgan, had been involved in corrupt immigration schemes. The newspaper articles were based on allegations that had circulated in Morgan's

electorate in the lead up to the 1946 election. The matter was referred to the Privileges Committee on the grounds that the articles impugned the honour of the Member for Reid and were an attack on his conduct as a Member of Parliament.

The Privileges Committee conducted a formal investigation, taking evidence from Morgan, Fitzpatrick and Browne. Most of that evidence has not been available publicly until now.

The Privileges Committee found a conspiracy to blackmail.

Based on the evidence received, the Privileges Committee concluded that Fitzpatrick and Browne were guilty of a serious breach of privilege. They had published articles that were intended to influence and intimidate Morgan in his conduct in the House and deliberately attempted to impute corrupt conduct as a Member against him, for the express purpose of discrediting and silencing him. The Privileges Committee recommended that the House should take appropriate action.

Fitzpatrick and Browne were called before the House of Representatives on 10 June 1955. "The proceedings during the day were tense," reported *The Sydney Morning Herald*.

¹ The Sydney Morning Herald, 11 June 1955, page 1.

"Public galleries were full. Senators and diplomats crowded into the galleries on the floor of the House." No debate in Parliament, said *The Sydney Morning Herald*, had created anything like such intense interest among radio listeners. "The ABC had innumerable rings requesting a repeat broadcast, expressing opinions on the business and just simply wanting to talk about it."

Both men were given the opportunity to make a statement to the House. Fitzpatrick sought permission for his legal counsel to speak, but the Speaker, Archie Cameron, told Fitzpatrick that the resolution of the House only entitled him to speak personally.

Fitzpatrick spoke briefly, offering an apology to the House and indicating that he had no idea that the newspaper articles were against parliamentary privilege. Browne, on the other hand, spoke for nine minutes and offered no apology. "His voice echoed loudly in the chamber, while the rustle of paper on a Government back-bench could be easily heard in the tense and hushed atmosphere," noted *The Sydney Morning Herald*. Browne referred to the right of citizens to be charged with an offence before being convicted and also to the right to have legal representation. These were all issues that became the focus of much public debate and legal argument in the days that were to follow.

The proceedings in the House turned into a day-long debate, with a break after Fitzpatrick and Browne had spoken to allow Members to consider their statements.

"During the adjournment there was a Cabinet meeting," reported *The Sydney Morning Herald*. "A few minutes before the House resumed, Government members were called to the party room to be told that Cabinet was determined to press for the imprisonment of the two men."

When the House resumed, Prime Minister Menzies moved for both men to be imprisoned. In arguing for imprisonment, the Prime Minister said that the case would never have come before the Privileges Committee if it had been merely a "case of criticism, even of violent criticism, and if the matter had followed what one might call the pattern of controversial journalism". But, Menzies pointed out, this was a case in which the Privileges Committee found a conspiracy to blackmail a Member of Parliament into silence.



Press photographers clamour to get pictures of Frank Browne as he leaves Goulburn Jail in September 1955 after serving his sentence for contempt of Parliament. Photo: News Ltd NSW (Newspix)

"It would be a great blunder," Menzies said, "to think that conduct of this kind, so deliberately designed, so sustained in its execution, because it is still going on, could be allowed to pass with a mere reprimand, or abandoned in the presence of a muttered apology." He added, "the historic remedy, adopted repeatedly over the course of history by the House of Commons, and, indeed, by one or two parliaments at least in Australia, is the remedy of committing to prison."

The Leader of the Opposition, Herbert Evatt, sought to amend the proposed punishment to a substantial fine. In suggesting an amendment, Evatt indicated that the issue was not one that involved party political considerations. Rather, his concern was that the proposal to imprison the two men was "out of all proportion to the circumstances of the case".

By a vote of 55 to 12 in the case of Fitzpatrick, and 55 to 11 in the case of Browne, the House agreed to imprison both men for three months. Some Opposition Members voted with the Government Members for imprisonment and some, including Deputy Opposition Leader Arthur Calwell, abstained.

Another who abstained from the vote was Charles Morgan, the Member at the centre of the controversy. He spoke last in the debate, suggesting that other people may have been behind the publishing of the newspaper articles. The real culprits were behind the scenes, he said, indicating that some of those people

held high positions in the community, including a judicial position.

The High Court subsequently upheld the right of the House of Representatives to commit a person to prison for contempt (in *R. v Richards; ex parte Fitzpatrick and Browne*). Both Fitzpatrick and Browne served three months in prison.

To this day, Fitzpatrick and Browne have remained the only people in Australia to be sent to prison by the Federal Parliament. Now, with the release of the records relating to this case, people can read the evidence that led to this historic and controversial act by the House of Representatives.

MATTERS OF PRIVILEGE

So that the House of Representatives, its Members and its committees can carry out their functions properly, they are covered by a special legal status known as parliamentary privilege. It provides the House with special rights and immunities so that Members can debate matters freely, can air grievances and can investigate issues without threat of any action being taken against them.

If anyone tries to interfere with the proper conduct of the House or with the work of its Members or committees, the House has the power to reprimand, imprison or impose fines. Both the House of Representatives and the Senate have a Privileges Committee responsible for investigating any alleged breaches of parliamentary privilege involving that House.

Previously, the House of Representatives Privileges Committee took its evidence behind closed doors (in camera).

Whenever it reported its findings to the Parliament, most of the evidence the Committee received was kept secret. But now, on the advice of the Privileges Committee itself, the House has decided to have an annual release of Privileges Committee evidence that is more than 30 years old. The evidence in the *Bankstown Observer* case, which led to the imprisonment of Messrs Fitzpatrick and Browne, is some of the first to be released, along with the evidence from six other inquiries conducted between 1944 and 1970.

Privileges Committee Chair, Alex Somlyay, explained that the Committee supported the release of the evidence in the *Bankstown Observer* case because "there would be considerable public interest in the papers". The Committee had been approached in this regard by the National Archives Advisory Council. While noting

that there had been some concerns about publicly releasing the documents, because of the probable defamatory statements contained in the evidence, Mr Somlyay indicated that no case for defamation could be brought as the people concerned were now deceased.

In accordance with the Archives Act, Privileges Committee material will not be released if that release would represent unreasonable intrusion upon the affairs of any person, alive or deceased. The records can be accessed through the National Archives, call (02) 6212 3972.

For more information on the work of the House of Representatives Privileges Committee

Visit: www.aph.gov.au/house/committee/priv
Call: (02) 6277 4399

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