

House Rules

Parliament's protector

One of the House's lesser known committees has been getting more attention lately.

WHILE it has existed in a fairly consistent form since at least as far back as 1944, and while it has a significant role in upholding parliamentary rights, it's fairly rare for the House of Representatives Privileges and Members' Interests Committee to be the focus of public attention.

Unlike most House of Representatives committees, the Privileges and Members' Interests Committee doesn't tend to have hearings that are open to the public and doesn't generally seek public submissions.

Recently, however, with the launch of an inquiry into whether the Member for Dobell (NSW) Craig Thomson deliberately misled parliament and a broader debate about a code of conduct for MPs, the work of the committee is attracting more interest.

The committee exists to investigate and report on complaints and breaches of parliamentary privilege and contempt of parliament, as well as monitoring the register of members' interests and related matters.

Parliamentary privilege refers to two of the more significant aspects of the law relating to parliament: the privileges (or immunities) of the houses of the parliament; and the powers of the houses to protect the integrity of their processes, particularly the power to punish any contempt.

The best known immunity is the freedom of parliamentary debates and proceedings from question and impeachment in the courts, which means members of parliament cannot be sued or prosecuted for anything they say during debate in the houses.

The Privileges Committee becomes involved when there is a complaint that there has been an infringement of the privileges of the House, its committees or its members – for example if a witness before a committee has been intimidated or interfered with as a result of giving evidence or if a member claims



PARLIAMENTARY PRIVILEGE: *Powers protect the integrity of parliament*

that actions taken have prevented them from fully performing their duties.

Such allegations can be raised in the House by any members and can be referred to the Privileges Committee either by the Speaker of the House of Representatives directly under Standing Order 52, or by a resolution of the House itself under Standing Order 51 – the latter being the catalyst for the current committee inquiry into the actions of Mr Thomson.

When investigating these types of alleged breaches of privilege or contempt of parliament, the Privileges Committee relies on the investigative powers granted to the House through the law of

parliamentary privilege. These include the power to compel the attendance of witnesses, the giving of evidence and the production of documents, and the power to adjudge and punish any contempt of the House.

The similarities between these powers and the powers exercised by a court have led the committee to establish protections for witnesses appearing before the committee and those being investigated.

People under investigation by the committee must be notified in advance of the charges held against them and the nature of the offence. They are able to respond to allegations through written submissions, giving evidence before the committee, submitting other evidence to the committee and having other witnesses examined. They are allowed legal counsel and are given a right of reply to any findings or penalties decided by the committee before these are presented to the House of Representatives.

As well as investigating matters of privilege and looking after issues around members' interests, such as shares and property owned by members, the committee was also recently asked to develop a draft code of conduct for MPs.

In November 2011 it delivered a discussion paper on a draft code outlining the standards of behaviour which the Australian people can expect of their elected representatives. It included key principles such as integrity, loyalty to the nation and regard for its laws, respect for the dignity and privacy of others, and high standards of personal conduct.

The code of conduct has yet to be adopted by the House, but with recent events renewing calls for parliamentary standards to be improved, the sometimes overlooked work of the Privileges Committee may take an even greater role in guiding the business of the House in the future. •