

PARLIAMENT OF VICTORIA

LEGISLATIVE ASSEMBLY

Privileges Committee



Report on the complaint by the Member for Polwarth

Parliament of Victoria
Legislative Assembly Committee

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Committee membership



Hon Martin Pakula
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Mr David Morris
Mornington



Hon Jacinta Allan
Bendigo East



Hon Ben Carroll
Niddrie



Hon Jill Hennessy
Altona



Mr Frank McGuire
Broadmeadows



Ms Steph Ryan
Euroa



Ms Louise Staley
Ripon



Hon Kim Wells
Rowville

About the Committee

Functions

Extract from the Votes and Proceedings of the Legislative Assembly,
Thursday 21 March 2019:

19 COMMITTEE MEMBERSHIP — Motion made, by leave, and question — That —....
A select committee be appointed to inquire into and report upon complaints of breach of privilege referred to it by the House, right of reply applications referred under SO 227 and any other matter referred to it by the House; and Ms Allan, Mr Guy, Ms Hennessy, Mr McGuire, Mr Morris, Ms Neville, Mr Pakula, Ms Ryan and Mr Wells be members of the Privileges Committee — put and agreed to.

On 18 March 2021 Ms Neville was discharged from the Committee and Mr Carroll appointed in her place.

On 6 October 2021 Mr Guy resigned from the Committee and on 7 October 2021 Ms Staley was appointed in his place.

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This report is available on the Committee's website.

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Findings

FINDING 1: The request by members of Victoria Police on 15 October 2021 for members of the public gathered outside the Member for Polwarth’s electorate office to disperse was not a breach of parliamentary privilege, and did not comprise a contempt of the Parliament.

3

FINDING 2: The release of CCTV footage from the Polwarth electorate office to Victoria Police did not comprise a breach of privilege nor a contempt of parliament. As the gathering of people outside the electorate office was not subject to parliamentary privilege, the release of footage from that gathering of people was also not subject to privilege.

6

FINDING 3: While it was not possible for the Committee to determine whether the release of CCTV footage to Victoria Police comprised a substantial interference with the work of the Member for Polwarth, the Committee can anticipate circumstances in which the release of data in similar circumstances could substantially interfere with the work of a member.

6

FINDING 4: The current electorate office CCTV access procedure does not provide sufficient safeguards to protect parliamentary privilege. It is the view of this Committee that procedures to allow third parties to access electronic security data held by the parliament must contemplate, as their starting point, the right of a member to assert privilege over such material, particularly where that material relates directly to the work of a member. Recommendation 1 contains this Committee’s guidance on how such matters should be determined.

6

FINDING 5: The Committee finds that the presence of Victoria Police outside the Member for Polwarth’s electorate office while he met with a gathering of constituents did not comprise a contempt of the Parliament.

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FINDING 6: The Committee finds that the Member for Polwarth exercised privilege when he declined to share information about constituents with members of Victoria Police.

9

FINDING 7: The Committee finds that members of Victoria Police, particularly those that regularly interact with members of Parliament, may benefit from further instruction on the role of members of parliament and core principles of parliamentary privilege.

9

Recommendations

RECOMMENDATION 1: That the House Committee review the policy for access to electronic data to ensure that the privilege of the House is preserved, and that the policy includes:

- a) a presumption that all electronic data related to the work of members may be subject to an assertion of privilege;
- b) consequently, a general presumption that information or data should not be released to third parties without the authorisation of the relevant member;
- c) an acknowledgement that there may arise circumstances (e.g. requests from law enforcement officials relating to allegations of serious misconduct or criminality, unrelated to the ordinary work of a member) where it is not appropriate for the member to be informed of such requests and/or to make determinations about the release of material; and
- d) a process, in relation to circumstances outlined in c) above, which allows the relevant Presiding Officer, advised by the relevant Clerk, to make a determination about the release of material, having considered:
 - i. whether there is a prima facie case for an assertion of privilege to be upheld; and
 - ii. whether compelling circumstances exist that would override the presumption set out in b) above.

Further, it is the recommendation of this Committee that any such amendment to the policy be referred to this Committee for comment and review prior to adoption by the House Committee.

7

RECOMMENDATION 2: That the Presiding Officers and Victoria Police review and agree to an updated Memorandum of Understanding (MOU), to accommodate changes in organisational structures, methods for service delivery, technology, and procedure, of Victoria Police and the Parliament of Victoria respectively, since the last MOU agreed to in 2007.

9

RECOMMENDATION 3: That Victoria Police provide training on parliamentary privilege to Victoria Police members that regularly engage, or could reasonably be expected to engage, with members of parliament.

9

Report on the complaint by the Member for Polwarth

Background

1. On 16 November 2021 the Speaker announced to the House that he had been provided with written notification of a complaint of breach of privilege by the Member for Polwarth. The Speaker noted that he was satisfied that the allegations made by the Member for Polwarth fell within the category of contempt. The Speaker also announced that the matter had been raised with him by the Member for Polwarth within a reasonably practicable time.
2. Consequently, the Speaker decided that the matter should have precedence according to the procedures of the House, and invited the Member for Polwarth to move that his complaint be referred to the Privileges Committee for examination and report.
3. The Member for Polwarth alleged that a range of actions improperly interfered with the free performance of his duties as a member, including:
 - a) Victoria Police members attending his electorate office and seeking to prevent or interfere with constituents seeking to meet with him as a local member;
 - b) Victoria Police questioning the Member for Polwarth about the identity of constituents he met with outside the electorate office; and
 - c) the release of CCTV footage by the Department of Parliamentary Services to Victoria Police, which was then allegedly used to issue fines against constituents seeking to meet with the Member.
4. An excerpt from Hansard of the Member for Polwarth's contribution on the motion is attached in Appendix A.
5. The Committee considered four discrete matters arising from the Member for Polwarth's account that may have engaged the privileges of the Legislative Assembly. These matters are considered from paragraph 13 below.

Principles for considering complaints about privilege, and contempt of parliament

6. In considering the complaint and issues arising from it, the Committee considered procedures of the House and precedents from other parliaments that it regarded as relevant to the matter raised by the Member for Polwarth, and in particular the extent to which parliamentary privilege was engaged in these events.

7. The term parliamentary privilege refers to the special rights and immunities that apply to the Houses, their committees and their members, and which are considered essential for the proper operation of the Parliament. These rights and immunities allow the Houses to meet and carry out their proper constitutional roles, for committees to operate effectively, for members to discharge their responsibilities to their constituents, and for others properly involved in parliamentary processes to carry out their duties and responsibilities without obstruction or fear of prosecution.¹
8. The application of privilege to acts or communications that take place other than before the House is determined by the closeness of the connection between the act or communication with proceedings in the House. The Queensland case *Erglis v Buckley* (2005)² suggests that communication between a constituent and a member is not a proceeding in parliament unless the communication is directly connected with some specific business to be transacted in the House, or was solicited by the member for the express purpose of using it in a parliamentary proceeding. Also, the protection ceases once the information has been provided to the member, and does not extend to any future action taken by the constituent.
9. *May* also states that people “who voluntarily and in their personal capacity provide to Members information that has no connection with proceedings in Parliament are not afforded the same protection as those who participate in formal proceedings, even if they are constituents of Members of Parliament.”³
10. A breach of privilege (an infringement of one of the special rights or immunities of a House or a member) is a contempt of parliament. *May* states in regard of contempt:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of their duty, or which has a tendency, directly or indirectly, to produce such results, may be treated as a contempt even though there is no precedent of the offence.⁴
11. *May* further states that, when determining whether to pursue a contempt:

In general, the House exercises such jurisdiction in any event as sparingly as possible and only when satisfied that to do so is essential in order to provide reasonable protection for the House, its Members or its officers from such improper obstruction or attempt at or threat of obstruction causing, or likely to cause, substantial interference with the performance of their respective functions.⁵

1 From House of Representatives Practice (7th Ed) <https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7/HTML/Chapter20/Privilege_defined>

2 <<https://www.sclqld.org.au/caselaw/QSC/2005/25>>

3 *Erskine May*, para. 15.25 <<https://erskinemay.parliament.uk/section/5019/constituents-and-others>>

4 *Erskine May*, para. 15.2 <<https://erskinemay.parliament.uk/section/4991/contempts>>

5 *Erskine May*, para. 12.9 <<https://erskinemay.parliament.uk/section/4578/modern-application-of-privilege-law>>

12. In considering whether a matter is a contempt of parliament, then, the committee must consider: a) whether the matter is sufficiently related to the business of the House, and in this case, the business of a particular member in the House, to engage privilege; b) whether it was reasonable for people to act and behave as they did in order for the member to exercise that privilege; and c) if both of these conditions are satisfied, whether there was sufficient obstruction of the member, or the House and its privileges, to warrant a finding of contempt.

Gathering outside the Member for Polwarth's electorate office on 15 October 2021

13. The Member for Polwarth described the incident on 15 October 2021 as follows (excerpt of contribution to the House on 16 November 2021) (Appendix A):

Back on 15 October a small crowd of constituents came to my office. They had a variety of concerns and issues ... In very quick time the Victoria Police arrived, not called by my office but, you know, having been alerted to the fact that there were people at a member of Parliament's office ... What happened at that point was that the police asked the crowd—and we are talking about a group of around 20 people—to disperse. They did so without incident and moved on. These same people had then variously contacted me over the course of that week and later on.

14. In the letter of complaint provided to the Speaker by the Member for Polwarth, he states that approximately 20–25 people were gathered at his office that day (Appendix B).

15. At the time of this incident, Directions under a State of Emergency were in place. These required that in regional Victoria, not more than 10 people were permitted to gather in a public location for any common purpose (*Special Gazette Number S414 Dated 30 July 2021, c 7(4)*).

16. It appears that the Member for Polwarth did not specifically invite those constituents to attend his electorate office on that day, and that they attended that location voluntarily. The Member for Polwarth did not meet with the constituents that day.

17. The Committee finds that privilege was not engaged in this instance, and that therefore a contempt of parliament did not occur. The Member for Polwarth did not make specific arrangements to meet with the constituents, so there was no direct link with his role in proceedings of the House. Furthermore, even if he had made specific arrangements to meet with the constituents, it would not have been necessary to meet all of them at once, in contravention of the State of Emergency Orders in effect at the time.

18. **FINDING 1:** The request by members of Victoria Police on 15 October 2021 for members of the public gathered outside the Member for Polwarth's electorate office to disperse was not a breach of parliamentary privilege, and did not comprise a contempt of the Parliament.

Release of CCTV footage from 15 October 2021

19. The Member for Polwarth also expressed concern about the release of CCTV footage to Victoria Police by the Department of Parliamentary Services (DPS) following the gathering on 15 October 2021. The Member for Polwarth described the release of CCTV footage from 15 October 2021 as follows (Appendix A):

Then what happened was that the police came back later in the day and asked for footage from our cameras so that they could see who came to my office. Of course my office staff had no knowledge of how to do that and said, 'Please contact security at Parliament House'. Evidently the police did that. Early the next week, I was then contacted by those same constituents, who had all received \$1812 fines, I think it was, for having been out at my office.

Now, at no point was I alerted to the fact that the CCTV footage was being accessed from my office. At no point did anyone ask for permission from me as the local member that that footage should be accessed.

20. The Victorian Parliament CCTV procedure in operation at the time allowed the release of electorate office CCTV footage in response to a request from Victoria Police. However, the procedure also required that the relevant member—in this case, the Member for Polwarth—be advised when CCTV footage was released. The Department of Parliamentary Services confirmed that this did not occur.
21. The CCTV procedure notes that “parliamentary privilege must be respected” in administration of electronic security data managed by DPS. In part, the requirement in the procedure for the relevant member to be informed of requests for access to electorate office CCTV footage is intended to provide a safeguard for protecting parliamentary privilege, as if the member is concerned that the footage is privileged, the concern can be raised before that information is given to third parties.
22. The ability of members to communicate with their constituents, and the public generally, concerning matters that are relevant to proceedings in the House is a critical component of a functioning parliamentary democracy. Actions by third parties that seek to impede that communication, or to punish participants for that communication, could comprise a breach of privilege, and potentially a contempt of parliament.
23. The Committee contemplated a range of scenarios that could comprise a breach of privilege in circumstances that have elements in common with the events described by the Member for Polwarth. There may be circumstances in which a person committing an offence may nevertheless engage privilege—for example, if a whistle-blower provided information to a member, and that member did, or explicitly intended to, raise that matter in the House. It may not be appropriate, in those circumstances, for CCTV footage to be released to a third party, as it would potentially compromise the privilege of the House.

24. In the circumstance described by the Member for Polwarth, however, the Committee finds that no contempt occurred. First, as noted in Finding 1, the Committee found that privilege was not engaged during the gathering outside the Member for Polwarth's electorate office, and therefore it was not possible for a breach of privilege to occur.
25. However, a breach of privilege may potentially have occurred if the actions of Victoria Police and DPS, in releasing the CCTV footage and issuing fines, substantially interfered with the Member for Polwarth in the performance of his duties—if, for example, his constituents were unwilling to meet with him because of the actions of Victoria Police and DPS in releasing the CCTV footage. The Committee found no evidence that the ability of the Member for Polwarth to perform his duties had been affected in this regard. In the absence of evidence to the contrary, the Committee finds that no contempt occurred in this case either.
26. The Committee also considered whether the release of CCTV footage without reference to the Member for Polwarth was, in itself, a breach of parliamentary privilege.
27. In the Australian Parliament (APH), the latest version of the APH / AFP code of practice was developed following an investigation into a specific case of the release of APH CCTV footage, that the House of Representatives Privileges Committee found was a contempt of parliament. The APH Code of Practice requires that the Presiding Officer of the relevant House be consulted when administration of the CCTV system gives rise to possible questions of parliamentary privilege and, if appropriate, that the parliamentarian affected be consulted as well. The APH / AFP code of practice notes that:
- One of the purposes of the Code is to function as a safeguard for parliamentarians against the possibility that the CCTV system may be used in a manner which improperly interferes with the functions and authority of the Houses or with the free performance by parliamentarians of their parliamentary duties. In this regard, the administration of the CCTV system, and the powers given to officers under the Code, have effect subject to the powers, privileges and immunities of the Houses and their members. Decisions about the application of privilege are matters for the Parliament, not for the parliamentary administration.⁶
28. The Committee notes that while though members should ordinarily be consulted in circumstances where privilege might be engaged, there may be circumstances in which members are not aware that privilege has been engaged. There may also be circumstances in which a member could seek to claim privilege in a matter where none exists. Consequently, people with procedural expertise must be included in any process for the release of information that may engage parliamentary privilege.

⁶ Para 5.4, *Closed-Circuit Television Code of Practice*, APH / AFP, 2 June 2021.

29. The current CCTV procedure does not provide adequate safeguards to ensure that privilege is observed in the use and / or release of CCTV data. A statement in the Parliament of Victoria procedure that “parliamentary privilege must be respected” does not adequately describe the processes and mechanisms that should be in place to ensure that this is the case. The Parliamentary Departments control a diverse range of data that also may engage privilege from time to time, for which adequate safeguards should be in place.

30. **FINDING 2:** The release of CCTV footage from the Polwarth electorate office to Victoria Police did not comprise a breach of privilege nor a contempt of parliament. As the gathering of people outside the electorate office was not subject to parliamentary privilege, the release of footage from that gathering of people was also not subject to privilege.

31. **FINDING 3:** While it was not possible for the Committee to determine whether the release of CCTV footage to Victoria Police comprised a substantial interference with the work of the Member for Polwarth, the Committee can anticipate circumstances in which the release of data in similar circumstances could substantially interfere with the work of a member.

32. **FINDING 4:** The current electorate office CCTV access procedure does not provide sufficient safeguards to protect parliamentary privilege. It is the view of this Committee that procedures to allow third parties to access electronic security data held by the parliament must contemplate, as their starting point, the right of a member to assert privilege over such material, particularly where that material relates directly to the work of a member. Recommendation 1 contains this Committee’s guidance on how such matters should be determined.

33.

RECOMMENDATION 1: That the House Committee review the policy for access to electronic data to ensure that the privilege of the House is preserved, and that the policy includes:

- a) a presumption that all electronic data related to the work of members may be subject to an assertion of privilege;
- b) consequently, a general presumption that information or data should not be released to third parties without the authorisation of the relevant member;
- c) an acknowledgement that there may arise circumstances (e.g. requests from law enforcement officials relating to allegations of serious misconduct or criminality, unrelated to the ordinary work of a member) where it is not appropriate for the member to be informed of such requests and/or to make determinations about the release of material; and
- d) a process, in relation to circumstances outlined in c) above, which allows the relevant Presiding Officer, advised by the relevant Clerk, to make a determination about the release of material, having considered:
 - i. whether there is a prima facie case for an assertion of privilege to be upheld; and
 - ii. whether compelling circumstances exist that would override the presumption set out in b) above.

Further, it is the recommendation of this Committee that any such amendment to the policy be referred to this Committee for comment and review prior to adoption by the House Committee.

Police presence at, and following, the gathering on 23 October 2021

34.

The Member for Polwarth also referred to a subsequent event, on 23 October 2021, when people who had received fines from the 15 October 2021 gathering returned to the Polwarth electorate office. On this occasion, the Member for Polwarth had invited some (but not all) of the people who gathered there to meet with him (Appendix A):

I was having a comfortable, proactive conversation. The police double-parked at my office. They stood with their car literally less than 5 metres from where I was standing. I am not one to be easily intimidated, but it was a very blatant show of force about those people being at my office. I got the gist from the crowd—I saw their various \$1800 fines—and I said, ‘Look, the police clearly don’t like you here; you’d better move on’. They moved on.

What then happened is almost as concerning as the use of CCTV to perhaps live monitor my office or to certainly issue fines. The police came back to me after the crowd had gone. I had gone back inside my office to set about answering emails. At that point the police gave me the umpteenth degree questioning on who was there. They wanted to

know names; they wanted to know addresses; they wanted to know who was at my office. I of course refused to give them that information, saying it was none of their business, quite frankly. That is not something I would normally like to do to the police. But they informed me that the powers that be in Melbourne wanted to know who was at my office and that I was sort of not being particularly helpful by not telling them.

35. The gathering on 23 October 2021 appears to have been permitted by Directions in place at that time, and therefore presumably there was no offence being committed by people attending the gathering.
36. It appears that the presence of Victoria Police at the gathering may have dissuaded participants from engaging with the Member for Polwarth at that time. It is not clear, however, whether this was the intention of Victoria Police. Given the tensions surrounding COVID-related protests around Victoria during the pandemic, the attendance of police near a gathering of this kind might not be regarded as extraordinary, particularly when the gathering occurred outside the electorate office of a member of parliament.
37. The actions of members of Victoria Police returning to interview the Member for Polwarth after the crowd has dispersed could be regarded as extraordinary, however, particularly as it appears the purpose of the visit was not to do a 'welfare check' on the member, but rather to determine the identity and contact details of the constituents he had met with.
38. The circumstances described by the Member for Polwarth suggest that privilege could have applied in this situation. In that context, the Committee observes that the Member for Polwarth exercised his right under privilege not to disclose information to Victoria Police. As it appears Victoria Police made no effort to pursue the matter further, or to exert any further compulsion on the Member for Polwarth to obtain information, it appears there was no breach of privilege or contempt of the Parliament.
39. The circumstances suggest that the interaction between members of Victoria Police and the Member for Polwarth at least engaged privilege, and that members of Victoria Police generated a situation in which a breach of privilege or a contempt could have occurred, unintentionally or otherwise. For this reason, it may be prudent for Victoria Police to provide further instruction to its members on the role of members of parliament and some core principles of parliamentary privilege, to reduce the risk of members of Victoria Police inadvertently breaching parliamentary privilege or committing a contempt in future.
40. The Committee also notes that, in this context, there may be opportunities for the Speaker and the President to meet with Victoria Police to update and re-issue the Memorandum of Understanding (MOU) between Victoria Police and the Parliament, noting that the current MOU has not been updated since 2007.

41. **FINDING 5:** The Committee finds that the presence of Victoria Police outside the Member for Polwarth's electorate office while he met with a gathering of constituents did not comprise a contempt of the Parliament.
42. **FINDING 6:** The Committee finds that the Member for Polwarth exercised privilege when he declined to share information about constituents with members of Victoria Police.
43. **FINDING 7:** The Committee finds that members of Victoria Police, particularly those that regularly interact with members of Parliament, may benefit from further instruction on the role of members of parliament and core principles of parliamentary privilege.
44. **RECOMMENDATION 2:** That the Presiding Officers and Victoria Police review and agree to an updated Memorandum of Understanding (MOU), to accommodate changes in organisational structures, methods for service delivery, technology, and procedure, of Victoria Police and the Parliament of Victoria respectively, since the last MOU agreed to in 2007.
45. **RECOMMENDATION 3:** That Victoria Police provide training on parliamentary privilege to Victoria Police members that regularly engage, or could reasonably be expected to engage, with members of parliament.

Other matters considered by the Committee

46. In his complaint the Member for Polwarth enquired whether any CCTV live-stream of the gathering of people outside the Polwarth electorate office on 23 October 2021 was provided to or viewed by Victoria Police, or whether any other person provided information to Victoria Police from the CCTV live stream. The Committee confirmed that this did not occur.

**Adopted by the Legislative Assembly Privileges Committee
Parliament of Victoria, East Melbourne
1 September 2022**

Appendix A

Extract from Hansard, 16 November 2022

The SPEAKER (13:03): I wish to advise the house that in keeping with the practice adopted in April 1978 the member for Polwarth lodged with me on 28 October 2021 written notification of a complaint of a breach of privilege. The complaint alleges that a range of actions improperly interfered with the free performance of his duties as a member, including Victoria Police members attending the member's electorate office and seeking to prevent or interfere with constituents seeking to meet with him as a local member, Victoria Police questioning the member for Polwarth about the identity of constituents he met with outside the electorate office and the release of CCTV footage by the Department of Parliamentary Services to Victoria Police, which was then allegedly used to issue fines against constituents seeking to meet with the member. The role of the chair in this matter is to determine whether the complaint raised falls within the category of a contempt. I am satisfied that an allegation of improper interference with the free performance of the member's duties can be a contempt. Further, in determining whether the complaint should be granted precedence over other business of the house, the chair must be satisfied that the matter has been raised as soon as reasonably practicable. It is my opinion that the member has raised the matter in a reasonably practicable time. I call upon the member for Polwarth to now proceed in accordance with the practices of the house.

Mr RIORDAN (Polwarth) (13:04): I move:

That the complaint made by the member for Polwarth on Tuesday, 16 November 2021, be referred to the Privileges Committee for examination and report.

What occurred at my office over the course of two weeks I think should be of great concern to all members of Parliament and this chamber and the other place. The reason it should be of concern is that in the role of local MP we have a very important role to play in our local community. All of us from time to time will encounter and speak with, consult with, communicate with and meet with a variety of people over a variety of issues. As part of our job, we do not always agree with the people we meet with. Sometimes we have great empathy with those we meet with, and most importantly many of the great improvements to our system of government and our way of life have come about from people meeting with their members of Parliament, sometimes raising difficult issues, both with the opposition and with government. That is the way our system works. Our system relies on a concept not dissimilar to the sanctity of the confessional, in the sense that people need to know that they are talking with great confidence. Every single one of us in this house will from time to time have those conversations where people, for whatever reason, will have a fear or a concern that their raising an issue with you will have consequences that they are not comfortable with.

So I wish to put on the record what has occurred, and I will seek the Privileges Committee's determination of whether this is a precedent that we want to see happen to our members of Parliament here in the Victorian state Parliament. Back on 15 October a small crowd of constituents came to my office. They had a variety of concerns and issues. At that time, unlike metropolitan Melbourne, getting out and about in our community was an okay thing. My office is in the heart of town. Across the road there is an Aldi, a Bunnings, a Liquorland, a big Coles and a service station. It is the hub of town; there were lots of people around. There were no more people out the front of my office than there were across the road on the footpath, but these people had come to see me. It was a sitting week, and I had not yet returned back to my office, which they were unaware of. They assumed that on a Friday I would have been back.

These people arrived at my office. In very quick time the Victoria Police arrived, not called by my office but, you know, having been alerted to the fact that there were people at a member of Parliament's office. Of course as it was a member of Parliament's office—and no doubt with what has gone on in Victoria in recent times—the police were merely doing their job, and that is a job that we are as members of Parliament always grateful for. What then happened is what I think all members of Parliament should be concerned about. What happened at that point was that the police asked the crowd—and we are talking about a group of around 20 people—to disperse. They did so without incident and moved on. These same people had then variously contacted me over the course of that week and later on. However, my office staff went out, spoke to them, explained that I was not there and so on. Then what happened was that the police came back later in the day and asked for footage from our cameras so that they could see who came to my office. Of course my office staff had no knowledge of how to do that and said, 'Please contact security at Parliament House'. Evidently the police did that. Early the next week, I was then contacted by those same constituents, who had all received \$1812 fines, I think it was, for having been out at my office.

Now, at no point was I alerted to the fact that the CCTV footage was being accessed from my office. At no point did anyone ask for permission from me as the local member that that footage should be accessed. Quite frankly, the concept and precedent it sets, to punish people for coming to see their member of Parliament, is a very concerning one, and I think it is one that this Parliament needs to assess and be quite clear about. I also think it is quite important that members of Parliament have some say over the use of that footage, because clearly if there is vandalism—and all of us have possibly had times when that has been done—the accessing of our CCTV for that seems perfectly reasonable. But when it comes to identifying and punishing members of the public for visiting a local member of Parliament's office, then I think that is absolutely a bridge too far. The Parliament, through whatever mechanism exists here, has given that footage, and from that footage fines were issued to my constituents. The fine they were given was for refusing or failing to comply with a direction of a person in the exercise of a power under an authorisation given under section 199—adult, whatever that means.

The following week, after the fines had been issued by police forces outside of the local town, Colac, on Thursday and Friday two of the constituents contacted me to raise the complaint that they had been fined for coming to my office. Of course as an active

local member of Parliament I was more than happy to take that up with them. As I was having a busy schedule in the off week—meeting, ironically, with other community groups out in the field—I said, ‘Look, I won’t be back to my office until midday on that Saturday’. I arrived back late because my meeting with other constituents took a bit longer, so I was half an hour late and there was a small group there, probably of about 10 or 15. The rules in Victoria had again changed by that point, so gatherings of 30 were completely kosher in country Victoria at that time. The police again turned up.

Now, I do not know whether someone else called the police again because there were people near my office. Once again, in the heart of town you would have to be particularly sort of neurotic to have rung, but nonetheless the police arrived. I raise the concern because with this second incident I would want to be confident, as I think all members would, that there is not live streaming at security of individual members’ offices, because the police’s arrival seemed to coincide very quickly with me being there. I was having a comfortable, proactive conversation. The police double-parked at my office. They stood with their car literally less than 5 metres from where I was standing. I am not one to be easily intimidated, but it was a very blatant show of force about those people being at my office. I got the gist from the crowd—I saw their various \$1800 fines—and I said, ‘Look, the police clearly don’t like you here; you’d better move on’. They moved on.

What then happened is almost as concerning as the use of CCTV to perhaps live-monitor my office or to certainly issue fines. The police came back to me after the crowd had gone. I had gone back inside my office to set about answering emails. At that point the police gave me the umpteenth degree questioning on who was there. They wanted to know names; they wanted to know addresses; they wanted to know who was at my office. I of course refused to give them that information, saying it was none of their business, quite frankly. That is not something I would normally like to do to the police. But they informed me that the powers that be in Melbourne wanted to know who was at my office and that I was sort of not being particularly helpful by not telling them.

I think there are very strong concerns, which all members in this chamber should have, about how we go forward dealing with these types of issues. We absolutely want to know that the police will be there to support us and protect us at times when there may be reasons to have that extra security. But I think all of us, whether in government or in opposition, need to have great confidence—as do our constituents—that they can come to us and have those hard conversations at times without Big Brother watching. So that is the outline of the complaint that I wish to raise with Privileges. I look forward to seeing how they rule, but I think in the interests of ongoing good government and fairness in the way we do business, all of us need to know that members are spoken to, there is consent and that we all have a clear understanding of how this technology will be used.

Motion agreed to.

Appendix B
**Letter of complaint
provided to the Speaker by
the Member for Polwarth**

B



27 October 2021

Speaker

Mr Colin Brookes MP

Speaker,

Re: Parliamentary Privilege

I wish to make an allegation of a breach of privilege. I am concerned about a range of actions that improperly interfered with the free performance of my duties as a member, including:

- Victoria Police members attending my electorate office and seeking to prevent or interfere with constituents seeking to meet with me as their local member
- Victoria Police questioning me about the identity of constituents I met with outside my electorate office
- The release of CCTV footage by the Department of Parliamentary Services to Victoria Police, which was then used to issue fines against constituents seeking to meet with me as their local member.

The details of the situation are that on 15 October, approximately 20–25 of my constituents were fined when attending my office. The Parliament released to Victoria Police, without my consent, footage from my office, and \$1817 fines were issued to several constituents. I believe these constituents had a right to visit my office and attempt to see me to raise issues. Their visit was unsuccessful, as I had not yet returned to Colac from a sitting of Parliament. I have maintained an almost 7 day a week presence at my office throughout the Covid Pandemic, offering a service to my constituents that I feel has been valued by the community.

On 23 October, on request of a couple of aggrieved constituents, I agreed that I would make myself available to talk to them after 12 noon on Saturday once I had returned from a community meeting in a nearby town. I was late returning and there were around 20 people waiting patiently outside my office. The police soon arrived. I listened the constituents, they quickly dispersed, and I returned to the inside of my office. Shortly after the police spoke to me about my constituents. The police sought to make a case against my constituents for being at my office.

I await your response

A handwritten signature in black ink, appearing to read 'Richard Riordan'.

Richard Riordan MP
Member for Polwarth

