

Chapter 9

Armstrong v Bud and the Power of Expulsion

Gareth Griffith

Issues in the case

Alexander Ewan Armstrong, born in Sydney in 1916, the son of a doctor, was expelled from the then part-time, indirectly elected New South Wales Legislative Council on 25 February 1969. His character was judged unworthy of the institution to which he belonged; not, it should be said, because of anything he had done inside it, or on its behalf, but on account of his activities out of doors. Not only was Armstrong the first (and, to date, the only) member of the Council to be forced to vacate his seat in this way, he was also the first member expelled from any Westminster-style parliament to challenge his expulsion in the courts.¹

The power of expulsion is one that has been claimed and exercised by representative and unrepresentative legislative bodies since ancient times. It is a collective privilege, a power enjoyed by a House of Parliament in its collective capacity. In the context of the Westminster Parliament, it is an incident of the right of the House of Commons to regulate its own affairs, arising from the fact that the House is invested with the exclusive power of regulating its own procedure and adjudging matters which arise within its walls.² The 1964 edition of *Erskine May*, current at the time of the *Armstrong* case, commented that for the House of Commons:

The purpose of expulsion is not so much disciplinary as remedial, not so much to punish Members as to rid the House of persons who are

1 E Campbell, "Expulsion of Members of Parliament" (1971) 21 *University of Toronto Law Journal* 15 at 22.

2 *Stockdale v Hansard* (1839) 9 Ad & E 1; 112 ER 1112. It was decided that the Houses of Parliament have exclusive jurisdiction over their own internal proceedings, but that the courts may determine whether a particular claim of privilege falls within that category.

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