

Appendix 15—Committee reports on privilege

Report on article in *The Canberra Times* dated 12 November 1993 concerning the draft report of the Select Committee on Estimates 1993-1994.

Committee: Standing Committee on Administration and Procedures.

Date matter referred: 24 November 1993, see MoP, No 84, 24 November 1993, p 480.

Date report tabled: 24 November 1993, see MoP, No 84, 24 November 1993, p 480.

Findings/recommendations: Although the committee considered that a contempt had been committed by a person or persons who made available, either directly or indirectly, the findings and recommendations of the draft report, the committee was unable to ascertain the identities of the person or persons who disclosed the information. In the absence of such information the committee was unable to recommend that the Assembly take any further action. With regard to the journalist that published the article, the committee considered that, even though they had committed a contempt, it was not a primary contempt but a secondary one and that it would be unfair to recommend action be taken against the journalist involved as the committee was unable to ascertain the identity of the person or persons who caused the primary contempt.

Report on the Government Response to the Report of the Select Committee on Estimates 1993-1994 on the Appropriation Bill 1993-1994.

Committee: Standing Committee on Administration and Procedures.

Date matter referred: 7 December 1993, see MoP, No 86, 7 December 1993, p 495.

Date report tabled: 14 April 1994, see MoP, No 100, 14 April 1994, p 559.

Findings/recommendations: The committee considered that a contempt had been committed by a person or persons (whose identification was unable to be ascertained) who made available either directly or indirectly to Treasury departmental officers or the Treasurer's personal staff the findings and recommendations of a copy of the draft report. It was unable to recommend that the Assembly take any further action in relation to that person or persons. With regard to the departmental officers who had been responsible for the preparation of the government response, the committee considered that although a contempt had been committed it was of a secondary nature.

Examination of allegations of possible improper influence of a witness.

Committee: Standing Committee on Planning and Urban Services.

Date matter referred: 25 May 2000, see MoP, No 91, 25 and 26 May 2000, pp 879-880, 882-884 and 889-893.

Date report tabled: 18 October 2000, see MoP, No 104, 18 October 2000, p 1025.

Findings/recommendations: The committee was unable to conclude whether an improper influence did or did not occur in relation to evidence given to it. However, it considered that there was a case to strengthen the public hearing process by reminding witnesses of their rights and responsibilities when giving evidence to an Assembly committee.

Unauthorised diversion and receipt of a members' emails.

Committee: Select Committee on Privileges.

Date matter referred: 6 June 2002, see MoP, No 22, 6 June 2002, pp 199-200 and 201-203.

Date report tabled: 14 November 2002, see MoP, No 37, 14 November 2002, pp 381-382.

Findings/recommendations: The committee found that a person's actions in knowingly receiving and without reasonable excuse retaining and using emails destined for a member were an improper interference with the member's communication with his constituents and colleagues and thus his work as an MLA. The committee concluded that the person's actions met the criteria of impropriety, seriousness and intent and were directly related to the member's duty as a member and, having concluded that the person was guilty of contempt of the Assembly, recommended that the person make a prompt and unreserved apology for his conduct to the Assembly in writing, through the Speaker.

Possible unauthorised dissemination of committee material, standing order 71 (Privilege), Minister's refusal to answer questions in committee hearing and distribution of ACT Health document.

Committee: Select Committee on Privileges.

Date matter referred: 26 June 2003, see MoP, No 61, 18 June 2003, pp 749-750; MoP, No 65, 26 June 2003, pp 792 and 802-804.

Date report tabled: 18 November 2003, see MoP, No 78, 18 November 2003, p 995.

Findings/recommendations: The committee found that the minister who had refused to provide answers to a select committee on a matter within his portfolio responsibility (but had released the information publicly the next day) was in contempt of the Assembly. The committee recommended no further action be taken, and the minister apologised to the Assembly and reiterated his apology to the committee.

Two officers of ACT Health had composed and distributed a memorandum throughout senior management of the department suggesting tactical approaches to be adopted by officers appearing before the Select Committee on Estimates. The two officers were found in contempt of the Assembly by the committee. Having been satisfied that proper steps had been undertaken within the department to discipline the officers, the committee recommended that no further action be taken.

Report on whether the actions of the Chair of the Standing Committee on Planning and Environment with regard to the distribution of a flyer in her name at the Belconnen Markets did constitute a contempt of the Assembly.

Committee: Select Committee on Privileges.

Date matter referred: 10 February 2004, see MoP, No 87, 10 February 2004, p 1088.

Date report tabled: 30 March 2004, see MoP, No 96, 30 March 2004, p 1248.

Findings/recommendations: The committee found the Chair of the Standing Committee on Planning and Environment was in contempt of the Assembly as her actions (regarding the public distribution of a flyer in her name) left no doubt as to the chair's preferred outcome of an inquiry. The committee recommended that no further action be taken.

Examination of alleged misuse of position by a committee chair and unauthorised dissemination of committee proceedings.

Committee: Select Committee on Privileges.

Date matter referred: 1 July 2008, see MoP, No 146, 1 July 2008, pp 1570-1571.

Date report tabled: 26 August 2008, see MoP, No 155, 26 August 2008, p 1750.

Findings/recommendations: The committee found that the Chair of the Standing Committee on Legal Affairs acted without authority when making a request to a minister, but did not commit a contempt. The committee also found that a member had revealed private deliberations of the committee to a minister but that this did not meet the criteria for contempt. It also found that a minister did not commit a contempt when conveying details about committee proceedings to the Speaker. The Privileges Committee recommended that, as far as practicable, where a committee is requesting a person, paper or record, that request should be made at a properly constituted meeting of a committee exercising power under standing order 239 and that the chair and members of the Standing Committee on Legal Affairs be reminded of appropriate practices and processes to be observed in relation to actions taken on behalf of the committee. The committee also recommended that regular training be provided to all committee secretaries on committee practice and procedures and that the *Guide for Committee Secretaries* be updated.

Possible improper influence of a member.

Committee: Select Committee on Privileges.

Date matter referred: 16 June 2009, see MoP, No 21, 16 June 2009, pp 226-228.

Date report tabled: 27 August 2009, see MoP, No 32, 27 August 2009, p 351.

Findings/recommendations: The committee found that letter of the Chief Executive of ACT Health did not breach Mr Hanson's privileges and that a contempt had not been committed. The committee made no finding as to whether the letter was an appropriate response in the circumstances of Mr Hanson's press release. The committee recommended that the government clarify the relationship between public servants and non-executive Members of the Legislative Assembly, with a view to issuing guidelines for any interaction that is not covered by existing guidelines.

Evidence of Mr Mark Sullivan to the Select Committee on Estimates 2009-2010.

Committee: Select Committee on Privileges 2010.

Date matter referred: 23 February 2010, see MoP, No 51, 23 February 2010, pp 587-590.

Date report tabled: 22 June 2010, see MoP, No 63, 22 June 2010, p 706.

Findings/recommendations: The committee found that no contempt was committed by Mr Sullivan in relation to the answers he provided to the estimates committee. The committee recommended that the Speaker write to the chief executive officers of all ACT government departments and Territory-owned corporations and remind them of the obligations of witnesses before Assembly committees. The committee also recommended that the Assembly adopt a resolution clarifying its position with regard to claims of immunity from answering questions or providing documents made by witnesses.

Possible improper interference with an Assembly committee in the exercise of its authority.

Committee: Select Committee on Privileges 2011.

Date matter referred: 20 September 2011, see MoP, No 118, 20 September 2011, pp 1495-1496.

Date report tabled: 17 November 2011, see MoP, No 129, 17 November 2011, pp 1669-1670.

Findings/recommendations: The committee found that no contempt had been committed by the Chief Minister or the nominee for the position of Auditor-General. The committee recommended that the Chief Minister and the Speaker, in consultation with committee chairs, develop a resolution of continuing effect as to how the executive and legislature should deal with the consideration of statutory appointments. The committee also recommended that the government examine section 8 of the *Auditor-General Act 1996* and suggested possible amendments to give better clarity to the section.

Newsletter circulated by two MLAs with links to a Third-Party Website.

Committee: Select Committee on Privileges 2018.

Date matter referred: 12 April 2018, see MoP, No 54, 11 April 2018, pp 783-784; MoP, No 55, 12 April 2018, pp 790-791 and 794-797.

Date report tabled: 31 July 2018, see MoP, No 62, 31 July 2018, p 872.

Findings/recommendations: The committee found that no contempt had been committed by certain members of the Assembly. The committee recommended that the Standing Committee on Administration and Procedure, in consultation with the Committee of Chairs, develop guidelines for the use of third-party websites in the preparation of submissions to Assembly inquiries.

Unauthorised release of committee documents.

Committee: Select Committee on Privileges 2019.

Date matter referred: 4 April 2019, see MoP, No 94, 4 April 2019, p 1380.

Date report tabled: 30 July 2019, see MoP, No 102, 30 July 2019, p 1529.

Findings/recommendations: The committee was unable to find that a contempt had been committed. The committee recommended that the Chief Minister, Treasury and Economic Development Directorate review relevant sections of the *Guidelines for Officials on Participation in Legislative Assembly and Other Inquiries* and that the directorate remind all ACT Public Service directorates and agencies of the existence of the guidelines.

The committee also recommended amendments to standing orders 242 and 276 in relation to the procedures for raising an alleged unauthorised disclosure as a matter of privilege.