

ORDER TO RELEASE COMMITTEE DOCUMENTS

Motion

Resumed from 24 October on the following motion moved by Hon Kim Chance (Leader of the House) -

That -

- (1) The Clerk is authorised to release any paper or document in his possession, or under his control, that was provided to, or acquired by, the former Public Administration Committee in the course of its preliminary inquiry into allegations made by persons employed by the Agriculture Protection Board between 1975 and 1985 to carry out chemical spraying in the Kimberley region.
- (2) The authorisation to release is restricted to the person appointed by the Minister for Agriculture to carry out a review of the allegations described in clause (1) and any person assisting in the carrying out of that review.
- (3) Any paper or document is released for the sole purpose of providing information and is not to be dealt with or used except in strict conformity with the privileges, rights, and immunities of this House.

HON B.K. DONALDSON (Agricultural) [2.40 pm]: The Opposition supports the release of these documents. This inquiry needs to be brought to a resolution. Allegations were made by certain field officers against the Agriculture Protection Board about the storage and spraying of chemicals.

I have distributed an amendment that proposes to delete all the words after “used” in paragraph (3) and to insert a form of words. From time to time a request comes into this House to release documents from its committees - in this case the Public Administration Committee - which had taken evidence that may be of assistance to an independent person who has been appointed to look into an issue. Before releasing the papers, members are supposed to understand the provisions and the strict guidelines under which that evidence can be released and used. I would be one of the few members in the House who cannot remember the papers that were given to us on our induction into the Parliament. Paragraph 48 of those papers states clearly that although there are numerous aspects of parliamentary privilege, one of the most important is freedom of speech. That paragraph states that members of Parliament are immune from liability for anything they may say or write in the course of parliamentary proceedings. It says that although the claim for freedom of speech in parliamentary debates goes back to the latter part of the fifteenth century, as far as Western Australia is concerned, this privilege is rooted in the English Bill of Rights 1688, article 9, which provides that the freedom of speech in debate or proceedings in Parliament should not be impeached or questioned in any court or place outside Parliament.

Although the more knowledgeable members of this House understand that, newer members coming in and members such as I have forgotten about this document that was given to us to assist us. The Opposition felt that from time to time members should be reminded when requests to release papers or documents are received - this will occur again - that this is an entrenched practice, and we can argue the type of inquiry, but we should understand fully what it means when those documents are released. The Opposition believes this could enhance the release of committee documents and give a greater understanding of this to members into the future.

I appreciate the opportunity that was given to us by the Leader of the House in allowing this motion to sit overnight, so that we can seek further advice, and I understand that he supports this amendment. Paragraph 2 of the amendment proposes that “evidence” has the meaning it is given under Standing Order No 322. That spells it out for the future.

Amendment to Motion

Hon B.K. DONALDSON: I move -

- (1) To delete in subclause (3) all words after “used” and insert -
 - (a) to question the motive, intention, veracity, or credibility of any person’s evidence to the Committee;
 - (b) to draw inferences or conclusions based wholly or partly on Committee evidence;
 - (c) to put questions to a person purporting to disclose inconsistencies in that person’s evidence to the Committee and the ministerial inquiry mentioned in subclause (2);
 - (d) to reflect adversely on any proceeding of the Committee or the conduct, motive, intention, or credibility of a member of the Committee.
- (2) In subclause (3) “**evidence**” has the meaning it is given under SO 322.

HON KIM CHANCE (Agricultural - Leader of the House) [2.44 pm]: As Hon Bruce Donaldson indicated, the Government supports the amendment. The amendment clearly spells out what is meant by those words contained in the last line of the original motion; that is, the meaning of the term “the privileges, rights, and immunities of this House.” It is appropriate, although we have not done it before, to spell out precisely what that means. It will be helpful for members of the House, and for the House when considering issues like this in the future. In particular, it will be helpful to the person who is empowered by this authority to conduct the review on behalf of the Government to know precisely what limitation of use applies to these documents. The Government is happy to support the amendment and urges support for the motion.

Amendment put and passed.

Motion, as Amended

HON BARRY HOUSE (South West) [2.46 pm]: I support the release of the documents. I support and endorse the move of the Leader of the House to clarify this matter. I sat on the Public Administration Committee, with the Leader of the House as chairman, when this matter was discussed at various times over the past couple of years. The original referral was from Hon Tom Stephens; I may stand corrected on that. It has been an ongoing issue over nearly two decades and needs to be resolved. This is a good step towards that.

The Leader of the House partly clarified this for me yesterday during his remarks, but I have a question about the person appointed to conduct the inquiry. I have seen media reports about some objections to Caesar appointing Caesar to investigate the issue. I do not know the accuracy of that. I want an additional reassurance that an objective investigator will be appointed to analyse the issues at stake and to make some recommendations.

HON ROBIN CHAPPLE (Mining and Pastoral) [2.47 pm]: The Greens (WA) also support the motion and thank the Opposition for the amendment, which clarifies what is intended by the proposal. Will the committee, and the person handling the material, be made aware of the requirements of these provisions?

HON KIM CHANCE (Agricultural - Leader of the House) [2.48 pm]: I thank honourable members for the questions they have raised. The independent medical reviewer Dr Andrew Harper is not a person about which those concerns have been raised. The concerns related to the make-up of the consultative committee, rather than the independent reviewer. I am happy to say that having read what is in effect Dr Andrew Harper’s CV it is almost as though this was the person created to do this job. He is Australian born and has had experience in the Canadian armed forces. His speciality is in this area of toxicology and epidemiology. He has worked, in particular, in areas dealing with chemical-induced illness. We are extremely fortunate that he responded to our call for expressions of interest to carry out this task. I do not believe that there are any difficulties with him.

Some difficulties have been expressed very clearly, and particularly by Mr Carl Drysdale, who has been acknowledged quite properly as the driving force behind the call for this inquiry. He was a foreman with the Agriculture Protection Board in the Kimberley at the time the events occurred and has a unique knowledge of them. He has been deeply affected by the illness that his former workmates have suffered. Mr Drysdale, for good reason or bad - it is not for me to comment on his reasons - felt that the APB could not be trusted to investigate this issue. That gave rise to the member’s comments about Caesar judging Caesar. That created some difficulty, because in my view it was necessary to have an APB representative on the consultative committee, simply because we were relying on the APB to provide data relating to employment statistics. We have the assistance of the Kimberley Land Council, in particular, in locating the people who worked for the APB at the time. These people now live across the east and west Kimberley, the Pilbara and in very remote Aboriginal communities. These are fairly unsophisticated people. Reaching out to them and asking them to talk about intimate health issues that occurred two or three decades ago was never going to be easy. Some former workers live in other parts of the country. This issue has been picked up by the national media, and we have had responses from the eastern States regarding events that occurred during that time.

This situation did pose some difficulties. Ultimately I decided that it was more important for us to maintain local credibility in the integrity of the inquiry. Therefore, I requested that the APB member of the consultative committee step aside and be replaced by a person locally nominated. That person was Carl Drysdale. We were happy to accept his membership of the committee in place of the APB officer. The Department of Agriculture is still represented on the consultative committee by Mr Rob Delane. He was associated with the APB, but he is perhaps better remembered as the officer in charge of the department’s operations in the mid west. That seems to have been a more or less acceptable compromise, although I am sure Mr Drysdale would have preferred us to use the broom more liberally. He has accepted this as a reasonable committee. It appears that we have resolved the question of Caesar appealing to Caesar. There should be no concern whatever that the consultative committee, regardless of its makeup, can interfere in any way with the operations of the independent medical reviewer. The consultative committee is there to assist, rather than to have a policy role in carrying out the review. The major task remains of finding the people and getting them to talk to the medical reviewer. That will not be the easiest thing to do for a number of reasons. We have appointed liaison officers who are able to relate

to those Aboriginal people in remote communities and who will be able to help them through the process. It is a sensitive process and one that we hope will give these people an opportunity to tell their side of the story for the first time in 20 or 30 years.

The answer to Hon Robin Chapple's question is "Yes." However, I have unfortunately forgotten the question. I wrote down the answer -

Hon Robin Chapple: Was the appointment process handled in such a way that the person carrying out the inquiry was made aware of the importance of this privilege?

Hon KIM CHANCE: I will personally ensure that the reviewer understands the significance. However, the approach will be made by letter from the consultative committee to the Clerk.

The DEPUTY PRESIDENT (Hon George Cash): As a matter of procedure, the motion authorises the Clerk to release certain documents. It is up to the Clerk to ensure that whoever is in receipt is aware. No doubt the Clerk will require someone to sign for certain things, subject to conditions.

Question (motion, as amended) put and passed.