

**SELECT COMMITTEE OF PRIVILEGE ON A MATTER ARISING
IN THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS**

Special Report

Hon Murray Criddle presented a special report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations, and on his motion it was resolved -

That the report do lie upon the table and be printed.

[See paper 3465.]

Disclosure of Private Proceedings - Referral to Standing Committee on Procedure and Privileges

HON MURRAY CRIDDLE (Agricultural) [3.38 pm pm] - without notice: I move -

That -

- (1) The Standing Committee on Procedure and Privileges inquire into and report on -
 - (a) whether articles appearing in *The West Australian* newspaper on Wednesday, 7 November 2007 and Thursday, 8 November 2007, disclosed the private proceedings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations;
 - (b) if so, whether such disclosure constitutes a breach of the privileges, or is a contempt, of this house;
 - (c) if the committee so finds, what penalty, if any, the house might impose for the breach or contempt; and,
 - (d) any other relevant matter arising from the committee's investigation.
- (2) The committee have access to the documents set out in appendix 1 of the special report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to matters of privilege raised before the committee.

Statement by President

THE PRESIDENT (Hon Nick Griffiths): Members, Hon Murray Criddle has moved a motion without notice dealing with a matter of privilege. Standing order 155 deals with the procedure for raising a matter of privilege. However, I should point out that subclause (10) of that order states -

This order does not apply to proceedings taken under section 10 of the *Parliamentary Privileges Act 1891* or to proceedings dealing with a matter of privilege reported from a committee.

The motion moved without notice by Hon Murray Criddle is a proceeding dealing with a matter of privilege reported from a committee. The motion having been moved, I will read it out and invite Hon Murray Criddle to continue with his remarks. However, our current standing orders are silent in respect of how we are to deal with these matters, because standing order 155 relates to privilege, and I have just read out the exception. Therefore, it is up to the house to decide how we should proceed, bearing in mind that it is a tradition of this house that we give matters relating to privilege precedence over other matters. Therefore, there are a number of alternatives that the house may consider. The house may deal with the matter now, or the matter may be adjourned. If the matter is adjourned straight out, it will become an order of the day. The matter will then be subject to how the house proceeds to deal with that order of the day, noting that, traditionally, these matters have been given precedence. It will then be incumbent upon the Leader of the House to give consideration to that, if the matter is adjourned in that manner. Alternatively, the house may consider adjourning the matter to a later stage of this day's sitting, or placing it on tomorrow's notice paper, or something along those lines. There may be a number of other alternatives. I draw those matters to the attention of the house, just in case someone wants to jump up to speak. Before I invite Hon Murray Criddle to continue with his motion, I will read out the motion, so that members can give some consideration to what I have said. Hon Murray Criddle has moved without notice -

That -

- (1) The Standing Committee on Procedure and Privileges inquire into and report on -
 - (a) whether articles appearing in *The West Australian* newspaper on Wednesday, 7 November 2007 and Thursday, 8 November 2007, disclosed the private proceedings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations;

Hon Murray Criddle; President; Hon Norman Moore; Hon Kim Chance

- (b) if so, whether such disclosure constitutes a breach of the privileges, or is a contempt, of this house;
 - (c) if the committee so finds, what penalty, if any, the house might impose for the breach or contempt; and,
 - (d) any other relevant matter arising from the committee's investigation.
- (2) The committee have access to the documents set out in appendix 1 of the special report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to matters of privilege raised before the committee.

Debate Resumed

Hon MURRAY CRIDDLE: Thank you, Mr President. In speaking to the special report that I have presented to Parliament, I make the following observations. The first is with regard to matters of privilege raised at a committee meeting. On Thursday, 6 November 2007, a meeting of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations was held. The members present at that meeting were me, as chairman, Hon Barry House and Hon Adele Farina. At the commencement of that meeting, the Clerk Assistant (Committees) drew to the attention of the committee a possible breach of parliamentary privilege in relation to alleged disclosures of deliberations of the committee. The nature of the alleged disclosures is that on 6 November 2007, the committee was advised that *The West Australian* journalist Mr Robert Taylor had made the following inquiries. Firstly, at about midday on 6 November 2007, Mr Owen Cole of the Corruption and Crime Commission of Western Australia telephoned the Clerk of the Legislative Council, Mr Malcolm Peacock, to advise that the CCC had received a telephone call from Mr Robert Taylor asking the CCC to confirm whether it had provided intercept material to the committee. Secondly, on the afternoon of 6 November 2007, Mr Robert Taylor telephoned Philip Urquhart, counsel assisting the committee, asking whether it was true that Mr Brian Burke had objected to him acting as counsel assisting the committee. Thirdly, at about 1.30 pm on 6 November 2007, Mr Robert Taylor telephoned me, as committee chairman, inquiring whether the committee had used CCC intercept material, and whether the committee would be reporting to the house on 15 November 2007. Although the existence of the CCC evidence could have been provided by any number of persons involved in the committee proceedings, the information concerning Mr Brian Burke's objection could have been provided only by a more limited number of persons who were either involved in the private hearings of Mr Burke before the committee and/or the preparation of a private written submission and letters for and on behalf of Mr Burke to the committee. A list of the relevant evidence and documents of the committee is provided in appendix 1 of the report.

On 7 November, an article was published in *The West Australian* written by Mr Taylor regarding the committee's private proceedings. That article is attached at appendix 2 of the report. On 8 November 2007, further articles were published in *The West Australian* regarding the committee's private proceedings. Those articles are attached at appendix 3 of the report.

I bring to the notice of the house standing order 361, which provides -

The evidence taken by any select committee of the Council, and documents presented to such committee which have not been reported to the Council, shall not be disclosed or published, except by leave of the Council, by any Member of such committee, or by any other person.

Therefore, the committee resolved to report this matter to the house.

Point of Order

Hon NORMAN MOORE: Mr President, I gather from your comments that if the house were to adjourn this matter, it would become an order of the day and therefore would not necessarily take precedence, as matters of privilege normally would. I would like you to clarify that for me, Mr President, because my understanding is that if this matter were adjourned, it would automatically take precedence at the next sitting of the house. If that is the case, I would be inclined to the view that this matter should be adjourned until the next sitting of the house so that we will have time to read the document. I would appreciate your clarification, Mr President.

The PRESIDENT: Order! If it was moved that this motion be adjourned, notwithstanding that this is a motion dealing with privilege, and if that motion was carried, this motion would become an order of the day. However, there are a number of potential ways of adjourning a motion so that it does not become an order of the day. I am aware that consideration has been given to dealing with this matter in another way. I think the Leader of the House is seeking my attention.

Hon KIM CHANCE: Thank you, Mr President. Like the Leader of the Opposition, I, too, want a little time to gather my thoughts. I also want time to discuss the options that are open to us with my colleagues, with the

Leader of the Opposition, and, to the extent possible, with the chairman of the committee. This may take only a few minutes. To that end, Mr President, I ask that you do leave the chair until the ringing of the bells to enable those discussions to take place.

The PRESIDENT: I will leave the chair until the ringing of the bells.

Sitting suspended from 3.49 to 3.57 pm

Adjournment of Debate

HON KIM CHANCE (Agricultural - Leader of the House) [3.57 pm]: Thank you, Mr President. I move without notice -

That the motion be adjourned to a later stage of this day's sitting.

In so doing, I indicate that it is the government's intention that, subject to standing orders, this matter be dealt with as the first order of business today.

The PRESIDENT: This is a motion to adjourn debate, but is the Leader of the Opposition raising a point of order?

Point of Order

Hon NORMAN MOORE: I think this is a motion to adjourn, which you indicated, Mr President, is not a debateable motion. I think it is, is it not?

The PRESIDENT: I think the Leader of the Opposition has a point of order - has he?

Hon NORMAN MOORE: I have. The point of order relates to some clarification of the motion moved by the Leader of the House and his explanation that he would see it as being the first order of business today, which would indicate that it would come on after the urgency motion. That may not be sufficient time for me to apprise myself of the contents of the motion moved by Hon Murray Criddle and be in a position to know how to respond. I am quite comfortable for it to be dealt with some time today but not necessarily as the first order of business. Perhaps the Leader of the House might, by way of explanation, indicate whether I have misunderstood him.

The PRESIDENT: I think the Leader of the House said that it was the government's intention, but having heard the Leader of the Opposition, he may change that intention.

Hon KIM CHANCE: No, I did say that "subject to standing orders", it be the first order of business. That form of words was chosen to allow for the fact that disallowance motions have precedence and need to be dealt with first. Having heard the Leader of the Opposition's advice, I am happy to move another motion.

Debate Resumed

Hon Norman Moore: The motion is that the motion become an order of the day for a later stage of this day's sitting.

Hon KIM CHANCE: Yes, quite. I move without notice -

That the motion become an order of the day for a later stage of this day's sitting.

I will withdraw the words of explanation provided earlier, if that makes people happier.

Hon Norman Moore: The motion is that the debate be adjourned to a later stage of the sitting?

Hon KIM CHANCE: Yes, that is the motion.

Question put and passed.

Debate thus adjourned until a later stage of the sitting.

[Continued on page 6910.]