

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

*As to Committee*

On motion by **Hon Kim Chance (Leader of the House)**, resolved -

That order of the day 526 be considered in the Committee of the Whole House.

*Committee*

The Deputy Chairman of Committees (Hon Ken Travers) in the chair.

*Motion*

**Hon MURRAY CRIDDLE:** I move -

That the recommendations contained in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations be adopted and agreed to.

You would be well and truly aware, Mr Deputy Chairman (Hon Ken Travers), that I made some remarks on 13 November that are contained in the executive summary of the report. I certainly outlined the position of the select committee. I will be interested to hear members' remarks and observe progress as we move forward with the analysis of this report.

**The DEPUTY CHAIRMAN:** The Leader of the House.

**Hon KIM CHANCE:** Thank you, Mr Deputy Chairman.

**Hon Norman Moore:** You weren't even looking. We have started off on a good footing.

**The DEPUTY CHAIRMAN:** If the Leader of the Opposition is questioning my decision, he will please do so by way of a formal motion. The two members jumped up at identical times. The procedure in this house is that the Leader of the House is given precedent. The Leader of the House.

*Amendment to Motion*

**Hon KIM CHANCE:** Thank you, Mr Deputy Chairman. I move -

To amend the motion by deleting all words after the word "That" and substituting the following -

- (1) The severity of the findings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to the false evidence provided to the committee by Hon Shelley Archer warrant the house to determine that Hon Shelley Archer should be expelled from the Parliament.
- (2) The severity of the findings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to the false evidence provided to the committee by Hon Anthony Fels warrant the house to determine that Hon Anthony Fels should be expelled from the Parliament.
- (3) Recommendations 3, 6, 9, 10, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 be agreed to.
- (4) The house defers consideration of recommendations 1, 4, 7, 11 and 14.
- (5) Noting the findings of the select committee in recommendations 2, 5, 8, 12 and 15 that Mr Nathan McMahon, Hon Shelley Archer, MLC, Hon Anthony Fels, MLC, Mr Brian Burke and Mr Noel Crichton-Browne have provided false evidence to the select committee, the house refers these findings to the Director of Public Prosecutions to assess whether those persons should be prosecuted for a breach of section 57 or of any other provision of the Criminal Code, and, if of that view, to commence such prosecution or prosecutions.
- (6) The house notes the select committee's recommendation 35 and authorises the disclosure or publication of the evidence taken by the committee and of any documents presented to the committee to the Director of Public Prosecutions and to any other agency or agencies to which any matter in the report is referred to the extent necessary or expedient to enable the Director of Public Prosecutions and any such agency or agencies to discharge their functions.

- (7) The house refers the select committee's observations 1 and 2 to the Attorney General with the request that he ask the Solicitor General to consider referring, and if he considers it appropriate to refer, the matters discussed in the observations and relevantly in the report generally to any appropriate agency or agencies for consideration in accordance with their functions.
- (8) In relation to observation 3, the house notes that Hon Shelley Archer may have committed a grave contempt of the Parliament and refers this observation to the Standing Committee on Procedure and Privileges for its consideration and report.

Before I speak to the substantive motion that I have just outlined, I want to put into context the environment in which we are debating this motion. When the chairman of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations introduced the original motion, he made a point that really defines this document. That point is that this report and the inquiry carried out by the Select Committee of Privilege was, for the first time, a matter in which a source of external evidence, such as was provided by the Corruption and Crime Commission, was available to the select committee. That is very true. May I say of the committee's contribution generally, I believe this report is of an extraordinarily high standard. I want to acknowledge all members of the committee for what must have been an extraordinarily difficult thing to do. I believe that all members of the committee have carried out their duties to the house in fulfilling their role on that committee with great distinction.

May I also say in connection with the report itself and what it advises us in this chamber, the Western Australian Parliament and the Western Australian public generally, that it is describing a situation that should never have happened. As a result of the committee's deliberations, we have an opportunity to ensure that as far as possible we do what we can to ensure it cannot happen again. Having said that, I would be the first to agree that as an issue this did not stand alone. As an issue I think we have probably seen things equally bad happen in Western Australia. I will certainly not describe it as the worst thing that has ever happened in Western Australia. However, we have in this report a clear description of how the processes of Parliament and a committee of the Parliament and individual members of that committee were used by forces outside this Parliament in an attempt to achieve a narrow commercial advantage under the guise of public interest. That is corruption, honourable members. We cannot put it any other way. That corruption and the exposure of that corruption are so clearly outlined in this report. As much as we may take different views in our debate on this matter and as much as people may regret what has occurred in this matter, and I know that all of us regret what has occurred, our duty as a Parliament is to try to deal with this matter, as difficult and painful as it is.

Our government created the Corruption and Crime Commission. We did so on the basis that the Western Australian public deserves the highest levels of accountability and transparency and to ensure that all of us who hold public office in one form or another do as we are meant to do; namely, work in the public interest, and not in the interests of narrow commercial advantage. The Corruption and Crime Commission is the most powerful institution of its kind in Australia. It has uncovered evidence of highly unsavoury conduct across the public sector that intrudes into our Parliament.

As I have already stated, I do not believe that this is the worst incident of its kind, and nor do I believe that some of the episodes uncovered by the Corruption and Crime Commission are in any way unique to Western Australia - far from it. However, what is unique to Western Australia is that we have an institution that is empowered, as the CCC is, to help shine a light into those corners of society that need to be exposed so that we can put our hand up and say that we truly have a clean administration in Western Australia.

Over the past year the government has had to deal with a number of public officers whose conduct was wrong and indefensible. That conduct needed to be halted in the interests of public administration in Western Australia. I refer to the conduct of members of the executive, ministers and members of the public sector who clearly showed that they had, at the very least, lost their way. That conduct indicated that those persons were, or were influenced by persons who were, operating purely on the basis of assisting the narrow private interests of certain individuals. That is undeniable. Premier Carpenter and his government have dealt with each issue on its merits and after careful consideration. The action taken by this government to rid Western Australian public office of the interests of those private interests is unparalleled. Some very hard decisions have been made, and we will be called on to make more hard decisions. Ministers have been sacked. Members of Parliament have resigned from their office or have been suspended and ministerial staffers and public servants have resigned or been suspended. It has been a very uncomfortable time for many of us. However, our task is to remain committed to the greater good and to improve the honesty, integrity and accountability of public administration in Western Australia. If we do not understand that task, we have to question what we are doing here. If we get this right - if we do what the Western Australian public demands - Western Australia can look forward to a future in which it can be held up as an icon of integrity, honesty and accountability. The challenge for the chamber is to get it right.

**Hon Norman Moore:** Quite right. You are absolutely right. That is the most right thing you've said all afternoon. What about natural justice?

**The DEPUTY CHAIRMAN (Hon Ken Travers):** Order, members! I realise that this is a very difficult and important debate. Although I will allow some interjections, I urge members to refrain from interjecting. We are in committee, so members will be given an opportunity to speak as often as they like.

**Hon KIM CHANCE:** I turn to the actions of two members of this place; namely, Hon Shelley Archer and Hon Anthony Fels. Anyone who has undertaken a serious examination of the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations can see that there was clearly an orchestrated campaign to manipulate Parliament, the committees of the Parliament and individual members of a committee. As stated in the executive summary on page i of the report, the leaks from the standing committee were -

... as a result of a strategy devised and implemented by the directors of Cazaly Resources Limited, their lawyers and consultants, for the purpose of using the proceedings of the Standing Committee on Estimates and Financial Operations to influence legal proceedings then on foot before the Court of Appeal of the Supreme Court of Western Australia in relation to the Shovelanna iron ore mining tenement.

As the Premier noted in the other place, it was -

... a grand conspiracy to further the private commercial and financial interests of people outside Parliament by using the parliamentary process in a way that, as far as I know, has never been laid out before us in history.

Two members of this Parliament tried to manipulate the committee process - maybe they were manipulated themselves - and in so doing they breached parliamentary privilege by leaking information regarding the deliberations of the Standing Committee on Estimates and Financial Operations to Mr Brian Burke and Mr Noel Crichton-Browne. When this matter was revealed, the privilege committee inquiry investigated the matter and the two members gave false evidence to the inquiry not just once, but on repeated occasions. It has been suggested by some that the conduct of Hon Anthony Fels should be of less concern and that he has committed less serious offences than Hon Shelley Archer. I believe that it is illogical to draw such a conclusion from the privilege committee's investigation. It is clear that Hon Anthony Fels was central to Brian Burke's Cazaly strategy. The report clearly details how the honourable member pushed for the proposed iron ore inquiry, including placing the proposal on the committee's agenda, and how he persisted with the inquiry, despite failing to get support from even his Liberal colleague on that committee. In his drive to realise the inquiry, the honourable member repeatedly breached parliamentary privilege. In fact, when one considers the number of times that Hon Anthony Fels breached privilege compared with those of Hon Shelley Archer, Hon Anthony Fels may well be the worst offender. I refer to point 11.1 on page 233 of the privilege committee's report, which found that -

In a series of telephone conversations with Mr Noel Crichton-Browne between 30 October 2006 and 1 February 2007, Hon Anthony Fels MLC made a number of disclosures of the confidential deliberations of SCEFO in relation to the proposed iron ore inquiry.

In fact, the leaks of the committee's deliberations happened four different times - on 30 October 2006 at 6.50 pm; on 13 December 2006 at 2.30 pm; on 30 January 2007 at 12.55 pm; and, on 1 February 2007 at 2.00 pm. It is not surprising then that the privilege committee has found that each of those disclosures - I refer to findings 4, 5, 6 and 7 of the report - was a breach of privilege and a contempt of Parliament. Hon Anthony Fels cannot claim that he was unaware that committee proceedings should not be disclosed to outside members, lobbyists or the public. In fact, the report shows that on one occasion - that is, 30 January 2007 - the member was clearly aware of his responsibilities as a committee member and of the obligations of confidentiality. I refer to page xv and to finding 6 of the report, which reads -

**The Committee further notes that it is clear in this conversation that Hon Anthony Fels MLC was aware of the confidentiality of committee proceedings, as he stated the following to Mr Crichton-Browne:**

*"... whatever comes before a committee is confidential to the committee until it is made public now. ... Because ... you've brought the issue to me. ... I'm not telling you what's going on in the committee ... but I'm talking about the issues."*

Despite this, he continued to leak information regarding the deliberations of the committee during the 1 February telephone conversation to Mr Crichton-Browne, clearly aware that he was breaching confidentiality. I quote -

*“Uh yeah uhm okay. . . . it’s a bit hard to talk about where we’re at but uhm. . . . but uh I’m still trying to get something done. . . . And uh that’s about all I can sorta let you know about at the moment. . . . its all uhm nothing’s been published yet.”*

It is very clear from this that the honourable member knowingly and deliberately revealed the deliberations of the committee. However, his contempt of Parliament did not end there. In a striking resemblance to Hon Shelley Archer, the committee found in finding 8 on page xxvii of the executive summary of the report -

**The Committee finds that there were inconsistencies between the evidence given by Hon Anthony Fels MLC and the CCC audio intercept evidence in his two appearances before the Committee.**

In fact, the committee found that he gave false answers to the committee and, as a result, is guilty of contempt of Parliament.

**Committee interrupted, pursuant to standing orders.**

[Continued on page 7737.]