



THIRTY-EIGHTH PARLIAMENT

REPORT 19

**STANDING COMMITTEE ON
PROCEDURE AND PRIVILEGES**

**PETITION FOR RELIEF -
NOEL CRICHTON-BROWNE**

Presented by Hon Nick Griffiths MLC (Chairman)

December 2008

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Date first appointed:

24 May 2001

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“6. Procedure and Privileges Committee

6.1 A *Procedure and Privileges Committee* is established.

6.2 The Committee consists of the President and the Chairman of Committees, the Deputy Chairmen of Committees (*all ex officio*), and any members co-opted by the Committee whether generally or in relation to a particular matter. The President is the Chairman, and the Chairman of Committees is the Deputy Chairman, of the Committee.

6.3 With any necessary modifications, SO 326A applies to a co-opted member.

6.4 The Committee is to keep under review the law and custom of Parliament, the rules of procedure of the House and its committees, and recommend to the House such alterations in that law, custom, or rules that, in its opinion, will assist or improve the proper and orderly transaction of the business of the House or its committees.

6.5 Unless otherwise ordered any rule or order under which a matter of privilege stands referred, or is referred, to a committee (however described) for inquiry and report is a reference to the Committee.”

Members as at the time of this inquiry:

Hon Nick Griffiths MLC (Chairman)

Hon Matt Benson-Lidholm MLC

Hon George Cash MLC (Deputy Chairman)

Hon Sheila Mills MLC

Hon Ray Halligan MLC

Hon Ken Travers MLC

Hon Barry House MLC

Hon Giz Watson MLC (Co-opted Member)

Staff as at the time of this inquiry:

Malcolm Peacock, Clerk of the Legislative Council
Donald Allison, Clerk Assistant (House)

Nigel Lake, Deputy Clerk

Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

ISBN 978-1-921243-79-0

CONTENTS

1	REFERENCE.....	1
2	BACKGROUND	1
3	CONSIDERATION OF THE PETITION	2
4	PUBLIC HEARING.....	3
5	FINDINGS AND RECOMMENDATIONS	3
6	CONCLUSIONS.....	5
	APPENDIX 1 AFFIDAVIT AND STATEMENT OF FACTS	7
	APPENDIX 2 EXTRACT FROM HANSARD, 29 NOVEMBER 2007.....	23
	APPENDIX 3 TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 - SESSION ONE	35
	APPENDIX 4 TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 - SESSION TWO	59
	APPENDIX 5 RESPONSE TO THE STATEMENT OF FACTS.....	79
	APPENDIX 6 EXTRACT FROM HANSARD, 29 NOVEMBER 2007, TABLED BY HON LJILJANNA RAVLICH	99

REPORT OF THE STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

PETITION FOR RELIEF - NOEL CRICHTON-BROWNE

1 REFERENCE

- 1.1 The President of the Legislative Council made the following ruling on 13 November 2008, in relation to the petition (Prayer for Relief) from Mr Noel Crichton-Browne:

I advise members that I have reviewed the petition and the accompanying statement of facts. Having reviewed and considered these documents, I rule that —

The matters raised are not justiciable and there are no legal remedies available to the petitioner; and

The petition does raise a matter of privilege.

Accordingly, pursuant to Standing Order 134(h), this petition now stands referred to the Procedure and Privileges Committee for its inquiry and report to the house. Members will note that Standing Order 134(j) provides that the Procedure and Privileges Committee must conclude its inquiry and report to the house not later than 30 days from today, being the date of referral of the petition to the committee.

2 BACKGROUND

- 2.1 The current arrangements, providing for a citizen's right of reply in circumstances where an abuse of privilege or contempt is alleged to have occurred, were originally recommended to the House by the Standing Orders Committee on 30 April 1998.

- 2.2 As part of the rationale for the measures, that Committee cited¹ Chief Justice Brennan of the High Court. The Chief Justice stated:

A House of Parliament in which allegations are made has a legitimate interest in knowing and perhaps a duty to ascertain, whether there is substance in allegations made by a member on a matter of public interest.

- 2.3 Accordingly, the Committee recommended a process where such petitions would be referred and considered by a committee of privilege, which would investigate alleged

¹ Arena v Nader (1997) ALJR 1604 at 1605.

breach of privileges and if substantiated, recommend a penalty that might be imposed by the House.

- 2.4 The role of the Procedure and Privileges Committee in dealing with such referrals is to determine whether a breach of privilege or contempt has occurred, and if so, to recommend an appropriate penalty to the House.
- 2.5 The current matter is notable in being the first reference the Committee has received since the introduction of the Standing Order on 19 October 2000.

3 CONSIDERATION OF THE PETITION

- 3.1 On Tuesday 11 November 2008, Hon Norman Moore presented a petition praying for relief on behalf of Mr Noel Crichton-Browne (“the Petitioner”). The petition was accompanied by an affidavit (**Appendix 1**), which provided a statement of facts supporting the request, in accordance with Standing Order 134.
- 3.2 The petition was referred to the President in accordance with Standing Order 134(e). Standing Order 134 provides for a person to raise a complaint that statements made about that person during proceedings of the Legislative Council were false or a misrepresentation.
- 3.3 The matters raised in the Petition relate to statements made by the Hon Ljiljana Ravlich (the Member) in the Legislative Council on Thursday, 29 November 2007 (**Appendix 2**). The Member makes a number of assertions regarding the Petitioner in the context of matters raised in the Report by the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations.
- 3.4 In accordance with Standing Order 134(f), the President considered the matter and ruled on Wednesday 12 November 2008, that:

The matters raised are not justiciable and there are no legal remedies available to the petitioner; and

The petition does raise a matter of privilege.

- 3.5 Accordingly, the President ruled, that pursuant to Standing Order 134(h), the petition stood referred to the Procedure and Privileges Committee for its inquiry and report to the House.
- 3.6 The Procedures and Privileges Committee met on 13 November 2008 to consider the matter. This Committee considered the petition to warrant further inquiry and resolved to conduct a public hearing into the matter, with the Petitioner and the Member invited to appear before the Committee as witnesses.

4 PUBLIC HEARING

- 4.1 A Committee meeting and associated public hearing was held on 24 November 2008.
- 4.2 The Committee ordered the affidavit and statement of facts to be made public.
- 4.3 At the invitation of the Chairman, the Petitioner addressed the matters raised in the statement of facts and responded to questions from the Committee (transcript at **Appendix 3**).
- 4.4 The Petitioner sought advice from the Committee on whether Standing Order 134 (k) precluded Hon Ken Travers from sitting as a member of the Committee during this inquiry. The relevant part of Standing Order 134(k)(i) states:

A Member whose conduct is, or relates to, the subject matter of a petition, must not sit as a Member of the Procedure and Privileges Committee throughout its inquiry...

- 4.5 The Chairman ruled that Standing Order 134(k) did not apply.
- 4.6 At the invitation of the Chairman, the Member provided a response to the matters raised in the statement of facts and responded to questions (transcript at **Appendix 4**). The Member tabled a response to the statement of facts (**Appendix 5**) and an extract from Hansard (**Appendix 6**).

5 FINDINGS AND RECOMMENDATIONS

Finding 1: The Committee finds that the claim by Mr Noel Crichton-Browne that Hon Ljiljanna Ravlich mislead the House through her statements on 29 November 2007 is not substantiated.

- 5.1 In reaching this conclusion, the Committee made the following observations:
- 5.1.1 It is undisputed that the Petitioner was involved to some extent in what has been variously described as a ‘plan’ or ‘strategy’ to influence a Legislative Council committee to initiate an inquiry into the State’s iron ore policy. However, the Petitioner has asserted the Member’s statements in the House go beyond involvement and depict him as being more involved in the strategy than was the case.
- 5.1.2 This view is based on drawing a particular interpretation of the Member’s statements. The Petitioner’s view is this was “...*the only reasonable interpretation...*”. The Committee is of the view this is merely one interpretation that could be drawn. The Committee noted it was entirely

possible to be a participant or even ‘key player’ in an event without being aware of a broader ‘strategy’ or ‘plan’.

5.1.3 The Member preceded key statements with qualifying words such as “*I suspect that what happened...*” and “*...in my view...*”. This indicates the Member was providing an opinion, rather than presenting a statement of fact.

5.1.4 These qualifying statements are also significant in relation to the issue of culpable intention, which is important in matters of breach of privilege and contempt. The Privileges Committee of the Australian Senate “*...now regards a culpable intention on the part of the person concerned as essential for the establishment of a contempt.*”²

5.1.5 The Petitioner, in his statements to the Committee, asserts the Member deliberately set out to mislead the House, referring to *the “...fabricated allegations mischievously and dishonestly concocted by Ms Ravlich.”*³ This ascribes a motive to the Member that cannot be substantiated from the available evidence.

5.1.6 The Petitioner asserts statements made by the Member, that Hon Anthony Fels and Hon Shelly Archer were “*manipulated and used*”, are false and not supported by the findings of the Select Committee Report. The Committee noted similar assertions had been published in newspapers⁴ such as *The Sunday Times* and *The Australian*. The Member also acknowledged

*Certainly I did rely on the report of the Select Committee of Privilege on a matter arising out of that standing committee. However, I also drew some of the remarks I made from a range of different sources, including the media.*⁵

The Committee noted it was not unreasonable for the Member to have relied upon or repeated such published reports. The construction by the Petitioner that the Member drew information solely from the Select Committee Report is not supported and is contrary to the evidence of the Member.

5.1.7 Mr Crichton-Browne contended Hon Ljiljana Ravlich “*...smear[ed] Mr Crichton-Browne by falsely misrepresenting his fee by clear inference as being that which she claimed Mr Burke and Mr Grill were to receive.*”⁶ The Committee disagrees with this view.

² Evans H. (ed.), *Odgers’ Australian Senate Practice*, 11th Edition, Department of the Senate, Canberra, 2004, p65.

³ Refer to transcript of proceedings, pg 43

⁴ “How artful dodger did so much harm”, *Sunday Times*, 4 March 2007, p8; “Premier lashes MPs’ ‘blatant dishonesty’”, *The Australian*, 22 November 2007, p10.

⁵ Refer to transcript of proceedings, pg 65

⁶ Refer to Statement of Facts, pg 16

6 CONCLUSIONS

- 6.1 In dealing with this matter, the Committee has sought to balance the absolute privilege attaching to proceedings of parliament with the right of citizens to respond to statements made about them under privilege that they consider false or misleading.
- 6.2 Article 9 of the *Bill of Rights 1689* is the source of Parliament's freedom of speech, providing members with the capacity to speak about matters without fear or favour. This privilege is fundamental to the ability of current and future parliaments to operate effectively.
- 6.3 Parliamentary Privilege creates a corresponding responsibility for members to act in a considered and ethical manner when making statements under its protection. This has led the Legislative Council to adopt the current provisions for a citizen's right of reply. These provisions go beyond those offered in most Australian legislatures, where action is typically limited to the potential publication in Hansard of a response or rejoinder by the aggrieved party.
- 6.4 This matter is the first, since the relevant Standing Order was introduced in 2000, to come before a hearing of the Procedure and Privileges Committee. As such, the matter is potentially significant as the outcome has the potential to create a precedent that may influence the future shape of debate in the House.
- 6.5 After considering the matter, the Committee has concluded the evidence provided by the Petitioner does not establish that the Member had mislead the House. There is no substantive evidence to support the claim the Member knowingly mislead the House.
- 6.6 The importance of parliamentary privilege to the operation of the Parliament is such that challenges to the exercise of that right must be clearly substantiated. There could be a stifling effect on debate if members felt vulnerable and open to challenge where they offered honestly held opinions on matters of importance.
- 6.7 Much of the case provided by the Petitioner relies on him drawing particulr adverse inferences from the remarks of the Member. The Committee does not does agree with these inferences.



Hon Nick Griffiths MLC
Chairman

3 December 2008

APPENDIX 1
AFFIDAVIT AND STATEMENT OF FACTS

APPENDIX 1
AFFIDAVIT AND STATEMENT OF FACTS

SCHEDULE
AFFIDAVIT FOR PURPOSES OF SO 134

Re the Petition of Mr Noel Crichton-Browne

I, Kevin Burgoyne, solicitor for the petitioner Noel Crichton-Browne, make oath and say as follows:

The statements of fact made by the petitioner in paragraphs 1-4(incl), 6-61(incl) of the petition are true to the best of my knowledge, information and belief, and the allegations made are, in my professional opinion, sustainable.

Sworn at Perth this 7th day of November 2008



STATEMENT OF FACTS STANDING ORDER 134 (a)

1. On Thursday 29 November 2007, Hon Ljiljanna Ravlich made a number of statements in the Legislative Council about Mr Noel Crichton-Browne which were untrue.
2. The matters of which Mr Crichton-Browne complains relate to statements made about him by Hon Ljiljanna Ravlich during debate on the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations.
3. The only objective and reasonable reading of Hon Ljiljanna Ravlich's speech is that in making her various claims about Mr Crichton-Browne she claimed to rely upon the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations.
4. Hon Ljiljanna Ravlich having read the Report of the Select Committee would have or should have known that the statements made by her, of which Mr Crichton-Browne complains, were untrue.
5. Mr Crichton-Browne asserts that in misleading the Legislative Council, Hon Ljiljanna Ravlich is in contempt of the House.
6. The relevant sections of Hon Ljiljanna Ravlich's speech are set out below:
7. **Hon LJILJANNA RAVLICH:** *In supporting the amendment I wish to recapture some of the key points in the chronology of events of the Select Committee and what it uncovered. The origin of this whole matter is found in 2005 in the dispute between Cazaly Resources Ltd together with Echelon Resources Ltd on one side and Rio Tinto on the other side. Shovelanna was an iron ore deposit near Newman that was originally pegged in the 1970s. Rio Tinto's documentation for the renewal of its lease somehow had not arrived in the Mining Warden's office by the prescribed date, which was 28 August 2005, and therefore Cazaly Resources successfully applied for a lease over what was technically vacant land under the WA Mining Act. The Minister at the time, John Bowler, had to rule on the matter. He ruled in favour of Rio Tinto's application to have Cazaly's lease struck out under the Mining Act. Following that, I understand that the ruling was tested in the Supreme Court, which found in the Government's favour. Therefore, Minister Bowler's decision was upheld. It was that decision that Cazaly was seeking to overturn. I suspect that what happened from there was that Cazaly may well have been advised of the services of Mr Burke and Mr Grill in this matter. They worked with Mr Crichton-Browne in order to affect a shift, if you like, from the position it was in.*

8. The only reasonable interpretation of Hon Ljiljana Ravlich's words insofar as they relate to Mr Crichton-Browne is that Mr Crichton-Browne 'worked' to have the decision made by Minister Bowler overturned.
9. Hon Ljiljana Ravlich's claim is false and is not supported by the evidence in the Report of the Select Committee.
10. Following is one of two articles written by Mr Crichton-Browne and published on the matter of the disputation between Cazaly Resources and Rio Tinto prior to the Corruption and Crime Commission hearings and those of the Select Committee. In stark contradiction to the false allegations of Hon Ljiljana Ravlich, Mr Crichton-Browne's article gives unqualified support for the decision made by Minister Bowler and gives no comfort to those who were seeking to have it overturned.
11. "Western Australian Resources Minister, John Bowler, was correct to terminate Cazaly's application for the Shovelanna iron ore deposit in the Pilbara previously held by Rio Tinto.

Not to put it unkindly, those who bought into Cazaly Resources punting on Minister Bowler granting the area to Cazaly Resources were taking an enormous risk and were always likely to lose their money.

Rio's undoubted bumbling and incompetence in attempting to renew its Exploration Licence 46/209 were never going to be sufficient to have this billion dollar deposit taken from it.

There is nothing unlikely or untoward in Bowler's decision which is very much in line with precedent and the spirit of the Western Australian Mining Act, not the least, amendments recently passed through Parliament with the support of all parties.

The facts of the matter are these: Rio's Exploration Licences were due to expire on 26 August 2005 and accordingly, on 28 July 2005, Rio provided the Head Office of the Department of Industry and Resources with the appropriate renewal fee. Due to an antiquated provision of the Act which has its origins in the Mining Act of 1904, the renewal application, as distinct from the fee, must be lodged with the Mining Registrar of the relevant mining field; in this case the Marble Bar Mining Registrar.

Rio dispatched the renewal application to Marble Bar by overnight courier. In the event, the delivery was far from overnight, however, the application did arrive in Marble Bar prior to the close of business on the last eligible day. Due to a quaint local practice, the courier dropped his dispatched at 'Lenny Lever's store' in the main street.

In keeping with Marble Bar time, Lenny rang the Mining Registrar six days later to inform he had mail for her. Upon retrieving her package, the Mining Registrar discovered Rio's renewal documentation.

There is no Western Australian precedent on all fours with Rio's case. However, Pancontinental Mining had a not dissimilar situation in 1986. On that occasion, Pancontinental failed to renew the lease upon which its major Paddington gold mining operation north of Kalgoorlie was situated. At one minute past midnight, a prospector, Bierberg, pegged the ground.

With the approval and support of the Liberal Party, the Labor Government of the time introduced retrospective legislation which saw the dramatic expansion of Sec 111A of the Act. That provision enabled the Minister to terminate Bierberg's mining lease application and return the ground to Pancontinental through its further application.

It is precisely the provision used by Minister Bowler to terminate Cazaly's application.

111A Minister may terminate or summarily refuse certain applications

- (a) by notice served on the mining registrar or the warden, as the case requires, terminate an application for a mining tenement before the mining registrar or the warden has determined, or made a recommendation in respect of, the application;
- (b) refuse an application for a mining tenement

if in respect of the whole or any part of the land to which the application relates

—

- (c) The Minister is satisfied on reasonable ground in the public interest that —
 - (i) the land should not be disturbed; or
 - (ii) the application should not be granted;

When Rio discovered its error, it pegged the area as mining leases which placed its applications second in time to those of Cazaly and following the Minister's action, they now became first in time. It could not apply for further Exploration Licences for the ground because the Act required a three month 'cooling off' period between Exploration Licences for the same ground by the same applicant.

In respect to the need to lodge tenement applications with the relevant Mining Registrar, legislation had passed through the Parliament prior to Rio's difficulties which allowed for all applications to be lodged with the Department in Perth,

however the legislation had not been proclaimed, which event occurred in early February.

Putting aside the absurd argument that billions of dollars of recourses should be allocated on misadventure, given the nature of exploration, development and sale of iron ore, that metal has always been treated differently to almost all other resources by government of all hues. The WA Mining Act reflects this very sensible and necessary policy.

For instance, the Minister has complete discretion in the granting of exemptions from expenditure conditions. Such applications need not even go before a Mining Warden.

The truth of the matter is, Rio's treatment of its Shovelanna deposit, in which incidentally, Hancock Prospecting and Wright Prospecting both hold a 25 per cent interest, is entirely in keeping with the treatment of iron ore prospects held by other iron ore miners.

The development of iron ore deposits in Western Australia has always been based on an orderly sequential basis. One need not visit the enormous disputes Langley George Hancock and Earnest Archibald Maynard Wright had with then Resources Minister, Charles Court, in the late sixties and early seventies to understand a policy embraced by successive Western Australian governments.

Whatever the arguments put that Rio has not properly exploited Shovelanna, they have no bearing on the underlying principle which must dictate the grounds of the Minister's deliberations. At the time of tenement renewals, it is always within the keep of the government of the day not to grant a renewal if the Minister is not satisfied with the performance of a holder; that is however an entirely different matter.

It, of course, goes without saying that were it not for the very recent dramatic increase in iron ore prices, Cazaly would have no interest in Shovelanna. Of the ten exemptions granted to Rio in respect to this area in past years, to my knowledge none has been met by an objection.

Lest my views be understood to give some support to the general conduct of Rio and BHP and their grim determination to maintain an unfair and unjust duopoly in the Pilbara iron ore industry, the behaviour of those companies in attempting to keep Fortescue Metals off their railways is by any measure, without a shred of public interest".

12. **Hon LJILJANNA RAVLISH:** *...However at the heart of all this was the plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations to bring pressure to bear so that there could be some change in the outcomes.*

13. Hon Ljiljanna Ravlich is again repeating her earlier allegation in relation to Mr Crichton-Brown, this time with further embellishments which have no truth in fact and of which no evidence was provided in the Report of the Select Committee.
14. At the heart of Hon Ljiljanna Ravlich's allegation against Mr Crichton-Browne is the false assertion that he was part of a plan which was apparently to have Rio Tinto pressured into settling in some form with Cazaly Resources in respect to the Shavalanna iron ore deposit.
15. The consequence of this plan, according to Hon Ljiljanna Ravlich, was to be the inflation of Cazaly resources shares. The instrument and vehicle to facilitate this outcome was to be the Standing Committee on Estimates and Financial Operations.
16. This statement by Hon Ljiljanna Ravlich and the implication of its claim are entirely untrue insofar as it refers to Mr Crichton-Browne. The Report expressly sets out whom it alleged was responsible for the strategy and who was not. Mr Crichton-Browne knew nothing, nor was party to, any '*plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing pressure to bear so that there could be some change in the outcomes*'.
17. The Committee Report listed those whom it alleged were responsible for *devising and implementing of the "strategy"*, listed those whom it alleged *had varying degrees of involvement in the development and/or implementation of the strategy (or parts of the strategy) and finally listed those who were involved without knowledge of the full details of the strategy and its true purpose*. In so doing the Report addressed the last category of people in the following terms.
18. *"The Committee notes that a number of people were involved at varying degrees in the implementation of the strategy and, based on the evidence before the Committee, without knowledge of the full details of the strategy and its true purposes, including Mr Noel Crichton-Browne, Lobbyist for Cazaly Resources Limited; Dr Walawski, Chief Executive, the Association of Mining and Exploration Companies Inc; Mr Ian Loftus, Policy and Public Affairs Manager, the Association of Mining and Exploration Companies Inc; and Mr Malcolm McCusker QC, Barrister.*
19. Not only was Mr Crichton-Browne not involved in any such "*strategy*" or *plan*, Mr Crichton-Browne knew nothing of any such "*strategy*". Mr Crichton-Browne's first knowledge of what the Select Committee describes as a "*strategy*" was when he was provided with part of a draft copy of the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations .
20. When Mr Crichton-Browne appeared before the Select Committee he was not directly questioned about it and nor was the matter coherently raised by the Committee with Mr Crichton-Browne.

21. Not only was Mr Crichton-Browne, not involved in such a strategy, the Select Committee *“was unable to establish conclusively that Mr Crichton-Browne was fully informed by the other participants in the strategy as to the true nature of the intended use of SCEFO”*.
22. The unvarnished truth is; there was no credible evidence given to the Select Committee that Mr Crichton-Browne was partly or wholly *“informed by the other participants in the strategy as to the true nature of the intended use of SCEFO”*.
23. It does not go to the matter of Hon Ljiljanna Ravlich misleading the Legislative Council however the Committee Report at 8.24 is incompetently and crucially inaccurate.
24. 8.24 On 10 October 2006 Mr Grill, Mr Burke, Mr McMahon, Mr Edel and Mr Alex Jones, meet with Mr Crichton-Browne at the offices of DLA Phillips Fox (with whom Gadens had then amalgamated) in order to brief him and review the draft terms of reference for the proposed parliamentary inquiry into the iron ore industry.
25. The facts are that Mr Crichton-Browne had no meeting with Mr Burke and or Mr Grill about the terms of reference for the proposed parliamentary inquiry into the iron ore industry on 10 October 2006 or on any other date.
26. Mr Crichton-Browne had no communications with Mr Grill in any form about the Cazaly matter and to his memory spoke with Mr Burke twice and received one email from Mr Burke about the matter.
27. Mr Crichton Browne met with Mr Edel on one occasion, that being some weeks after the decision by the Standing Committee not to proceed with a reference into the iron ore industry.
28. **Hon LJILJANNA RAVLICH:** *the Select Committee’s inquiries reveal that the financial interests of other parties were involved in these matters, but the key figures at the centre of this whole issue were Mr Burke, Mr Grill and Mr Crichton-Browne.*
29. The truth is that the Committee’s inquiries did not reveal that Mr Crichton-Browne was a ‘key figure at the centre of this whole issue’ of a ‘plan about how the share price could be influenced by using the Select Committee on Estimates and Financial Operations...’.
30. Not only was Mr Crichton-Browne not a key figure at the centre of the whole issue, the Committee *was unable to establish conclusively that Mr Crichton-Browne was fully informed by the other participants in the strategy as to the true nature of the intended use of SCEFO.*
31. The truth is, there was no evidence in the Report that Mr Crichton-Browne was partly or wholly *“informed by the other participants in the strategy as to the true nature of the intended use of SCEFO”* as set out in the Report.

32. **Hon LJILJANNA RAVLICH:** *They (Hon Anthony Fels and Hon Shelley Archer) were, in my view, manipulated and used by Mr Burke, Mr Grill and Mr Crichton-Browne. It is made clear throughout the report that there had been consistent manipulation. It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal to those two members of this House the extent to which they would profit from this matter.*
33. It is false of Hon Ljiljanna Ravlich to claim that Hon Anthony Fels and Hon Shelley Archer were manipulated in any way by Mr Crichton-Browne and neither does the Select Committee Report 'make clear through the Report that Hon Anthony Fels and Hon Shelley Archer had been consistently manipulated by Mr Crichton-Browne.'
34. Mr Crichton-Browne gave sworn evidence that he had informed Hon Anthony Fels that Mr Crichton-Browne was engaged by Cazaly Resources.
35. **Hon LJILJANNA RAVLICH:** *It is quite clear from everything presented in the Report that the level of fee that Mr Grill and Mr Burke were due to make was very substantial. A figure of \$2 million was mentioned in the Report. I have no issue with people making money. In some sense the market determines how much money a person does make from success fees and a whole range of considerations. However, the heart of this is how people make money. It is about their integrity, or sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options. However, it is not clear from the Report how much was going to be a success fee as opposed to shares options.*
36. **Hon LJILJANNA RAVLICH:** *It is quite clear that all three, Mr Burke, Mr Gill and Mr Crichton-Browne, did not reveal to those two members of this House the extent to which they would profit from this matter.*
37. Hon Ljiljanna Ravlich, having dwelt upon the fees that she believed Mr Burke and Mr Grill were to receive from Cazaly Resources, then proceeded to smear Mr Crichton-Browne by falsely misrepresenting his fee by clear inference as being that which she claimed Mr Burke and Mr Grill were to receive.
38. The entirety of Mr Crichton-Browne's payment from Cazaly Resources was \$7,500. To claim by association that Mr Crichton-Browne was to receive an enormous fee which he had deliberately chosen to hide from Hon Antony Fels, Hon Ljiljanna Ravlich misled the Legislative Council.
39. Having created a false impression that Mr Crichton-Browne had been the recipient of an enormous, dishonestly hidden and tainted fee, Hon Ljiljanna Ravlich then proceeded to traduce Mr Crichton-Browne's integrity by moralising about his fabricated ill-gotten gains by claiming, 'However, the heart of this is how people make money. It is about their integrity or, sometimes, the lack of it.'

40. **Hon LJILJANNA RAVLICH:** *As I was coming into work the other day, I heard Hon Anthony Fels speaking on the radio. He made the point that he thought it was okay to accept some Terms of Reference, because Mr Crichton-Browne had told him that those Terms of Reference were in fact drafted by the Parliamentary Inspector. That is certainly what I heard on the radio, and that is a separate issue. However, I am sure that nobody had told Hon Anthony Fels and Hon Shelley Archer how much was to be gained financially. Rather, the tactic that was used by Mr Burke, Mr Grill and Mr Crichton-Browne with Hon Anthony Fels and Hon Shelley Archer was that this was all about presenting the interests of the little guy as opposed to the interests of the big guy; in other words, the big multinational company, Rio Tinto.*
41. Insofar as Hon Ljiljanna Ravlich referred to Mr Crichton-Browne as having deceived Hon Anthony Fels as to whom Mr Crichton-Browne represented, the size of his fee and having presented to Hon Anthony Fels that the matter at issue was representing 'the interests of the little guy', Hon Ljiljanna Ravlich conjured up untruths.
42. Mr Crichton-Browne informed Hon Anthony Fels that he was representing Cazaly Resources; there was no deception by Mr Crichton-Browne about his insignificant fee of \$7,500 and Mr Crichton-Browne did not represent to Hon Anthony Fels 'that this was all about presenting the interests of the little guy as opposed to the interests of the big guy; in other words, the big multinational company, Rio Tinto.'
43. **Hon LJILJANNA RAVLICH:** *I refer to page 444 of the Select Committee Report and to a telephone call on 15 August 2006. Mr Burke called Ms Archer and said -*

Shelley, uhm you know that Committee that was set up in the Upper House that you got on, do you remember, what was that called?

Hon Shelley Archer said -

The Financial and Estimates Committee

Mr Brian Burke advised -

Uhm, I'm looking for a committee or a vehicle that can look at one particular aspect of the resources industry in the State, uhm, you know how these big companies get in and they tie up those areas of land for twenty or thirty years and ... no one can explore them.

44. **Hon LJILJANN RAVLICH:** *The theme for Mr Burke, Mr Grill and Mr Crichton-Browne was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia.*
45. Having quoted a telephone conversation between Mr Burke and Hon Shelley Archer from which Hon Ljiljanna Ravlich divined that Mr Burke was promoting 'the theme was that resource companies were acting against the interests of small local

companies and therefore slowing down the development of Western Australia', Hon Ljiljanna Ravlich then falsely included Mr Crichton-Browne in her allegations.

46. Hon Ljiljanna Ravlich's allegation against Mr Crichton-Browne is not to be found in the evidence or in the findings of the Select Committee Report.
47. **Hon LJILJANNA RAVLICH:** *It is clear that Mr Burke, Mr Grill and Mr Crichton-Browne presented the need for an iron ore inquiry as being good public policy and good politics – in the best interests of the State. They did not reveal their objectives; they did not reveal personal gain or promise any member any personal gain. It is also clear from the Report that, in fact, they were quite contemptuous of the abilities of the two Members concerned. They drew them into their manipulations and abused the trust that those Members placed in them by presenting themselves as their mentors. I believe that they used those Members.*
48. This series of statements is untrue. Mr Crichton-Browne informed Hon Anthony Fels that he represented Cazaly Resources; he demonstrated 'no contempt of his abilities'; he most certainly did not 'manipulate' him; did not 'abuse his trust', he 'did not use him' and it is absurd to claim that Mr Crichton-Browne presented himself as a 'mentor'.
49. **Hon LJILJANNA RAVLICH:** *They sought also to draw in other Members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of Members. Mr Burke sent an email to Mr Edel on 13 September 2006 and cc'd a range of other people, with Hon Shelley Archer's emailed advice of 13 September 2006, although he does not specifically name her as the source of the advice, on amending the draft Terms of Reference to fit within the Committee's Terms of Reference. He suggested that Noel Crichton-Browne should approach Hon George Cash MLC and Hon Norman Moore MLC to ensure that the Liberal Party Members on the Committee supported an iron ore inquiry. I am not alleging that Hon George Cash and Hon Norman Moore did anything wrong. Indeed, there is no evidence of that. The bottom line is that I am just making the point that other people were being manipulated. The three people concerned – that is, Mr Burke, Mr Grill and Mr Crichton-Browne – certainly tried to bring in other people so that they could affect the outcome. There was also a reference to Hon Norman Moore and that Noel Crichton-Browne was to phone him.*
50. Mr Crichton-Browne did not 'seek to draw in other members'. He has never met nor spoken to 'Mr Chapple'. There was never a 'concept' by Mr Crichton-Browne to 'draw in a broader range of members'. Mr Crichton-Browne knows nothing of, nor did he receive any email 'dated 13 September and addressed to Mr Edel'.
51. Mr Crichton-Browne knows nothing of any discussions by Mr Burke about Mr Crichton-Browne contacting Hon Norman Moore or Hon George Cash and Mr Crichton-Browne most certainly did not ever discuss the matter of an iron ore industry inquiry with either Member of the Legislative Council. No one was being

manipulated by Mr Crichton-Browne as Hon Ljiljanna Ravlich continues to dishonestly claim.

52. **Hon LJILJANNA RAVLICH:** *In a file note of 10 October 2006 from a meeting at Phillips Fox, there is evidence of a conversation with Noel Crichton-Browne about why the Standing Committee on Public Administration was not chosen for the proposed iron ore inquiry and discussion of the draft Terms of Reference and historical aspects of the policy.*
53. Hon Ljiljanna Ravlich is apparently in this statement, seeking to place a sinister connotation upon a reference to the Standing Committee on Public Administration and why it was not chosen for the proposed iron ore inquiry.
54. Mr Crichton-Browne played no part in which Committee was the appropriate one to consider the proposed reference. He was informed by Phillips Fox that Mr McCusker QC had considered the matter and given advice to Phillips Fox.
55. **Hon LJILJANNA RAVLICH:** *There are references to many people in this Report. At the end of the day, there is no doubt that a part of the way in which Mr Burke, Mr Grill and Mr Crichton-Browne operated was to try to get as many people as they could into their web.*
56. The inferences in Hon Ljiljanna Ravlich's statement are that Mr Crichton-Browne acted in a deceitful and devious fashion so as to entrap people for improper purposes.
57. This claim is without substance or truth and it does not arise from the evidence or the findings of the Select Committee.
58. **Hon LJILJANNA RAVLICH:** *In support of this amendment, I am of the view that the influence of Mr Burke, Mr Grill and Mr Crichton-Browne should cease once and for all. It will protect public life in the State from exploitation for private gain by those unscrupulous enough to use other people while presenting their own position as being that of serving the public good. I am also of the view the Premier is acting in the best interests of Western Australia in wanting to get rid of the influence of Mr Burke, Mr Grill and Mr Crichton-Browne. The truth is that Mr Burke, Mr Grill and Mr Crichton-Browne have acted in financial self-interest. The truth is that they have scant regard about who they hurt in the process of achieving their desired outcomes. The truth is that many have fallen because of their association with Mr Burke and Mr Grill. The truth is that good people do not use, exploit and deceive others intentionally in pursuit of their own financial interests. They do not manipulate long-standing institutions like the Parliament, and they do not corrupt the process of democratic decision making.*
59. In essence, Hon Ljiljanna Ravlich falsely portrays the Select Committee Report as finding Mr Crichton-Browne someone so monstrous in his alleged unscrupulous exploitation of others while disguised behind the veil of public good, that his pernicious and evil influence is such that he should be removed from association with public officers.

60. Such is Mr Crichton-Browne's behaviour in the matter before the Legislative Council, according to Hon Ljiljana Ravlich, that he has scant regard for whomever he hurts for personal financial gains. In making this claim, Hon Ljiljana Ravlich contrasts Mr Crichton-Browne's conduct with good people '*who do not exploit and deceive others intentionally in pursuit of their own financial interests.*'
61. In a final allegation about Mr Crichton-Browne, Hon Ljiljana Ravlich by inference, untruthfully accuses Mr Crichton-Browne '*of manipulating long-standing institutions like the Parliament and of corrupting the process of democratic decision making.*'
62. Mindful of the fact that Hon Ljiljana Ravlich had read the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations and quoted directly from it, she was intimately familiar with its content and findings and her various allegations about Mr Crichton-Browne were not therefore made in ignorance or misunderstanding;
63. Mindful of the enduring and abiding damage to the standing, dignity and integrity inflicted upon the Parliamentary institution by the failure of Members to maintain the highest level of honesty and truthfulness when participating in debates of the House or Committees thereof;
64. Mindful of the loss of confidence and faith by members of the public when these standards are not maintained;
65. Mindful of the inviolable right of parliamentarians to speak frankly, boldly and without fear, in the knowledge that they may with impunity do so, Members of Parliament bear a corresponding burden of responsibility to speak honestly and truthfully when addressing their colleagues.
66. Mindful that the history of the Westminster system is one which provides checks and balances and those members who defile their rights may expect to be met by their obligations with firmness and surety;
67. Mindful that the Bill of Rights, Parliamentary Privileges Acts and Standing Orders are blind to rank, station or standing, Ministers may expect both right and obligations in equal portion with those on the farthest row from the President;
68. Mindful of the grave and serious manner with which the Legislative Council views matters of misleading the House insofar as they constitute a contempt of the House;
69. Mindful that the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations quoted extensively and with approval the considerations of Erskine May on matters of parliamentary privilege and contempt of the House, that on the question of deliberately misleading the House

May states:

The Commons may treat the making of a deliberately misleading statement as a contempt. In 1963, the House resolved that in making a personal statement which contained words which he later admitted not to be true, a former Member had been guilty of a grave contempt¹²⁷ (Profumo's Case CJ (1962-63) (246).

70. Mindful of the 'House of Representatives Practice Fifth Edition':

The circumstances surrounding the decision of the House of Commons in Profumo's Case are of importance because of the guidance provided in cases of alleged misrepresentation by Members. Mr Profumo had sought the opportunity of making a personal statement to the House of Commons to deny the truth of allegations currently being made against him. Later, he was forced to admit that in making his personal statement of denial to the House, he had deliberately misled the House. As a consequence of his actions, he resigned from the House which subsequently agreed to a resolution declaring him guilty of a grave contempt.

Whilst claims that Members have deliberately misled the House have been raised as matters of privilege or contempt, the Speaker has not, to date, accepted such a claim.

On 16 September 1986, Speaker Child advised the House that she had appraised a statement to the House on 22 August by a Member, following her reference to remarks critical of her attributed to the Member. The Speaker, having examined the transcripts of the remarks in question, and comparing them to the Member's statement to the House, claimed that he had misled the House and this action, in her opinion, constituted a contempt of the House.

The Member then addressed the House on the Matter. The Chairman of Committees then moved a motion to the effect, inter alia, that the Member's statement to the House on 22 August 'being clearly at odds with his original comments, misled the House, and thus constitutes a contempt of the House.' After debate, and the Member having again withdrawn the remarks to which attention had been drawn, and having again apologised, the motion was withdrawn, by leave;

71. Mindful of the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations

**CHAPTER 1 (inter alia)
THE OBLIGATIONS OF MEMBERS OF PARLIAMENT**

- 1.1 Members of Parliament have an obligation to maintain the highest standards in the performance of their duties. This obligation including understanding and observing the requirements of parliamentary privilege, along with the standing orders, custom and usage of the Parliament.

1.2 In the forward to Gerard Carney's *Members of Parliament: law and ethics*, former Chief Justice of the High Court of Australia, Gerard Brennan, states:

*"The efficiency and integrity of political institutions are functions of the qualifications and character of those in whom political power is reposed and of the manner in which that power is exercised. The public expects that certain standards will be maintained and, provided those standards are maintained, accepts and peacefully submits to the exercise of political power. The maintenance of proper standards underpins the peace, order and good government of society."*³

72. Mindful of the vigour, dedication and relentless determination so transparently demonstrated by the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in pursuing and prosecuting alleged findings of contempts of the House including of the most minor and insignificant nature;
73. Mindful of the unanimous resolution of the Legislative Council in adopting without amendment or reservation the findings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in respect to the various findings of contempt of the House;
74. Mindful of Members being bound to speak equally honestly and truthfully in the Legislative Council and in Committees of the Council, whether as witnesses or Members of a Committee;
75. Mindful of the standards and consequences convention imposes upon Ministers of the Crown in the discharge of their duties and obligations to the House;
76. Mindful of Hon Ljiljana Ravlich's statement to the Council during debate on the Matter of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations that '*I also have to say that at the heart of the matter we are dealing with and have before us today is the integrity of this place. This is about the integrity of the working of this place.*'
77. Your petitioner prayfully and respectfully requests the President and Members may consider this petition and if it be their will, incorporate its contents into Hansard and refer it to the Procedures and Privilege Committee to consider whether the matters of misleading the House disclosed by this petition and complained of by the petitioner, amount to a contempt of the House.

NOEL ASHLEY CRICHTON-BROWNE
PO Box 163
CLAREMONT, WESTERN AUSTRALIA 6010

APPENDIX 2

EXTRACT FROM HANSARD, 29 NOVEMBER 2007

APPENDIX 2

EXTRACT FROM HANSARD, 29 NOVEMBER 2007

[COUNCIL - Thursday, 29 November 2007]

8001

fairness. First, the principles of natural justice and fairness are not specifically stated in standing order 330. Furthermore, standing order 330 states "subject to order", which means that the committee, in adopting standing order 330, can adopt as much or as little of it as it likes. It is open to the committee to make those determinations. Members who have read standing order 330 will know that it has a number of paragraphs. I have quite a long spiel about how the committee has complied with each of those paragraphs, but I will not go through it now because I know that time is running on. However, I assure members that the select committee has observed all those aspects of standing order 330. The only aspect about which there is some dispute is that some witnesses have argued in their letters to the President that they were denied access to all the relevant documents, which were the transcripts of other witnesses. Under the standing orders and the custom and usage of this house, it was not open to the select committee, having given private status to all those documents, to then release those documents. In order to do so, the committee would have needed to seek the leave of the house. It was simply not open to the committee. It was not a matter of the committee being deliberately difficult. The committee certainly gave witnesses access to all those documents that it was able to within the standing orders and custom and usage of the house.

The fourth issue that Mr McCusker, QC, raises is his concern about the application of standing order 357. I think I have dealt with that adequately and I do not propose to go back to it. Mr McCusker also raises concerns about the use of counsel assisting. He refers to those sections of Erskine May that deal with specialist assistants. I would argue that that is not an appropriate application of the provision in Erskine May because it deals with advisers or assistants who are assisting a committee with its actual deliberations. That was not the case with the engagement of Mr Philip Urquhart. He was not involved in committee deliberations at all.

There are some other matters I would like to raise that I have an obligation to bring to the attention of the chamber. It is the case that the indignities offered to the house by words spoken or writings published reflecting on its character or proceedings have been constantly punished by both the Lords and Commons - according to Erskine May - upon the principle that such acts tend to obstruct the houses in the performance of their functions by diminishing the respect due to them. It is of concern that a number of letters by legal counsel for the witnesses could arguably fall within that category of contempt. In some instances the letters from legal counsel reveal private deliberations of the committee or refer to private documents before the committee. I think this should be a matter of great concern to the house and it is something that the house should take special consideration of. In particular, Mr McCusker's legal advice in a number of instances breaches both of those provisions and may be a contempt of this house. I have the details and I am happy to provide them to the Clerk or the house or the President, as appropriate, as I do not wish to take up more time of the chamber.

It is also the case that the letter from Mr Grant Donaldson breaches parliamentary privilege in terms of referring to private deliberations and documents of the committee, and also in terms of the reflections it makes upon the proceedings of the committee and the proceedings of this house. In the case of Mr Donaldson's letter, there is also a question about the suggestions he makes in relation to the Corruption and Crime Commission in which he suggests that he will report the Corruption and Crime Commission to the WA Police and the commonwealth and state Attorneys General. That could arguably amount to threatening behaviour towards a witness because of evidence given by the witness to a parliamentary committee. That is a criminal offence under section 58 of the Criminal Code. This house would need to consider that matter with some care as well. Certainly, as I have indicated, there are issues concerning the release of private deliberations of the committee and private documents of the committee. There is also the issue about some of the letters impugning the dignity of the house and reflecting on the proceedings of the committee and the house. It is arguable that some of the letters are also seeking to improperly influence members of this place in the exercise of their free judgement in relation to the committee report and recommendations. Mr Chairman, I am not sure how one best proceeds with this. I may seek advice from the Clerk separately and then bring the matter before the house on another occasion, as I do not want to take up more time. There are a number of other matters I wanted to deal with but time is getting on and I think it might be best if we try to progress this matter. I may raise the other issues I want to talk about as we deal with the individual clauses of the recommendations and the motion before the house.

Hon LJILJANNA RAVLICH: I rise in support of the motion before us to delete all words after "That" and insert the amendment moved by the Leader of the House. In doing so I state that this is a very difficult matter. I also have to say that at the heart of the matter we are dealing with and have before us today is the integrity of this place. This is about the integrity of the workings of this place. The report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations is a very interesting read.

I say at the outset that this matter centres on one committee of the house looking into the workings of another committee of the house. As it has been open for one committee to find fault with another, it is open in the future for yet another committee to find fault with the committee finding fault in this instance, and so on ad infinitum. Why? Because obviously people will have differing views about evidence presented before them and events that may have occurred and so on. I also note that no matter how objective they are in their deliberations, committees are formed on partisan lines and they reflect the partisan composition of the house. They are

therefore not equivalent to the courts and the legal system, from which partisan bias is prohibited. We are dealing with a unique situation.

In supporting the amendment I wish to recapture some of the key points in the chronology of events of the select committee and what it uncovered. The origin of this whole matter is found in 2005 in the dispute between Cazaly Resources Ltd together with Echelon Resources Ltd on one side and Rio Tinto on the other side. Shovelanna was an iron ore deposit near Newman that was originally pegged in the 1970s. Rio Tinto's documentation for the renewal of its lease somehow had not arrived in the Mining Warden's office by the prescribed date, which was 28 August 2005, and therefore Cazaly Resources successfully applied for a lease over what was technically vacant land under the WA Mining Act. The minister at the time, John Bowler, had to rule on the matter. He ruled in favour of Rio Tinto's application to have Cazaly's lease struck out under the Mining Act. Following that, I understand that the ruling was tested in the Supreme Court, which found in the government's favour. Therefore, Minister Bowler's decision was upheld. It was that decision that Cazaly was seeking to overturn. I suspect that what happened from there was that Cazaly may well have been advised of the services of Mr Burke and Mr Grill in this matter. They worked with Mr Crichton-Browne in order to effect a shift, if you like, from the position it was in.

It is quite clear from everything presented in the report that the level of fee that Mr Grill and Mr Burke were due to make was very substantial. A figure of \$2 million was mentioned in the report. I have no issue with people making money. In some sense the market determines how much money a person does make from success fees and a whole range of considerations. However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options. However, it is not clear from the report how much was going to be a success fee as opposed to shares options. However, at the heart of all this was the plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing pressure to bear so that there could be some change in the outcomes.

The select committee's inquiries reveal that the financial interests of other parties were involved in these matters, but the key figures at the centre of this whole issue were Mr Burke, Mr Grill and Mr Crichton-Browne. It is most important for the house to note that as a result of the select committee's inquiries, two members of this house were found by the select committee to have committed breaches of privilege and contempts, but there is no suggestion that they were in any way going to gain, financially or otherwise. They were, in my view, manipulated and used by Mr Burke, Mr Grill and Mr Crichton-Browne. It is made clear throughout the report that there had been consistent manipulation. It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal to those two members of this house the extent to which they would profit from this matter.

As I was coming into work the other day, I heard Hon Anthony Fels speaking on the radio. He made the point that he thought it was okay to accept some terms of reference, because Mr Crichton-Browne had told him that those terms of reference were in fact drafted by the parliamentary inspector. That is certainly what I heard on the radio, and that is a separate issue. However, I am sure that nobody had told Hon Anthony Fels or Hon Shelley Archer how much was to be gained financially. Rather, the tactic that was used by Mr Burke, Mr Grill and Mr Crichton-Browne with Hon Anthony Fels and Hon Shelley Archer was that this was all about presenting the interests of the little guy as opposed to the interests of the big guy; in other words, the big multinational company Rio Tinto.

I refer to page 444 of the select committee report and to a telephone call on 15 August 2006. Mr Burke called Ms Archer and said -

Shelley, uhm you know that committee that was set up in the upper house that you got on, do you remember, what was that called?

Hon Shelley Archer said -

The Financial and Estimates Committee.

Mr Brian Burke advised -

Uhm, I'm looking for a committee or a vehicle that can look at one particular aspect of the resources industry in the state, uhm, you know how these big companies get in and they tie up these areas of land for twenty or thirty years and . . . no one can explore them.

The theme for Mr Burke, Mr Gill and Mr Crichton-Browne was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia. In manipulating the two members into establishing an inquiry and terms of reference, Mr Burke said in a telephone conversation on 6 September 2006, according to the report -

"Essentially what it is, is this, it's an enquiry into, under the terms of the Financial Administration of the State, all of the areas that the big majors have got tied up and sterilized on which they haven't

[COUNCIL - Thursday, 29 November 2007]

8003

worked say for twenty thirty years. . . . And there's just a lot of smaller miners who come to me and Julian, no one in particular who say well look while this is tied up no one gets any benefit from it, . . . and year after year they apply for exemptions from the work commitments."

The CHAIRMAN: I give the call to the Minister for Local Government.

Hon LJILJANNA RAVLICH: It is clear that Mr Burke, Mr Grill and Mr Crichton-Browne presented the need for an iron ore inquiry as being good public policy and good politics - in the best interests of the state. They did not reveal their objectives; they did not reveal personal gain or promise any member any personal gain. It is also clear from the report that in fact they were quite contemptuous of the abilities of the two members concerned. They drew them into their manipulations and abused the trust that those members placed in them by presenting themselves as their mentors. I believe that they used those members. They sought also to draw in other members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of members. Mr Burke sent an email to Mr Edel on 13 September 2006, and cc'd a range of other people, with Hon Shelley Archer's emailed advice of 13 September 2006, although he does not specifically name her as the source of the advice, on amending the draft terms of reference to fit within the committee's terms of reference. He suggested that Noel Crichton-Browne should approach Hon George Cash, MLC, and Hon Norman Moore, MLC, to ensure that the Liberal Party members on the committee supported an iron ore inquiry. I am not alleging that Hon George Cash and Hon Norman Moore did anything wrong. Indeed, there is no evidence of that. The bottom line is that I am just making the point that other people were being manipulated. The three people concerned - that is, Mr Brian Burke, Mr Julian Grill and Mr Crichton-Browne - certainly tried to bring in other people so that they could effect the outcome. In a file note of 10 October 2006 from a meeting at Phillips Fox, there is evidence of a conversation with Noel Crichton-Browne about why the Standing Committee on Public Administration was not chosen for the proposed iron ore inquiry and discussion of the draft terms of reference and historical aspects of the policy. There was also a reference to Hon Norman Moore and that Noel Crichton-Browne was to phone him.

Hon Norman Moore: Let me assure you he didn't. You're just chucking a bit of mud around in the hope that some will stick.

Hon LJILJANNA RAVLICH: I am not trying to chuck any mud; I am trying to be -

Hon Norman Moore: Would you like to read the bit about Mr Travers and the bit about Giz Watson and the bit about -

Hon LJILJANNA RAVLICH: There are references to many people in this report. At the end of the day, there is no doubt that a part of the way in which Mr Burke, Mr Grill and Mr Crichton-Browne operated was to try to get as many people as they could into their web. The simple fact is that the two members of this place who are the subject of the amendment proposed have compounded their own sets of circumstances, because they have been found by the select committee to have committed breaches of privilege and contempts of a serious nature. In support of this amendment, I am of the view that the influence of Mr Burke, Mr Grill and Mr Crichton-Browne should cease once and for all. It will protect public life in the state from exploitation for private gain by those unscrupulous enough to use other people while presenting their own position as being that of serving the public good. I am also of the view that the Premier is acting in the best interests of Western Australia in wanting to get rid of the influence of Mr Burke, Mr Grill and Mr Crichton-Browne. The truth is that Mr Burke, Mr Grill and Mr Crichton-Browne have acted in financial self-interest. The truth is that they have scant regard about who they hurt in the process of achieving their desired outcomes. The truth is that many have fallen because of their association with Mr Burke and Mr Grill. The truth is that good people do not use, exploit and deceive others intentionally in pursuit of their own financial interests. They do not manipulate long-standing institutions like the Parliament, and they do not corrupt the process of democratic decision making.

Point of Order

Hon KIM CHANCE: Before you put the question, Mr Chairman, I seek your advice. On Tuesday, the Deputy Chairman, Hon Ken Travers, in relation to a question on whether a person who is implicated in a question before the house has the right to vote, indicated that the right did exist. I ask whether further consideration of that advice has taken place in the time since the advice was given. I ask in reference to two particular areas. The first relates to whether there is a later reference in Erskine May's *Parliamentary Practice* to this question on disciplinary matters. Although it is not strictly relevant, I also ask a question in relation to standing order 326B, which reads -

In relation to any matter or inquiry before a committee, -

Although this is the Committee of the Whole, that is not the intention of the word, and that is why it is not strictly relevant -

a Member shall not vote on a question in which the Member has a direct pecuniary or personal interest not held in common with the rest of the subjects of the Crown.

Although I concede that standing order 326B is not relevant to the question I have asked, I raise a matter in general terms as to whether, considering that rule in the standing orders in relation to a committee, that same thread does not carry into the Committee of the Whole, or the Parliament itself. Primarily, my question relates to Erskine May's advice about a member who is facing a disciplinary charge.

The CHAIRMAN: The Leader of the House has raised a number of issues on which I believe he is seeking advice. He has asked me whether further consideration was given to the Deputy Chairman's earlier decision and ruling on the question of a personal interest that was raised the other day. He has also referred in particular to standing order 326B and other issues. I certainly have given no further consideration or taken any further advice on the matter. If the Leader of the House or any other member had wished to disagree with the ruling of the Deputy Chairman, the appropriate time to disagree was when the ruling was first given. I will not be able to deal with all the issues raised by the Leader of the House at this stage. He asked in particular whether there was a later reference in Erskine May. I am advised that at page 148 of the twenty-second edition of Erskine May's *Parliamentary Practice* there is a reference that reads, in part -

Though the older practice of the House was to require the withdrawal of the Member under criticism as soon as he had been heard, the practice was not invariable and the House exercises its discretion according to the circumstances.

I think that may be the later reference on which the Leader of the House was inviting comment, and I acknowledge that it exists. Further, I make the observation that I have been provided with some further advice that indicates that when this matter has arisen in both this chamber and the other place on previous occasions, the member has been given the opportunity to speak and has been said to be entitled to vote on the issue. However, because the Leader of the House has raised this matter without notice, as is his right, and because I believe that it happens to be a serious matter, it would be appropriate if I left the chair and consulted the President on the matter to establish whether the President wishes to make further comment or to direct me, as Chairman of Committees, to make further comments. I propose to leave the chair until the ringing of the bells.

Sitting suspended from 3.17 to 3.26 pm

Ruling by Chairman

The CHAIRMAN (Hon George Cash): Members, I refer to the issues raised by the Leader of the House, and indicate that I have consulted the President. I uphold the original ruling provided on Tuesday, 27 November, as the additional information to which I alluded at page 148 of Erskine May's *Parliamentary Practice*, twenty-second edition, does not alter the procedures and practice of this house.

As I stated earlier, there are precedents in both this place and the other place of a member, the subject of a contempt motion, having been entitled, and indeed having exercised that right, to vote on the motion. Standing order 326B has no relevance to the Committee of the Whole House, as it relates to a standing committee.

I indicate to members that, in future, if members disagree with the ruling from the Chair, they are required to make immediate objection. I refer members to standing order 289 in that regard.

Amendment to Motion Resumed

Amendment (deletion of words) put and a division taken with the following result -

Ayes (15)

Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Paul Llewellyn	Hon Ken Travers
Hon Vincent Catania	Hon Adele Farina	Hon Sheila Mills	Hon Giz Watson
Hon Kim Chance	Hon Jon Ford	Hon Ljiljana Ravlich	Hon Ed Dermer (<i>Teller</i>)
Hon Kate Doust	Hon Graham Giffard	Hon Sally Talbot	

Noes (16)

Hon Shelley Archer	Hon Murray Criddle	Hon Ray Halligan	Hon Helen Morton
Hon Ken Baston	Hon Brian Ellis	Hon Barry House	Hon Simon O'Brien
Hon George Cash	Hon Anthony Fels	Hon Robyn McSweeney	Hon Barbara Scott
Hon Peter Collier	Hon Nigel Hallett	Hon Norman Moore	Hon Bruce Donaldson (<i>Teller</i>)

Pair

Hon Batong Vu Pham	Hon Donna Faragher
--------------------	--------------------

Amendment thus negated.

[COUNCIL - Thursday, 29 November 2007]

8005

Motion Resumed

Hon NORMAN MOORE: The decision just made by the chamber is to not delete the words as proposed by the Leader of the House to enable him to move other words to be inserted, which means the chamber is now back to a consideration of the original motion moved by Hon Murray Criddle. My view is that the Committee of the Whole House should now concern itself with the recommendations of the report. We have just spent the past two-and-a-half days arguing about general issues, brought on mainly by the nature of this particular debate and also by the fact that the government wanted to introduce issues other than the recommendations of the report; namely, the expulsion of two members. I do not know whether the government interprets the vote that we have just had as being a vote on expulsion. It may choose another amendment to do that. However, my understanding of the way in which the chamber believes expulsion should proceed is that the chamber does not support it; indeed, had the Greens (WA) not changed their view on this matter, we could add another two members to those who voted to not delete the words. We have dealt with that issue in my view, albeit we have not had a vote on it.

I am of the opinion that the time has now come for this chamber to start at recommendation 1 and work its way through to recommendation 35 and make some decisions on the issues raised by the report, because basically what we have done for the past two-and-a-half days is talk about what Mr Carpenter wanted us to talk about. I now want to talk about the matters the committee wants us to talk about, which are the alleged offences that people may have committed and the whole stack of very worthwhile and positive recommendations. I was intending to move an amendment when this matter first began on Tuesday but I was beaten to the call by the Leader of the House. I apologise to the then Deputy Chairman for my unfortunate comment on his decision. I acknowledge that what he did was right. However, because I did not get the first shot at it, my amendment did not get a chance to be considered and so we spent the past two and a half days dealing with the amendment moved by the Leader of the House.

We have had a very good debate in my view; in fact, it has been one of the better debates I have witnessed in this house, and on an issue that could have caused people to be throwing things at each other. Apart from the Minister for Local Government trying to have a quick go at me and Hon George Cash on the way out today, no recrimination has been made against individuals. That has been a good thing because we have been able to debate the issues rather than the personalities. In my view, that is a debate that we had to have. Indeed, I want to thank Hon Adele Farina. I might add that if ever I need a lawyer, I will see whether she is free.

Hon Ken Travers: You will need a lot of money.

Hon NORMAN MOORE: I agree, certainly with the sort of money I have. However, I have worked out some ways to get some more! People who make defamatory remarks from time to time have to pay. Members should understand that, and they do. However, that is for another day and another time.

Hon Adele Farina has gone through most of the concerns raised by eminent lawyers. The amendment I had intended to move was to refer those letters to the Standing Committee on Procedure and Privileges for its consideration ahead of this chamber making a judgement on the individuals involved. However, I was very happy to agree to every other recommendation in the report, with some amendments to satisfy some difficulties that have been discovered. I felt that the proper process for the chamber to go through would have been to give the standing committee a chance to look at the concerns raised by the lawyers. If there were no concerns from its point of view, we could then proceed to make a decision about the offences of the individuals and the penalties. If, on the other hand, the standing committee found some credibility attached to some of the lawyers' letters, the house might take a different point of view on the issues relating to individuals. I likened that the other day to an appeal before the event rather than an appeal after the event.

Hon Adele Farina, for our benefit, has gone through her opinion on those issues raised by various lawyers. I would at some time love to see her and Malcolm McCusker arguing the matter. The problem that Malcolm McCusker has today, of course, is that he is not a member of this place, so he must accept that he will not get a chance to argue with Hon Adele Farina about his letter and her interpretation of it. That is a debate I would love to see sometime, so maybe someone would like to organise it, and we can all come and watch. He charges a lot more than Hon Adele Farina does! If she can beat him in debate, she will be very much in demand as a legal advocate in the future.

I had contemplated that if the Committee of the Whole were to vote in the way it did on the motion we have just debated - in other words, if it did not agree to delete the words - and we were to return to the original motion, I would move an amendment I have drafted to the original motion that would put in train the process I have described; that is, to send the letters to the standing committee. Having listened to the debate and the contribution from Hon Adele Farina, I am now of the view that the chamber ought to forget about amendments to the motion such as that moved by the Leader of the House, and we should just get on with dealing with the recommendations. If, however, we are confronted with another set of amendments from the government to force a vote on expulsion, the Greens (WA) move an amendment to force a vote on suspension, and the government

8006

[COUNCIL - Thursday, 29 November 2007]

moves another amendment with regard to referring matters to the Director of Public Prosecutions and other agencies for whatever purpose, we will be here for the next six months. It would be helpful if I had some indication from the government - perhaps by way of unruly interjection - whether it intends to do that. On the other hand, we could say, "We have had a debate on the extraneous issues and the chamber has basically said that it would not go down that path; let's just get on with the recommendations." If the government can indicate to me that that is what it is prepared to do, I will sit down and shut up, and we can start doing that; otherwise, I will have a fair bit more to say.

Hon Kim Chance: It is the case that the government intends to move another amendment which contains all of the clauses of our first amendment.

Hon NORMAN MOORE: I have been regularly, consistently and constantly criticised by the Premier for supposedly delaying the processes of judgement because I am trying to protect people - people whom he describes as corrupt, disgraceful, scum-of-the-earth type people - and thereby am trying to delay the processes of the Legislative Council. I have put to the house a way forward whereby, on the basis of what I think about these recommendations, this process could be finished by five o'clock this afternoon. There is no doubt in my mind what should be done about the recommendations. As far as I am concerned, I will support the recommendation that all the members and non-members who have been found by the select committee to have revealed committee information should apologise to the house. I will support the recommendation for the non-members involved to write a letter of apology. I also support the proposition that action on recommendations relating to apologies for giving false evidence should be deferred until such time as the Director of Public Prosecutions has examined the question of guilt or otherwise with regard to section 57 of the Criminal Code. I will agree to the referral of all these issues to the DPP. I am happy to accept an amendment to those motions that the issues be referred to the DPP rather than the Attorney General. The committee has not told us why recommendation 5 seeks to refer to the Attorney General matters relating to giving false evidence pursuant to section 15 of the Parliamentary Privileges Act, when we have been told that that is not an appropriate recommendation.

Hon Kim Chance: My amendment addresses that.

Hon NORMAN MOORE: I understand that, but the leader's amendment goes well beyond that. His amendment deals with all sorts of other things, such as making the evidence available to a range of people other than the Director of Public Prosecutions. It refers to section 57 or any other provision of the Criminal Code. The leader may well have a very good reason for that, but we have not yet heard one. He did not actually argue all his case when he spoke earlier. However, he argued the Premier's line that we should expel somebody.

I indicate to the chamber that, apart from a couple of minor amendments, I do not have a problem with proceeding with the recommendations. That is not an altogether unfair proposition. If the leader decided to desist from his course of action, we could actually finish this today.

The CHAIRMAN: Order, Leader of the Opposition! I have to leave the chair. The Leader of the Opposition has indicated that it is his intention to move an amendment. If it is convenient to the chamber for the Leader of the Opposition to move the amendment before I leave the chair, it will give members an opportunity to consider it before we return to this matter after question time. That is the Leader of the Opposition's option. I thought the Leader of the Opposition might want to put it on the table as a matter of convenience.

Hon NORMAN MOORE: Rather than move it now, I will defer doing so until the chamber resumes, in the hope that commonsense might prevail in the meantime.

Committee interrupted, pursuant to standing orders.

[Continued on page 8018.]

Sitting suspended from 3.45 to 4.00 pm

QUESTIONS WITHOUT NOTICE

POLARIS METALS NL - A-CLASS NATURE RESERVE

1195. Hon NORMAN MOORE to the Leader of the House representing the Minister for Resources:

I refer the minister to his reply to question without notice 1169.

- (1) Does the minister's reply to part (3) mean that the government will redraw the Environmental Protection Authority's proposed A-class nature reserve boundary to exclude mining tenements held by Polaris Metals?
- (2) If not, why not?
- (3) What does the government mean by "advanced projects"?

Hon KIM CHANCE replied:

I thank the Hon Leader of the Opposition for some notice of this question.

8018

[COUNCIL - Thursday, 29 November 2007]

account for population spikes occurring as a result of construction workforces, tourism and fly-in, fly-out workforces. By the same token, project impacts such as those estimated by the Geraldton Iron Ore Alliance may not factor in population declines from inland areas, the capacity of the existing population to meet employment targets and/or the likely extent of fly-in fly-out or drive-in drive-out workers. In the meantime the Department is well-placed to meet demand for residential, commercial and industrial land. Over 2,000 residential lots have been created in the greater Geraldton area in the last 2½ years with another 2,500 lots with conditional approval in hand.

1. It is clear that there is a population difference of about 10,000 by 2031, between the figures that DPI and Geraldton Iron Ore Alliance have indicated.
2. The reason for the difference is in part due to the methodology and partly because the scenario created by the Geraldton Iron Ore Alliance does not make any assessment of the probability of how likely it is that this scenario will actually happen. It is more of a "what if" suggestion. It does not appear to be making any contradictory statements about population and cannot be directly compared with the WA Tomorrow forecast.

The Geraldton Iron Ore Alliance makes use of an economic multiplier regime as such it makes no statement about future levels of fertility, mortality and migration. This makes comparison difficult. The Department's demographic model has a good track record and is the same methodology as that used by the ABS.

The multiplier models require a lot of data and have been known to produce unrealistic results. It is not clear how much leakage these models have out of the region, but previous in-house analysis has shown that in WA significant leakage of multiplier effects make their way to the Perth metropolitan area. It is quite possible that while the economic component is realistic that the actual flow of people into downstream jobs within the region is overestimated.

Since the report is a scenario about future projects it appears to suffer from an optimism that is unrealistic. That is, that all of the projects will go ahead and that they will not be balanced by negative changes to other parts of the economy. These assumptions are capable of producing significant differences between a scenario and a forecast.

- 3 & 4 The draft Mid-West Infrastructure Analysis will be presented to the WA Planning Commission in December 2007. Following comments from servicing agencies and other stakeholders, it is anticipated that this document will be publicly available in the second quarter of 2008.

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

As to Motion

HON KIM CHANCE (Agricultural - Leader of the House) [4.42 pm]: I move without notice -

That it be an order of the house that during consideration -

Point of Order

Hon NORMAN MOORE: My understanding is that there is a matter before the Chair; that is, the consideration of a motion moved by Hon Murray Criddle to deal with the Select Committee of Privilege on a matter arising in the Standing Committee on Estimates and Financial Operations. I do not think we can interrupt that to do the business that the Leader of the House seems to be contemplating.

The PRESIDENT: My understanding is that the chamber was in the Committee of the Whole and then it went into question time, so we are still in the Committee of the Whole. For the Leader of the House to move a motion - I do not know what he is about to move - we need to go out of Committee of the Whole and back into the house. We now return at this stage to the Committee of the Whole.

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon George Cash) in the chair.

Motion

Committee was interrupted after the motion had been partly considered.

Hon NORMAN MOORE: I was just getting into my comments on this particular matter when we were interrupted by afternoon tea and question time. I did hope that during the time when the break from this particular debate occurred and now, the Leader of the House might have seen the sense of my proposition.

Hon Kim Chance: I do not know what your proposition is yet.

Hon NORMAN MOORE: The proposition was that we desist from the temptation to move a stack of amendments to the motion moved by Hon Murray Criddle, as the Leader of the House has sought to do, and simply get on with dealing with the recommendations of the committee. The Leader of the House indicated before the afternoon tea suspension that he intended to move a further amendment to the motion moved by Hon Murray Criddle, to do all the things that he sought to do by way of his previous amendment. Presumably, that is still his position.

Hon Kim Chance: It would allow us to deal with the recommendations of the committee en bloc rather than one by one, or in logical blocks.

Hon NORMAN MOORE: It does that in part, but it also deals with a number of other matters that have nothing at all to do with the recommendations of the committee, including: expelling both the members;

directing the Attorney General to look at some of the observations of the committee, as opposed to the recommendations of the committee; and having evidence provided to this committee made available to not only the Director of Public Prosecutions, but also any other agency it deems necessary, which I find quite an extraordinary proposition.

Hon Kim Chance: You do not think that the Australian Securities and Investments Commission should look at this?

Hon NORMAN MOORE: That is for ASIC to make decisions about.

Hon Kim Chance: How is it going to look at it if we do not provide it with the evidence?

Hon NORMAN MOORE: With respect to the Leader of the House, he seems to have a misunderstanding of the notion of evidence being taken in private by committees and the fact that that is generally where it remains. It would be quite an unusual state of affairs for any evidence given to a committee of this place to be given to anybody.

Hon Kim Chance: It depends how seriously you take the issues that are raised in that report. I happen to think they are serious and that ASIC should look at them.

Hon NORMAN MOORE: ASIC can look at the report and carry out its own investigation if it so desires; indeed, I think the Corruption and Crime Commission can do the same thing. It also has evidence that has been provided to it. I draw the attention of the Leader of the House to article 9 of the Bill of Rights. The Leader of the House might spend a bit of time at the weekend contemplating that when he says that we should be giving evidence to other organisations. He should get some legal advice about it and then we will debate it if it comes on next time.

I simply repeat that the proposition I am putting to the chamber, had the Leader of the House agreed, could have resulted in most of the recommendations of this committee being dealt with this afternoon, but that is not going to happen because what the leader now wants to do as soon as he gets the call is to move, first of all, an amendment to expel two members. We have had vast argument about that, and I suspect we will have vastly more argument about it if it comes back on again. The same applies to all the other issues that are contained within the proposed amendment of the Leader of the House, assuming, as I am, and I may be wrong, that it is in the same terms as the previous amendment.

Hon Kim Chance: It is.

Hon NORMAN MOORE: I guess it would be tacked on to the end of the motion.

I want to do a couple of things this afternoon before we finish this debate. I want to set a couple of things straight that have been said during this debate so far. The Minister for Local Government made some comments about the so-called conspiracy that is referred to in the report. Although I will not spend any time commenting on her inference of my being somehow or other involved in all this and I will treat it with the total contempt it deserves, one thing I do need to make clear to her, as I have already in this chamber, is to draw her attention to page viii of the committee report, which is part of the executive summary and recommendations. I will read it to the minister, so that when she starts making allegations about people in this place, she gets her facts straight.

Hon Kim Chance: You might speak to some of your own members about that, such as Hon Helen Morton, who accused us of being criminal.

Hon NORMAN MOORE: I am quite happy to talk to her about that. The Leader of the House did not miss her on the way past.

Hon Kim Chance: I still have not heard her retraction, sadly.

Hon NORMAN MOORE: I am not asking for a retraction from the Minister for Local Government because I would not get one, and I would not expect to get one. I will just tell her what I think of what she said, and that will be the end of it as far as I am concerned. I am not here to have long, ongoing arguments about it. She said that this conspiracy was being carried out by Mr Grill, Mr Burke and Mr Crichton-Browne. It is easy to say certain things because it mixes up a bit of Liberal-Labor stuff, or former Labor as we would have to call Mr Grill, because he has been expelled, has he not? Mr Burke has resigned - I am not sure who did what. However, it is still Liberal-Labor in the context of the broader political spectrum. Page viii reads -

The Committee observes that the strategy was devised and implemented principally by Mr Brian Burke and Mr Julian Grill on the authority of Mr Nathan McMahon, Managing Director, Cazaly Resources Limited and Mr Clive Jones, Joint Managing Director, Cazaly Resources Limited.

That basically says that the fundamental strategy was devised by Mr Burke and Mr Grill with Mr McMahon and Mr Jones. It reads -

The Committee notes that a number of people were involved at varying degrees in the implementation of the strategy and, based on the evidence before the Committee, without knowledge of the full details

8020

[COUNCIL - Thursday, 29 November 2007]

of the strategy and its true purpose, including Mr Noel Crichton-Browne, Lobbyist for Cazaly Resources Limited; Dr Walawski, Chief Executive, the Association of Mining and Exploration Companies Inc.; Mr Ian Loftus, Policy and Public Affairs Manager, the Association of Mining and Exploration Companies Inc.; and Mr Malcolm McCusker QC, Barrister.

The report also states -

The Committee observes that Hon Shelley Archer MLC and Hon Anthony Fels MLC were not informed as to the full details of the strategy and its true purpose.

That means, to me, and, I hope to the Minister for Local Government, that the people who invented this particular scheme were indeed Mr Grill and Mr Burke. They then engaged other persons to assist in carrying out the strategy. Those other persons knew bits and pieces of the strategy, but the committee itself stated that they were not involved in the initial determination of the strategy and did not have full knowledge of it.

Hon Ljiljana Ravlich: I thought I made that point quite clearly in respect of -

HON NORMAN MOORE: The minister actually did not, because every time she mentioned who had been involved in determining this strategy, she mentioned Mr Crichton-Browne. I will defend him on this occasion because the minister sought to say something that the committee did not say. For some strange reason, Mr Crichton-Browne seems to evoke all sorts of strange comments by people in various places. Indeed, for some reason the Minister for Education and Training seems to have a fixation about Mr Crichton-Browne and me, and spends a lot of time in the other place making comments about this relationship I am supposed to have and how I am going through this process in this chamber on this report as a mechanism to try to somehow or other protect him. I will just say this; Mr Crichton-Browne is absolutely and totally capable of protecting himself. He does not need me, and indeed is not getting me to protect him at all. I am not protecting him, but for some strange reason the Minister for Education and Training has this strange fixation. It may have something to do with the Minister for Education and Training's own relationship with Mr Crichton-Browne. Perhaps that is what the fixation is about!

Hon Ljiljana Ravlich: What's my relationship with Mr Crichton-Browne?

Hon NORMAN MOORE: Maybe the Minister for Education and Training has a relationship with Mr Crichton-Browne he does not want anyone to know about!

Hon Ken Travers: This is what you did to Liam Bartlett. I heard you talking -

Hon NORMAN MOORE: That is exactly right.

Several members interjected.

The CHAIRMAN: Order, members! One at a time.

Hon NORMAN MOORE: That is exactly right. If members do not believe me -

Hon Ken Travers: What, Liam Bartlett and the Minister for Education and Training -

Hon NORMAN MOORE: Hon Ken Travers would be extraordinarily surprised about the number of people who have contact with Mr Crichton-Browne from time to time, most of whom would not want it to be known publicly -

Several members interjected.

Hon NORMAN MOORE: I simply say to Mr McGowan -

Several members interjected.

The CHAIRMAN: Order! I call to order the honourable Minister for Local Government and Hon Ken Travers.

Hon NORMAN MOORE: I say to Hon Mark McGowan that if he wants to stop telling lies about me, I will stop telling the truth about him, which is a phrase used regularly by the Leader of the House. Mr McGowan has been involved in certain conversations with Mr Crichton-Browne that I am sure he would not want any members opposite to know about. If members opposite do not believe me, go and ask him about the Blue Duck meeting some time or other! Ask him what it was all about. Ask him what he was having a relationship with Mr Crichton-Browne about! If members opposite ask him, he will tell them. The Minister for Education and Training is a very, very interesting character. He is an extraordinarily ambitious man - a man whose ambition vastly exceeds his capacity. He is a man with a strange nickname, given to him by the Labor Party, because of the way he operates within the Labor Party.

Hon Simon O'Brien: What is that?

Hon NORMAN MOORE: I have said enough about that.

Hon Simon O'Brien: I want to know what his nickname is!

Hon NORMAN MOORE: Let me just come back to -

Hon Ken Travers: Someone had to start the mud throwing, didn't they? Listen to you!

Hon NORMAN MOORE: Not at all. Hon Ken Travers should go and listen to question time in the other place sometime, and listen to how my name gets thrown around constantly, not just by Hon Mark McGowan, but indeed by the Premier. I would love both those gentleman to go out to the media of Western Australia, outside of Parliament, and throw the allegations around there. I can then do a Bob Hawke and I will probably live in absolute luxury for the rest of my life - defamation pays very well!

I have had to sit in this place and know about the rubbish members in the other place say about me, and up until now I have said nothing. Indeed, in this whole debate I have not criticised anybody. I have not made any judgements about anybody; I have simply asked this house and told the media and the public that due process should be followed. That is all I have said, yet I am being abused in the other place by the Premier and Hon Mark McGowan, who are saying that I am somehow or other protecting Mr Crichton-Browne and other contemptible people in the community. That is defamatory. I am doing my job, as I hope all members will do. That is what it is all about. Today, having listened to the Minister for Local Government try to somehow imply that Mr Crichton-Browne is in the same boat as Mr Burke and Mr Grill on this matter, I have been provoked into saying what I have just said.

Hon Ljiljanna Ravlich: So why do you feel compelled to defend him?

Hon NORMAN MOORE: I am not defending him at all! Did I say I was defending him?

Hon Ljiljanna Ravlich: It certainly sounds like it.

Hon NORMAN MOORE: Not at all! I simply told the Minister for Local Government to get her facts right before she started throwing these allegations around. I have read out what the committee said. I will quote it again -

... the strategy was devised and implemented principally by Mr Brian Burke and Mr Julian Grill ...
Mr Nathan McMahan ...

The other people came in afterwards. I am trying to make that point, and if that is not as clear as the nose on the minister's face, I do not know what is -

Hon Ken Travers: They were still parties to an improper strategy, weren't they?

The CHAIRMAN: Order!

Hon Ken Travers: You accept that, don't you?

Hon NORMAN MOORE: Hon Ken Travers, read page (ix) of the report, which I read out the other day. I will read it again for the member's information -

The Committee notes that a mere intention to have the State's iron ore policy investigated and discredited is not, of itself an improper motive for referring a matter to a parliamentary committee for inquiry.

Hon Ken Travers: That was not the motivation for Mr Crichton-Browne, was it?

The CHAIRMAN: Order! He is trying to read the paragraph.

Hon NORMAN MOORE: The report continues -

Such inquiries are regularly conducted by parliamentary committees, and they are an important mechanism by which members of the public may legitimately initiate a review of the actions and policies of the Executive.

Not my words, Hon Ken Travers - they are the committee's words.

Progress reported and leave granted to sit again, pursuant to standing orders.

BAIL AMENDMENT BILL 2007

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Kate Doust (Parliamentary Secretary)**, read a first time.

Second Reading

HON KATE DOUST (South Metropolitan - Parliamentary Secretary) [4.57 pm]: I move -

That the bill be now read a second time.

The Bail Act 1982 provides for the procedures for bail in criminal proceedings. In 1990, a panel consisting of the then Under Secretary for Law, the then Crown Prosecutor and an experienced criminal lawyer acting as a

APPENDIX 3
TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 -
SESSION ONE

APPENDIX 3
TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 -
SESSION ONE

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 24 NOVEMBER 2008

SESSION ONE

Members
The President (Hon Nick Griffiths) (Chairman)
The Chairman of Committees (Hon George Cash) (Deputy Chairman)
Hon Matt Benson-Lidholm
Hon Ray Halligan
Hon Barry House
Hon Sheila Mills
Hon Ken Travers

Hon Giz Watson (Co-opted member)

Hearing commenced at 9.45 am

CRICHTON-BROWNE, MR NOEL
PO Box 163,
Claremont 6010, sworn and examined:

The CHAIRMAN: I think we will get underway. First, I wish to advise that the committee earlier today resolved to publicly release the sworn affidavit of Mr Noel Ashley Crichton-Browne. Next, I just want to make some general observations about today's proceedings, which are the first of its kind for the Legislative Council. The notion of a right of reply was adopted by the house on 19 October 2000. The Bill of Rights 1689 provides absolute privilege of freedom of speech by members to comment on the activities of individuals, companies, representative bodies, interest groups or anyone else without fear or favour. The purpose of privilege is to protect the institution of Parliament, not to set individual members outside the law. Members should use parliamentary privilege responsibly. In the Arena and Nader report of 1997, the *Australian Law Journal* reports at page 1605 that Chief Justice Brennan observed that —

A House of Parliament in which allegations are made has a legitimate interest in knowing and perhaps a duty to ascertain, whether there is substance in allegations made by a member on a matter of public interest.

It is the role of this committee to consider the balance between the absolute privilege of freedom of speech and the right of the individual to correct, in their view, statements made by members. The right of reply provisions provide for a person to petition the circumstances where what has been said about that person by a member or other person—for example, a committee witness under absolute privilege—is alleged to be wrong, misleading or damaging. Once this committee has considered the matter contained in the petition, it will be open to it to make a recommendation to the house as to how the person should be treated or action the house should take to mitigate the harm to the aggrieved person. Where a breach of privilege or contempt is found, the committee will also be required to recommend what penalty might be imposed by the house.

What the committee proposes to do in carrying out its duty is first to invite Mr Noel Ashley Crichton-Browne to give evidence to deal with the matters the subject of the petition. The subject of the petition is what is contained in the affidavit which relates to the speech made by Hon Ljiljana Ravlich. We are not concerned with matters which are outside that, save insofar as they relate directly to those particular words. The procedure will be that I will invite Mr Crichton-Browne to make any further observations he wishes to make, in case there are matters, which, on reflection he feels there should be added to in terms of what was meant by his affidavit. I will then propose to ask a number of questions and in doing so I will, hopefully, put to him what the arguments may be one way or the other. I will then invite other members to ask questions and, following that, it is proposed we adopt a similar procedure with respect to Hon Ljiljana Ravlich.

I welcome Mr Crichton-Browne and Hon Ljiljana Ravlich to our hearing this morning. I invite you, Mr Crichton-Browne, to take the oath or the affirmation.

[Witness took the oath.]

The CHAIRMAN: Please state the capacity in which you appear before this committee.

Mr Crichton-Browne: I appear as an aggrieved member of the public.

The CHAIRMAN: You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Crichton-Browne: Yes, I have.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them. Your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public or media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. Premature publication and disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. I am sure none of that will occur otherwise we will be carrying on with another hearing.

Mr Crichton-Browne, would you like to make an opening statement to the committee?

Mr Crichton-Browne: Thank you, Mr Chairman. Cognate of the observations you make that I should speak to the petition and the statement of facts, if I appear from time to time to be slightly obscure, I hope I can say to you that it will all have a meaning central to the statements.

Mr Chairman, as your committee will recall, I have previously had reason to raise the question of the perception of bias in respect to participation of members of the committee. It is because, with rare exceptions if I might presume to say so, citizens may not appeal against the findings of parliamentary committees or the Parliament itself; that members, as a result, should be exquisite in their desire to be not only unbiased but further so in removing the slightest skerrick of doubt as to their perception of impartiality.

Mr Chairman, I think we all understand that, in matters of a non-pecuniary nature, good taste, good judgement and a sense of proper behaviour are normally entirely within the keep of each member. Consequently, the standard to which members are prepared to place the integrity and public standing of the institution which they have sworn faithfully to serve above that of competing interests normally rests with each member.

Mr Chairman, I wonder if I might draw to the attention of Mr Travers in particular the contribution he made on 29 November 1970 in the Legislative Council to the debate immediately following the speech given by Ms Ravlich, which, of course, is the subject of the petition now before you. I quote the relevant *Hansard* of that day. I have I might say deleted some abusive words used in the question which I think have no place in me repeating them, but I accurately reflect the questions and the answers. Mr Moore, if I might quote him, on the 29th, among a number of things said this —

... every time she —

Ms Ravlich —

mentioned who had been involved in determining the strategy she mentioned Mr Crichton-Browne. I will defend him on this occasion because the minister sought to say something that the committee did not say.

Mr Moore again —

...

I am doing my job, as I hope all members will do. That is what it is all about. Today, having listened to the Minister for Local Government try to somehow imply that Mr Crichton-Browne is in the same boat as Mr Burke and Mr Grill on this matter, I have been provoked into saying what I have just said.

Hon Ljiljana Ravlich interceded by saying —

So why do you feel compelled to defend him?

Hon NORMAN MOORE: I am not defending him at all! Did I say I was defending him?

Hon Ljiljanna Ravlich: It certainly sounds like it.

Hon NORMAN MOORE: Not at all! I simply told the Minister for Local Government to get her facts right before she started throwing these allegations around. I have read out what the committee said. I will quote it again —

. . . The strategy was devised and implemented principally by Mr Brian Burke and Mr Julian Grill . . . Mr Nathan McMahon . . .

The other people came in afterwards. I am trying to make that point, and if that is not as clear as the nose on the minister's face, I do not know what is —

Then Hon Ken Travers made a contribution —

They were still parties to an improper strategy, weren't they?

He said —

They were still parties to an improper strategy, weren't they?

The Chairman called order and Hon Ken Travers persisted —

You accept that, don't you?

He said —

You accept that, don't you?

Hon NORMAN MOORE: Hon Ken Travers, read page (ix) of the report, which I read out the other day. I will read it again for the member's information —

The Committee notes that a mere intention to have the State's iron ore policy investigated and discredited is not, of itself an improper motive for referring a matter to a parliamentary committee for inquiry.

Hon Ken Travers: That was not the motivation for Mr Crichton-Browne, was it?

The CHAIRMAN: Order! He is trying to read the paragraph.

Hon NORMAN MOORE: The report continues —

Such inquiries are regularly conducted by parliamentary committees, and they are an important mechanism by which members of the public may legitimately initiate a review of the actions and policies of the Executive.

Mr Moore concluded by saying —

Not my words, Hon Ken Travers—they are the committee's words.

Mr Chairman, the clear and unvarnished rhetorical allegation being prosecuted by Mr Travers in his contributions to Mr Moore's response to Miss Ravlich's various allegations is that I was party to an improper strategy. The nature of that alleged strategy, with all the alleged bizarre motives apparently intrinsic to it, had been frankly set out in Miss Ravlich's speech. Equally, it is clear from Mr Travers' further interjections that he alleges I had a motive other than to have the iron ore policy investigated. Clearly, Mr Travers was asserting that my motives were improper and impure. Distilled, Hon Ken Travers falsely accuses me of being involved in an improper conspiracy which involved the improper manipulation of the Standing Committee on Estimates and Financial Operations. Mr Travers, by his statements in the house, continued to insist that they—Crichton-Browne and others—"were still parties to an improper strategy, weren't they?"

[10.00 am]

Mr Travers followed the statement by again pedantically, if I may dare say so, insisting that Hon Norman Moore concede Mr Travers' claim by demanding —

You accept that, don't you?

Mr Travers' allegations are intrinsically linked to those of Ms Ravlich. With the greatest respect, however can Mr Travers possibly escape the compelling perception of his bias towards me? Mr President, I suggest respectfully to your committee that Mr Travers is inextricably bound by standing order 134 insofar as he is ineligible to sit on your committee for the duration of this reference. If I might, without presumption, quote the relevant part of standing order 134 —

A Member —

...

- (ii) whose conduct is, or relates to, the subject matter of the petition, must not sit as a Member of the *Procedure and Privileges Committee* throughout its inquiry...

Mr President, with respect, I do not accept that the words of the standing order can possibly be read down. Unquestionably, Mr Travers' conduct, to quote the words of the standing order, "relates to, the subject matter of the petition". Mr Travers reveals to the Parliament that he supported and agrees, in terms expressed by him, the certain views expressed by Ms Ravlich. Mr Travers contribution to the debate goes to the very heart of my petition praying for relief. Can I say, in all those circumstances Mr Travers is irreparably demonstrating a prejudice and preconceived notion about my circumstances, compatible with the views express by Ms Ravlich and, with the greatest respect, it would be a mockery, if I might say so, in my humble opinion, to have a man that has expressed views not dissimilar, in some respects endorsing the views of Ms Ravlich, from whom I pray relief in my petition. I can't think of a more and clear and compelling case for preconceived bias, but, more particularly, in clear contravention of standing order 134, where clearly his conduct relates to and is party to the petition, insomuch as it reflects the words of the petition.

The CHAIRMAN: Have you concluded your submission on that point? I think we will move into private hearing for a few moments to consider the submission.

Proceedings suspended from 10.02 to 10.12 am

The CHAIRMAN: Mr Crichton-Browne, the committee has considered your submission and, as you can see, the committee remains; so I think we will get underway. Do you have any further opening observations?

Mr Crichton-Browne: Just so I am clear, with respect: you have made a ruling that Mr Travers is entirely eligible to be on the committee?

The CHAIRMAN: Hon Ken Travers is entitled to be a member of this committee for this hearing.

Mr Crichton-Browne: There is nothing further I can add to that except, if I was being unpleasant, I would say you might cooptate Ms Ravlich.

The CHAIRMAN: I do not think we will go down that path. Mr Crichton-Browne, we are concerned with the speech made by Hon Ljiljanna Ravlich on 29 November, and as a result of that you have provided the house with a petition seeking relief and you have provided a statement, the text which is contained in the affidavit. Has the speech of the member caused you any damage; and, if so, how?

Mr Crichton-Browne: She has caused me enormous distress, Mr President. I have some written words which might articulate that in itself.

The CHAIRMAN: If it is easier for you to read rather than just exercise your memory, that will be fine.

Mr Crichton-Browne: Mr President, I understand this committee hearing is not to revise the proceedings of the select committee. However, I should wish to read into *Hansard* the substance of an article written by me on 26 — in April of 2006 and published on the matter of the disputation between Cazaly Resources and Rio, which has bearing directly on the deliberations of this

committee insofar as it goes to intention, motives and subsequent conducts. This is the article I wrote —

Western Australian Resources Minister John Bowler was correct to terminate Cazaly's application for the Shovelanna iron ore deposit in the Pilbara previously held by Rio Tinto.

Not to put it unkindly, those who bought into Cazaly Resources punting on Minister Bowler granting the area to Cazaly ... were taking an enormous risk and were always likely to lose their money.

Rio's undoubted bumbling and incompetence in attempting to renew its exploration licence 46/209 was never going to be sufficient to have this billion-dollar deposit taken from it.

There was nothing unlikely or untoward in Bowler's decision which was very much in line with precedent and the spirit of the Western Australian Mining Act, not the least amendments recently passed through Parliament with the support of all parties.

The CHAIRMAN: Mr Crichton-Browne, I am loath to interrupt you, but you appear to be reading what is contained in paragraph 11 of your affidavit.

Mr Crichton-Browne: In part, yes. The facts of the matter are these: Rio's exploration licences were due to expire on 26 August 2005 and, accordingly, on 28 July 2005, Rio provided the head office of the Department of Industry and Resources with appropriate renewal fees. Due to the antiquated provisions of the act, which has its origins in the Mining Act of 1904, the renewal application, as distinct from the fee, must be lodged with the mining registrar of the relevant mining field—in this case it was the mining registrar in Marble Bar. Rio despatched the renewal application to Marble Bar by overnight courier. In the event, the delivery was far from overnight. However, the application did arrive in Marble Bar prior to the closing of business on the last eligible day. Due to a quaint local practice, the courier dropped his despatches at Lenny Lever's store in the main street. In keeping with Marble Bar time, Lenny rang the mining registrar six days later to inform her he had mail for her. Upon retrieving her package, the mining registrar discovered Rio's renewal documentation. There is no West Australia precedent on all fours with Rio's case. However, Pancontinental Mining has had a not dissimilar situation in 1986. On that occasion, Pancontinental failed to renew the leases upon which its major Paddington gold mining operations, north of Kalgoorlie, was situated. At one minute past midnight, a prospector, Bierberg, pegged the ground. With the approval and support of the Liberal Party, the Labor Party at the time introduced retrospective legislation which saw the dramatic expansion of section 11A of the act. That provision enables the minister to terminate Bierberg's mining lease application and return the ground to Pancontinental through its further application. It is precisely the provision used by Minister Bowler to terminate Cazaly's application.

[10.20 am]

With respect to the need to lodge tenement applications with the relevant mining registrar, legislation had passed through the Parliament prior to Rio's difficulties, which allowed for all applications to be lodged with the mines department in Perth. However, legislation had not been proclaimed, which event occurred in early February.

Putting aside the absurd argument that billions of dollars of resources should be allocated on misadventure, given the nature of the exploration, development and sale of iron ore, the metal has always been treated differently to almost all other resources by governments of all hues. The WA Mining Act reflects this very sensible and necessary policy. For instance, the minister has complete discretion in the granting of exemptions from expenditure conditions. Such applications need not even go before a mining warden. The truth of the matter is Rio's treatment of its Shovelanna deposit, which, incidentally, Hancock Prospecting and Wright Prospecting both hold a 25 per cent interest, is entirely in keeping with the treatment of iron ore prospects held by other iron ore miners.

The development of iron ore deposits in Western Australia has always been based on an orderly sequential basis. One need not visit the enormous disputes Langley George Hancock and Ernest Archibald Maynard Wright had with then resources minister Charles Court in the late sixties and the early seventies to understand the policy embraced by successive Western Australian governments. Whatever the arguments put that Rio had not properly exploited Shovelanna, they have no bearing on the underlying principle which must dictate the grounds of the minister's deliberations. At the time of tenement renewals, it is always within the keep of the government of the day not to grant a renewal if the minister is not satisfied with the performance of a holder. That is, however, an entirely different matter. It, of course, goes without saying that were it not for the very recent dramatic increase in iron ore prices, Cazaly would have no interest in Shovelanna. Of the 10 exemptions granted to Rio in respect of this area in the past years, to my knowledge none has been met by an objection.

Mr President, with respect, my view on Minister Bowler's decision could not be clearer. In stark contradiction to the fabricated allegations mischievously and dishonestly concocted by Ms Ravlich, the article gives unqualified support for the decision made by Minister Bowler with respect to the Cazaly matter and gives absolutely no comfort to those who are seeking to have it overturned.

Mr President, I do not think you would want me to read out the 60 or 70 items on the statement because you have it before you and it achieves little. But I wonder might I encapsulate some matters and express some views about how it has affected me and the essence of what was being put in the speech. Mr President, however the architect of the words complained of by me in my petition may attempt to obfuscate or dissemble, their normal, clear and unalterable meaning is transparently obvious. Ms Ravlich wilfully and dishonestly conveyed to the Legislative Council untruthful allegations which she knew to be untrue. Ms Ravlich, by inference, insinuation or statement, alleged in her speech that I was party to a conspiracy to have an early decision made by Minister Bowler about Cazaly Resources overturned and that the plan was to increase the share price of Cazaly Resources by using the Standing Committee on Estimates and Financial Operations and I was a key figure at the centre of this plan. She further alleges that Hon Anthony Fels was manipulated by me and that I disguised the extent to which I would profit from this matter. In referring to me, Ms Ravlich stated —

However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity.

Further, Ms Ravlich in her speech alleges that the tactic that was used by me with Hon Anthony Fels was that this was all about presenting the interests of the big guys as opposed to the interests of the little guy; in other words, the big multinational company Rio. It is also clear from the report that I, in fact, was contemptuous of the abilities of Mr Fels. That is the report of what Ms Ravlich says. She further alleges that I drew Hon Anthony Fels into my manipulations and abused the trust that the member placed in me by presenting myself as his mentor. Through my connection there was a concept of drawing in a broader range of members, allegedly by Ms Ravlich. Also, that there is no doubt that a part of the way in which I operated was to try to get as many people as I could into my web, that the truth is that I had scant regard about who I hurt in the process of achieving my desired outcomes, that I exploit and deceive others intentionally in pursuit of my financial interest and that I have manipulated longstanding institutions like the Parliament and corrupted the process of democratic decision making.

Mr President, however Ms Ravlich may attempt to defend or justify her allegations, they are entirely without substance and they are indefensible. However Ms Ravlich may torture normal meaning, her claims are a farrago of untruths and a concoction of fabrications. Ms Ravlich's speech was clear, deliberate and premeditated. Mr President, Ms Ravlich's behaviour is not a victimless offence; it is a defence against the Legislative Council and it is an offence against me. The motive for Ms Ravlich's appalling behaviour is perhaps of no moment. However, it is part of a pattern

entirely in keeping with those similar abuses towards me by Mr Carpenter and Mr Ripper in the Legislative Assembly. Ms Ravlich's speech, as with those of her Assembly colleagues, was designed and executed to create a public image of me born of the interminable scandals and troubles that engulfed the Carpenter government. It was part of an orchestrated campaign to smear me, and hence the Liberal Party, with all the faults, failings and ills of the Labor Party. It is a matter of clear public record that this unforgivable and deplorable collective behaviour has had a very substantial impact upon media reporting of me.

Mr President, one need look no further than Mr Barnett's unfortunate response to Mr Ripper following Mr Ripper's harrying questions when he said on 13 November 2008 —

I do, however, believe that that was an error of judgement—a mistake if we like by Hon Norman Moore—to do that given the history of the Corruption and Crime Commission inquiries and the history of some of the findings, including those relating to Mr Crichton-Browne.

Mr President, there were no Corruption and Crime Commission findings that related to me. It is as if I have morphed into other people. It is as if everyone who attends a CCC hearing in any capacity is now tainted. It is as some would have it so. Barnett's comments are a product of the environment which Ms Ravlich would fan to ameliorate the sins and the failings of her own party. It is, as one might say, intended to muddy the waters.

Mr President, I regret the sewer into which Western Australian state politics has in the past four years submerged. There is a view alive, particularly amongst some former ministers, that parliamentary privilege is an instrument intended to grant an inalienable right for members to smear, besmirch and defame members of the public, confident and comfortable in the knowledge that they will not be accountable for it outside the chamber and thus far inside the chamber. It is a foolish, mischievous and particularly wicked path to tread. In the rules of the game of local partisan politics there seems little place for honour or fair-mindedness. Contempt for the qualities of decency seems a virtue. Ms Ravlich retreated to the one place where she knew with complete immunity she could traduce the standing of a perceived political opponent, safe in the knowledge that she was free from defamation and the penalties that accompany a judgement of that offence.

Mr President, as you know, standing orders of the Legislative Assembly allow for members of Parliament to respond to allegations made against them by the incorporation into *Hansard* of a reply.

[10.30 am]

However, of course, such a statement must not be controversial; it must not offend, but offer proper respect to the offending parliamentarians. I have had reason to have 7 578 words incorporated into the *Hansard* in response to false allegations and smears by Mr Carpenter, Mr Ripper and Mr McGowan. Surprisingly, not one of those 7 578 incorporated words has ever been reported. However, invariably, that to which I have responded has faithfully been reported in the media. With respect, such incorporations are akin to a wink in the dark—you know what you are doing but nobody else does.

Mr President, I raise this issue because, unless the Council deals severely and meaningfully with Ms Ravlich, her conduct will go unobserved and penalty will be no deterrence from bringing the Legislative Council into disrepute and legitimate offence and hurt to those maligned unfairly.

Mr President, absolute privilege provides an enormous right not so absolutely given in any other forum or place in the community and provided to no other citizen. With this extraordinary right there is an equally demanding and accompanying obligation upon those on whom the right is vested to act honestly, fairly, with good faith and with good heart. Mr President, it is not for me to inform the committee about the consequences of misleading the house. However, it might be helpful for your committee if I were to offer some quotes from a speech made by Hon Ken Travers in the

Legislative Council on 28 November 2007. Mr Travers, in a moment of altruism, had the following to say —

The houses of Parliament have traditionally given members significant latitude and accepted their apologies and often not then imposed a penalty. At other times, despite a member's apology, the house will say, that, nevertheless, it thinks it is an important matter that needs to be punished and it will issue a range of punishments - reprimand, suspension, the serious punishment of expulsion and, ultimately, depending on the nature of the contempt, the penal sanction of incarceration.

I might just observe that the last member of the Commons to be incarcerated in the tower was in 1868, as I recall. The member's offence was the nature of an open letter to his constituents. You might find the comparison compelling. Mr Travers went on to say —

However, houses of Parliament have always been very harsh on members who, having been confronted with allegations of wrongdoing, seek to deny those allegations to the house.

...

... once members have committed a contempt and the allegations are put to them and they are asked about those allegations, and if those members seek to provide false information in respect of those allegations as a way of avoiding the matter, that is considered to be a far more serious situation. In some places it may be referred to as a grave contempt of Parliament. It is for those matters that members will find that the punishments around the world within the Westminster system have always been far more severe than what is normally authorised. When a person gives false answers to allegations that have been put, and when that has been proved by the Parliament, the penalty is far more severe than other penalties, even when apologies have been given.

Mr President, I do not need to remind you of the rather notorious case in the House of Commons in, I believe, 1963 when Mr John Profumo was forced to resign from the Parliament, not because he slept with a Russian spy's lover, but because he lied to the Parliament. As a result of having to concede his lie to the Parliament, he resigned from the Parliament—an honourable course. If I might refer your committee to chapter 1 of the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations under the heading "The Obligations of Members of Parliament". I think this is perhaps what you might have quoted earlier. It states —

Members of Parliament have an obligation to maintain the highest standards in the performance of their duties. This obligation includes understanding and observing the requirements of parliamentary privilege, along with the standing orders, custom and usage of the Parliament.

I think you quoted Dr Gerard Carney, the former Chief Justice of the High Court, did you? Yes. I will not repeat it, but it is one of the very few things that he and I agree upon. Mr President, contemplating Ms Ravlich's demands of Mr Moore, I remind you of what she said —

Will the Leader of the House comply with the Premier's direction to not have contact with Noel Crichton-Browne; and, if not, why not?

I am left with a soliloquy about the one imponderable question for me—will the Procedure and Privileges Committee find against Ms Ravlich, will Mr Ripper cease his relationship with Ms Ravlich, will he have no further contact with her about parliamentary matters?

That is the summary of my comments. Without going through my original statement, Mr President, if I can just foreshadow that there were two other matters of what I view as grave contempt which have flowed from the behaviour of two members of Parliament following my tabling of the petition and which in my view compromise me deeply.

The CHAIRMAN: We are dealing only with the petition, the speech of Hon Ljiljana Ravlich and your complaints about that speech. We are not dealing with what other members may have done subsequently.

Mr Crichton-Browne: I understand. If I cannot come to you and complain about the behaviour which has compromised me and attempted to compromise me as a result of me coming to you, I do not know where else I can go.

The CHAIRMAN: It may well be that you can come to me on another occasion to deal with the behaviour of other members, but today we are dealing with one issue only, and that is your complaints about the speech made by Hon Ljiljana Ravlich just about a year ago. It may be that we might find ourselves here on other occasions dealing with other matters, but that remains to be seen.

Mr Crichton-Browne: Sure.

The CHAIRMAN: I do have a number of questions to ask you and, in doing so, there will be an opportunity for you to comment on various aspects of the matters contained in the affidavit, and other members will have questions. I think a reasonable opportunity for you to sum up at the end should be given, so I am pretty confident that we will provide you with a good opportunity to be heard.

Mr Crichton-Browne: But not about the matter I have just raised.

The CHAIRMAN: About the matter that you have not raised because you cannot at the moment. If we can proceed. You have been provided with a copy of an article in *The Sunday Times* of 4 March 2007 headed "The Burke Fallout: How artful dodger did so much harm".

Mr Crichton-Browne: If it is Matt Price, it will be interesting to start with.

The CHAIRMAN: Have you seen that article before?

Mr Crichton-Browne: No.

The CHAIRMAN: You will note it is dated 4 March 2007, and if I can just draw your attention to the second paragraph of the third column.

Mr Crichton-Browne: Yes.

The CHAIRMAN: You will note that the article makes an allegation. I am not asking you to comment about the allegation, which essentially is not dissimilar to some of the matters contained in Hon Ljiljana Ravlich's speech, but I am just pointing out the date of the article. I note your answer that you have not seen the article before, so I do not think any further comment on your part with respect to that article need be made.

Mr Crichton-Browne: No.

The CHAIRMAN: We would be here for a week if I were to explain in infinite degree the relevance of my question.

Mr Crichton-Browne: No; I am not asking that, but I am happy to make some comments about Matt Price.

[10.40 am]

The CHAIRMAN: The late Mr Price is not the issue here.

Mr Crichton-Browne: No, but his words are.

The CHAIRMAN: Yes, they are, but only to a very limited extent. Have you been provided with a copy of an article in *The Australian* dated 22 November 2007 headed "Premier lashes MPs' 'blatant dishonesty'"? Have you been provided with a copy of that?

Mr Crichton-Browne: This is the first time.

The CHAIRMAN: Have you seen that article before?

Mr Crichton-Browne: No.

The CHAIRMAN: I just draw to your attention the penultimate paragraph in that article.

Mr Crichton-Browne: Yes.

The CHAIRMAN: And again I just draw to your attention the date of the article—22 November 2007.

Mr Crichton-Browne: If you forgive me, it is a mystery as to why it has been presented, and I am not able to respond.

The CHAIRMAN: Well, if you had said you had seen the article before, I was going to inquire from you as to what you had done about the article and the previous article, but the fact of the matter is you had not seen the articles before.

Mr Crichton-Browne: No.

The CHAIRMAN: Therefore there is no point in me pursuing that line of questioning.

Mr Crichton-Browne: No.

The CHAIRMAN: Turning to the affidavit—the same in facts—I would invite you to have the copy of the speech with you. I take it you have a copy of each of those.

Mr Crichton-Browne: I have got a copy of Miss Ravlich's speech.

The CHAIRMAN: Paragraph 3 of the affidavit.

Mr Crichton-Browne: Yes.

The CHAIRMAN: Look at the speech of Hon Ljiljana Ravlich. I think the extract you have is the same as the extracts that we have been provided with for convenience. At the bottom of the first page the member says —

As I was coming into work the other day, I heard Hon Anthony Fels speaking on the radio.
He made the point ...

And so on. How do you marry what you assert in paragraph 3 of your proposed observations in her speech?

Mr Crichton-Browne: I am sorry, can I just —

The CHAIRMAN: I am not going to read out the wording of paragraph 3.

Mr Crichton-Browne: No, no.

The CHAIRMAN: Because otherwise we will be here all day.

Mr Crichton-Browne: Which is paragraph 3?

The CHAIRMAN: Paragraph 3 of the statement of facts.

Mr Crichton-Browne: My statement of facts?

The CHAIRMAN: Yes.

Mr Crichton-Browne: I am sorry, I thought you were asking me to read her speech.

The CHAIRMAN: I was referring you to the affidavit and then the *Hansard* extract, and I will do that in a number of instances, which is why —

Mr Crichton-Browne: Could you just refer me, which was my item?

The CHAIRMAN: Paragraph 3 —

The only objective and reasonable reading of ...

Mr Crichton-Browne: What is the item number for me?

The CHAIRMAN: It is paragraph 3.

Mr Crichton-Browne: I see, yes.

The CHAIRMAN: How do you reconcile paragraph 3 with that part of her speech that I have just referred to?

Mr Crichton-Browne: I think what I say is, with respect, that —

...she claimed to rely upon the Report of the Select Committee of Privilege on a Matter Arising ...

I did not say she did; I said she claimed to be; and my point was, having read it, she cannot be allowed the latitude of ignorance. I was not suggesting because she had said that that she must have read it. She quoted parts of the speech. She quoted an interview between—a tape-recording between—Mr Burke and somebody else. She began the speech by raising some non-controversial matters about the history of the matter. I was not for a moment suggesting that because of that part, therefore she had read it. I was making the point—I was setting the scene for saying: this is not somebody who can claim ignorance for not having read the report. There was sufficient evidence in her speech to give me the clear impression that she had read it, because she had quoted from parts of it.

The CHAIRMAN: All right. I am going to refer you to parts of the member's speech and parts of the affidavit.

Mr Crichton-Browne: Sure.

The CHAIRMAN: And the fact that I am referring them to you is an observation, which gives you an opportunity to comment, but the point I am making in each case is patent, I would have thought.

Mr Crichton-Browne: Yes.

The CHAIRMAN: In paragraph 7 of the affidavit, which is a quote from the speech, and again it follows on from paragraph 3, the fourth last line —

I suspect that what happened ...

The point there is that the member may be seeking to qualify what she is putting forward in her speech. She is not saying it is necessarily fact—just a suspicion.

Mr Crichton-Browne: Well, I do not think, with respect, you can cherry-pick one sentence. She went on to say —

I suspect that what happened from there was that Cazaly may ... have been advised of the services of Mr Burke and Mr Grill ...

Then she says —

They worked with Mr Crichton-Browne in order to effect a shift, if you like, from the position it was in.

In other words, you cannot allow the first sentence to influence the intention of the second sentence. The second sentence was unqualified.

The CHAIRMAN: That moves on to paragraph 8 of your affidavit. Could it not be a reasonable interpretation that Mr Burke and Mr Grill worked with you to have you undertake a course of action with or without your full knowledge of what they were on about?

Mr Crichton-Browne: I can only account for what I did, how it was presented to me, and it is inconceivable that whatever they did had anything to do with what I was doing—and that is not what Mrs Ravlich is saying to start with. She says that I worked to have the decision made by Minister Bowler overturned —

They worked with Mr Crichton-Browne in order to effect a shift, if you like, from the position it was in.

The position it was in—it had been unsuccessful in its application and it wanted its application. It is clear enough. You cannot look back and say, “Well, how can we tie this to something she’s already said?” She got bolder as she went on, might I say?

[10.50 am]

The CHAIRMAN: We will move on to paragraph 12. Paragraph 12 relates again to the pages of *Hansard* that we have in front of us and in fact uses the words at the end of the fourth paragraph of the extract from *Hansard*.

Mr Crichton-Browne: Are we looking at my document?

The CHAIRMAN: I am referring first to paragraph 12 of your affidavit.

Mr Crichton-Browne: Yes.

The CHAIRMAN: Paragraph 12 of your affidavit relates to the fourth paragraph from the first page of the *Hansard* extract. In fact, it uses the words at the end of that paragraph.

Mr Crichton-Browne: I am sorry; you have lost me. Paragraph 12 goes to which fourth paragraph?

The CHAIRMAN: The fourth paragraph of the *Hansard* extract. Page 1, *Hansard*.

Mr Crichton-Browne: Okay.

The CHAIRMAN: The paragraph which ends with the words that you quote in paragraph 12.

Mr Crichton-Browne: Yes.

The CHAIRMAN: You will note that —

Mr Crichton-Browne: Am I looking at this speech, or am I looking at my speech? I should be looking at her speeches.

The CHAIRMAN: It is easier to have them both in front of you, Mr Crichton-Browne.

Mr Crichton-Browne: Yes.

The CHAIRMAN: That particular speech relates to Mr Grill and Mr Burke.

Mr Crichton-Browne: Yes, and I think the point I make is—if I might presume to speculate—I think Miss Ravlich has had a speech prepared for her about Mr Grill and Mr Burke, and put my name on the end of each of them. What she says is that I was central to the plan.

The CHAIRMAN: We will come to that in a moment.

Mr Crichton-Browne: That is the point. Miss Ravlich says that the three people central to the plan were myself, Mr Burke and Mr Grill.

The CHAIRMAN: The particular paragraph in the *Hansard* extract which concludes with the wording in paragraph 12 of your affidavit I would suggest relates purely and simply to Mr Grill and Mr Burke.

Mr Crichton-Browne: No, what I am saying is that she—it is a quaint way of doing things. To give you an example, Miss Ravlich talked about the money that Mr Grill and Mr Burke were allegedly to get, and then she goes on to talk about me not disclosing the amount of money I was getting. It was a continuous golden thread of inference right through it. Remember this: the core point she was making is that I was central to the plan. She stated —

However, at the heart of all this was the plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing pressure to bear so that there could be some change in the outcomes.

She also stated —

...the key figures at the centre of this whole issue were Mr Burke, Mr Grill and Mr Crichton-Browne.

The preamble of everything she said is that I was a central figure. She did not have anything. I mean, I got a pittance. I would not have crossed the road for it. I got a pittance, but she makes much of what Mr Grill and Mr Burke made, and then went on to say I was a central figure. She goes on to say that I did not disclose to Mr Fels how much money I was making. She makes several references to it, and you cannot separate each reference unless you are torturing the language.

The CHAIRMAN: The proposition that I am obliged to put to you is—I am putting forward these propositions so that you have an opportunity to comment, I am not advocating one course or another; I will reach my conclusion at the end of the day—but the core proposition is that you can separate out what the honourable member is saying with respect to Mr Burke and Mr Grill, and what she is saying with respect to you.

Mr Crichton-Browne: No, what she attempted to do was refer, because the only evidence she had about this bag of money that apparently she knew something about that nobody else knew, and then went on to say that I had not disclosed the great windfall I was going to have. She went on to say that I was a central part of the operation, and the connection is compelling. The only time she referred to Burke and Grill was when she had no choice. She talked about Burke and Grill with their share options, or whatever it was that they were supposed to have got, then goes on to say, “I bet Mr Crichton-Browne didn’t tell Mr Fels how much money he was getting out of it. Mr Crichton-Browne was a central figure in all this.” Ipso facto, I was party to it. What I took offence about was the fact that she talked about them, then went on to complain about me not disclosing how much I had made, and so I was linked by clear inference to be party to this golden rainbow.

The CHAIRMAN: The speech then goes on to say —

The select committee’s inquiries reveal that the financial interests of other parties were involved in these matters, but the key figures at the centre of this whole issue were Mr Burke, Mr Grill and Mr Crichton-Browne.

That is the link which you are referring to?

Mr Crichton-Browne: Quod erat demonstrandum.

The CHAIRMAN: The proposition that I should put to you is that there was a link with you because of your involvement with Hon Anthony Fels in the drawing-up of the terms of reference.

Mr Crichton-Browne: What has that got to do with a bag of money?

The CHAIRMAN: Would that not make you a key figure?

Mr Crichton-Browne: No. I realised later that I was but just a meretricious player flitting across the screen for a moment. The terms of reference were drawn up by Malcolm McCusker, QC—regarded as a very fine lawyer, and would probably be the Chief Justice if it had been his will and he did not have so much money. He is the Parliamentary Inspector, which is a reflection of his integrity. He drew up the terms of reference. I saw some terms of reference which, from a pragmatic political point of view, if I was sitting on the committee, I would say, “These sound like a bitch by McMahan. He does not understand how the iron ore industry works.” I said, “You’ve got to have references that are presentable to the Parliament.” Nobody will have a term of reference that is just one man’s grievance, but the terms of reference were written by Malcolm McCusker. If I might jump ahead for a moment, Malcolm McCusker advised which committee was appropriate. There is an inference somewhere in Miss Ravlich’s speech that I played some part in that. I was told that Mr McCusker had chosen this committee because in his very considerable ability, he had come to the conclusion that it was the right committee. I have to say with the greatest respect, presumptuous as I might be, Mr McCusker is not somebody I would take on in matters of law.

The CHAIRMAN: I do not think that that is the issue. Again, the proposition is that the link between yourself and the activities being undertaken by Mr Burke and Mr Grill is the role you played with respect to the terms of reference and Hon Anthony Fels. That being the case, is it not a reasonable proposition that you were a key person in the operation, albeit not knowing anything about what Mr Burke and Mr Grill were really up to?

[11.00 am]

Mr Crichton-Browne: Oh, no —

The CHAIRMAN: I am putting a proposition to you for you to comment.

Mr Crichton-Browne: And I understand that. The reference was drawn up, as I understand it, by Malcolm McCusker—I understand it was by Malcolm McCusker. Also, I understand that the reference was, on his advice, an appropriate reference for an appropriate committee. My contribution—I am not going to play it down—was to say, “I think you can improve this reference to make it acceptable to a respectable committee of the Parliament.”

The CHAIRMAN: Right.

Mr Crichton-Browne: The more I read the report, I realised how insignificant I was.

The CHAIRMAN: People have made observations, and I think part of my duty is to put to you —

Mr Crichton-Browne: I understand that.

The CHAIRMAN: — propositions. We will just see where we end up. I do not think I will labour the point about you being a key figure; you have had the opportunity to comment on that. Again, you might form the view that what I am putting to you involves a bit of cherry picking, but sometimes a few cherries can lead to quite a large collection of fruit.

With respect to paragraph 33 of your affidavit —

Mr Crichton-Browne: Yes.

The CHAIRMAN: — that is a commentary on the member saying that in her view some thing’s the case. Can you accept the proposition that she is expressing an opinion, not something which is akin to holy writ?

Mr Crichton-Browne: Sorry, 33, was it?

The CHAIRMAN: Yes.

Mr Crichton-Browne: I apologise. Well, which flows from her statement in 32?

The CHAIRMAN: Yes. You can say yes or no.

Mr Crichton-Browne: No, no—but 32 is the statement I am challenging, is it?

The CHAIRMAN: Thirty-three.

Mr Crichton-Browne: But my comments in 33, is it not?

The CHAIRMAN: Yes.

Mr Crichton-Browne: Well, it is like saying night is day; it is either right or it is wrong.

The CHAIRMAN: All right.

Mr Crichton-Browne: However was Anthony Fels consistently manipulated by Mr Crichton-Browne? It defies all the evidence absolutely. There is no evidence to give support to the fact that he was consistently manipulated by me. It is a bold-faced untruth, without a skerrick of supporting evidence.

The CHAIRMAN: I turn to paragraph 37 of your affidavit.

Mr Crichton-Browne: Yes.

The CHAIRMAN: How do you arrive at that conclusion? Perhaps I will just read it out for the record —

Hon Ljiljana Ravlich, having dwelt upon the fees that she believed Mr Burke and Mr Grill were to receive from Cazaly Resources, then proceeded to smear Mr Crichton-Browne by falsely misrepresenting his fee by clear inference as being that which she claimed Mr Burke and Mr Grill were to receive.

How do you arrive at those words?

Mr Crichton-Browne: Well, perhaps just quickly I can go back to 36.

The CHAIRMAN: Please do.

Mr Crichton-Browne: Where Ms Ravlich says —

It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal to those two members of this house the extent to which they would profit from this matter.

I have broken her comments up to try to write this in a way which is easily understood. Ms Ravlich gives a long story about these fees—whether or not they were ever paid, I have no idea. I had already compromised myself by—but I realised that I had certainly been cheated if this was out there. I mean, I took the enormous figure of \$7 500. When I had made it clear I did not think I had any contribution to make, I told them not to send any more. We are told of these figures; I do not know if they are true, and I do not know if there is any evidence it was true. But Ms Ravlich then goes on, having set the scene for these buckets of money to be had, to then say —

It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal to those two members of this house the extent to which they would profit from this matter.

You could only read the two together. If she had said, “It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal that in one case they were promised \$2 billion, and Mr Crichton-Browne got a pension share”, I mean, that would have made sense. But the inference was, I was to get a great windfall and I had not told Anthony Fels.

The CHAIRMAN: I take it that is the reasoning behind the observations made in paragraph 38?

Mr Crichton-Browne: Yes. yes, yes. It set the scene. Might I say, nobody, a fair, objective reader of those words in the normal sense they are put could come to the conclusion, with the following comments of Ms Ravlich, that I was not getting a bucket of money, and such was the level of the income I was receiving that I found the need to disguise it from Mr Fels. In fact—not to jump ahead—I see at 39, “However at the heart of this was how much money is about their integrity or sometimes the lack of it.”

Again it refers to “their money”; how much money “these people” were making.

The CHAIRMAN: That particular paragraph in *Hansard* has been the subject of discussion earlier, when I put to you the proposition that that part of the speech was about Mr Burke and Mr Grill, not about yourself.

Mr Crichton-Browne: Well —

The CHAIRMAN: That is an interpretation I am putting to you.

Mr Crichton-Browne: Well, you will not be offended if I say it is cherry picking, and there is nothing in the basket.

The CHAIRMAN: I am not offended.

Mr Crichton-Browne: It is, as they would say in sixth grade English these days, a poor comprehension of what is written.

The CHAIRMAN: Paragraphs 49 and 50 of your affidavit —

Mr Crichton-Browne: Can I just—would I be presumptuous to just take you to 40, where again this whole question of remuneration comes up. Ms Ravlich says that she was—I think this is the case—when she was—in relation to a motor car.

[11.10 am]

The CHAIRMAN: This is the paragraph that —

Mr Crichton-Browne: Paragraph 40.

The CHAIRMAN: Yes, paragraph 40, where the member is not referring to the committee report as such but is referring to observations by Hon Anthony Fels on the radio?

Mr Crichton-Browne: The point I take is half way down —

“However, I am sure that nobody had told Hon Anthony Fels or Hon Shelly Archer how much was to be gained financially.

Again, it does not say by Burke and Grill. It says —

... how much was to be gained financially.

It is about me —

... because Mr Crichton-Browne had told him that those terms of reference were in fact drafted ...

...

That is certainly what I heard ... However, I am sure that nobody had told Hon Anthony Fels or Hon Shelley Archer how much was to be gained financially.

The CHAIRMAN: Paragraphs 48 and 49 of your affidavit.

Mr Crichton-Browne: Yes.

The CHAIRMAN: In particular, paragraph 49, which quotes from the speech —

Mr Crichton-Browne: Paragraph 48 is not controversial, is it?

The CHAIRMAN: No. Paragraph 49. Can I suggest that the word “they” means Mr Burke and Mr Grill, not you?

Mr Crichton-Browne: Which line is that?

The CHAIRMAN: Paragraph 49 —

Hon LJILJANNA RAVLICH: *They sought also to draw in other Members by involving Mr Chapple and exploiting that link.*

The words go on—

Through Mr Crichton-Browne’s connections, there was a concept of drawing in a broader range of Members. Mr Burke sent an email to Mr Edel ...

Mr Crichton-Browne: Where does it suggest that “they” refers to Burke and Grill?

The CHAIRMAN: I am putting it to you that “they” means Burke and Grill.

Mr Crichton-Browne: No.

The CHAIRMAN: Do you read it differently?

Mr Crichton-Browne: I cannot see any other way I can read it, because it says —

They sought also to draw—

This matter is raised later on, about a web and getting other people in —

They sought also to draw in other Members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's—

To wit—

Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of Members.

They sought to draw in other members, then they specifically say—

Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of Members.

In other words, it goes on to set out the parameters and then it says, to wit, “Mr Crichton-Browne”.

The CHAIRMAN: The essence of the dispute, if “dispute” is the right word—we have not heard from Hon Ljiljana Ravlich yet—is that you are alleging that Hon Ljiljana Ravlich has defamed you by putting you in the same category as Mr Burke and Mr Grill with respect to this operation, whereas there is a distinction between that point of view and Mr Burke and Mr Grill carrying out their activities and you playing a role without necessarily knowing where you fitted in.

Mr Crichton-Browne: Mr Chairman, I am not comparing myself with Mr Burke and Mr Grill.

The CHAIRMAN: I was not trying to either; I was trying to put in a nutshell what the area of dispute is and to seek your comment on it.

Mr Crichton-Browne: Put it to me again.

The CHAIRMAN: On the one hand, the proposition is that you are alleged to have played a role with Mr Burke and Mr Grill, and that is the core of the defamation which you allege. On the other hand, a reasonable explanation may be that Mr Burke and Mr Grill carried out these activities, Mr Crichton-Browne had an involvement but did not know about the degree to which he was involved, and, although his action may be described in part as being key, in themselves there is nothing sinister about his actions.

Mr Crichton-Browne: I would say two things about that. I do not accept that it is just about Mr Grill and Mr Burke and me being tacked on; I am saying that allegations have been made against me that stand alone. I do not accept it is just simply that Ms Ravlich has attacked my name. She has isolated me and made particular allegations against me, which could stand alone if Mr Burke and Mr Grill were not party to this. The allegations are especially in respect to me. The other thing, if I might say, is I was neither wittingly nor unwittingly party to any behaviour that invites condemnation. I do not accept that I was caught up and I was unwittingly a key player. What I did was completely witting and it was completely unrelated to anything else that anybody else had been doing.

The CHAIRMAN: Does any member wish to ask a question? Hon Ken Travers.

Hon KEN TRAVERS: In terms of your last comment, I do not know whether we have a copy of the select committee report.

Mr Crichton-Browne: I have but I have not read it. I did not read it when I first received it and I have not read it properly since, except to discover some paragraphs that were completely untrue.

Hon KEN TRAVERS: Correct me if I have got it wrong, but you just made the comment previously that what you did in relation to this matter was completely unrelated to any other actions by anybody else. Is that a reasonable summary?

Mr Crichton-Browne: No, I did not say that. What I said was in terms of the behaviour, of which they have been criticised, I stand alone. There might have been incidences—I can remember on one occasion, I think, Mr Burke spoke to me twice and sent me one email. As I have pointed out, the magic meeting that took part with Mr Burke and Mr Grill and I when I was briefed on matters did

not ever take place. I do not want to criticise a member of the committee, but it was never put to me but it popped up in the report. It was factually incorrect.

Hon KEN TRAVERS: I might add on that that in the report it actually footnotes where they obtained that evidence from and I think it was in the notes of the evidence of Mr Alex Jones and Mr McMahon. In the report, they actually footnote why they believe that meeting occurred.

Mr Crichton-Browne: They could have quoted Humpty Dumpty too. What does that have to do with it?

Hon KEN TRAVERS: All I am pointing out to you is that, in the report, they relied upon the minutes taken by Mr Jones of a meeting that occurred, and that is footnoted in this report. Anyway, going back to the question —

Mr Crichton-Browne: Just to not leave that point for a moment, would you not think that they would have put it to me? Would they not have put this whole conspiracy business to me? I hope I am not disclosing any private conversations, their first report to me, I opened it up and I am part of a great conspiracy that I had never even heard of. It had never been put to me in the hearing, I had never been asked about the matters and I had not the slightest idea of what they were talking about. I am pleased to see that they took it out. It would have been nice—I did not get one single cogent question about all these things. I rather think, without dwelling on something that the chairman will interrupt me about, that somebody sat down and thought, “Hey, we’ve got a conspiracy here. Why don’t we just do it in and send it off and see how we get on.”

Hon KEN TRAVERS: In terms of your earlier comments, the email that is listed at item 8.22, how do you reconcile the comments you have just made with that email?

[11.20 am]

Mr Crichton-Browne: This is 8.21?

Hon KEN TRAVERS: It is 8.22.

Mr Crichton-Browne: *“You may be approached by interests aggrieved at the decision by the Minister the matter of Cazaly versus RTZ dispute over the Shovelanna Iron Ore Lease.”*

Hon KEN TRAVERS: It continues over the page.

Mr Crichton-Browne: Yes. What is the question?

Hon KEN TRAVERS: Your comment earlier that your actions were not a part of—and I am not suggesting that you knew all about the full detail of what Mr Burke and Mr Grill were up to, but clearly does not that email make it clear that it does relate to Shovelanna and the interests of Cazaly?

Mr Crichton-Browne: It was put to me very forcefully—and it is not unique to Cazaly, although, as I have said earlier on, Cazaly were moved by the price of iron ore. They had not objected to one of the 10 exemptions that had been previously granted. It was put to me—and this was my one meeting with Mr Nathan McMahon—that he was distressed about not knowing what the rules were, and I went to great lengths—and Hon George Cash knows more about it than I do—I went to great lengths to explain—there is no mystery about all this; there is nothing that—you will not find a file in the mines department that tells us these are the rules. Charles Court had a terrible falling out with Arthur Griffiths, who nearly resigned from the government on one occasion, because Arthur Griffiths was the Minister for Mines, and Charlie was the resource minister, and Arthur kept granting all these iron ores to Langley George Hancock and Ernest Archibald Maynard Wright, and Charlie was trying to do this sequential process and get Goldsworthy going first and then Hamersley and then BHP. Of course you understand that there is a cartel in Japan about buying iron ore. They could pick them all off. That is what the Angeles deposit argument was about, that Arthur as the minister, and George’s colleagues in the upper house—the Minister for Mines—was granting all these things, and Charlie was tearing his hair out.

Hon GEORGE CASH: Will you just confirm that your reference to me was in respect to my period as the Minister for Mines and not in fact in relation to any of this inquiry?

Mr Crichton-Browne: No, no. You go back a long way, Mr Cash. It was an old life. In fact, I only mentioned your —

Hon GEORGE CASH: I just want the committee to understand that the reference to me was about knowledge that I obviously may have gained as the Minister for Mines, and not as a participant.

Mr Crichton-Browne: I said, Mr Cash, that you would know more about me because you were in the government way back in those days and you were perhaps a disinterested observer, but at least you understood it. So nobody knew —

Hon GEORGE CASH: I am not sure that I understand. That is the issue.

The CHAIRMAN: I am beginning to lose sight of what the question was all about!

Mr Crichton-Browne: Look, I tend to be—I get an overload of knowledge, and I have this terrible habit of trying to impart it. What happened was that nobody knew what the rules were, and this fellow from Cazaly, he had no idea what the rules were, and he was irritated about not being able to find out. What does it say—“You may be approached”. You have got to remember I do not read every single word of every email that comes to me, and this was months before, as I recall it. “You may be approached by interests aggrieved at the decision by the Minister”. I think the problem that Mr McMahon had was that he did not know what the rules were. One of the virtues of having an inquiry is so that everybody knew what the contemporary rules were about the granting of iron ore leases. The only thing Mr McMahon complained to me about was he did not know what the rules were, and on that basis I thought there was some virtue in an inquiry as to figure what they were; and that was the substance of any communication that I had with Mr Burke.

Hon KEN TRAVERS: But that was not Mr Burke. In fact, if you had read the report you would know that that was not the intent of Mr Burke and Mr Grill, though.

Mr Crichton-Browne: Well, having read what they said about me, I make no judgements about what the committee says about Mr Burke and Mr Grill.

The CHAIRMAN: Members, I do not think that is an issue. Are there any other questions of Mr Crichton-Browne?

Hon BARRY HOUSE: I have one question, Mr Chairman. Mr Crichton-Browne, you made an inference there that the first that you had any knowledge of these matters referring to you was when it appeared in the report, which you have just admitted you did not read then and you have not read since?

Mr Crichton-Browne: Well, I have had cause to read more than I wanted to.

Hon BARRY HOUSE: Would you confirm that as a matter of natural justice you were supplied with the opportunity to comment by the committee prior to its publication?

Mr Crichton-Browne: Well, how much time have we got, because I want to say that I hope that the President might at some time re-examine the behaviour of that particular committee. I do not criticise you, Mr House, because I know you are an honourable, fair, decent person that was no doubt in that committee doing the very best to ensure that justice was done to everybody. Can I say this: I was given seven days—seven days—to answer all these allegations. I went to bed three nights out of the five nights I was writing it. I asked the committee could I have one day spare, and they said no. Just like my hearing, I said can I have half an hour to have Tom Percy attend me, and they said no, you cannot. I thought the behaviour of that committee generally was absolutely appalling.

The CHAIRMAN: Mr Crichton-Browne, our inquiry today is narrow, and the question asked by Hon Barry House—proper and fair question though it was—has unfortunately opened up other issues.

Mr Crichton-Browne: The answer is no, with respect.

Hon BARRY HOUSE: No that you were not given the opportunity to comment? Sorry. I just wanted Mr Crichton-Browne to confirm that he was given the opportunity to comment on that report.

Mr Crichton-Browne: I was given a draft report the same day I got the *Hansard*, and I was promised that the *Hansard* had not been available to you before it got to me, and I wondered how you had managed to write a 50-page report without the *Hansard*, and when I got the *Hansard* I was given five working days to write a 50-page report, and the report, I thought rather offensively, said Mr Crichton Browne obviously did not need more than seven days because he wrote his 50 pages.

The CHAIRMAN: Does any member have my other questions of Mr Crichton-Browne? That being the case, I have one question. In your affidavit, in paragraph 10, you make reference to one of two articles that you have written. One of those articles is paragraph 11, which you read out earlier on.

Mr Crichton-Browne: An extract, of course.

The CHAIRMAN: Yes, an extract. When was the article first published, and where was it published?

Mr Crichton-Browne: The first article was written for *The West Australian*, but by the time they got around to looking at it they had found one of their journalists that knew about half as much as I did and they ran his story. The second article was in I believe April of 2006 and it was on the Crikey website.

The CHAIRMAN: Does the second article—is paragraph 11 a quote from the second article or the first article?

[11.30 am]

Mr Crichton-Browne: I think it is verbatim.

The CHAIRMAN: Is paragraph 11—the quote from the article that you have just referred to as being published on the Crikey website.

Mr Crichton-Browne: Yes, it is. That, my memory is that is the —

The CHAIRMAN: Yes, all right.

Anything arising from that? Now, anything else, members?

Mr Crichton-Browne, is there anything you wish to say in closing, because we are concerned that you have an opportunity to be heard, but only on these narrow matters that we are dealing with though.

Mr Crichton-Browne: Well —

The CHAIRMAN: And there is no need to repeat what you have said already, but if you want to give a brief summary, that will be fine.

Mr Crichton-Browne: Look, I do not have a brief summary other than to say, Mr President, as I said from the outset, you would have to torture the words, you would have to torture the meaning, you would have to obfuscate, you would have to reconstruct your original intentions to find a way of justifying what was said by Miss Ravlich in any other context, any other purpose, and in collaboration with anything else she had in mind. It was, as I said at the time, an assault upon me and it will be unpleasant for me to say this: it was in collaboration with her partner, Mr Ripper, and with the members of the lower house to square off with the problems that they had in the lower

house. I have to say I have not been in Parliament for 13 years and I have not been a member of a political party for 13 years but I seem invariably to be the straw man when the Labor Party gets itself into trouble with Mr Grill and Mr Burke, and the motives are clear. What Miss Ravlich said was an attempt to smear me with the problems that the Labor Party had.

The only thing I would ask you—two things, if I might be so presumptuous—is it the habit of your committee to give rulings on questions about the validity and the right of members to sit in spite of the fact that there is an objection?

The CHAIRMAN: This committee regrettably has been meeting more often than we would wish to have met in recent times, but we as a committee answer to the house and we will do so. But, may I thank you for your attendance —

Mr Crichton-Browne: I am sorry, I do not want to interrupt you—

The CHAIRMAN: Well —

Mr Crichton-Browne: In terms of the matter I have raised with Mr Travers.

The CHAIRMAN: We have dealt with that.

Mr Crichton-Browne: But you will not—do you put that sort of thing in writing?

The CHAIRMAN: We have dealt with that. You may hear more on that in due course, but we have dealt with that.

Thank you very much for your attendance, Mr Crichton-Browne.

Mr Crichton-Browne: Thank you very much.

The CHAIRMAN: And you will hear from us in due course.

Hearing concluded at 11.32 am

APPENDIX 4
TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 -
SESSION TWO

APPENDIX 4
TRANSCRIPT OF EVIDENCE, 24 NOVEMBER 2008 -
SESSION TWO

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 24 NOVEMBER 2008

SESSION TWO

Members

The President (Hon Nick Griffiths) (Chairman)
The Chairman of Committees (Hon George Cash) (Deputy Chairman)
Hon Matt Benson-Lidholm
Hon Ray Halligan
Hon Barry House
Hon Sheila Mills
Hon Ken Travers

Hon Giz Watson (Co-opted member)

Hearing commenced at 11.40 am

RAVLICH, HON LJILJANNA,

Member for the East Metropolitan Region, sworn and examined:

The CHAIRMAN: Hon Ljiljanna Ravlich, welcome to our hearing this morning.

Hon LJILJANNA RAVLICH: Thank you.

The CHAIRMAN: Before we begin, I invite you to take either the oath or the affirmation.

[Witness took the affirmation.]

The CHAIRMAN: Please state your full name, contact address and the capacity in which you appear before the committee.

Hon LJILJANNA RAVLICH: Ljiljanna Ravlich, 24 Webb Street, Cottesloe. I appear before the committee as a member of the Legislative Council and the member for the East Metropolitan Region.

The CHAIRMAN: Have you signed a document entitled "Information for Witness"?

Hon LJILJANNA RAVLICH: Yes I have, Mr Chairman.

The CHAIRMAN: Have you read and understood that document?

Hon LJILJANNA RAVLICH: Yes I have, Mr Chairman.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them; ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement to the committee?

Hon LJILJANNA RAVLICH: Yes, I would. Before I do, can I put on record that, whilst I do not have a legal counsel here, I have on two occasions discussed with Mr John Quigley the work I had prepared. I did so because of the historical importance of the process that we are engaged in here today. I would like to make an opening statement.

Mr Chairman, the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee of Estimates and Financial Operations reported, as you know, on whether there had been any disclosure of deliberation of the Standing Committee on Estimates and Financial Operations in relation to a proposed inquiry into the state's iron ore industry and, if so, whether such disclosure constituted a breach of the privilege or is a contempt of the Legislative Council. The select committee identified that there were a number of unauthorised disclosures from separate sources between 30 October 2006 and 1 February 2007 of the deliberations of the Standing Committee on Estimates and Financial Operations in relation to a proposed inquiry into the state's iron ore industry. The committee concluded that each and every one of these unauthorised disclosures was as a result of a strategy devised and implemented by the directors of Cazaly Resources Ltd, 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.

Mr Chairman, in making my speech, I expressed my opinion on the report. I might be right; I might be wrong in those opinions. I might be right or I might be wrong in my interpretation, but I was speaking to a report that was tabled in the chamber and distributed to every member. Everyone is entitled to express their opinion and interpretation, and if there is a reasonable basis for that opinion or interpretation, as was the case with my speech, then not only is it not a contempt of Parliament but rather an attack on a member of the chamber for the member expressing free speech. This attack in itself is contempt designed to intimidate me for expressing my honest and reasonably held views in relation to a document on the table in our chamber. The only question, therefore, when speaking to the chamber's document is: Was I, as a member of the chamber, informing the chamber of my honestly held views and opinions in relation to the document and was it on a reasonable basis? Honestly held and reasonably based views and opinions cannot under any circumstances constitute contempt. The petition of Mr Crichton-Browne is defective and constitutes at best that I am wrong in my views and opinions. Nowhere does Mr Crichton-Browne assert or establish that I know something else to be the truth as opposed to what I was saying. Nowhere does Mr Crichton-Browne show that I was dishonest or unreasonable in the view or belief that I held. In fact, Mr Crichton-Browne does no more than assert that I am wrong in my views and opinions. To that extent I do not believe that I have breached privilege.

Mr Chairman, as you know, today is a historical day; it is the first day that a member of the Legislative Council has been called before a Standing Committee on Procedure and Privilege by referral of a petition. As you will be aware, standing order 134, which was amended in 2000, has enabled this to be so. However, in my view it does have some potential to erode a member's right to freedom of speech afforded to them under parliamentary privilege. One of those peculiar rights is the freedom of speech afforded by article IX of the Bill of Rights in 1698. I believe that the Parliament requires absolute privilege so that it can pursue matters of public importance. Whilst I do agree that members need to express their rights responsibly, on balance, in my view, it would be detrimental to the workings of our Parliament if members could not express their views and opinions without fear or favour.

The tabling of the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in November last year was a defining moment for the Western Australian Parliament. It showed just how vulnerable the Parliament can be and how its committee system can be corrupted by outside forces. That is not to say that this is absolutely the first time that this may have happened or that it is the first time that there have been disclosures of the deliberations of a committee. But, rather, it is to say that with modern technology and the work of the CCC this is the first time that it has been revealed in such a transparent way.

Mr Chairman, in preparation for my presentation here I naturally did some work, and one of the things I looked into was report 15 of the Standing Committee on Procedure and Privilege—observation 3 of that report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations actually distinguished between “unintended” or “technical contempt” and “grave contempt”. It actually investigated the difference between those two. That committee noted the comments of a previous Select Committee of Privilege of the Legislative Council that stated —

“Because a contempt can be committed regardless of a person's intent (or lack of it), the penalty imposed is the appropriate means for the House to indicate how serious it takes it to be. Customarily, an unintended or technical contempt is excused without penalty.”

Report 15 of that standing committee highlighted that the Privileges Committee of the Australian Senate now regards a culpable intention on the part of a person concerned as essential for the establishment of contempt.

[11.50 am]

Amongst the Senate's parliamentary privileges resolution of 1988, one of the criteria to be taken into account when determining matters relating to contempt is whether the person who committed any act which may be held to be in contempt knowingly committed that act.

Mr Chairman, I also just quickly want to touch on the media coverage. You asked Mr Noel Crichton-Browne some questions in respect of the question of coverage. Certainly, there had been much reported in the media in respect of lobbyists in Western Australia and the activities of them. My contribution to that debate on 29 November 2007 was based on information from a whole range of sources, including the select committee report, CCC transcripts in relation to other lobbying activities, as I remembered them, and the media generally, whether it was the radio, and listening to Hon Anthony Fels, or whether it was the Channel Seven news or Channel Nine, wherever. The bottom line is we come to the Parliament and we absorb information from a whole range of sources in order to make our contribution, as should be the case. I do not believe, Mr Chairman, that my statements have in any way further damaged Mr Noel Crichton-Browne, given that much of what I had to say on that day was already reported in the media and on the public record before I made my speech. Most of the content had already been canvassed in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations and on CCC transcripts. To that extent, it cannot be argued that the speech in question was baseless in fact or devoid of evidence. Where I provided opinions I was careful to use language such as "I suspect", "It seems apparent", "In my view"; "I believe", to indicate such. I have no axe to grind with Mr Noel Crichton-Browne and nor have I said anything outside of the Parliament in respect to him.

I want to put, by way of conclusion, on the record that I have not knowingly committed any act which may be held to be in contempt.

The CHAIRMAN: Thank you. I propose to ask a number of questions and then invite members to ask questions, in the same way that we asked questions of Mr Crichton-Browne.

Hon LJILJANNA RAVLICH: What I have done in respect of my preparation is produce a document which shows the speech extract, the statement of facts from Mr Crichton-Browne, my arguments or evidence in response to that statement of fact and my conclusion in respect of each of the matters that have been raised. Can I put on record that this process has taken me the best part of a week to prepare for it, so I have certainly not taken this matter lightly.

The CHAIRMAN: You seek to —

Hon LJILJANNA RAVLICH: Can I ask that they be distributed to members and also can I seek that they become public documents, just as is the affidavit?

The CHAIRMAN: It is proposed that the documents be tabled. You are tabling them?

Hon LJILJANNA RAVLICH: Yes, I am. Mr Chairman, I also wonder whether it would be helpful to the committee, because what I have also done is broken up my speech to also reflect those bits that have been extracted by Mr Crichton-Browne and where they have been extracted, so members might actually find that to be of some assistance also.

The CHAIRMAN: Just looking at the document in the name of the honourable member, the document is tabled, but we are going to have to discuss —

Hon LJILJANNA RAVLICH: That's fine, Mr Chairman.

The CHAIRMAN: — what status is given the document. We are not going to discuss that at the moment, because I think it is going to take some time to read. I think we will proceed. Just scanning

part of the document, I can see that part of what I am about to raise and what other members may be about to raise will be dealt with in the document, but I think it is important that they have your words on the public record. Would you please have in front of you an extract of the *Hansard* and an extract of Mr Crichton-Browne's affidavit. Please refer to paragraph 3 of Mr Crichton-Browne's affidavit. What observation, if any, do you have to make on that?

Hon LJILJANNA RAVLICH: That I relied on a report of the Select Committee of Privilege.

The CHAIRMAN: You have read paragraph 3. You have probably dealt with it in your response. If it is of assistance, by all means refer to your prepared response. I do not think the committee would have any objection to that —

Hon LJILJANNA RAVLICH: I don't think I made a —

The CHAIRMAN: — but I would like you to just state verbally what your response is to paragraph 3.

Hon LJILJANNA RAVLICH: Certainly I did rely on the report of the Select Committee of Privilege on a matter arising out of that standing committee. However, I also drew some of the remarks I made from a range of different sources, including the media, as I have already stated in my opening paragraph, but there is no doubt that the heart of what I had to say was drawn from that committee report and certainly the executive summary, in my view, really said it all.

The CHAIRMAN: Paragraph 7 of the affidavit, the last two sentences; why did you make those statements? Perhaps I will read them out —

I suspect that what happened from there was that Cazaly may well have been advised of the services of Mr Burke and Mr Grill in this matter. They worked with Mr Crichton-Browne in order to affect a shift, if you like, from the position it was in.

Hon LJILJANNA RAVLICH: Mr Bowler had clearly made a decision in respect of the matter, and there is no doubt in my mind that Mr Crichton-Browne was approached by Mr Burke and/or Mr Grill to participate in a strategy to ensure that the services of Mr Anthony Fels could be secured as a part of that strategy to the end effect that there would be some shift in the position that they found themselves in. Now, if you go back to the executive summary of that report, Mr Chairman, it is quite clearly identified there that this strategy actually had a number of parts to it. There were one, two, three, four parts to the strategy; there were subsets of the strategy. I am quite happy to put on the public record what they were, but I think it is well documented. The last part of it —

d) discrediting the State's iron ore policy so that the policy could not and would not be relied on by the Minister in the event that the Supreme Court sent the matter back to the Minister for a fresh decision.

[12 noon]

This, I think, was critical in terms of, together with A, B and C, putting together a committee which would then perhaps even put interim reports out, and, in doing so, publicly have the capacity to in fact discredit the state's iron ore policy. I spoke about it in terms of effecting a shift rather than overturning the decision. In fact Mr Crichton-Browne claims that he is—in fact the statement refers to him overturning the decision. My statement to the Parliament clearly states that it was that decision that Cazaly was seeking to overturn, and that is ultimately the decision made by the then minister Bowler. But I actually did not think that it was entirely correct that we were talking about the overturning of a decision because it had gone too far in any event. It was already in the Court of Appeal at the Supreme Court, so it was highly unlikely that John Bowler would overturn the decision. What was more likely was that a strategy was put into place which had quite a number of different components to it, and that strategy would, ultimately, if the Court of Appeal had failed, if the appeal had failed in the Supreme Court, it would ultimately have been sent back to Minister Bowler, and then minister Bowler would have been under some pressure to change his mind. But I

thought that it was more appropriate to talk about a shift in the position rather than the overturning of the position. It did not refer to Mr Crichton-Browne; my speech referred to Cazaly seeking to overturn it.

The CHAIRMAN: I think you have commented on paragraph 8. Paragraph 9 is a commentary on paragraph 8. Paragraph 10?

Hon LJILJANNA RAVLICH: I note paragraph 10 and I do make the following observations. Mr Crichton-Browne's claim that this is one of two articles written by him and published on the matter of the disputation between Cazaly Resources and Rio Tinto prior to the Corruption and Crime Commission hearing and those of the Select Committee, and he supported the position by John Bowler. That is the tenor of the article: "Well, I've supported the position of Minister Bowler; I've actually gone out and written articles about it." By reason it would follow that if he supported Minister Bowler's decision, then there certainly would not have been any point to him participating in the strategy. If you support what a minister is already doing, why would you be a party to wanting to be involved in something you do not believe in? I have heard the evidence of Mr Noel Crichton-Browne; he said he was not a part of a strategy. Quite clearly, in the opening statements that I made and in the executive summary of the report and in the body of the report, it makes it quite clear: a strategy was put together by a number of people, including consultants; and Mr Crichton-Browne was a consultant. To that end, he is a party to the outcomes as far as they were achieved in respect of this strategy. It is a bit like saying, "Well, I've shot a man but I was actually told to do it, and so it doesn't really matter that I have—it has got nothing to do with me, I just fired the bullet but somebody else told me." Quite frankly, Mr Chairman, I do not think that that washes.

But let me just keep going. I just want to make the point that the Select Committee found that each and every one of those groups of people, they said that the strategy was implemented by the directors of Cazaly Resources, their lawyers, their consultants, of which Mr Browne was one. Furthermore, it is possible that even though Mr Crichton-Browne may have held the view that minister Bowler's decision was the right one, he was nonetheless at the same time prepared to be a party to implementing the strategy and to be paid for lobbying on behalf of his clients irrespective of his personal view. I would say this: I do not think that he would be the first or the last lobbyist to do so. To that extent, I think that that particular article actually proves absolutely nothing. In my view it is true that lobbyists often can promote a position or a view of their clients without necessarily holding that view themselves because, quite frankly, if they just lobbied only on those things that they personally believed in, at the end of the day they would be cutting off half of their market share. So my view is that using this as the basis to say, "I supported minister Bowler; I therefore did not participate in anything" is simply not borne out by the evidence in the report. The evidence clearly shows that Mr Crichton-Browne was on the payroll for a couple of months during this period of time at Cazaly for \$7 500 and, furthermore, in other evidence it has shown that Mr Noel Crichton-Browne was also on a retainer from Mr Brian Burke for \$2 000 a month. So add it all up, it may not be big money, \$4 000 to \$4 ,500, whatever it adds up to, may not be big money in Mr Crichton-Browne's point of view but it may well be big money in somebody else's point of view. The point is he was there, he was to benefit and there is no question about his involvement. I really do not think those articles prove anything.

The CHAIRMAN: Paragraph 14 of his affidavit—it is possibly repetitive, but do you have any observation to make on that?

Hon LJILJANNA RAVLICH: Yes, I do.

The CHAIRMAN: Mr Crichton-Browne is asserting that you have made a false assertion.

Hon LJILJANNA RAVLICH: One, I think it has been established he was a part of a plan or a strategy. I do not think that there is any issue with that. In respect to 14 specifically in the statement of facts, he states that specifically the strategy involved using the Standing Committee on Financial Estimates and Operations to establish an inquiry into the state's iron ore industry, not primarily for

the purposes of the inquiry itself, but for the purpose of using the inquiry to influence Rio Tinto Limited to settle the dispute over the Shovelanna tenement in terms favourable to Cazaly. The Select Committee, Mr Chairman, I submit once again, found that each and every one of those unauthorised disclosures was a direct result of the strategy devised and implemented by the directors of Cazaly Resources Limited, their lawyers and consultants, of which Mr Browne was one. The Select Committee findings also showed that Mr Crichton-Browne, in his role as a consultant, was a part of that strategy; a part of which was to seek to have Rio Tinto pressured into settling in some form with Cazaly Resources in respect to the Shovelanna iron ore dispute. This is evidence that is provided at 3(a) of the executive summary of the Select Committee report.

In respect to the question of the \$2 million based on share options, Mr Crichton-Browne, Mr Chairman, is trying to change the meaning of my words which should be read in the context of the previous paragraph in my speech. The speech refers to the fee that Mr Grill and Mr Burke were due to receive and make no mention of Mr Crichton-Browne in respect of that matter. The \$2 million referred to would have included the value of shares and options. There is plenty of evidence in the report that Mr Noel Crichton-Browne—Mr Burke, sorry, and Mr Grill did—one of them had both Echelon and Cazaly shares, and the other one just had I think Cazaly shares. I subsequently qualified my remarks by saying: therefore it seems apparent to me that—however, at the heart of it is how people make money, it is about their integrity and sometimes their lack of it. Therefore it seems apparent to me that the \$2 million was based on so on and so forth. Mr Crichton-Browne was clearly being paid for his services of, as I have said, \$2 000 a month in addition to what he was paid by Cazaly for that two-month period. To say that he did not profit in any way is technically simply not correct. The fact that he was to benefit much less, according to his evidence, than the other two is simply irrelevant. The point is that he was going to benefit. There can be no disputing that because that's in black and white in the report.

[12.10 pm]

The CHAIRMAN: Paragraph 28 of the affidavit quotes you in part and paragraph 29 puts forward Mr Crichton-Browne's proposition —

The truth is that the Committee's inquiries did not reveal that Mr Crichton-Browne was a *'key figure ...*

Hon LJILJANNA RAVLICH: I do not know how the strategy could have got off the ground without the involvement and the support of Mr Anthony Fels. Clearly, what was sought here as part of the strategy was that there be a bipartisan approach to the acceptance of a terms of reference which were formulated outside of the committee and brought into the committee and with that bipartisan support, it simply could not have been achieved without Hon Anthony Fels. In the absence of the support of the then opposition and Hon Anthony Fels, it would appear to me that that particular strategy would have gone nowhere. Mr Crichton-Browne has made the point that he did not know anything about it, no strategy and so on and so forth. I refer to the document that I put together, page 7.

The CHAIRMAN: Please quote it.

Hon LJILJANNA RAVLICH: I will quote from that.

The CHAIRMAN: Read it if you wish.

Hon LJILJANNA RAVLICH: At 8.21 —

At 3.41pm on 14 September 2006, Mr Burke emailed Mr Edel and courtesy copied other persons involved in the strategy to advise that:

"I have now had advice that the Government members feel comfortable with the Terms of Reference and I am approaching Noel Crichton-Browne to see if he will

arrange for the inquiry to be proposed by an Opposition member. Noel will require a full briefing which neither Julian nor I should do.

Then at 8.22 —

An email from Mr Burke to Mr Crichton-Browne at 3.58pm on 14 September 2006 states —

“You may be approached by interests aggrieved at the decision by the Minister in the matter of the Cazaly versus RTZ dispute over the Shovelling Iron Ore Lease.

As one part of a comprehensive strategy -

This is Burke to Mr Crichton-Browne —

Julian and I have suggested a Parliamentary Inquiry into, broadly speaking, the sterilisation by major companies (largely BHP and Rio RTZ) of huge areas of prospective ground.

To suggest that Mr Crichton-Browne had absolutely no knowledge, he may not have known the full strategy because, quite clearly, the full strategy seemed to have kept been fairly tight. Nevertheless, I would argue that in that particular evidence, it shows that he should have known that there was a broader strategy. If somebody phoned me and said, “As a part of a strategy that I want you to participate in”, the first question I would ask is, “What is the strategy?” At 8.23 of my evidence —

Mr Burke forwarded the above email at 4.01pm to Mr Grill, ... Mr Clive Jones, Mr Clough and Mr Tasker, noting that Mr Crichton-Browne

“... is very detailed in his approach but—as previously indicated—Committee member Fels is close to him and a very close colleague of his works with Mr Hallett.”

Then at 8.24 —

On 10 October 2006 Mr Grill, Mr Burke, Mr McMahon, Mr Edel ... meet with Mr Crichton-Browne at the offices of DLA Phillips Fox ... in order to brief him and review the draft terms of reference for the proposed parliamentary inquiry into the iron ore industry.

I have just heard evidence from the previous member that this was all done by Malcolm McCusker QC. The evidence here would suggest to me that there is no doubt that there was some involvement with Mr Crichton-Browne.

Mr Crichton-Browne advised the Committee that:

“I was first contacted by Mr Edel and my ongoing contact has been with Phillips Fox however it is more precise to state that I was engaged by the Managing Director of Cazaly Resources, Mr Nathan McMahon.”

This is taken directly out of the standing committee report. This is not something that I have wilfully or intentionally gone out to fabricate to make Mr Crichton-Browne look like a bad person. I do not know Mr Crichton-Browne. I do not know him at all. I am trying to do my job in the Legislative Council and bring to the Council my views, opinions, based on what I observe, what I read, what I hear. I go there without fear or favour because I believe in freedom of speech, and I believe that as a member of Parliament I should be able to do that. But I find myself in this situation today wondering whether I can continue to go to the Parliament and exercise those same rights because I do not have a week at a time to prepare for a defence every time such an event should occur into the future. I think this is a very, very serious matter.

The CHAIRMAN: Let's move to paragraph 32, which is a quote from your speech, paragraph 32 of Mr Crichton-Browne's affidavit commencing with the words —

They (Hon Anthony Fels and Hon Shelly Archer) were in my view, manipulated and used by Mr Burke, Mr Grill and Mr Crichton Browne.

Paragraph 33 of the affidavit says —

It is false —

Of you —

to claim that the Hon Anthony Fels and the Hon Shelly Archer were manipulated in any way by Mr Crichton Brown ...

Hon LJILJANNA RAVLICH: I oppose both 33 and 34 in that statement of facts. First of all, the committee report found that Mr Crichton-Browne was not a particularly reliable witness. I prefaced my comments in respect of 33 and 34 by saying Hon Anthony Fels and Hon Shelley Archer were in my view manipulated and used by Mr Burke, Mr Grill and Mr Crichton-Browne. It was made clear throughout some of the CCC transcripts on lobbyists' activities and the report of the select committee that there had been in my view consistent manipulation. Certainly it is quite clear that all three did not reveal to those members of the house the full extent from which they would profit from the strategy. I know Mr Crichton-Browne would argue he was not going to profit very much compared to the other two. It is irrelevant, so I make that point again. Whilst I accept that Mr Crichton-Browne did not own shares, he would have profited from his involvement in his capacity as a consultant.

There is sufficient evidence to show that neither Mr Burke, Mr Grill nor Mr Crichton-Browne fully disclosed what they knew about the plan to Hon Anthony Fels and Hon Shelley Archer. If you turn to page 10 of my prepared document, Mr Stephen Hall, under CCC questioning of Mr Crichton-Browne says —

Right, just finally, Mr Crichton-Browne, has Mr Fels assisted you in any other way in recent times in regards to your consultancy business? ---Yes, what was it? Yes. Yes. I asked him would he entertain a motion—would he entertain—I'm just going over it in my mind for a moment, Mr Hall, but he ---

[12.20 pm]

Quite clearly, "I have nothing to do with the strategy", and he has put on record at the CCC hearing that he was asked to entertain a motion. You will see right at the bottom, Mr Chairman, the request —

And what has Mr Fels - you've made the suggestion to Mr Fels and has - in that capacity you were acting as a paid consultant for someone?"

Mr Crichton-Browne replies, "Yes." However, Mr Fels, in his evidence, disputed that he had been advised of this but said that he probably should have known. Mr Crichton-Browne advises the CCC that he had advised Mr Fels, and Mr Fels claims that he had not been, although he gets lobbied by lots of people so he should have known that the same was true of Mr Crichton-Browne.

I want to make this point because I think it is a very important point: the three people we are concerned with or dealing with in this regard are senior political figures. One is a former Premier, one is a former state minister and one is a former senator. As far as I am concerned, I think that they had a duty of care to two inexperienced politicians, or members of our Council, from the point of view that these two individuals could have rightly expected that they would have had full disclosure of what their involvement might be in this strategy. Had everything been disclosed by Mr Crichton-Browne to Mr Fels, Mr Fels may have rightly responded by saying, "I don't want to be a part of this." But what happened was something quite to the contrary. There had not been full disclosure by all three people to the two members in particular, who have both been disendorsed by their parties and will no longer sit as members of the chamber. They were not given all the information so that they could make better informed judgements. Quite frankly, if Mr Crichton-Browne wants to make himself feel better about the fact that he has done the right thing by Mr Fels, that is a matter for him. But in terms of the standards that I apply, I do not think that the right thing was done by those three experienced politicians towards those two inexperienced politicians. In failing to exercise that duty of care, I believe that they did prey on the members' lack of experience and their vulnerabilities.

The question is: why were Hon Shelley Archer and Hon Anthony Fels not told about the strategy so that they could decide whether or not they wanted to be a part of it? Why was Mr Crichton-Browne not forthright with Mr Anthony Fels so that he could be making an informed decision about his participation? And on what basis did Hon Anthony Fels become engaged in the strategy and was his role in exchange for some future political benefit from the party? If somebody came to me and said, "I want you to do something", on what basis would I make a decision to do it? The argument being put here is that we should all believe that these members accepted a position whereby they were going to engage themselves in a strategy for absolutely no benefit and they were willing to do so. I say no. I say that if they had the information about what the strategy was, who was benefiting and by how much, they probably would not have involved themselves with the information. Quite clearly, they did not know what was going on. It might have been known what they were doing in terms of the activities that they involved themselves with—in terms of the tasks, if you like—but in terms of the broader picture, I would say that they were very naive. I do not think that senior people within political parties and people who are or were in positions of power should behave like that towards other people.

The CHAIRMAN: Paragraphs 35 and 36 are, again, quotes from your speech. In paragraph 37 Mr Crichton-Browne states —

Hon Ljiljanna Ravlich, having dwelt upon the fees that she believed Mr Burke and Mr Grill were to receive from Cazaly Resources, then proceeded to smear Mr Crichton-Browne by falsely misrepresenting his fee by clear inference as being that which she claimed Mr Burke and Mr Grill were to receive.

What is your response to that allegation?

Hon LJILJANNA RAVLICH: I do not think I smeared anybody. The only point I am making is that those people, the three key players there, had some benefit to gain. Certainly, it is not my intent that I should smear anybody, Mr President.

The CHAIRMAN: Paragraph 38 states —

The entirety of Mr Crichton-Browne's payment from Cazaly Resources was \$7 500. To claim by association that Mr Crichton-Browne was to receive an enormous fee which he had deliberately chosen to hide from Hon Antony Fels, Hon Ljiljanna Ravlich misled the Legislative Council.

What is your response to that allegation?

Hon LJILJANNA RAVLICH: I say that the \$7 500 may not be much to Mr Crichton-Browne, but I would say that that fee, together with an additional \$2 000 a month for his services that was being paid to him by Mr Burke, might be seen to be an enormous fee by some people. Mr Chairman, I did not aim to smear Mr Crichton-Browne with that statement. I simply meant to say that there was financial benefit to be gained by these individuals. Mr Crichton-Browne cannot negate his involvement in this whole strategy because he feels aggrieved that he was not to gain as much as the other two participants in respect of implementing this strategy.

The CHAIRMAN: What is your response to the allegation raised in paragraph 39; namely, that you proceeded to traduce Mr Crichton-Browne's integrity by moralising about his fabricated ill-gotten gains by claiming, "However, the heart of this is how people make money. It is about their integrity or, sometimes, the lack of it."

[12.30 pm]

Hon LJILJANNA RAVLICH: Well, for a start they were not my words. I did not say that Mr Crichton-Browne was the recipient of an enormous, dishonestly hidden or tainted fee. I cannot remember saying the word "tainted" in my speech, so this is another example of—and this has been done in a number of places—where the honourable Noel Crichton-Browne has in fact changed the

meaning of my words. He did the same in his statement of facts at 8 and 9. He did the same at 13 and 14 and here we find embedded into his log of claims words that were not even attributed to—you know, attributed to me that I did not even say. Now, this is a personal opinion by Mr Crichton-Browne that I was moralising about his fabricated, ill-gotten gains by claiming however at the heart of this is the question of integrity or the lack of it. The simple fact is, Mr Chairman, that he was a party to the plan. They were not forthright and open with the people that they were trying to induce to become a part of the strategy, if you like. In my view they did not do the appropriate thing by the new, inexperienced members of the Legislative Council. There was financial gain. I mean, I think that I have pretty much gone through that, and by way of conclusion on that point, I simply did not talk about a tainted fee.

The CHAIRMAN: Paragraph 40 is a quote; paragraph 41 alleges that you deceived Hon Anthony Fels in a number of ways. What is your response?

Hon LJILJANNA RAVLICH: I am sorry, Mr Chairman?

The CHAIRMAN: Paragraph 41 alleges that you deceived Hon Anthony Fels—I am sorry, alleges that you alleged that Mr Crichton-Browne had deceived Hon Anthony Fels in a number of ways, and the paragraph concludes with the words —

Hon Ljiljanna Ravlich conjured up untruths.

What is your response to that?

Hon LJILJANNA RAVLICH: I do not think I did so. I object to that particular statement of claim. It is on the public record that Mr Noel Crichton-Browne was not open and honest and up-front with Anthony Fels, and certainly it was my view that he did not fully disclose what he knew about the strategy, nor did he disclose to Mr Anthony Fels the money that he would receive for his part in that strategy.

I mean, can I just add to that? Mr Anthony Fels, Mr Chairman, actually says, in terms of some questioning by the select committee, Hon Adele Farina was questioning him —

Hon Anthony Fels MLC stated to the Committee that he did not know at this time that Mr Crichton-Browne was working for Cazaly Resources Limited. With respect to this evidence, Mr Crichton-Browne told the Committee that:

... You put to me - I take it you were referring to evidence given by Mr Fels - that I had not advised him that I was acting as a consultant for Cazaly. If that is the evidence he gave, to my memory it does not equate with my memory of events. My memory of events is that I did at some point tell Mr Fels that I was, and I thought I should in all the proper circumstances. ...

Then Hon Adele Farina goes on to ask —

Are you saying during one of those conversations you would have disclosed to him that you were acting for Cazaly.

Mr Noel Crichton-Browne replies —

Let me say this: by the time he got the reference he was aware of it.”

Hon Anthony Fels MLC expanded on this issue at his second hearing on 11 September 2007:

“Hon ANTHONY FELS: ... I did not think he was doing it as a lobbyist. But most people come to me lobbying me on one issue or another and most of them are paid. ... And I do not think I gave any thought to whether he was getting paid to do this or not. I know he was always very interested in the mining industry in the state. I know he used to be a mining registrar before he went into the Senate and politics ...

And so on and so forth. Now, you know, quite clearly there is some conjecture, I guess, but Mr Fels has put it quite clearly in a couple of places in the report that he had no idea that Mr Crichton-Browne was contracted to Cazaly or that he was acting in a role of consultant or that he would be paid. Now, you know, I mean, they are pretty simple things to tell somebody, especially if you are actually inviting them to do something that you know is probably not the right thing to do. He had been a member of Parliament. He knows how the committee system works. He knows about—you know, when we are talking about Mr Crichton-Browne it is not as though we are talking about, you know, somebody who has just come off the street. This is somebody who understands the workings of the Senate—the Senate—knows the importance of the committee system to the Senate, and should thereby have a very clear understanding in his head about parliamentary privilege and the need to protect that parliamentary privilege, and the fact that documents and the fact that deliberations and what is said in committee, they are privileged. So we are actually not talking about somebody who has got no experience with this, and we are talking about somebody who was, we know, complicit—complicit—in a strategy that was to undermine—to undermine—the efficient workings of the state Parliament, and in particular the workings of its committees. Now, you know, I mean.

The CHAIRMAN: Paragraph 47 again is a quote from your speech, and paragraph 48 provides Mr Crichton-Browne's commentary on the matters raised by you in paragraph 47.

Hon LJILJANNA RAVLICH: I am sorry, Mr Chairman, can you just run that one again?

The CHAIRMAN: Page 9 of the affidavit, you have got paragraph 47, a quote. Paragraph 48 is Mr Crichton-Browne's commentary on that question. Paragraph 48 commences with the words —

This series of statements is untrue.

Why did you state the matters raised in paragraph 47 or, alternatively, what is your comment on what is raised by Mr Crichton-Browne in paragraph 48?

Hon LJILJANNA RAVLICH: I think I have just answered the first one. I mean, 48 —

...series of statements ...Mr Crichton-Browne informed Hon Anthony Fels that he represented Cazaly Resources ...

I have just read an extract from the transcripts of the committee, which clearly show that that was not Mr Fels's view of the course of events—he demonstrated no contempt for his abilities and he most certainly did not manipulate him. Well, I have to say I made the judgement; I said, "I believe". In doing so I qualified my opinion. It was my opinion that Mr Fels had been manipulated. Quite clearly Mr Fels, from what I understood, and also I go back to that thing I heard on the way to work on the radio that you had raised earlier on in presenting a question to Mr Crichton-Browne whereby Mr Fels actually says something to the effect that, you know, he thought all this was okay; the terms of reference had been drafted; you know, Noel told him that they were drafted by Mr McCusker, QC; so it had to be all right. Now, you know, at the end of the day it goes to the point of how a new, inexperienced member might actually perceive somebody who has been in the political world for quite some time and has established some sense of credibility, if you like, about them, and I would say that Mr Fels may well have deferred to Mr Crichton-Browne; sought guidance from Mr Crichton-Browne; thought that Mr Crichton-Browne would always do the right thing by him; and in some ways maybe even protect him—I do not know. But what I do know is that everything that I have read and everything that I have heard and everything that I have seen on the television would lead me to the conclusion that there was no great respect for Mr Fels's abilities by Mr Crichton-Browne because, quite frankly, he would not have perhaps gone and approached a person to do what he approached Mr Fels to do if that person was of a stature or whatever who might have just asked the question, "Well, why am I doing this? What's in it for who," and so on and so forth. Why did Mr Crichton-Browne not approach Hon George Cash to go and do this, to take terms of

reference to the Parliament? Probably because he understands that Hon George Cash is a competent, able member of Parliament —

[12.40 pm]

Hon GEORGE CASH: Could you repeat that?

Hon LJILJANNA RAVLICH: The point is that he went to somebody who he may have suspected was going to be more compliant and not ask so many questions.

The CHAIRMAN: There is no need for a plea in mitigation at this stage! There might be, but there is no need at this stage.

Hon LJILJANNA RAVLICH: Mr Chairman, you understand the point I am making? I want you to understand the point.

The CHAIRMAN: I think I understood it the first time you said it. Paragraph 49 of the affidavit is, again, a quotation from the speech. Paragraphs 50 and 51 are Mr Crichton-Browne's commentary on that. Paragraph 49 commences with the words —

They sought also to draw in other Members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of Members.

It goes on to refer to a number of actions, in particular actions of Mr Burke. Mr Crichton-Browne's commentary at paragraph 50 states —

Mr Crichton-Browne did not '*seek to draw in other members*'.

He then goes on to make other observations. Why did you use the words, "They sought also to draw in other members by involving Mr Chapple and exploiting that link"? What was Mr Crichton-Browne's relationship with those words?

Hon LJILJANNA RAVLICH: Mr Chairman, my recollection was that there was a proposal to draw in Mr Chapple. That is what I believed to be the case at the time, so there was certainly no part on me to mislead or misrepresent. If I draw your attention to a committee finding in terms of other people being drawn in from the committee, my response states —

The committee reported that despite several emails and phone conversations indicating that Mr Crichton-Browne was going to contact Hon Norman Moore MLC about the draft inquiry terms of reference, ... Mr Crichton-Browne does not recall having any such conversations with Hon Norman Moore MLC, ... and likewise the Hon Norman Moore MLC had no recollection of having any such conversations with Mr Crichton-Browne ...

Certainly in the report it was reported that Mr Crichton-Browne was going to contact Hon Norman Moore and Hon George Cash. To the best of my recollection, both of those members had stated to the committee that they had no contact with Mr Crichton-Browne. That line of inquiry went no further, but certainly it demonstrated to me that Mr Crichton-Browne was certainly trying to draw in other members. Now, I accept the committee's findings in respect to Hon Norman Moore and Hon George Cash, but it is evidence of the fact that there was some intent.

Hon GEORGE CASH: Just in respect of that matter, because you have raised my name, in fact it was not Mr Crichton-Browne who intended to contact either myself or Hon Norman Moore according to the evidence to the select committee; it was in fact Mr Burke's assertion that that was going to happen. If you look at the evidence of the select committee, you will see that Mr Crichton-Browne claims he knows nothing of any discussions by Mr Burke about him, Mr Crichton-Browne, contacting either Hon Norman Moore or myself. I think you have to understand the context in which that is said, and that is that Mr Burke made certain assertions. The mere fact that he made assertions does not necessarily mean that they were accurate or truthful.

Hon LJILJANNA RAVLICH: The only response I can make is that I thought that to be the truth at the time —

Hon GEORGE CASH: I am not suggesting that you did not; I am just saying that you just said Mr Crichton-Browne intended to do certain things. That is not what the report says; the report says that Mr Burke made certain claims, which were later found in evidence not to be able to be substantiated.

Hon LJILJANNA RAVLICH: I think it is fair to say that the line of inquiry went no further.

Hon GEORGE CASH: I agree; quite so.

The CHAIRMAN: Paragraph 52 again is a quotation. Paragraphs 53 and 54 contain Mr Crichton-Browne's commentary. In paragraph 53 in particular, Mr Crichton-Browne states —

Hon Ljiljanna Ravlich is apparently in this statement, seeking to place a sinister connotation upon a reference to the Standing Committee on Public Administration and why it was not chosen for the proposed iron ore inquiry.

What is your response to that proposition?

Hon LJILJANNA RAVLICH: That is not true. That is not true. At no time had I sought to place a sinister connotation upon a reference to the Standing Committee on Public Administration, or on why it was chosen for the proposed iron ore inquiry. However, there is evidence in the report that clearly demonstrates that there was some. I refer to paragraph 8.29 of my response, which states —

Hon Anthony Fels MLC told the Committee that sometime after late September:

“Noel Crichton-Browne raised with me the possibility of the estimates committee making an inquiry into the iron ore policy of the state, because I remember having the discussions with him that it was my view that it should actually fall under the Standing Committee on Public Administration, and not our committee at that time.”

The only point I make is that I would have no reason to place a sinister connotation upon a reference to the standing committee, and nor did I.

Hon BARRY HOUSE: Mr Chairman, might I just point out there that in the Hon Ljiljanna Ravlich's document, she has actually missed out an important “not” in that term. When she repeated assertion 53, the word “not” was left out of her document, so that changes the context of it completely, but it is obviously a typographical omission.

Hon LJILJANNA RAVLICH: Can I just make a point in respect of that? I am not a brilliant typist; I have tried to do my best in terms of providing a response to the statement of claims by Mr Noel Crichton-Browne. It is a working document, and if you have any clarifications, I do not doubt that you will bring me back and I will give you further information, if there is the need.

Hon GEORGE CASH: Can we just correct the record now? If there is a “not” missing, I think Hon Ljiljanna Ravlich would want to put it back in. Whereabouts is it? Which page is it on?

Hon BARRY HOUSE: It is on page 15 of the document tabled, point 53.

Hon LJILJANNA RAVLICH: Third line? Yes, I actually have it here, and I have “amendment insert”. Yes, you are right. It should read —

The Hon Ljiljanna Ravlich is apparently in a statement, seeking to place a sinister connotation upon a reference to the Standing Committee on Public Administration and why it was not chosen ...

I have got it earmarked, but I have got so much other writing on the page!

[12.50 pm]

The CHAIRMAN: I think that is, hopefully, clear.

Paragraph 55 of the affidavit is again a quotation from your speech. I will just read it out —

There are references to many people in this report. At the end of the day, there is no doubt that a part of the way in which Mr Burke, Mr Grill and Mr Crichton-Browne operated was to try to get as many people as they could into their web.

Then paragraphs 56 and 57 provide Mr Crichton-Browne's commentaries; namely —

The inferences in Hon Ljiljanna Ravlich's statement are that Mr Crichton-Browne acted in a deceitful and devious fashion so as to entrap people for improper purposes.

Paragraph 57 —

This claim is without substance or truth and it does not arise from the evidence or the findings of the Select Committee.

So you see what Mr Crichton-Browne is saying about your words in paragraph 55. Why did you use those words in paragraph 55?

Hon LJILJANNA RAVLICH: Well, I did not use the words "deceitful" or "devious"; they are the words of Mr Crichton-Browne. It was an observation on my part from a range of sources—from what I had read, heard, seen—that there was no doubt that a part of the way in which Mr Burke, Grill and Mr Crichton-Browne operated was to try to get as many people as they could involved, and quite clearly I think it is borne out by the report of the committee. The involvement of Ms Shelley Archer, the involvement of Mr Anthony Fels, the involvement of—so, Mr Chairman, I do not believe that that claim is without substance. It is certainly an observation and it is certainly my view. As both an observation and my view, I am quite entitled, I think, under privilege, to actually express the observations and the views that I have within the Parliament on this particular matter, as indeed I am on any matter, as I understand.

The CHAIRMAN: Paragraph 58 is a quotation from your speech, of which a number of points are made. Paragraphs 59, 60 and 61 set out Mr Crichton-Browne's complaints.

Hon LJILJANNA RAVLICH: Can I just make a comment in relation to 59: certainly they are not my words. I have not used the word "monstrous" in relation to—or "unscrupulous". Certainly they are not my words —

The CHAIRMAN: No—I do not mean to interrupt. Nobody is suggesting that they were your words. Your words are set out in paragraph 58. Mr Crichton-Browne is putting forward his view, in paragraph 59, that your words mean that.

Hon LJILJANNA RAVLICH: I have to say that I think that that is his interpretation of my words. It was never the intent for them to be interpreted in that way. In respect of 60; once again, that is his interpretation of my words. It was never intended—or was it? Hang on. Well, I stand by the words that I have said because they are my beliefs, and that is that Mr Grill, Mr Burke and Mr Crichton-Browne have acted in financial self-interest; it is my belief that they have scant regard about who they hurt in the process of achieving their desired outcomes. It is my belief, also, that good people do not use, exploit and deceive others intentionally in pursuit of their financial interest. Are we saying, to the contrary, that good people do use, exploit, deceive other people intentionally to achieve their own financial interests? Do we say, Mr Chairman, that it is okay to manipulate longstanding institutions like the Parliament? Do we say it is okay to corrupt the process of democratic decision making? I say it is not. I say it is not.

The CHAIRMAN: With respect to paragraph 61, Mr Crichton-Browne is accusing you, by inference, of untruthfully accusing him.

Hon LJILJANNA RAVLICH: But my response is, he was a party to a strategy—he was a party to a strategy. He may not have designed the strategy, but he certainly was a party to the implementation of a strategy which had as its objectives the purpose of using an inquiry that was put to a committee of the Parliament to influence and persuade Rio Tinto Ltd to settle the dispute

over the Shovelanna tenement in terms favourable to Cazaly Resources. He was a part of an inquiry that was going to be calling, or threatening to call, as witnesses Rio Tinto Ltd executives for questioning before the Standing Committee on Estimates and Financial Operations, and publicly embarrassing them. He was a part of an inquiry that was aimed at uncovering useful documents and/or evidence to assist in the Supreme Court appeal against former Minister Bowler's decision in the Shovelanna tenement. He was a part of an inquiry, and they were going to use that inquiry to influence or persuade the state government minister to accede to, or to facilitate the settlement of the dispute over the Shovelanna tenement in terms favourable to Cazaly Ltd. As a part of that strategy he was also going to be a party to that committee then calling, or threatening to call as witnesses senior public servants, and the minister for questioning before the Standing Committee of Estimates and Financial Operations, and publicly embarrassing them. He was part of an inquiry that was going to uncover useful documents and evidence to assist in the Supreme Court appeal against former minister Bowler's decision on the Shovelanna tenement and influence the outcomes of the legal proceedings then on foot before the Court of Appeal of the Supreme Court of Western Australia against the former minister Bowler's decision on the Shovelanna dispute by: stirring up public support for Cazaly Resources Ltd; attempting to circumvent the sub judice rule by taking active steps to disguise the fact that Cazaly Resources Ltd was promoting the proposed inquiry into the state's iron ore policy and uncovering useful documents or evidence in the standing committee on the estimates and financial operations proceedings to assist in the Supreme Court appeal; and, also, finally, Mr Chairman, he was a party to, through his involvement in implementing the strategy, discrediting the state's iron ore policy so that the policy could not—would not—be relied on by the minister in the event that the Supreme Court sent the matter back to the minister for a fresh decision. All of those things, Mr Chairman, all of those things, in my view, had the capacity to influence the share price of Cazaly shares, Shovelanna shares and, by implication, Rio Tinto shares. I put this to you: had this strategy been successful, had interim reports been made public favourable to Cazaly, there is no doubt in my mind that that information in the commercial marketplace would have had a very, very significant impact on the share price of Cazaly shares. No doubt, and the premise of what I have said is that this is a very comprehensive strategy. This is not a one-dimensional point A to point B strategy. This has got a number of multiple layers to it and I think it is fair to say that one of those layers was about how this committee could have been used for the purpose of making public comment, putting out interim reports, causing embarrassment to chair people of the respective companies so as to have some share market impact. Share price market impact, that is what I will call it, share price market impact. Now, you might say that that is drawing a long bow. I would say to you, Mr Chairman, that that is my view. I might be wrong, I might be right, but at the end of the day it is my view, and if I cannot exercise that view in the Parliament, then I think that we have grave cause for concern.

[1.00 pm]

The CHAIRMAN: Does any member have any questions?

Hon GEORGE CASH: I would just ask one question of Hon Ljiljanna Ravlich; that is, do you as a member of Parliament believe that you are entitled to be wrong when you make speeches in the Parliament?

Hon LJILJANNA RAVLICH: No, I do not. Am I entitled to be wrong? Yes, I am, if I am accidentally wrong. I am not entitled to be intentionally wrong. If I am wrong because I intentionally want to portray something that is not true, then no, I do not find that acceptable. But if in the course of my work—and we have all been in this, you know; you are busy, you are a minister, whatever, whatever—if in the course of your work—or you do not get the correct *Hansard* the next day, and inadvertently you are looking at it three months down the track and you find there is a technical error in it, for example; that is what I would define as a minor contempt.

Hon GEORGE CASH: I put it this way. A member is entitled to be inadvertently wrong, but they should not set out to be intentionally wrong.

Hon LJILJANNA RAVLICH: Absolutely, absolutely; no question about that.

Hon GEORGE CASH: You acknowledge in some of your comments that you may have been inadvertently wrong.

Hon LJILJANNA RAVLICH: If I am, I apologise. It was never my intent. It was never my intent.

The CHAIRMAN: Are there any further questions?

Hon KEN TRAVERS: I want to ask a very simple question in relationship to the speech that you gave on 29 November to the Parliament. I want to know that when you used the words in that speech, you honestly believed them to be true when you gave that speech on 29 November.

Hon LJILJANNA RAVLICH: Without question. No doubt.

The CHAIRMAN: Any further questions?

Hon BARRY HOUSE: Thank you, Mr Chairman. You mentioned that your references for your speech on 29 November last year were the select committee report and media reports. How thoroughly had you read the select committee report prior to making the speech, and did you use any other notes provided from elsewhere—any other source—in making your comments?

Hon LJILJANNA RAVLICH: I think I read the committee report fairly thoroughly, and I think it is fair to say I certainly read the executive summary, certainly read the report. But I think it is fair to say also that when you are reading reports on a computer it is not like actually physically reading them, like every single word, so you read and then you would stop at a certain point that takes your interest and so on and so forth. But I can say that I have read the committee report and I am confident that the information that I have taken from it was the basis of the comments that I made in the Parliament.

Hon BARRY HOUSE: The other part of the question was: were you using any notes provided from elsewhere in making your comments?

Hon LJILJANNA RAVLICH: Such as?

Hon BARRY HOUSE: It is just a pretty straightforward question.

Hon LJILJANNA RAVLICH: No, that I remember. I mean, as I normally do, I would select information from a number of sources, put down the key lines and make my speech; so, no. I would have used media. I would have probably read some media transcripts in respect of it. Keep in mind that there was a lot going on at that time in relation to this whole question of lobbying and the involvement of public servants and general misconduct in relation to the question of lobbying. So it was not like we were actually dealing with an issue in isolation from a whole lot of stuff going on in respect of these matters. I certainly got information from a number of sources, as I would normally do, but is there anything specific that I remember —

Hon BARRY HOUSE: My point in asking the question is Mr Crichton-Browne just a short while ago made the assertion that you were perhaps making some of your comments as a backup to the tactic used in the Legislative Assembly by other members of your party.

Hon LJILJANNA RAVLICH: Was there a tactic? I do not know. I made a speech because I felt that—I tell you what, I made the speech because I was quite angry. I mean, I was angry that people who should have known better, did not, and that the institution of Parliament was being treated in the way that it had been. I mean, people would have a right to be angry that deliberations within a committee were made public through some sort of secret squirrels arrangement with outside forces. I mean, I was very disturbed, as all members should have been, that this is what could happen within the Western Australian Parliament. But no, it was not a part of —

Hon BARRY HOUSE: The point of asking the question is were you basically singing from the same hymn sheet as other members may have been in another place?

Hon LJILJANNA RAVLICH: Well look, I say this to you —

Hon BARRY HOUSE: When I say him hymn sheet, I mean a series of notes.

Hon LJILJANNA RAVLICH: No. I prepared my own notes. But I will say this. I had a press release. I just want to read you this press release. It was from the *Sunday Times*, a Matt Price article, where he says —

Both sides of State Parliament are packed with dud MPs, and Burke, working in tandem with disgraced former Liberal senator Noel Crichton Browne, was able to prey on the weakness and stupidity of these gullible, vulnerable and witless politicians.

Another press release states —

The CCC has also heard evidence that Mr Burke and Mr Grill paid disgraced ex-Liberal senator Noel Crichton-Browne \$2000 a month to lobby Liberal MPs.

At the end of the day, it is not like this information was not available on the public record. So was I part of some strategy that was happening in the lower house? Absolutely not.

The CHAIRMAN: Any further questions, members? Are we going to give Hon Ljiljanna Ravlich the opportunity to sum up? Members are looking at me and looking at the clock. Is there anything else you wish to say, having regard to the narrow context of the matters we are supposed to be dealing with?

Hon LJILJANNA RAVLICH: Yes, I would. Sorry, Mr Chairman, but I just want to put on the record why I made my speech, because I think it is important. I did make my speech because I believe that the financial interests of a small number of people resulted in an abuse of the committee system of the Western Australian Parliament, and also has ruined the reputations of a number of people, some of whom had no knowledge of the strategy being implemented or the financial benefit to those behind the development of its implementation. Further, I believe that there was an injustice which had been perpetrated towards two new inexperienced members of the Legislative Council, who could rightly have expected a former Premier, a former state minister and a former senator to have some level of duty of care towards them. I made that speech, and I make no apologies for having made that speech, but now feel that I could have done without the trouble, given that in due course your committee will deliberate on whether or not I have breached privilege and am in contempt myself. I think it will be a very, very sad day for the Parliament if members are reticent about getting on their feet to make their views and opinions that they genuinely hold and believe for fear that under standing order 134 they will now have to do what I have had to do, and that is spend a week of my time preparing a response to this committee, and for those who do not have the capacity—and albeit mine is not perfect—incur the cost of paying legal counsel. I think that we are moving into a very serious area. I understand why that standing order was changed in 2000. However, I would ask that perhaps this committee, as a part of its deliberations, have a look at how these matters are dealt with by the Legislative Assembly.

The CHAIRMAN: Thank you for your attendance.

Hon LJILJANNA RAVLICH: Thank you very much, Mr Chairman.

Hearing concluded at 1.09 pm

APPENDIX 5

RESPONSE TO THE STATEMENT OF FACTS

Notes:

1. The side-bars against some paragraphs indicate where the tabled document was highlighted by the author.
2. Correction: Report page 59 - quoted paragraph 53, the word “not” should appear prior to the word “chosen” in the last line of the paragraph.

APPENDIX 5

RESPONSE TO THE STATEMENT OF FACTS

1

RESPONSE TO THE STATEMENT OF FACTS

SPEECH EXTRACT

(7) Hon Ljiljanna Ravlich: In supporting the amendment I wish to recapture some of the key points in the chronology of events of the select committee and what it uncovered. The origin of this whole matter is found in 2005 in the dispute between Cazaly Resources Ltd together with Echelon Resources Ltd on one side and Rio Tinto on the other side. Shovelanna was an iron ore deposit near Newman that was originally pegged in the 1970s. Rio Tinto's documentation for the renewal of its lease somehow had not arrived in the Mining Warden's office by the prescribed date, which was 28 August 2005, and therefore Cazaly Resources successfully applied for a lease over what was technically vacant land (under the WA Mining Act. The minister at the time, John Bowler, had to rule on the matter. He ruled in favour of Rio Tinto's application to have Cazaly's lease struck out under the Mining Act. Following that, I understand that the ruling was tested in the Supreme Court, which found in the government's favour. Therefore, Minister Bowler's decision was upheld. It was that decision that Cazaly was seeking to overturn. I suspect that what happened from there was that Cazaly may well have been advised of the services of Mr Burke and Mr Grill in this matter. They worked with Mr Crichton-Browne in order to affect a shift, if you like, from the position it was in.

Statement of Facts (8)(9)

(8) The only reasonable interpretation of the Hon Ljiljanna Ravlich's words insofar as they relate to Mr Crichton-Browne is that Mr Crichton-Browne 'worked' to have the decision by Mr Bowler overturned.

(9) The Hon Ljiljanna Ravlich's claim is false and is not supported by the evidence in the Report of the Select Committee

Evidence – Select Committee Report

Executive summary

1 The Committee has identified that there were a number of unauthorised disclosures, from separate sources, between 30 October 2006 and 1 February 2007 of the deliberations of the Standing Committee on Estimates and Financial Operations in relation to a proposed inquiry into the State's iron ore industry.

2 The Committee has concluded that each and every one of these unauthorised disclosures was 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.

3 Specifically the strategy involved using the Standing Committee on Estimates and Financial Operations to establish an inquiry into the State's iron ore policy, not primarily for the purposes of the inquiry itself, but for the purpose of:

- a) using the inquiry to influence or persuade Rio Tinto Limited to settle the dispute over the Shovelanna tenement on terms favourable to Cazaly Resources Limited by:

- calling or threatening to call as witnesses Rio Tinto Limited executives for questioning before the Standing Committee on Estimates and Financial Operations and publicly embarrassing them; and
 - uncovering useful documents and/or evidence to assist in the Supreme Court appeal against former Minister Bowler's decision on the Shovelanna tenement;
- b) using the inquiry to influence or persuade the State Government (Minister) to accede to or to facilitate the settlement of the dispute over the Shovelanna tenement on terms favourable to Cazaly Resources Limited by:
- calling or threatening to call as witnesses senior public servants, and Ministers for questioning before the Standing Committee on Estimates and Financial Operations and publicly embarrassing them; and
 - uncovering useful documents and/or evidence to assist in the Supreme Court appeal against former Minister Bowler's decision on the Shovelanna tenement;
- c) influencing the outcome of the legal proceedings then on foot before the Court of Appeal of the Supreme Court of Western Australia against former Minister Bowler's decision on the Shovelanna dispute by:
- stirring up public support for Cazaly Resources Limited;
 - attempting to circumvent the *sub judice* rule by taking active steps to disguise the fact that Cazaly Resources Limited was promoting the proposed inquiry into the State's iron ore policy; and
 - uncovering useful documents/and or evidence in the Standing Committee on Estimates and Financial Operations proceedings to assist in the Supreme Court appeal; and
- d) discrediting the State's iron ore policy so that the policy could not and would not be relied on by the Minister in the event that the Supreme Court sent the matter back to the Minister for a fresh decision.

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (8)(9)

- (1) I oppose point (8) in the Statement of Facts:
- “that the only reasonable interpretation of the Hon Ljiljanna Ravlich's words insofar as they relate to Mr Noel Crichton-Browne is that Mr Noel Crichton Browne “worked” to have the decision made by Minister Bowler overturned”.
- (2) My speech states that “It was that decision that Cazaly was seeking to overturn”. Mr Crichton Browne has changed my words to suit his purpose. The statement in question makes no reference to Mr Crichton Browne seeking to overturn the decision. In any event the matter was already in the Court of Appeal in the Supreme Court and it would have been too late to have it overturned by the Minister, in any event.
- (3) I make it clear in the last line of the paragraph in question “They worked with Mr Crichton-Browne in order to affect a shift, if you like, from the position it was in ”.

In doing so I use language that better reflects what was aimed to be achieved by those involved “Effecting a shift is to move, budge, transfer, change, alter, swing, modify or relocate (English thesaurus).

To overturn is to turn over, knock over, tip over, capsize or topple. The term overturn is not synonymous with affecting a shift and furthermore, this term was not applied to Mr Crichton Browne.

It is clear from the Executive Summary 3(a) (b) and (c) that the focus of the strategy was not directly aimed at overturning the decision made by Minister Bowler. It was a comprehensive, multi dimensional strategy aimed to achieve one of three outcomes:

- a) using the inquiry to influence or persuade Rio Tinto Limited to settle the dispute over the Shovelanna tenement on terms favourable to Cazaly Resources Limited by:
- b) using the inquiry to influence or persuade the State Government (Minister) to accede to or to facilitate the settlement of the dispute over the Shovelanna tenement on terms favourable to Cazaly Resources Limited by:
- c) influencing the outcome of the legal proceedings then on foot before the Court of Appeal of the Supreme Court of Western Australia against former Minister Bowler’s decision on the Shovelanna dispute by:
- d) discrediting the State’s iron ore policy so that the policy could not and would not be relied on by the Minister in the event that the Supreme Court sent the matter back to the Minister for a fresh decision.

Statement of Facts (10)

Following is one of two articles written by Mr Crichton-Browne and published on the matter of the disputation between Cazaly Resources and Rio Tinto prior to the Crime and Corruption Commission hearings and those of the Select Committee. In stark contradiction to the false allegations of the Hon Ljiljanna Ravlich, Mr Crichton Browne’s article gives unqualified support for the decision made by Minister Bowler and gives no comfort to those who were seeking to have it overturned.

Hon Ljiljanna Ravlich’s Reponse to Statement of Facts (10)

- (1) I note (10) in the Statement of Facts and make the following observations:
- (2) Mr Crichton Browne’s claim that this is one of two articles written by him published on the matter of the disputation between Cazaly Resources and Rio Tinto prior to the Crime and Corruption Commission hearings and those of the Select Committee and he supported the position taken by Mr Bowler. By reason it would follow that if he supported Minister Bowler’s decision there would have been no reason for him to participate in the strategy.
- (3) However Mr Crichton Browne did participate in the strategy as the “Select Committee Report finds that each and every one of these unauthorised disclosures was as a result of a strategy

devised and implemented by the directors of Cazaly Resources Limited, their lawyers and consultants” of which Mr Crichton Browne was one.

- (4) Furthermore it is possible that even though Mr Crichton Browne may have held the view that Minister Bowler’s decision was the right one, he was nevertheless at the same time prepared to be a party to implementing the strategy and to be paid for lobbying on behalf of his client irrespective of his personal view. To that extent the articles in question in my view prove nothing.
- (5) It is true that lobbyists often promote the position or views of their clients without necessarily holding those views themselves.

SPEECH EXTRACT

(12) However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options.

Statement of Facts No (13)(14)

(13) The Hon Ljiljana Ravlich is again repeating her earlier allegations in relation to Mr Crichton Browne, this time with further embellishments which have no truth in fact and of which no evidence was provided in the Report of the select.

(14) At the heart of the Hon Ljiljana Ravlich’s allegation against Mr Crichton-Browne is the false assertion that he was a part of a plan which was apparently to have Rio Tinto pressured into settling in some form with Cazaly resources in respect to the Shovelanna iron ore deposit.

Evidence – Select Committee Report

Executive summary

2 The Committee has concluded that each and every one of these unauthorised disclosures was 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.

3 Specifically the strategy involved using the Standing Committee on Estimates and Financial Operations to establish an inquiry into the State’s iron ore policy, not primarily for the purposes of the inquiry itself, but for the purpose of:

- a) using the inquiry to influence or persuade Rio Tinto Limited to settle the dispute over the Shovelanna tenement on terms favourable to Cazaly Resources Limited by:

calling or threatening to call as witnesses Rio Tinto Limited executives for questioning before the Standing Committee on Estimates and Financial Operations and publicly embarrassing them; and

uncovering useful documents and/or evidence to assist in the Supreme Court appeal against former Minister Bowler's decision on the Shovelling tenement;

- b) using the inquiry to influence or persuade the State Government (Minister) to accede to or to facilitate the settlement of the dispute over the Shovelling tenement on terms favourable to Cazaly Resources Limited by:

calling or threatening to call as witnesses senior public servants, and Ministers for questioning before the Standing Committee on Estimates and Financial Operations and publicly embarrassing them; and

uncovering useful documents and/or evidence to assist in the Supreme Court appeal against former Minister Bowler's decision on the Shovelling tenement;

- c) influencing the outcome of the legal proceedings then on foot before the Court of Appeal of the Supreme Court of Western Australia against former Minister Bowler's decision on the Shovelanna dispute by:

stirring up public support for Cazaly Resources Limited;

attempting to circumvent the *sub judice* rule by taking active steps to disguise the fact that Cazaly Resources Limited was promoting the proposed inquiry into the State's iron ore policy; and

uncovering useful documents/and or evidence in the Standing Committee on Estimates and Financial Operations proceedings to assist in the Supreme Court appeal; and

- d) discrediting the State's iron ore policy so that the policy could not and would not be relied on by the Minister in the event that the Supreme Court sent the matter back to the Minister for a fresh decision.

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (13)(14)

- (1) I Note (13) in the statement of facts.
- (2) In respect to (14) in the statement of facts, the Select Committee Report states that the "Specifically the strategy involved using the Standing Committee on Estimates and Financial Operations to establish an inquiry into the State's iron ore policy, not primarily for the purposes of the inquiry itself, but for the purpose of using the inquiry to influence or persuade Rio Tinto Limited to settle the dispute over the Shovelling tenement on terms favourable to Cazaly Resources Limited by....."
- (3) The Select Committee found that each and every one of these unauthorised disclosures was as a result of a strategy devised and implemented by the directors of Cazaly Resources Limited, their lawyers and consultants of which Mr Crichton Browne was one.

- (4) The select Committee findings show that Mr Crichton-Brownee in his role as a consultant was part of a strategy, part of which was to seek to have Rio Tinto pressured into settling in some form with Cazaly Resources in respect to the Shovelanna iron ore dispute. This evidenced is provided at 3(a) of the Executive Summary of the Select Committee Report.
- (5) In respect to the question of the \$2 million based on share options, Mr Crichton Browne is trying to change the meaning of my words which should be read in the context of the previous paragraph in my speech. The speech refers to the fee that Mr Grill and Mr Burke were due to receive and makes no mention of Mr Crichton Browne in respect of this matter. The \$2 million referred to would have include the value of shares and options.
- (6) I subsequently further qualified my remarks by saying ... “ Therefore, it seems apparent to me that”

However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options.
- (7) Mr Crichton-Browne was being paid \$2,000 per month as a lobbyist for Brian Burke and at the same time was on the payroll of Cazaly for two months as a consultant at a fixed fee of \$7,500 for that time.

Statement of Facts No (15) (16) (19) (21) (22) (29) (30) (31)

- (15) The consequence of this plan according to the Hon Ljiljanna Ravlich was to be the inflation of Cazaly resource shares. The instrument and vehicle to facilitate this outcome was to be the Standing Committee on Estimates and Financial Operations.
- (16) This statement by the Hon Ljiljanna Ravlich and the implication of its claim are entirely untrue insofar as it refers to Mr Crichton Browne. The report expressly sets out whom it alleged was responsible for the strategy and who did not. Mr Crichton Browne knew nothing, nor was a party to any ‘plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing some pressure to bear so that there could be some change in the outcome.
- (19) Not only was Mr Crichton-Browne not involved in any such “strategy”. Mr Crichton-Browne’s first knowledge of what the Select committee describes as a “strategy” was when he was provided with a draft copy of the Report of the Select committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations.
- (29) The truth is that the Committees inquiries did not reveal that Mr Crichton Browne was a “key figure at the centre of this whole issue” of a plan about how the share price could be influenced by using the Select Committee on Estimates and Financial Operations.
- (30) Not only was Mr Crichton Browne not a key figure at the centre of the whole issue, the Committee was unable to establish conclusively that Mr Crichton Browne was fully informed by the other participants in the strategy as to the true nature of the intended SCEFO

- (31). The truth is there is no evidence in the report that Mr Crichton Brown was partly or wholly informed by the other participants in the strategy as to the true nature of the intended SCEFO

Evidence – Select Committee Report

The Engagement of Mr Noel Crichton Browne as a Consultant

8.20 As noted above, at 3:22pm on 13 September 2006 Mr Burke, by email, relayed the advice of Hon Shelley Archer MLC on the terms of reference to the persons interested in the strategy.²⁷⁰ Mr Burke also suggested engaging Mr Noel Crichton-Browne, another former Member of Parliament (Commonwealth Senate), to approach key Liberal Party MLCs to gain the support of the Liberal Party Members on SCEFO.

8.21 At 3:41pm on 14 September 2006, Mr Burke emailed Mr Edel and courtesy copied other persons involved in the strategy to advise that:

"I have now had advice that the Government members feel comfortable with the Terms of Reference and I am approaching Noel Crichton Browne to see if he will arrange for the inquiry to be proposed by an Opposition member. Noel will require a full briefing which neither Julian nor I should do. Suggestions?"²⁷¹

8.22 An email from Mr Burke to Mr Crichton-Browne at 3:58pm on 14 September 2006 states:

"You may be approached by interests aggrieved at the decision by the Minister in the matter of the Cazaly versus RTZ dispute over the Shovelling Iron Ore Lease.

As one part of a comprehensive strategy, Julian and I have suggested a Parliamentary Inquiry into, broadly speaking, the sterilisation by major companies (largely BHP and RTZ) of huge areas of prospective ground. The suggested Terms of reference as settled after discussions with McCusker QC are attached. The Committee selected to carry out the inquiry is the Standing Committee on Estimates and Financial Operations. It is a Committee of the Legislative Council and the Government is not in the majority. I have suggested to those who retained Julian and me that you are the person most likely to be able to successfully see the inquiry proposed by an Opposition member. I have reason to believe that - if it is so proposed - the Government members will not object. ..."²⁷²

8.23 Mr Burke forwarded the above email at 4:01pm to Mr Grill, Mr Edel, Mr McMahon, Mr Clive Jones, Mr Clough and Mr Tasker, noting that Mr Crichton-Browne

"... is very detailed in his approach but - as previously indicated - Committee member Fels is close to him and a very close colleague of his works with Mr Hallet."²⁷³

8.24 On 10 October 2006 Mr Grill, Mr Burke, Mr McMahon, Mr Edel and Mr Alex Jones, meet with Mr Crichton-Browne at the offices of DLA Phillips Fox (with whom Gadens had then amalgamated) in order to brief him and review the draft terms of reference for the proposed parliamentary inquiry into the iron ore industry.²⁷⁴ Mr Crichton-Browne advised the Committee that:

"I was first contacted by Mr Edel and my ongoing contact has been with Phillips Fox however it is more precise to state that I was engaged by the Managing Director of Cazaly Resources, Mr Nathan McMahon."²⁷⁵

8.25 Mr Crichton-Browne also gave the following evidence regarding the terms of his engagement by Cazaly Resources Limited:

*“They asked me could I prepare a reference and seek to have that reference presented to Mr Fels in particular, I think, for the purposes of it being a matter of examination by the committee of which Mr Fels was a member.”*²⁷⁶

8.26 Throughout mid October 2006 Mr Crichton-Browne provided input into the draft terms of reference. In a telephone conversation at 8:34pm on 16 October 2006, which was intercepted by the CCC, Mr Crichton-Browne queried with Mr Burke as to whether the draft terms of reference were too focussed on past events and, as such, may not be supported by the Liberal Party.²⁷⁷ During the conversation, Mr Burke said that he had spoken to Hon Shelley Archer MLC earlier that day and had told her to speak to Hon Anthony Fels MLC about the proposed inquiry. Mr Crichton-Browne responded by telling Mr Burke not to advise Hon Shelley Archer MLC to speak to Hon Anthony Fels MLC, as he has yet to decide how to raise the subject of the proposed inquiry with the Liberal Party Members of the Legislative Council.²⁷⁸

7.18 Echelon Resources Limited was a minor shareholder in Cazaly Resources Limited During 2006. it was the evidence of Mr Matthew Rimes, former Managing Director of Echelon Resources Limited, that Echelon Resources Limited held a million fully paid shares in Cazaly resources Limited and it also had five million options.¹⁵⁷ This was only a two to three per cent shareholding in Cazaly Resources Limited.¹⁵⁸ However, Echelon Resources Limited was to have a 14% interest in the Shovelling lease joint venture,¹⁵⁹ and there was evidence that Echelon Resources Limited paid 14% of Cazaly Resources Limited’s bills in relation to the Shovelling dispute.¹⁶⁰

The CCC audio intercept evidence indicates that both Mr Burke and Mr Grill were monitoring the share price of both Echelon Resources Limited and Cazaly Resources Limited between February and April 2006.

172 The evidence shows that Mr Grill had shares in both Echelon Resources Limited and Cazaly Resources Limited.¹⁷³ It would also appear that Mr Burke held shares in at least Echelon Resources Limited,¹⁷⁴ despite his lack of recollection of such shareholding.¹⁷⁵ In one telephone conversation recorded by the CCC at 4:17pm on 21 April 2006 (the day Minister Bowler made his decision), Mr Burke states:

*“I’m sorry I misled you about Echelon, ... I mean, I was buying ‘em because I was pos, I was absolutely, I was going to buy a hundred thousand of them and spend eighty grand and then turn into a hundred and fifty grand and get out.”*¹⁷⁶

7.40 At 1:22pm on 25 May 2006 Mr Burke emailed Mr Grill to advise that on that day Mr McMahan had offered them 100,000 full paid Cazaly Resources Limited shares if they succeed with the Shovelling matter by Christmas, in addition to the agreed success fee from Echelon Resources Limited.¹⁹⁰ Mr Burke advised Mr Grill that he had accepted Mr McMahan’s offer.

Mr Crichton-Browne’s evidence to the Committee was that he did not hold shares in either Cazaly Resources Limited or Echelon Resources Limited.

Hon Ljiljanna Ravlich’s Reponse to Statement of Facts No (15) (16) (19) (21) (22) (29) (30) (31)

- (1) I note (15) in the Statement of facts that “The consequence of this plan according to the Hon Ljiljanna Ravlich was to be the inflation of Cazaly resource shares. The instrument and vehicle to facilitate this outcome was to be the Standing Committee on Estimates and Financial Operations”.

- (2) I oppose (16) (19) and (29) in the statement of facts as there is overwhelming evidence to the contrary as borne out by the evidence of the CCC, the Select Committee report's findings, observations and recommendations. There is strong evidence to support that Mr Crichton Browne was a key player through his actions in implementing parts of the strategy. The word "plan" in the context of this paragraph has been interchanged with the term "strategy". There is evidence to support the claim that the share price of Cazaly, Echelon and Rio Tinto could have been affected by the strategy.

172 The evidence shows that Mr Grill had shares in both Echelon Resources Limited and Cazaly Resources Limited.173 It would also appear that Mr Burke held shares in at least Echelon Resources Limited,174 despite his lack of recollection of such shareholding.175 In one telephone conversation recorded by the CCC at 4:17pm on 21 April 2006 (the day Minister Bowler made his decision), Mr Burke states:

*"I'm sorry I misled you about Echelon, ... I mean, I was buying 'em because I was pos, I was absolutely, I was going to buy a hundred thousand of them and spend eighty grand and then turn into a hundred and fifty grand and get out."*176

- (3) To that extent Mr Crichton Browne was at least in part aware of the broader strategy and by virtue of the fact that he had in a previous life worked as a registrar in the mining warden's court in my view he should have known that the strategy that he was participating in was likely to have share price impact. He should have known that the stock market is sensitive to new information released to it in respect of companies.
- (4) Not having knowledge of the full details of the strategy and its true purpose does not necessarily mean that Mr Crichton Brown did not to have any knowledge at all. Whilst Mr Crichton-Browne may not have been fully informed the Select committee findings show that he was told by Mr burke that his services were required "As part of a strategy....."
- (5) It is clear from the evidence that Mr Crichton-Browne was involved in the implementation of at least a part of the strategy and was actively engaged in the drafting of the terms of reference. Further, he was the key to securing the cooperation of the Hon Anthony Fels. His role in and contribution to the strategy cannot be diminished because the plot was foiled by the CCC. Mr Crichton-Browne was part of a comprehensive strategy of which one part was in my view to have Rio Tinto pressured into settling in some form with Cazaly resources in respect to the Shovelanna iron ore deposit. The multi dimensional strategy has been well documented and can be found in the Executive Summary of the Select Committee report.
- (6) I note point (30) in the Statement of Facts, and in doing so I point out that Committee observed that Mr Crichton Browne was not a particularly reliable witness. Furthermore, irrespective of whether he was fully or partially informed or not informed at all Mr Crichton Browne was nevertheless still engaged in activities that promoted the strategy and therefore should accept responsibility for the consequences of his actions.
- (7) I oppose (31) as there is evidence in the Select committee report that Mr Crichton Browne was at least partly informed by the other participants in the strategy as to the true nature of the intended SCEFO. An email was received by him 3:58pm on 14 September 2006 from Mr Burke stating that " As one part of a comprehensive strategy, Julian and I have suggested a Parliamentary Inquiry into, broadly speaking, the sterilisation by major companies (largely BHP and RTZ) of huge areas of prospective ground.

SPEECH EXTRACT

32 They (Hon Anthony Fels and Hon Shelly Archer) were in my view, manipulated and used by Mr Burke, Mr Grill and Mr Crichton Browne. It is made clear throughout the report that there had been consistent manipulation. It is quite clear that all three; Mr Burke, Mr Grill and Mr Crichton Browne did not reveal to those members of this house the extent to which they would profit from this matter.

Statement of Facts (33)(34)

(3) It is false for the Hon Ljiljanna Ravlich to claim that the Hon Anthony Fels and the Hon Shelly Archer were manipulated in any way by Mr Crichton Brown and neither does the select committee Report" make it clear through the Report that the Hon Anthony Fels and the Hon Shelly Archer had been consistently manipulated by Mr Crichton Browne.

(34) Mr Crichton Browne gave sworn evidence that he had informed Hon Anthony Fels that Mr Crichton Browne was engaged by Cazaly resources

Evidence – Select Committee Report

7.23 The CCC intercept evidence provided to the Committee includes a number of telephone conversations between Mr Grill and Mr Burke regarding the share prices of Echelon Resources Limited and Cazaly Resources Limited.¹⁶⁶ In a telephone conversation on 12 March 2006, Mr Burke states to Mr Grill that: *"Mate, when, when this comes off, when Cazaly gets this thing, Echelon will be a dollar forty. So that'll be another sixty five grand On top of our fee. Each."*¹⁶⁷

The Committee observes that Hon Shelley Archer MLC and Hon Anthony Fels MLC were not informed as to the full details of the strategy and its true purpose. Further, the Committee notes that the participants deliberately concealed or down-played the fact that they were acting on behalf of Cazaly Resources Limited and Echelon Resources Limited and concealed that the true purpose of the proposed inquiry was to assist Cazaly Resources Limited and Echelon Resources Limited to obtain a commercially favourable outcome in the Shovelanna dispute.

The Committee notes that there was an incentive for Mr Burke to urge Hon Shelley Archer MLC to progress the proposed iron ore inquiry at the 30 October 2006 meeting of SCEFO, given the lucrative success fees on offer from Cazaly Resources Limited and Echelon Resources Limited. It is also noted, however, that there was no evidence before the Committee to suggest that Hon Shelley Archer MLC was aware of the success fees and their terms.

CCC under questioning by Mr Stephen Hall SC:

"HALL, MR: ... Right, just finally, Mr Crichton-Browne, has Mr Fels assisted you in any other way in recent times in regards to your consultancy business?---Yes, what was it? Yes. Yes. I asked him would he entertain a motion - would he entertain - I'm just going over it my mind for a moment, Mr Hall, but he - - -

Do you know whether Mr Fels sits on the Estimates Committee?---Thank you, yes, a notice of motion taking a reference in respect to the iron ore industry in Western Australia. Right. Now, when you say that is something you were suggesting the Estimates Committee might do an inquiry into?---Yes.

And what has Mr Fels - you've made the suggestion to Mr Fels and has - in that capacity you were acting as a paid consultant for someone?---Yes.

Mr Fels in his evidence disputed that he had been advised of this but said that he should have known

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (33)(34)

- (1) I oppose (33) and (34) in the Statement of facts because according to the Select committee report Mr Crichton Browne was not seen as a reliable witness by the committee.
- (2) I prefaced my comment by saying "They (Hon Anthony Fels and Hon Shelly Archer) were" in my view", manipulated and used by Mr Burke, Mr Grill and Mr Crichton Browne. It is made clear throughout the CCC transcripts and the report of the Select Committee that there had been consistent manipulation. It is quite clear that all three; Mr Burke, Mr Grill and Mr Crichton Browne did not reveal to those members of this house the full extent to which they would profit from the strategy".
- (3) Whilst I accept that Mr Crichton Brown did not own shares he was to profit from his involvement in the strategy. Furthermore, it is my view that he did not divulge to the Hon Anthony Fels that he was working in the capacity of a consultant.
- (4) From the wide range of sources reporting on these matters such as papers, television, radio, CCC and Committee findings I formed the view that the Hon Anthony Fels and Hon Shelly Archer were being manipulated. There is sufficient evidence to show that neither Mr Burke, Mr Grill nor Mr Crichton Browne fully disclosed what they knew about the plan, to Hon Anthony Fels and Hon Shelly Archer. Further, I believe that as experienced politicians and powerful political figures that they had a duty of care towards Hon Anthony Fels and Hon Shelly Archer . Their failure to exercise that duty of care has resulted in both members being dis endorsed by their respective political parties..
- (5) In failing to exercise that duty of care I believe that they preyed on the member's lack of experience and vulnerabilities.
 - The question is why were the Hon Shelley Archer MLC and the Hon Anthony Fels not told about the strategy so they could decide whether or not they wanted to be a part of it?
 - Why was Mr Crichton Browne forthright with the Hon Anthony Fels so he could make an informed decision about his participation?
 - On what basis did the Hon Anthony Fels become engaged in the strategy and was his role in exchange for some future political benefit from a political powerbroker?
- (6) I note (34)

SPEECH EXTRACT

(12)It is quite clear from everything presented in the report that the level of fee that Mr Grill and Mr Burke were due to make was very substantial. A figure of \$2 million was mentioned in the report. I have no issue with people making money. In some sense the market determines how much money a person does make from success fees and a whole range of considerations.

(12)However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options. However, it is not clear from the report how much

was going to be a success fee as opposed to shares options. However, at the heart of all this was the plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing pressure to bear so that there could be some change in the outcomes.

(36) It is quite clear that all three; Mr Burke, Mr Grill and Mr Crichton Browne did not reveal to those two members of the house the extent to which they would profit from the matter.

Statement of Facts (37) (38) (39)

- (37) **Hon Ljiljanna Ravlich having dealt with the fees that she believed Mr Burke and Mr Grill were to receive from Cazaly resources, then proceeded to smear Mr Crichton Browne by falsely misrepresenting his fee by clear inference as being that which she claimed Mr Burke and Mr Grill were to receive**
- (38) **The entirety of Mr Crichton Browne's payment from Cazaly Resources was \$7,500. To claim by association that Mr Crichton- Browne was to receive and enormous fee which he had deliberately chosen to hide from the Hon Anthony Fels, the Hon Ljiljanna Ravlich misled the Legislative Council.**
- (39) **Having created a false impression that Mr Crichton Browne had been the recipient of an enormous, dishonestly hidden and tainted fee, the Hon Ljiljanna then proceeded to traduce Mr Crichton- Browne's integrity by moralising about his fabricated ill gotten gains by claiming: However, the heart of this is how people make money. It is about their integrity or, sometimes, the lack of it.**

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (37)(38)(39)

- (1) My comments in relation to Statement of Facts (37) (38) (39) are the same as for (33) (34) above. There is sufficient evidence in my view to show that the points made in my speech were not baseless but rather supported by the report of the Select Committee.

SPEECH EXTRACT

(43) I refer to page 444 of the select committee report and to a telephone call on 15 August 2006. Mr Burke called Ms Archer and said -

Shelley, uhm you know that committee that was set up in the upper house that you got on, do you remember, what was that called?

Hon Shelley Archer said -

The Financial and Estimates Committee.

Mr Brian Burke advised -

Uhm, I'm looking for a committee or a vehicle that can look at one particular aspect of the resources industry in the state, uhm, you know how these big companies get in and they tie up these areas of land for twenty or thirty years and . . . no one can explore them.

(44) The theme for Mr Burke, Mr Gill and Mr Crichton-Browne was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia.

(47) It is clear that Mr Burke, Mr Grill and Mr Crichton-Browne presented the need for an iron ore inquiry as being good public policy and good politics - in the best interests of the state. They did not reveal their objectives; they did not reveal personal gain or promise any member any personal gain. It is also clear from the report that in fact they were quite contemptuous of the abilities of the two members concerned. They drew them into their manipulations and abused the trust that those members placed in them by presenting themselves as their mentors. I believe that they used those members.

Statement of Facts (45) (46) (48)

(45) having quoted a telephone conversation between Mr Burke and Hon Shelly Archer from which Hon Ljiljanna Ravlich divined that Mr. Burke was promoting the theme was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia. Hon Ljiljanna then falsely included Mr Crichton- Browne in her allegations

(46) Hon Ljiljanna Ravlich's is not found in the evidence or in the findings of the Select committee

(48) This series of statements is untrue Mr Crichton-Browne informed Hon Anthony Fels that he represented Cazaly Resources; he demonstrated no contempt for his abilities he most certainly did not manipulate him; he did not abuse his trust; he did not use him and it is absurd to claim that Mr Crichton-Browne presented himself as a mentor

Evidence – Select Committee Report

8.30 Hon Anthony Fels MLC stated to the Committee that he did not know at this time that Mr Crichton-Browne was working for Cazaly Resources Limited.²⁸³ With respect to this evidence, Mr Crichton-Browne told the Committee that:

"Mr Crichton-Browne: ... You put to me - I take it you were referring to evidence given by Mr Fels - that I had not advised him that I was acting as a consultant for Cazaly. If that is the evidence he gave, to my memory it does not equate with my memory of events. My memory of events is that I did at some point tell Mr Fels that I was, and I thought I should in all the proper circumstances. ...

Hon ADELE FARINA: Are you saying during one of those conversations you would have disclosed to him that you were acting for Cazaly?

*Mr Crichton-Browne: Let me say this: by the time he got the reference he was aware of it."*²⁸⁴

8.31 Hon Anthony Fels MLC expanded on this issue at his second hearing on 11 September 2007:

"Hon ANTHONY FELLS: ... I did not think he was doing it as a lobbyist. But most people come to me lobbying me on one issue or another and most of them are paid. ... And I do not think I gave any thought to whether he was getting paid to do this or not. I know he was always very interested in the mining industry in the state. I know he used to be a mining registrar before he went into the Senate and politics; and I did not give it any more thought than that, and I was not taking the issue there for

Noel Crichton-Browne. I thought it was a very interesting issue that needed some investigation and I was quite pleased to be told that Estimates and Financial Operations was a committee that was probably the most suited committee to do that, and I was a member of it.

...
I have not seen any of Noel Crichton-Browne's evidence, never discussed any of his evidence or my evidence; so I do not know what he said to you, but I can say to you he did not tell me he was working for Cazaly, and as far as I can recall I do not remember him telling me he was working for the iron ore industry or anyone."285

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (45)(46)(48)

- (1) At (44) of the Speech Extract I make the point that "the theme" for Mr Burke, Mr Gill and Mr Crichton-Browne was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia.
- (2) At (47) Speech Extract I make the point by way of conclusion that I believe that they used those members as such I offered an opinion to reflect my view of the circumstances.
- (3) I oppose (45) and (46) in the Statement of Facts as there is sufficient evidence in the Select Committee report to demonstrate that in being a party to implementing the strategy or part thereof Mr Noel Crichton Browne was complicit in the whole strategy.
- (4) It is difficult to establish on what basis Mr Crichton-Brown involved himself at all with the strategy. By his own Statement of Facts he had little to gain financially and in (45) he argues that he did not support an underlying reason for the inquiry to be undertaken.

Nonetheless he was a part of the strategy implementation and to that end is culpable. In my view not providing full disclosure shows an inherent disregard for the people concerned

SPEECH EXTRACT

(49)They sought also to draw in other members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of members. Mr Burke sent an email to Mr Edel on 13 September 2006, and cc'd a range of other people, with Hon Shelley Archer's emailed advice of 13 September 2006, although he does not specifically name her as the source of the advice, on amending the draft terms of reference to fit within the committee's terms of reference. He suggested that Noel Crichton-Browne should approach Hon George Cash, MLC, and Hon Norman Moore, MLC, to ensure that the Liberal Party members on the committee supported an iron ore inquiry. I am not alleging that Hon George Cash and Hon Norman Moore did anything wrong. Indeed, there is no evidence of that. The bottom line is that I am just making the point that other people were being manipulated. The three people concerned - that is, Mr Brian Burke, Mr Julian Grill and Mr Crichton-Browne - certainly tried to bring in other people so that they could affect the outcome. (52)In a file note of 10 October 2006 from a meeting at Phillips Fox, there is evidence of a conversation with Noel Crichton-

Browne about why the Standing Committee on Public Administration was not chosen for the proposed iron ore inquiry and discussion of the draft terms of reference and historical aspects of the policy. There was also a reference to Hon Norman Moore and that Noel Crichton-Browne was to phone him.

(52) In a file note of 10 October 2006 from a meeting at Phillips Fox, there is evidence of a conversation with Noel Crichton-Browne about why the Standing Committee on Public Administration was not chosen for the proposed iron ore inquiry and discussion of the draft terms of reference and historical aspects of the policy. There was also a reference to Hon Norman Moore and that Noel Crichton-Browne was to phone him.

Statement of Facts (50) (51) (53) (54)

(50) Mr Crichton-Browne did not seek to draw in other members. He has never met or spoken to Mr Chapple. There was never a concept by Mr Crichton-Browne to draw in a broader range of members. Mr Crichton-Browne knows nothing of, nor did he receive any email dated 13 September and addressed to Mr Edel”

(51) Mr Crichton-Browne knows nothing of any discussions by Mr Burke about Mr Crichton Browne contacting the Hon Norman Moore or George Cash and Mr Crichton Browne most certainly did not ever discuss the matter of the iron ore industry inquiry with either member of the Legislative Council. No one was being manipulated by Mr Crichton- Browne as Hon Ljiljanna Ravlich continues to dishonestly claim

(53) The Hon Ljiljanna Ravlich is apparently in this statement, seeking to place a sinister connotation upon a reference to the Standing Committee on Public Administration and why it was chosen for the purpose of the inquiry.

(54) Mr Crichton-Browne played no part in which committee was the appropriate one to consider the proposed reference. He was informed by Phillips fox and Mr Mc Cusker QC had considered the matter and given advice to Phillips Fox.

Evidence – Select Committee Report

8.29 Hon Anthony Fels MLC told the Committee that sometime after late September:
*“Noel Crichton-Browne raised with me the possibility of the estimates committee making an inquiry into the iron ore policy of the state, because I remember having the discussions with him that it was my view that it should actually fall under the Standing Committee on Public Administration, and not our committee at that time.”*²⁸²

8.24 On 10 October 2006 Mr Grill, Mr Burke, Mr McMahon, Mr Edel and Mr Alex Jones, meet with Mr Crichton-Browne at the offices of DLA Phillips Fox (with whom Gadens had then amalgamated) in order to brief him and review the draft terms of reference for the proposed parliamentary inquiry into the iron ore industry.²⁷⁴ Mr Crichton-Browne advised the Committee that:

*“I was first contacted by Mr Edel and my ongoing contact has been with Phillips Fox however it is more precise to state that I was engaged by the Managing Director of Cazaly Resources, Mr Nathan McMahon.”*²⁷⁵

8.25 Mr Crichton-Browne also gave the following evidence regarding the terms of his engagement by Cazaly Resources Limited: 272

*"They asked me could I prepare a reference and seek to have that reference presented to Mr Fels in particular, I think, for the purposes of it being a matter of examination by the committee of which Mr Fels was a member."*276

8.26 Throughout mid October 2006 Mr Crichton-Browne provided input into the draft terms of reference. In a telephone conversation at 8:34pm on 16 October 2006, which was intercepted by the CCC, Mr Crichton-Browne queried with Mr Burke as to whether the draft terms of reference were too focused on past events and, as such, may not be supported by the Liberal Party.²⁷⁷ During the conversation, Mr Burke said that he had spoken to Hon Shelley Archer MLC earlier that day and had told her to speak to Hon Anthony Fels MLC about the proposed inquiry. Mr Crichton-Browne responded by telling Mr Burke not to advise Hon Shelley Archer MLC to speak to Hon Anthony Fels MLC, as he has yet to decide how to raise the subject of the proposed inquiry with the Liberal Party Members of the Legislative Council.²⁷⁸

8.14 The Committee obtained evidence from both Hon George Cash MLC and Hon Norman Moore MLC that neither can recall having been approached at any time between May 2006 and February 2007 in relation to a proposed inquiry by SCEFO into the State's iron ore industry.²⁶⁴

8.34 As noted previously, Hon George Cash MLC and Hon Norman Moore MLC provided evidence that they had no recollection of being approached at any time between May 2006 and February 2007 in relation to a proposed inquiry by SCEFO into the State's iron ore industry.²⁸⁷ The Committee was therefore unable to explore further whether there had been any disclosure of Committee deliberations by the Hon Anthony Fels MLC in his discussions with the Hon Norman Moore MLC or the Hon George Cash MLC. Similarly, despite several emails and phone conversations indicating that Mr Crichton-Browne was going to contact Hon Norman Moore MLC about the draft inquiry terms of reference,²⁸⁸ Mr Crichton-Browne does not recall having any such conversations with Hon Norman Moore MLC,²⁸⁹ and likewise the Hon Norman Moore MLC had no recollection of having any such conversations with Mr Crichton-Browne, and there is no evidence before the Committee to suggest that such a conversation took place between the Hon Norman Moore MLC and Mr Crichton-Browne.

Hon Ljiljanna Ravlich's Reponse to Statement of Facts (50) (51) (53)(54)

(1) I note (50)(51)(53) and (55) in the Statement of Facts

The committee reported that despite several emails and phone conversations indicating that Mr Crichton-Browne was going to contact Hon Norman Moore MLC about the draft inquiry terms of reference,²⁸⁸ Mr Crichton-Browne does not recall having any such conversations with Hon Norman Moore MLC,²⁸⁹ and likewise the Hon Norman Moore MLC had no recollection of having any such conversations with Mr Crichton-Browne, and there is no evidence before the Committee to suggest that such a conversation took place between the Hon Norman Moore MLC and Mr Crichton-Browne.

SPEECH EXTRACT

55. There are references to many people in this report. At the end of the day, there is no doubt that a part of the way in which Mr Burke, Mr Grill and Mr Crichton-Browne operated was to try to get as many people as they could into their web

Statement of Facts (56) (57)

(56) The inferences in the Hon Ljiljana Ravlich's statement are that Mr Crichton Browne acted in a deceitful and devious fashion as to entrap people for a devious purpose.

(57) the claim is without substance or truth and it does not arise from the evidence or the findings of the select committee

Evidence – Select Committee Report

Finding 13, the Committee finds that there were inconsistencies in the evidence given by Mr Noel Crichton-Browne in his two appearances before the Committee.

The Committee further finds that Mr Noel Crichton-Browne gave false answers to questions asked by the Committee during a hearing.

Hon Ljiljana Ravlich's Reponse to Statement of Facts

I believe that this has already been covered

SPEECH EXTRACT

(58) In support of this amendment, I am of the view that the influence of Mr Burke, Mr Grill and Mr Crichton-Browne should cease once and for all. It will protect public life in the state from exploitation for private gain by those unscrupulous enough to use other people while presenting their own position as being that of serving the public good. I am also of the view that the Premier is acting in the best interests of Western Australia in wanting to get rid of the influence of Mr Burke, Mr Grill and Mr Crichton-Browne. The truth is that Mr Burke, Mr Grill and Mr Crichton-Browne have acted in financial self-interest. The truth is that they have scant regard about who they hurt in the process of achieving their desired outcomes. The truth is that many have fallen because of their association with Mr Burke and Mr Grill. The truth is that good people do not use, exploit and deceive others intentionally in pursuit of their own financial interests. They do not manipulate long-standing institutions like the Parliament, and they do not corrupt the process of democratic decision making.

Statement of Facts (59) - (71)**Noted (59) (60 and (61)**

Mr Crichton Browne does no more than assert that I am wrong in my view and opinions.

APPENDIX 6
EXTRACT FROM HANSARD, 29 NOVEMBER 2007,
TABLED BY HON LJILJANNA RAVLICH

Notes:

1. The side-bars against some paragraphs indicate where the tabled document was highlighted by the author.

APPENDIX 6

EXTRACT FROM HANSARD, 29 NOVEMBER 2007, TABLED BY HON LJILJANNA RAVLICH

1

Thursday, 29 November 2007

Hon LJILJANNA RAVLICH: I rise in support of the motion before us to delete all words after "That" and insert the amendment moved by the Leader of the House. In doing so I state that this is a very difficult matter. I also have to say that at the heart of the matter we are dealing with and have before us today is the integrity of this place. This is about the integrity of the workings of this place. The report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations is a very interesting read.

I say at the outset that this matter centres on one committee of the house looking into the workings of another committee of the house. As it has been open for one committee to find fault with another, it is open in the future for yet another committee to find fault with the committee finding fault in this instance, and so on ad infinitum. Why? Because obviously people will have differing views about evidence presented before them and events that may have occurred and so on. I also note that no matter how objective they are in their deliberations, committees are formed on partisan lines and they reflect the partisan composition of the house. They are therefore not equivalent to the courts and the legal system, from which partisan bias is prohibited. We are dealing with a unique situation.

(7)In supporting the amendment I wish to recapture some of the key points in the chronology of events of the select committee and what it uncovered. The origin of this whole matter is found in 2005 in the dispute between Cazaly Resources Ltd together with Echelon Resources Ltd on one side and Rio Tinto on the other side. Shovelanna was an iron ore deposit near Newman that was originally pegged in the 1970s. Rio Tinto's documentation for the renewal of its lease somehow had not arrived in the Mining Warden's office by the prescribed date, which was 28 August 2005, and therefore Cazaly Resources successfully applied for a lease over what was technically vacant land (under the WA Mining Act. The minister at the time, John Bowler, had to rule on the matter. He ruled in favour of Rio Tinto's application to have Cazaly's lease struck out under the Mining Act. Following that, I understand that the ruling was tested in the Supreme Court, which found in the government's favour. Therefore, Minister Bowler's decision was upheld. It was that decision that Cazaly was seeking to overturn. I suspect that what happened from there was that Cazaly may well have been advised of the services of Mr Burke and Mr Grill in this matter. They worked with Mr Crichton-Browne in order to effect a shift, if you like, from the position it was in.

(12)It is quite clear from everything presented in the report that the level of fee that Mr Grill and Mr Burke were due to make was very substantial. A figure of \$2 million was mentioned in the report. I have no issue with people making money. In some sense the market determines how much money a person does make from success fees and a whole range of considerations.

(12)However, the heart of this is how people make money. It is about their integrity or, sometimes, their lack of integrity. Therefore, it seems apparent to me that some of the \$2 million was based on share options. There were some share options. However, it is not clear from the report how much was going to be a success fee as opposed to shares options. However, at the heart of all this was the plan that was devised about how the share price could be influenced by using the Standing Committee on Estimates and Financial Operations in bringing pressure to bear so that there could be some change in the outcomes.

(28) The select committee's inquiries reveal that the financial interests of other parties were involved in these matters, but the key figures at the centre of this whole issue were Mr Burke, Mr Grill and Mr Crichton-Browne. It is most important for the house to note that as a result of the select committee's inquiries, two members of this house were found by the select committee to have committed breaches of privilege and contempts, but there is no suggestion that they were in any way going to gain, financially or otherwise. (32) They were, in my view, manipulated and used by Mr Burke, Mr Grill and Mr Crichton-Browne. It is made clear throughout the report that there had been consistent manipulation. It is quite clear that all three, Mr Burke, Mr Grill and Mr Crichton-Browne, did not reveal to those two members of this house the extent to which they would profit from this matter.

(40) As I was coming into work the other day, I heard Hon Anthony Fels speaking on the radio. He made the point that he thought it was okay to accept some terms of reference, because Mr Crichton-Browne had told him that those terms of reference were in fact drafted by the parliamentary inspector. That is certainly what I heard on the radio, and that is a separate issue. However, I am sure that nobody had told Hon Anthony Fels or Hon Shelley Archer how much was to be gained financially. Rather, the tactic that was used by Mr Burke, Mr Grill and Mr Crichton-Browne with Hon Anthony Fels and Hon Shelley Archer was that this was all about presenting the interests of the little guy as opposed to the interests of the big guy; in other words, the big multinational company Rio Tinto.

(43) I refer to page 444 of the select committee report and to a telephone call on 15 August 2006. Mr Burke called Ms Archer and said -

Shelley, uhm you know that committee that was set up in the upper house that you got on, do you remember, what was that called?

Hon Shelley Archer said -

The Financial and Estimates Committee.

Mr Brian Burke advised -

Uhm, I'm looking for a committee or a vehicle that can look at one particular aspect of the resources industry in the state, uhm, you know how these big companies get in and they tie up these areas of land for twenty or thirty years and . . . no one can explore them.

(44) The theme for Mr Burke, Mr Gill and Mr Crichton-Browne was that multinational resource companies were acting against the interests of small local companies, and therefore they were slowing down the development of Western Australia. In manipulating the two members into establishing an inquiry and terms of reference, Mr Burke said in a telephone conversation on 6 September 2006, according to the report -

"Essentially what it is, is this, it's an enquiry into, under the terms of the Financial Administration of the State, all of the areas that the big majors have got tied up and sterilized on which they haven't worked say for twenty thirty years. . . . And there's just a lot of smaller miners who come to me and Julian, no one in particular who say well look while this is tied up no one gets any benefit from it, . . . and year after year they apply for exemptions from the work commitments."

The CHAIRMAN: I give the call to the Minister for Local Government.

Hon LJILJANNA RAVLICH: (47) *It is clear that Mr Burke, Mr Grill and Mr Crichton-Browne presented the need for an iron ore inquiry as being good public policy and good politics - in the best interests of the state. They did not reveal their objectives; they did not reveal personal gain or promise any member any personal gain. It is also clear from the report that in fact they were quite contemptuous of the abilities of the two members concerned. They drew them into their manipulations and abused the trust that those members placed in them by presenting themselves as their mentors. I believe that they used those members.*

(49) *They sought also to draw in other members by involving Mr Chapple and exploiting that link. Through Mr Crichton-Browne's connections, there was a concept of drawing in a broader range of members. Mr Burke sent an email to Mr Edel on 13 September 2006, and cc'd a range of other people, with Hon Shelley Archer's emailed advice of 13 September 2006, although he does not specifically name her as the source of the advice, on amending the draft terms of reference to fit within the committee's terms of reference. He suggested that Noel Crichton-Browne should approach Hon George Cash, MLC, and Hon Norman Moore, MLC, to ensure that the Liberal Party members on the committee supported an iron ore inquiry. I am not alleging that Hon George Cash and Hon Norman Moore did anything wrong. Indeed, there is no evidence of that. The bottom line is that I am just making the point that other people were being manipulated. The three people concerned - that is, Mr Brian Burke, Mr Julian Grill and Mr Crichton-Browne - certainly tried to bring in other people so that they could effect the outcome. (52) In a file note of 10 October 2006 from a meeting at Phillips Fox, there is evidence of a conversation with Noel Crichton-Browne about why the Standing Committee on Public Administration was not chosen for the proposed iron ore inquiry and discussion of the draft terms of reference and historical aspects of the policy. There was also a reference to Hon Norman Moore and that Noel Crichton-Browne was to phone him.*

Hon Norman Moore: Let me assure you he didn't. You're just chucking a bit of mud around in the hope that some will stick.

Hon LJILJANNA RAVLICH: I am not trying to chuck any mud; I am trying to be

Hon Norman Moore: Would you like to read the bit about Mr Travers and the bit about Giz Watson and the bit about -

Hon LJILJANNA RAVLICH: (55) *There are references to many people in this report. At the end of the day, there is no doubt that a part of the way in which Mr Burke, Mr Grill and Mr Crichton-Browne operated was to try to get as many people as they could into their web. The simple fact is that the two members of this place who are the subject of the amendment proposed have compounded their own sets of circumstances, because they have been found by the select committee to have committed breaches of privilege and contempts of a serious nature.*

(58) *In support of this amendment, I am of the view that the influence of Mr Burke, Mr Grill and Mr Crichton-Browne should cease once and for all. It will protect public life in the state from exploitation for private gain by those unscrupulous enough to use other people while presenting their own position as being that of serving the public good. I am also of the view that the Premier is acting in the best interests of Western Australia in wanting to get rid of the influence of Mr Burke, Mr Grill and Mr Crichton-Browne. The truth is that Mr Burke, Mr Grill and Mr Crichton-Browne have acted in financial self-interest. The truth is that they have scant regard about who they hurt in the process of achieving their desired outcomes. The truth is that many have fallen because of their association with Mr Burke*

and Mr Grill. The truth is that good people do not use, exploit and deceive others intentionally in pursuit of their own financial interests. They do not manipulate long standing institutions like the parliament; they do not corrupt the process of democratic decision making.