

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.

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(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 Ljiljanna 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 Ljiljanna 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 Shovelling 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 Ljiljana 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 Ljiljana 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 Ljiljana 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 McMahon 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 McMahon’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.

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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..

— they are v. experienced to did not fully disclose to Fels (should have)
- (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?

NOT ?
 - Why was Mr Crichton Browne forthright with the Hon Anthony Fells so he could make an informed decision about his participation?

** Erratum to delivery*
 - 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)

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(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

| Fels + Archer disendorsed. |

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 an 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 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 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.

NOT

↑
(?)

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 Ljiljanna 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 Ljiljanna 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.