

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

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

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 Ljiljanna 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 Ljiljanna 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 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 -

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

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

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 Vincent Catania
Hon Kim Chance
Hon Kate Doust

Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard

Hon Paul Llewellyn
Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot

Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (16)

Hon Shelley Archer
Hon Ken Baston
Hon George Cash
Hon Peter Collier

Hon Murray Criddle
Hon Brian Ellis
Hon Anthony Fels
Hon Nigel Hallett

Hon Ray Halligan
Hon Barry House
Hon Robyn McSweeney
Hon Norman Moore

Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Pair

Hon Batong Vu Pham

Hon Donna Faragher

Amendment thus negatived.

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

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.