



Legislative Assembly

Privileges Committee

Person Referred To In The Legislative Assembly

Mr Dennis MacKinlay

June 2009

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No 196 — Session 2006–09

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REPORT

1. On 28 October 2008 Mr Dennis MacKinlay wrote a submission to the Speaker of the Legislative Assembly, the Honourable Jenny Lindell, seeking redress under Standing Order 227 relating to the protection of persons referred to in the Legislative Assembly.
2. The submission referred to statements made by Hon Rob Hulls MP on 28 May 1999. The Speaker, having accepted the submission as a submission for the purposes of the Standing Order, referred it to the Committee on 11 November 2008.
3. The Committee met in private session on 2 December 2008 to deliberate on the submission.
4. In examining Mr MacKinlay's submission the Committee was guided by the requirements and tests laid down in the Standing Order. Standing Order 227 is attached as Appendix 1.
5. At its meeting on 2 December 2008, the Committee noted that the submission was lodged with the Speaker more than six months after the comments were made in the House. The Committee resolved to invite Mr MacKinlay to supply additional information, in accordance with Standing Order 227(5)(c), setting out exceptional circumstances for the delay in lodging a submission.* This invitation was conveyed to Mr MacKinlay in correspondence dated 13 January 2009. The Committee received correspondence from Mr MacKinlay by post on 2 February 2009.
6. The Committee met again in private session on 6 May 2009. The Committee noted Mr MacKinlay's correspondence. The Committee concluded that the criteria for exceptional circumstances under Standing Order 227(5)(c) had not been met.
7. The Committee draws attention to Standing Order 227(9) which requires that, in considering a submission under this Standing Order and reporting to the House, the Committee shall not consider or judge the truth of any statements made in the House or in the submission.

* SO 227(5)(c) states:

(5) The Committee may decide not to consider a submission referred to it if:

...

(c) the submission was received more than six months after the relevant comments were made in the House and the applicant has not shown exceptional circumstances to explain the delay —

and will report any such decision to the House.

Recommendation:

That no further action be taken in respect of the submission from Mr Dennis MacKinlay.

3 June 2009

APPENDIX 1

Extract from Standing Orders

227 Citizen's right of reply procedure

- (1) Where a person (the applicant) has been referred to in the House by name, or in such a way as to be readily identified, he or she can send a written submission (the submission) to the Speaker asking for an appropriate response to be incorporated into the parliamentary record.
- (2) The submission must include a claim that, as a result of the reference:
 - (a) the applicant has been adversely affected:
 - (i) in reputation; or
 - (ii) in relation to dealings or associations with others; or
 - (b) the applicant has been injured in connection with his or her occupation, trade, office or financial credit; or
 - (c) the applicant's privacy has been unreasonably invaded.
- (3) The Speaker will refer the submission to the Privileges Committee (the Committee) if the Speaker is satisfied that:
 - (a) the subject of the submission is not so obviously trivial, or the submission so frivolous, vexatious or offensive in character, as to make it inappropriate that it be considered by the Committee; and
 - (b) that it is practicable for the Committee to consider the submission under this Standing Order.
- (4) When a submission is referred, the secretary of the Committee will contact the applicant to draw his or her attention to the Committee's guidelines for preparing a brief draft statement in a correct form for incorporation.
- (5) The Committee may decide not to consider a submission referred to it if:

- (a) it considers that the subject of the submission is not sufficiently serious; or
- (b) it considers that the submission is frivolous, vexatious or offensive in character; or
- (c) the submission was received more than six months after the relevant comments were made in the House and the applicant has not shown exceptional circumstances to explain the delay —

and will report any such decision to the House.

- (6) If the Committee decides to consider a submission, it may hold discussions with the applicant and any member who referred to the applicant in the House.
- (7) The Committee will meet privately when considering a submission.
- (8) The Committee will not publicly release a submission, or its proceedings in relation to a submission, but may present to the House minutes of its proceedings and all or part of a submission.
- (9) In considering a submission and reporting to the House, the Committee will not consider or judge the truth of:
 - (a) any statements made in the House; or
 - (b) the submission.
- (10) In its report to the House, the Committee may make either of the following recommendations:
 - (a) that no further action should be taken by the House in relation to the submission; or
 - (b) that a response by the applicant, set out in the report and agreed to by the applicant and the Committee, should be published by the House or incorporated in Hansard.

- (11) The Committee will not make any other recommendations.

- (12) A document presented to the House under paragraphs (8) or (10):
 - (a) in the case of a response by an applicant, will be succinct and strictly relevant to the questions in issue and will not contain anything offensive in character; and

 - (b) will not contain any matter, the publication of which would have the effect of unreasonably:
 - (i) adversely affecting or injuring a person; or

 - (ii) invading a person's privacy, in the manner referred to in paragraph (2); or

 - (iii) adding to or aggravating any such adverse effect, injury or invasion of privacy.

- (13) The Committee may agree to guidelines and procedures relating to its consideration of submissions, providing they are consistent with this Standing Order.