



**Legislative Assembly
Privileges Committee**

**Report on Matter
Referred to the Committee
on 24 October 1991**

April 1992

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**Legislative Assembly
Privileges Committee**

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the Committee
on 24 October 1991**

TOGETHER WITH APPENDICES

Ordered by the Legislative Assembly to be printed 30 April 1992

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**EXTRACTED FROM THE VOTES AND PROCEEDINGS OF THE
LEGISLATIVE ASSEMBLY**

THURSDAY, 3 NOVEMBER 1988

- 8 **PRIVILEGES COMMITTEE** - Motion made, by leave, and question - That a Select Committee be appointed to inquire into and report upon complaints of breach of privilege referred to it by the House; such Committee to consist of Mr Evans, Mr Lieberman, Mr McDonald, Mr Mathews, Mr Perton, Mr Sheehan (*Northcote*) and Dr Vaughan; and that the Committee have power to send for persons, papers and records; to sit on days on which the House does not meet and to move from place to place; four to be the quorum (*Mr Fordham*) - put and agreed to.

WEDNESDAY, 23 NOVEMBER 1988

- 4 **PRIVILEGES COMMITTEE - MEMBERSHIP** - Motion made, by leave, and question - That Mr Perton be discharged from attendance on the Privileges Committee and Mr Maclellan be appointed in his stead (*Mr Fordham*) - put and agreed to.

TUESDAY, 1 OCTOBER 1991

- 8 **PRIVILEGES COMMITTEE - MEMBERSHIP** - Motion made, by leave, and question - That Mr Evans and Mr Lieberman be discharged from attendance on the Privileges Committee and that Mr McGrath (*Warrnambool*) and Mr Cooper be appointed in their stead (*Mr Roper*) - put and agreed to.

THURSDAY, 24 OCTOBER 1991

- 22 **PRIVILEGES COMMITTEE** - Dr Vaughan, Chairman, by leave, brought up a Special Report from the Privileges Committee.

Ordered to lie on the Table and to be printed.

Motion made, by leave, and question - That the matter referred to in the Special Report of the Privileges Committee be referred to the Committee for examination and report (*Mr Roper*) - put, after debate, and agreed to.

TUESDAY, 12 NOVEMBER 1991

- 15 **PRIVILEGES COMMITTEE** - Motion made, by leave, and question - That this House grant leave to the Privileges Committee to meet and take evidence during the sittings of the House in relation to the matter referred to the Committee on 24 October 1991 for examination and report and that Standing Order No. 208 be suspended so far as to allow the Committee to publish the evidence and documents received in its Inquiry upon such terms and conditions as it thinks fit (*Mr Roper*) - put and agreed to.

TUESDAY, 26 NOVEMBER 1991

- 51 **PRIVILEGES COMMITTEE - MEMBERSHIP** - Motion made, by leave, and question - That Mr Sheehan (*Northcote*) and Mr Cooper be discharged from attendance on the Privileges Committee and that Mr Lieberman and Mr Micallef be appointed in their stead (*Mr Roper*) - put and agreed to.

TUESDAY, 17 MARCH 1992

- 13 **PRIVILEGES COMMITTEE** - Motion made and question - That, in relation to the matters referred to the Privileges Committee on 28 May 1991 and 24 October 1991, the Committee have power to commission a legal adviser to - (*a*) guide the Committee in its deliberations; (*b*) review the evidence; and (*c*) elucidate matters of complexity (*Mr Roper*) - put, after debate, and agreed to.

FINDING

Since its Special Report was presented to the House on 24 October, 1991 the Committee has been unable to identify those responsible for the improper disclosure of the Committee's evidence and proceedings.

The Committee has reported in its Special Report to the House on 24 October, 1991 that the events which are the focus of this present inquiry did not constitute a substantial interference, or the likelihood of substantial interference, with the work of the Committee in its inquiry into the Complaint referred to the Committee by resolution of the House on 1 October, 1991.

However, the Committee finds that the events which are the focus of this Inquiry may have constituted a substantial interference or the likelihood of substantial interference with the work of the Committee in other circumstances.

The Committee emphasises the need to uphold Parliamentary privilege to enable the effective discharge of the functions of the House. Given that the improper disclosure of a document or proceedings of a Committee may lead to a serious breach of privilege occurring, the Committee makes certain recommendations and observations in this case for the consideration of the House.

CHAPTER 1

PREFACE

1.1 The powers of the Legislative Assembly in the matter of privilege are dependent on section 19 of the Constitution Act 1975. This section applies by reference to the privileges, immunities and powers held by the U.K. House of Commons as at the 21st day of July 1855.

"19. Privileges powers etc. of Council and Assembly

(1)The Council and the Assembly respectively and the committees and members thereof respectively shall hold enjoy and exercise such and the like privileges immunities and powers as at the 21st day of July, 1855 were held enjoyed and exercised by the House of Commons of Great Britain and Ireland and by the committees and members thereof, so far as the same are not inconsistent with any Act of the Parliament of Victoria, whether such privileges immunities or powers were so held possessed or enjoyed by custom statute or otherwise."

Accordingly, recourse must be had to the law and practices of the House of Commons in consideration of any privilege matter affecting the Legislative Assembly, its Committees or Members.

1.2 Legislative Assembly Standing Order No. 3 also provides that -

"3. In all cases not provided for herein or by Sessional or other Orders or practice of the House, resort shall be had to the Rules, Forms, Usages, and Practice of the Commons House of Parliament of the United Kingdom, which shall be followed so far as the same may be applicable."

1.3 Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 21st Ed. in Chapter 5 discusses what constitutes the privilege of Parliament. The introductory paragraph to this chapter is as follows:-

"WHAT CONSTITUTES PRIVILEGE

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus

privilege, though part of the law of the land, is to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of each House and exist because the House cannot perform its functions without unimpeded use of the services of its Members. Other such rights and immunities such as the power to punish for contempt and the power to regulate its own constitution belong primarily to each House as a collective body, for the protection of its Members and the vindication of its own authority and dignity. Fundamentally, however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members.

When any of these rights and immunities is disregarded or attacked, the offence is called a breach of privilege and is punishable under the law of Parliament. Each House also claims the right to punish as contempts actions which, while not breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its Members or its officers. The power to punish for contempt has been judicially considered to be inherent in each House of Parliament not as a necessary incident of the authority and functions of a legislature (as might be argued in respect of certain privileges) but by virtue of their descent from the undivided High Court of Parliament and in right of the *lex et consuetudo parliamenti*. In this, the position of the UK Parliament differs from that of independent Commonwealth or colonial legislatures."

1.4 Erskine May in Chapter 9 of the same text deals with Contempt. The introductory paragraph of that Chapter is as follows:-

"Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence. It is therefore impossible to list every act which might be considered to amount to a contempt, the power to punish for such an offence being of its nature discretionary. Nevertheless, certain broad principles may be deduced from a review of the kinds of misconduct which in the past either House has punished as a contempt. It should however be borne in mind that in 1978 the House of Commons resolved to exercise its penal jurisdiction as sparingly as possible, and only when satisfied that it was essential to do so."

1.5 Since 1974 it has been the regular practice of the Legislative Assembly to establish early in the life of each Parliament a Select Committee to inquire into and report upon complaints of breach of privilege referred to it by the House. Such a Select Committee is known as the Privileges Committee. Prior to this time, matters of

privilege raised in the Legislative Assembly were dealt with directly by the House or by an "ad hoc" Select Committee appointed as and when required.

- 1.6 The present Privileges Committee was appointed by resolution of the House during this session on 3 November 1988 (see page iii of this Report). Since that date there have been, by further resolution of the House, changes made to the membership of the seven member committee on three occasions, on 23 November, 1988, on 1 October, 1991 and on 26 November, 1991.
- 1.7 In the terms of its appointing resolution carried by the House on 3 November, 1988, the Privileges Committee's function is to inquire into and report upon complaints of breach of privilege referred to it by the House.
- 1.8 The powers of the Privileges Committee were also defined in that appointing resolution, being the power to send for persons, papers and records; to sit on days on which the House does not meet and to move from place to place. The appointing resolution also determined that four be a quorum.
- 1.9 In relation to the matter which is the subject of this report, by resolution of the House on 12 November, 1991, the House granted leave to the Privileges Committee to meet and take evidence during the sittings of the House, and to publish the evidence and documents received in its inquiry upon such terms and conditions as the Committee thought fit.
- 1.10 In relation to the matters referred to the Committee on 28 May, 1991 and 24 October, 1991, the House, on 17 March 1992, in response to a request from the Committee, granted the Committee power to commission a legal adviser to - (a) guide the Committee in its deliberations; (b) review the evidence; and (c) elucidate matters of complexity.

CHAPTER 2

BACKGROUND TO THE PRESENT REPORT

- 2.1 This report deals with the matter which the House referred to the Privileges Committee on 24 October, 1991.
- 2.2 On 24 October, 1991 there was presented to the House a Special Report from the Privileges Committee.
- 2.3 At that time the Committee was inquiring into a complaint made by the Leader of the National Party on 19 September, 1991 and referred to the Committee by resolution of the House on 1 October, 1991. The Committee's report on that complaint made by the Leader of the National Party was presented to the House on 12 November, 1991.
- 2.4 Thus it was during the course of that inquiry that there appeared in the Herald-Sun of 24 October, 1991 on pages 1 and 2 under the by-line of Geoff Easdown an article headlined "Stoney Tells on Contract". These pages are reproduced in Appendix A.
- 2.5 The article provided information on the contents of a Statutory Declaration made by Ian Stoney, Chief Executive Officer of the Public Transport Corporation.
- 2.6 The article stated:

"The declaration has been given to the Parliamentary Privileges Committee."
- 2.7 The article went on to provide information on the contents of the Statutory Declaration not previously on the public record.
- 2.8 The Statutory Declaration had been previously referred to and summarized in a memorandum dated 22 October, 1991 to the Premier from Mr Peter Kirby, Secretary of the Department of Premier and Cabinet. This memorandum was subsequently released publicly by the Premier. The relevant section of the memorandum stated:

"3. In a Statutory Declaration of 10 October, 1991 and written advice to the Minister for Transport on 16 October, 1991, the Chief Executive of the PTC explains that Mr. Gordon's contract was negotiated and agreed upon about the 11 July, 1990. The contract applied from 3 April, 1990 for 5 years. The contract was not signed. One copy was retained by Mr. Gordon and the other by the Chief Executive for the PTC."

2.9 The Privileges Committee had received in evidence from Mr Spyker on 22 October, 1991 the original Statutory Declaration with the accompanying letter from Mr Stoney to Mr Spyker dated 16 October, 1991 in response to questions asked of Mr Spyker by the Committee.

2.10 As well as the relevant resolutions of the House, the proceedings of the Privileges Committee are subject to the Standing Orders and Rules of the Legislative Assembly.

2.11 Standing Order 208 states:

"The evidence taken by any Select Committee and documents presented to such Committee, and which have not been reported to the House, shall not be published by any Member of such Committee, nor by any other person."

2.12 However it is also relevant that the House resolved on 3 October, 1991:

"That this House grant leave to the Privileges Committee to meet and take evidence during the sittings of the House in relation to the matter referred to the Committee on 1 October 1991 for examination and report and that Standing Order No. 208 be suspended so far as to allow the Committee to publish the evidence and documents received in its Inquiry upon such terms and conditions as it thinks fit."

2.13 At the time that issue of the Herald-Sun was published, the Committee had not authorised the publication of the Statutory Declaration made by Mr. Stoney or the letter from Mr. Stoney to Mr. Spyker or any other exhibit relating to that inquiry by any person and had not released copies to any person. These documents and all others presented to the Committee during its inquiry were included in the report of the Committee presented to the House on 12 November, 1991.

2.14 The Committee, in considering this development was being guided by the relevant procedure of the House of Commons as described in Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 21st Edition. In Chapter 9, "Contempts" dealt with premature publication or disclosure for committee proceedings. It states in part:-

"The procedure for dealing with improper disclosure of select committee evidence or proceedings was altered with effect from the beginning of session 1985-86, following a report from the Committee of Privileges. The committee concerned seeks to discover the source of the leak and to assess whether it constitutes (or is likely to constitute) a substantial interference with its work, with the select committee system, or with the functions of the House. If the committee considers that there has been or is likely to be such interference, it reports to the House accordingly, and a report of this character stands automatically referred to the Committee of Privileges."

2.15 The Committee, as constituted at the time, carried out its own investigation to try to discover the source of the leak, in particular by formally asking all members of the Committee and the Committee's staff if they could explain how the leak came about. These inquiries did not discover the source of the leak.

2.16 The Committee considered the question of whether or not the leak constituted a substantial interference, or the likelihood of such substantial interference, with the work of the Committee in that inquiry. It was of the view that it was not.

2.17 However the Committee considered the question of whether or not the leak constitutes substantial interference, or the likelihood of such substantial interference, with the select Committee system or the functions of the House. It was of the view that such might be the case.

2.18 The Committee resolved to make a special report to the House to report the action it had taken and the conclusions reached.

2.19 The Special Report from the Committee presented to the House on 24 October, 1991 described the aforementioned sequence of events and was expressed in similar terms.

2.20 After the House had carried the resolution:

"That the report be laid on the table and be printed"
it was moved:

"That the matter referred to in the special report of the Privileges Committee be referred to the Committee for examination and report."

2.21 In response to a point of order the Speaker made the following suggestion:

"The SPEAKER - Order! On the point of order, the House is not proceeding to debate. However, it may be appropriate for the Chairman of the Privileges Committee to provide relevant information to the House to assist honourable members in coming to a decision on the matter."

2.22 The Chairman of the Committee spoke, by leave, to the contents of the Special Report, following which the Speaker commented that as far as he could determine, this was the first time such a report had come before the House.

2.23 The House then agreed to the referral motion.

2.24 The relevant extract from Hansard of 24 October, 1991 is contained in Appendix B.

CHAPTER 3

A SUBSEQUENT DEVELOPMENT

3.1 The Committee notes that the Herald-Sun of 31 October, 1991 carried an item with the caption "New Pressure on Spyker", and under the by-line of Shane Burke, which included the following:

"It is understood evidence about the signed contract was given to the privileges committee in the presence of Mr. Spyker on October 9 and 10".

3.2 The full page containing the item is reproduced in Appendix C.

3.3 This could suggest that an improper disclosure of the Committee's evidence or proceedings had occurred, with the abovementioned item constituting publication of a part of the evidence presented to, or the proceedings of the Committee, in breach of Standing Order 208.

3.4 As the transcript of evidence presented to the House with the report on 12 November, 1991 indicates, a Member of the Committee had challenged Mr. Spyker M.P. when he appeared before the Committee on those dates concerning a signed contract.

CHAPTER 4

PRECEDENTS RELATING TO THE PREMATURE PUBLICATION OR DISCLOSURE OF COMMITTEE PROCEEDINGS

4.1 Following the reference of this matter by the House to the Committee on 24 October, 1991 the Committee further studied for guidance the relevant sections of Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 21st Edition and also copies of several of the primary source documents referred to therein. The principal section dealing with premature publication or disclosure of committee proceedings states as follows (pp. 122-124):

Premature publication or disclosure of committee proceedings

"As early as the mid seventeenth century it was declared to be against the custom of Parliament for any act done at a committee to be divulged before being reported to the House. Subsequently, though the House of Commons found it increasingly difficult to enforce effectively its rules against the disclosure abroad of proceedings in the Chamber, the privacy of committee proceedings and the prior right of the House itself to a committee's conclusions was upheld, and punishment was inflicted on a newspaper proprietor who published the contents of a draft report laid before a select committee but not considered by it or presented to the House. In 1837, the House of Commons resolved that 'according to the undoubted privileges of this House, and for the due protection of the public interest, the evidence taken by any select committee of this House and the documents presented to such committee and which have not been reported to the House ought not to be published by any Member of such committee, or by any other person.'¹ Between 1837 and the middle of the present century, there were relatively few cases of premature publication of committee proceedings or unreported evidence. Subsequently, however, a number of cases have arisen, the majority involving the disclosure of the contents of draft reports, though one concerned evidence taken in private. Although successive Committees of Privileges have concluded that such interference with the work of select committees and contraventions of the Resolution of 1837 are a contempt of the House and damaging to the work of Parliament, in none of the recent cases involving draft reports has it been possible to identify those responsible for the original disclosure. In the absence of such information, Committees of Privileges have usually not been willing to recommend exercise of the House's penal powers against those who gave wider publicity to the disclosure, and when they have done so the House has not been prepared to agree.¹

The procedure for dealing with improper disclosure of select committee evidence or proceedings was altered with effect from the beginning of session 1985-86, following a report from the

Committee of Privileges.² The committee concerned seeks to discover the source of the leak and to assess whether it constitutes (or is likely to constitute) a substantial interference with its work, with the select committee system, or with the functions of the House. If the committee considers that there has been or is likely to be such interference, it reports to the House accordingly, and a report of this character stands automatically referred to the Committee of Privileges.³

The 1837 Resolution mentioned above was usually not enforced when the public were admitted to select committee meetings, and more recently this exception, together with others, has been put on a more substantial footing. Standing Order No 117 permits all select committees having power to send for persons, papers and records to authorize the publication by their witnesses or otherwise of memoranda of evidence submitted by them,⁴ and Standing Order No 118 adds that the House will not entertain any complaint of contempt or breach of privilege in respect of publication of evidence given at public sittings of select committees before such evidence has been reported to the House.⁵ The publication or disclosure of debates or proceedings of committees conducted with closed doors or in private, or when publication is expressly forbidden by the House, or of draft reports of committees before they have been reported to the House will, however, constitute a breach of privilege or a contempt.⁶

In the Lords, committees regularly authorize publication by witnesses of evidence, which they have submitted, in advance of the evidence being reported to the House or published by the committee."

-
- 1 The Committee of Privileges recommended in 1975-76 (1st Report, HC 22 (1975-76)), that the editor of a weekly journal in which a disclosure was published and the journalist who wrote the article should be excluded from the precincts for six months. The House rejected the recommendation; nor has any legislation been enacted to enable the House to fine offenders, as the Committee believed appropriate to the case. In 1985-86, the Committee of Privileges recommended the temporary exclusion from the precincts of a journalist in similar circumstances, and the reduction for a time of the number of Lobby passes available to the newspaper (HC 376 (1985-86)). Again the House took a different view (CJ (1985-86) 374).
 - 2 CJ (1985-86) 252; Committee of Privileges, 2nd Report, HC 555 (1984-85) paras 64-70.
 - 3 To date, one such report has been referred under the above procedure (Environment Committee, 2nd Special Report HC 211 (1985-86); Committee of Privileges, 1st Report, HC 376 (1985-86); CJ (1985-86) 374).
 - 4 See Report of the Select Committee on Parliamentary Privilege, HC 34 (1966-67) paras 133ff. The Speaker authorizes publication in the case of select committees no longer in existence.
 - 5 See Report of the Select Committee on Procedure, HC 588 (1977-78).
 - 6 CJ (1970-71) 548.

- 4.2 As referred to in the Preface, the relevance of the traditions of the House of Commons in this matter is a result of Clause 19(1) of the Constitution Act 1975 and also of the Legislative Assembly Standing Order No. 3.
- 4.3 The more recent practice of the House of Commons in relation to the premature publication or disclosure of committee proceedings provides useful guidance to the Committee in making its report to the House.

CHAPTER 5

THE COMMITTEE'S INVESTIGATION

- 5.1 The Special Report presented to the House on 24 October, 1991 indicated that it had not been possible to identify those responsible for the improper disclosure of the Committee's evidence and proceedings. That remains the case.
- 5.2 After detailed consideration of the reference to the Committee by the resolution of the House on 24 October, 1991, for examination and report, the Committee resolved to write to the Editor of the Herald-Sun, Mr. P. Akerman requesting that he provide the Committee with any information he may have that would assist it with its inquiry. This letter was signed by the Chairman and dated 14 November, 1991.
- 5.3 Mr. Akerman's reply, dated the following day, stated:
- "I do not believe I have any information which would assist your Committee with its enquiry."
- 5.4 Subsequently the Committee resolved to request Mr. Akerman's attendance before it on Tuesday 17 December, 1991. This resolution was conveyed to Mr. Akerman in a letter dated 3 December, 1991 and signed by the Chairman.
- 5.5 The Committee also resolved to request Mr. G. Easdown's attendance before it on Tuesday 17 December, 1991. This resolution was conveyed to Mr. Easdown in a letter dated 3 December, 1991 and signed by the Chairman.
- 5.6 No subsequent correspondence was received from Mr. Easdown.
- 5.7 Mr. Akerman replied in a letter dated 5 December, 1991 seeking clarification of the purpose of his attendance before the Committee and other issues.
- 5.8 The Chairman replied to Mr. Akerman in a letter dated 6 December, 1991.

5.9 Mr. Akerman subsequently wrote again to the Chairman of the Committee in a letter dated 13 December, 1991, seeking further clarification of the purpose of his attendance before the Committee, raising the issue of legal representation, and expressing the view that any hearing should be held in public. He concluded his letter with the following statement:

"Notwithstanding the concerns which have been raised in this letter, Mr. Easdown and I are prepared to attend voluntarily the Committee's hearing on 17 December 1991 whilst at all times reserving our rights in relation to these matters and to raise these issues with the Committee."

5.10 Copies of all the beforementioned correspondence are reproduced in full in Appendix D.

CHAPTER 6

EVIDENCE FROM MR. P. AKERMAN AND MR. G. EASDOWN

- 6.1 The Committee received evidence from Mr. P. Akerman, Editor in Chief of the Herald and Weekly Times Limited on 17 December, 1991.
- 6.2 The Committee received evidence from Mr. G. Easdown, a journalist employed by the Herald-Sun on the same date.
- 6.3 The Committee noted the comments and views of Mr. Akerman and Mr. Easdown.
- 6.4 Evidence given by Mr. Akerman is contained in Appendix E.
- 6.5 Evidence given by Mr. Easdown is contained in Appendix F.

CHAPTER 7

THE COMMITTEE'S VIEW

7.1 This current matter is before the Committee because the article on pages 1 and 2 of the Herald-Sun of 24 October, 1991 contained the paragraph:

"The declaration has been given to the Parliamentary Privileges Committee".

7.2 If the entire contents of the statutory declaration had been reproduced on the front page of that newspaper, without the above statement, the matter would have been viewed differently by the Committee in considering whether to make a special report to the House.

7.3 A leak from the Committee would, in such circumstances, have been viewed as one of a number of possible sources of the information contained in the statutory declaration. However the information that the statutory declaration had been given to the Parliamentary Privileges Committee remained the property of this Committee until reported to the House.

7.4 It is also worth noting that, in accordance with the practices of the Privileges Committee, the statutory declaration and all other exhibits considered as part of its inquiry into the Complaint made by the Leader of the National Party were appended to the Committee's report. Thus they all became publicly available documents on 12 November, 1991, when the report on the matter referred to the Committee on 1 October, 1991 was tabled in the House.

7.5 Since its Special Report was presented to the House on 24 October, 1991 the Committee has been unable to identify those responsible for the improper disclosure of the Committee's evidence and proceedings. It is the Committee's view that further efforts are unlikely to identify those responsible, and that the matter should not be pursued further.

- 7.6 The Committee confirms its view that the improper disclosure of evidence and proceedings which was the subject of its Special Report did not, in this case, constitute a substantial interference or the likelihood of such substantial interference, with the work of the Committee in its Inquiry into the Complaint made by the Leader of the National Party.
- 7.7 The Committee confirms its view that such improper disclosure of evidence and proceedings may constitute substantial interference, or the likelihood of such substantial interference, with the select Committee system or the functions of the House.
- 7.8 The substantial interference in this instance could arise both from the initial improper disclosure of the Committee's evidence and proceedings, or from the subsequent publication of that evidence and proceedings in the press.
- 7.9 In the following text, the Committee considers both of these circumstances.
- 7.10 The Committee's deliberations and evidence provided by Mr. Akerman and Mr. Easdown have identified several matters which the Committee seeks to bring to the attention of the House.
- 7.11 Both the freedom of the press and the privileges of the Parliament are cornerstones of a free society. Action which could affect either must be viewed with grave concern.
- 7.12 In the context of a select committee of the House, privilege means the rights of its members to freely carry out their duties as Members of the Committee, and for the due protection of the public interest.
- 7.13 The Committee re-affirms that the Privilege of Members of the Parliament to speak out in the House is the foundation of the right of the press to accurately report the proceedings.

7.14 The Committee notes evidence given by Mr. P. Akerman, Editor of the Herald and Weekly Times Limited, to the effect that the disclosure of documents did not appear to him to be a matter of concern, as he viewed his duty of public disclosure as higher than his duty to Parliament, its Privileges, rules of conduct and laws.

7.15 The Committee is reminded of the recent case of *Hinch v Attorney-General*, where the then Chief Justice, Sir John Young, observed that the defendant, Hinch, had placed himself above the law and claimed a freedom to determine what he might do and what he might not.¹ The Chief Justice concluded that if the rule of law and the authority of the courts are to be maintained, it must be shown that no-one can place himself above the law.² The Committee concurs with the Chief Justice, and believes his comments are also relevant to Parliament in the current case.

7.16 Mr. Akerman first states that he, like every other citizen is bound by the laws of the State, but then suggests that his desire to see changes in the laws might justify his publishing material not in accordance with the existing laws or rules.

7.17 In his evidence on Thursday 17 December 1991, Mr. Akerman, clearly put his position to the Committee on this matter in the following terms:-

"I am saying that I put my personal responsibilities as an editor in regard to publishing matters that I consider to be in the interests of the readers of the *Herald-Sun* who are members of the public of Victoria before obligations that I may have under existing laws in this State."

7.18 It is necessary to understand that the principles of privilege need to be upheld in case in future the improper disclosure of a document or proceedings of a Committee leads to a breach of privilege involving substantial interference with a select committee or the operations of the House.

¹ *HINCH and Another V. ATTORNEY-GENERAL* [1987] V.R. 723

² *HINCH and Another V. ATTORNEY-GENERAL* [1987] V.R. 733

- 7.19 It is the Committee's suggestion that, in order to inform a wide audience, Mr. Speaker consider making a statement to the House on both the positive (that is the freedom to publish) and the negative (that is the prohibition on publication before reporting to the House) aspects of Parliamentary Privilege that have arisen in this inquiry.
- 7.20 Such a statement on the nature and significance of privilege should be made available formally to the press, including the Australian Press Council, and particularly members of the Parliamentary press gallery upon their accreditation.
- 7.21 The Committee further suggests that a Joint Select Committee of the Parliament of Victoria inquire into and report upon aspects of Privilege as it affects both Houses of the Parliament. In making this suggestion the Committee notes the Reports of the Joint Select Committee on Parliamentary Privilege of the Parliament of the Commonwealth of Australia.

CHAPTER 8
LEGAL ADVISERS FOR WITNESSES APPEARING BEFORE THE
PRIVILEGES COMMITTEE

- 8.1 In its various reports to the Parliament in recent years the Committee has addressed issues which have arisen as a result of the particular inquiry.
- 8.2 During this inquiry the issue of a legal adviser being available to a witness before the inquiry has been raised.
- 8.3 It has been the practice of the Committee during the 1980's and up to the present time to exclude strangers from its proceedings. The Committee's power to do this is derived from Standing Order 209 which states:
- "209. When a Select Committee is examining witnesses, strangers may be admitted or excluded at pleasure; but shall always be excluded when the Committee is deliberating."
- 8.4 This practice has served the Committee and hence the House well.
- 8.5 In considering this from the public interest point of view it should be noted that it has also been the practice of the Committee to present with its reports to the House all evidence and exhibits considered during an inquiry.
- 8.6 A witness appearing before the Committee remains at liberty to request the Committee to allow a legal adviser to accompany them. A legal adviser could not appear for the witness, but could be present during the evidence and be available to advise the witness only. Such a request, if made, would be given consideration by the Committee. Pursuant to the motion appointing the Committee it could then request the attendance of the nominated legal adviser.

Committee Room
29 April, 1992.

Appendix A

Herald-Sun of Thursday 24 October, 1991
pp.1-2

\$100,000 BIRTHDAY BINGO

LUCKY NUMBERS INSIDE

WIN A CAPRI

PAGE 28

PLUS FREE MOVIE TICKETS

for Goldie Hawn's *Deceived*

ENTERTAINMENT P 51

STONEY TELLS ON CONTRACT

BELEAGUERED transport boss Ian Stoney — under fire over the \$85,000 payout to a ministerial adviser — claims the man, Jeff Gordon, drafted his own controversial job contract.

By GEOFF EASDOWN

found that Mr Stoney and the adviser, Mr Gordon, signed a photocopy of the contract on August 1, and that several days later Mr Stoney issued an order for the signed document to be destroyed.

Mr Stoney has made a statutory declaration about the dealings he had with Mr Gordon. The declaration has been given to the Parliamentary Privileges Committee.

In his declaration, Mr Stoney swore: ● That while he (Mr Stoney) was absent from work for a double spinal fusion on May 24 this year, Mr Spwyker advised the department that Mr Gordon's services were no longer required.

It says the initial draft was prepared by Mr Gordon, based primarily on standard conditions that operated in state government contracts.

● That a redeployment offer was rejected by Mr Gordon. ● That advice from the Transport Commission's solicitors was that the contract with Mr Gordon was valid.

The five-year contract, according to Mr Stoney, was agreed to on or about July 11, 1990, and backdated to the previous April.

● Continued Page 2

Mr Gordon's employment was severed on July 31, this year.

The Public Transport Corporation wrote to Mr Gordon the following day advising that his appointment was terminated.



Mr Pullen

The Parliamentary Privileges Committee is probing whether the Transport Minister, Mr Spwyker, knowingly and deliberately misled Parliament in statements he made about Mr Gordon's cancelled contract.

Crisis on excess teachers

—Page 3

In his declaration, sworn on October 10, Mr Stoney says ~~that~~ he only ever saw one copy of the contract, that it was not signed, and claims he did not shred his copy of the document.

A subsequent investigation ordered by the Premier, Mrs Klerner,

Asbestos alert on fireball

By ALEN RADOS and GREG THOM

THE Environment Protection Authority was last night supervising an asbestos clean-up operation in Preston after a multi-million dollar fire ripped through a plant at the CIG complex yesterday.

The blaze threw up white asbestos over a wide area, the chairman of the Environment Protection Authority, Dr Brian Robinson, told the *Herald-Sun* last night.

He warned anyone who found pieces of the material not to touch them.

But tests did not show there was cause for public concern, Dr Robinson said.

The affected area is near the East Preston Technical School and surrounding residential streets.

The nearby Northland Shopping Centre was found to be free of any asbestos by EPA inspectors and health and safety department officers, Dr Robinson said.

The school was ordered closed yesterday afternoon after the asbestos was discovered and will remain shut until the clean-up operation is complete.

Teachers were told to hose down their cars when they got home and students to wash their clothes immediately.

A recorded message at the school last night said that because of the fire at the complex the school has closed and would remain closed today.



● Preston panic ... blasts and fireballs forced 1000 people to be evacuated. Picture: VIN ROST

SPORTS WORLD

adidas

Shoe Sale

LADIES

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 ST ALBANS: 323 Main Road East. Phone 366-2203
 GEELONG: 138 Moorabool Street. Phone 231-483

Chooks come home to roost

VINE OPINION

GRADUALLY the chickens are coming home to roost.

Tucked away in this newspaper yesterday was a report from colleague Michael Epis regarding the annual report of the Accident Compensation Commission tabled in Parliament on Tuesday.

And who came up smelling like roses? None other than dismissed WorkCare chief Michael Roux.

You'll recall the case, of course. Michael Roux took over the running of WorkCare when it was in the pits to the tune of around \$4 billion.

In two years or so, he turned that round by half through a lot of hard work and changes in direction.

And then Labor and Industry Minister Neil Pope stepped in and accused him of claiming that legal costs were rocketing and that Mr Roux was not doing anything about it.

The minister and his ministers then produced some of the most amazing figures to substantiate the minimal of the WorkCare boss.

No one had seen such figures before, nor has anyone seen them since.

But in the State's talk shop on Tuesday, the report came out and there is no denying from that report just what a great job Michael Roux had done, so good, in fact, that his temporary replacement, Mr Andrew Lindberg, said: "Members of the board have made a notable contribution... some more so than the commission's previous managing director, Mr Michael Roux."

Mr Roux... was instrumental in significantly improving administration and in advising on the need for and implementing major reforms.

He then went on to outline the performance of WorkCare, which shows quite clearly just what a capable administrator Michael Roux is and how much WorkCare improved under his administration.

So where does that leave the minister? I'd suggest with egg all over his face.

He has sacked a man who has turned WorkCare from the pits into a viable operation within two years of being fully funded - if he had been able to get further reforms past Mr Pope.

But that fell into the too hard basket so it appears the minister, instead of acting on the advice of his career public servant, decided to get rid of the messenger.

It's not over yet, either. The procedures put in place by Mr Pope since Michael Roux left are already seeing an increase in common law actions and far higher payouts than ever. Watch this space.

Tony Davis

Stoney speaks up on contract

From Page 1

Mr Stoney has said in the declaration that he negotiated with Mr Gordon to reduce the payout to minimise the cost to the transport corporation.

He also recalled discussion as to whether or not the contract should be signed to complete the paperwork - but recalled that Mr Gordon may have signed his copy of the contract.

He said that he had no recollection of signing the contract, and gave an assurance that he had never shredded a copy of the contract.

He recalled that the contract was agreed on or about July 11, 1990, applicable for five years from

April 3, 1990, when Mr Gordon began working in the transport portfolio attached to the ministers' office.

He also said that the initial draft was prepared by Mr Gordon on standard conditions operating in state government contracts and that he had only ever seen one version of the contract.

Meanwhile, the Opposition kept up its Parliamentary attack on Mr Spyster yesterday, accusing him of misleading the House on two other occasions.

The Shadow transport spokesman, Mr Brown, said

Mr Spyster had repeatedly told Parliament Mr Gordon's contract was a standard corporation contract.

Mr Brown asked if it was a fact that the contract was not standard and had not been prepared by the corporation, but by Mr Gordon.

He then accused Mr Spyster of misleading the House on the issue.

The National Party leader, Mr McNamara, claimed in Parliament Mr Spyster had misled the House over claims that the corporation had met its budget targets.

Mrs Kirner said the Opposition's allegations that Mr Spyster had misled

Parliament should be dealt with through the proper process and not in question time.

"The contract between Mr Gordon and the PTC will be handled by a Public Service Board investigation and if there are any matters for discipline they will be appropriately dealt with," she said.

"There has to be natural justice and there will be."

Outside Parliament, Mrs Kirner said Mr Stoney had been a very effective public servant.

"I regret this instance but that doesn't mean to say there doesn't have to be proper action taken if necessary," she said.

Packer opens fire on Fairfax

By MICHAEL EPIS

KERRY Packer launched a broadside at the Fairfax newspapers on his TV station last night when he accused them of a conspiracy of distorted reporting of the Tourang bid for Fairfax.

Speaking on Channel Nine's *A Current Affair* Mr Packer said there was "undoubtedly" a conspiracy against the bid, of which he is a major part, to imply that he would run Fairfax.

Asked if Mr Rupert Murdoch's News Ltd newspapers were part of the conspiracy, Mr Packer said they do "not want a strong competitor".

Mr Packer said that through Tourang he would own only 15 per cent of John Fairfax and Canadian publisher Mr Conrad Black would have 20 per cent, with 65 per cent open to a public float.

"The public will control Tourang," Mr Packer said.

"Conrad Black will run the thing, not me."

Mr Packer admitted he did not have a record of being a passive investor.

Journalists at the Fairfax papers, including The Age, have protested against the Tourang bid, saying it would further concentrate the ownership of Australian media and

because of Tourang's refusal to approve a charter guaranteeing editorial independence.

The other two bidders - Australian Independent Newspapers and Mr Tony O'Reilly's group - have supported the charter.

Mr Packer defended his record on interference by saying he did not inspect the contents of his magazines before publication.

He said the notion that his presence would threaten the independence of his magazines was a "preposterous suggestion".

To avoid accusations of using his media for his own purposes Mr Packer fielded questions from three Fairfax journalists, Mr Kenneth Davidson, Mr Alan Kennedy and Mr Tom Burton.

The event threatened to become farcical when Mr Burton refused to read article 1 of the Australian Journalists Association code of ethics, which Mr Packer claimed has been broken repeatedly in reporting on Tourang.

Before facing the panel Mr Packer was interviewed by Jana Wendt, whom he told he was not a bully.

Magazines float

NEWS Corporation Ltd yesterday announced it would float the group's Australian magazine and commercial printing operations.

News said the move would raise \$682 million.

The Australian magazine and commercial assets will be sold to the newly-created company Pacific Magazines and Printing Ltd, which will be floated.

Pacific, which will be 45 per cent owned by News after the float, will incorporate Southdown Press Ltd, Progress Press, Wilke Color, Wilke Directories, Griffin Press and Keppell Printing.

Report, Page 31

Hutchison Telecoms

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1 Hoddle Street, Richmond, Victoria 3121

NEWS

THE Premier, Mrs Kirner, will today answer allegations that her government is running a campaign to discredit the Auditor-General. - Page 6.

FEATURE

PETER WILSON writes that Commonwealth leaders, who met this week in Paris, turned a great chance to crack down on brutal despots in its own ranks. - Page 13

WORLD

Emotional reunion for freed hostage - Page 15

Herald-Sun

NEWS-PICTORIAL

Phone: 652 1111 Classifieds: 652 2222

EDITORIAL

The Opposition pledges to change the VCE in everything but name and to take back control of the system from the unions. Meanwhile, Victoria's students struggle to acquire learning in an ideological limbo. - Page 12

TATTS DETAILS

TATTSLOTTO: Draw No. 1070: 16, 45, 8, 15, 27, 43. Supps: 38, 31. Div 1: \$940,043.95.
TATTS KENO: 1, 2, 3, 7, 11, 16, 17, 18, 32, 35, 36, 37, 40, 53, 60, 64, 66, 76, 79. Jackpot: \$1,431,000.
TATTS 2: 95, 3. Dividend: \$958.

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What's On Page 60

World News Pages 15-21

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Appendix B

Hansard extract of Thursday 24 October, 1991
pp.1389-1391

JOINT SITTING OF PARLIAMENT

Thursday, 24 October 1991

ASSEMBLY

1389

The **SPEAKER** — Order! I have heard sufficient argument on the matter. The effect of section 85(5)(c) of the Constitution Act is to provide for the House to consider Bills such as this in a different manner to the manner in which the House has previously dealt with all Bills which were held to affect the jurisdiction of the Supreme Court.

I am of the opinion that the House has properly dealt with this Bill at all stages; that the Bill was passed at the second reading but was not passed with an absolute majority. That fact can affect only the operation of clause 5 of the Bill and not the Bill as a whole.

The third reading has been passed with the support of an absolute majority of the whole numbers of the members of the Legislative Assembly. I do not uphold the point of order.

Question agreed to.

Ordered to be transmitted to Council.

JOINT SITTING OF PARLIAMENT

Monash University

Victoria University of Technology

Victoria Institute of Marine Sciences

Message received from Council acquainting Assembly that they have agreed to joint sitting to elect members to the council of Monash University, the council of Victoria University of Technology and the council of Victoria Institute of Marine Sciences.

PRIVILEGES COMMITTEE

Dr **VAUGHAN** (Clayton) presented special report of Privileges Committee.

Dr **VAUGHAN** (Clayton) — I move:

That the report be laid on the table and be printed.

Mr **KENNETT** (Leader of the Opposition) — On a point of order, Mr Speaker, I ask whether this interim report, like the last interim report that was handed down by this Privileges Committee, includes the transcript. You might remember that in the case affecting me it was decided by the Committee that the transcript should be made available to the House and printed. Therefore it

would be only correct for it to be provided in this case.

I have not sought advice but I should imagine that the Privileges Committee would at least be even-handed in its treatment of honourable members in this place and I ask, before the details of the report just presented are printed, whether the report includes the transcript of the hearing to this date.

Mr **ROPER** (Treasurer) — On the point of order, my understanding it is that it is a report from the Privileges Committee which does not include the transcript of evidence. The transcript is presumably a matter that the committee will bring before the House at a later time.

The **SPEAKER** — Order! There is no point of order.

Motion agreed to.

Mr **ROPER** (Treasurer) (*By leave*) — I move:

That the matter referred to in the special report of the Privileges Committee be referred to the committee for examination and report.

The committee has asked for the House to take this action. It is an agreed position by all the members of the committee by way of facilitating the actions of the committee.

Mr **STOCKDALE** (Brighton) — On a point of order, the House simply is not in a position to vote on this matter in the light of what the Treasurer has just said. There has been limited circulation of the report and not all honourable members have access to even the words let alone any understanding of the substance of the matter.

The Treasurer should explain to the House the substance of the matter before it goes to debate otherwise the vote is a complete mockery.

The **SPEAKER** — Order! On the point of order, the House is not proceeding to debate. However, it may be appropriate for the Chairman of the Privileges Committee to provide relevant information to the House to assist honourable members in coming to a decision on the matter.

Mr **COLEMAN** (Syndal) — On the point of order, insufficient copies of this report have been distributed on which to base any discussion. It

would be appropriate to at least order the printing of sufficient copies for all honourable members to have the report available to them and for there to be an adjournment while that is done.

The **SPEAKER** — Order! I shall direct that further copies be run off forthwith. However, that should not inhibit the House considering the information to be provided by the Chairman of the Privileges Committee.

Dr **VAUGHAN** (Clayton) (*By leave*) — Firstly, this is a unanimous report coming to the House from the Privileges Committee. Secondly, it is not an interim report, it is a special report from the Privileges Committee as it could, under different circumstances, be a special report from any Select Committee established by this House. I emphasise that point for the benefit of the Leader of the Opposition because it is a special report on a narrow question on which there has been no relevant transcript to this point.

The committee is currently considering two matters referred to it by the House. It relates to the complaint made by the Leader of the National Party on 19 September and referred to the committee by resolution of the House on 1 October. The committee has recently been hearing evidence and receiving submissions.

During this inquiry there has appeared in the *Herald-Sun* of today's date under the by-line of Mr Geoff Easdown an article headed "Stoney tells on contract". The article provided information on the contents of a statutory declaration by Mr Ian Stoney, the Chief Executive Officer of the Public Transport Corporation, and stated in part:

The declaration has been given to the Parliamentary Privileges Committee.

The article goes on to provide additional information on the contents of the statutory declaration which had not previously been, to the committee's understanding, on the public record. However, that statutory declaration has been previously referred to and summarised in a memorandum dated 22 October 1991 to the Premier from Mr Peter Kirby, Secretary of the Department of the Premier and Cabinet. That memorandum from Mr Kirby to the Premier was subsequently released publicly.

The Privileges Committee received in evidence from Mr Spyker the original statutory declaration plus the

accompanying letter from Mr Stoney to Mr Spyker in response to questions from members of the committee. The matter before the House has as its genesis Standing Order No. 206 and honourable members would be aware the committee has been given permission by the House to publish under terms and conditions that it sees fit its proceedings and other details.

In taking the action it has taken today, the committee has been guided by the procedure laid down in *May* on page 124 of the 21st edition and I shall quote the words that summarise the procedure:

The procedure for dealing with improper disclosure of select committee evidence or proceedings was altered with effect from the beginning of session 1985-86, following a report from the Committee of Privileges.

By way of explanation, that is the Committee of Privileges of the House of Commons at Westminster.

The committee concerned seeks to discover the source of the leak and to assess whether it constitutes (or is likely to constitute) a substantial interference with its work, with the Select Committee system, or with the functions of the House. If the committee considers that there has been or is likely to be such interference, it reports to the House accordingly, and a report of this character stands automatically referred to the Committee of Privileges.

The report, which I hope honourable members have by this stage, goes on to summarise the action taken by the committee. The last paragraph of the report states:

The Committee has resolved to make a special report to the House to report the action it has taken and the conclusions reached.

The committee has followed the procedure outlined on page 124 of *May*, the practice followed by the House of Commons in these matters, and is bringing the report of its actions and its conclusions to the House. In particular the committee made this statement:

However the Committee has considered the question of whether or not the leak constitutes substantial interference, or the likelihood of such substantial interference, with the Select Committee system or the functions of the House. It is of the view it may.

That is a unanimous view of the Privileges Committee of this House. That is a serious matter. In

my view the committee has taken the correct step in bringing this matter to the attention of the House today. I thank the House to the extent it has cooperated with the committee in proceeding with this matter.

Mr KENNETT (Leader of the Opposition) — Given the explanation by the honourable member for Clayton, we support the recommendations of the committee. Nevertheless, I make the point that it is very difficult for honourable members when such a matter is brought on without notice, when not enough reports are circulated and when members are not briefed — as they should not be — by their delegates on the Privileges Committee about the details under consideration.

Apart from the members of the Privileges Committee, honourable members know little about the matter. But given the explanation by the honourable member for Clayton, we accept the recommendation.

The SPEAKER — Order! Before putting the question, I shall make two comments. Firstly, members of the Privileges Committee are not delegates. Secondly, so far as I can determine, this is the first time such a report has come before the House.

Motion agreed to.

ADJOURNMENT

Mr ROPER (Treasurer) — I move:

That the House do now adjourn.

Keith Turnbull Research Institute

Mr WEIDEMAN (Frankston South) — On 2 October, during my speech on the Appropriation Bill, I made reference to the Keith Turnbull Research Institute at Frankston and to allegations of fraud, corruption and mismanagement of funds to the value of — —

The SPEAKER — Order! I ask the honourable member to say to which Minister he is directing his remarks.

Mr WEIDEMAN — To the Minister at the table, the Minister for Tourism. During my speech on the Appropriation Bill I said the internal auditor of the institute, Mr Rice, reported that there had been fraud

and mismanagement of funds and recommended that certain action be taken.

That was not the first time the matter had been raised. It was raised on 27 March by my coalition colleagues, the honourable member for Syndal and the Leader of the National Party; and other issues pertaining to the institute were raised last year.

The allegation of mismanagement of funds at the institute was reported in a recent article in the *Frankston Standard*, which states:

... building contracts worth \$258 000 had been allocated by institute employee Keith Jackson without tenders being called for, without supervision from the housing and construction Minister, without building regulations being followed, without town planning approval ... an institute employee had awarded work worth \$10 000 to a relative without tender, at a value of \$32 716.

Other allegations about the stripping of accessories from traded-in vehicles and work not being carried out to remove trees from the property have also been made.

The problem is that, after I raised the issue and my comments were reported in the local paper, I started to receive abusive telephone calls. The first caller promised that, together with three other union mates, he would visit me and put me right. He threatened to have my kneecaps removed and to destroy my office. The second caller was the wife of one of the people involved. She verbally abused me and made threats against my person and my office, warning me not to take action. The third caller, a woman with a strong voice, made threats against me and my family and accusations about my parental heritage.

I have been contacted by people at the institute who have told me that no action has been taken to deal with the allegations made. They are concerned that the people who first raised the issues have been removed from their positions and isolated from their fellow employees so that they cannot defend themselves. I have also been told that the police have taken no action, which is another reason why I fear that nothing will be done.

As you will know, Mr Speaker, in the past 48 hours my office has been broken into and my personal files strewn on the floor and covered with oil in an attempt to burn them. More than \$15 000 worth of equipment has been removed from the office.

Appendix C

Herald-Sun of Thursday 31 October, 1991
p.5



● Not impressed ... Tasmanian pademelon Dude was in no rush to meet supermodel Elle. Picture: BRETT FAULKNER.

Body lures one Elle of a crowd

THEY came, they queued, they got crushed. All for a signature.

One or two even collapsed. But complaints were as rare as an Elle MacPherson frown during the model's promotional visit to Myer yesterday.

For the most part it was smiles all around. And wolf whistles. And, yes, even panting.

That may or may not have had something to do with the conditions. The atmosphere was so stifling that a few Elle fans, obviously distressed, had to leave without a precious autograph. For them it was, to pardon the pun, like a trip to 'ell and back.

One girl slumped in a corner but she recovered sufficiently to get not one but two Elle monickers.

Myer staff even brought in a fan of the mechanical variety to cool the star attraction but she just kept on grinning that big grin as she autographed copy after copy of her new calendar.

And the adoring throng lapped it up. Police estimated as

By ROSS BRUNDRETT

many as 5000 people might have squeezed into Myer's fourth floor for a look at their idol.

The regional manager Steven Part said it might have matched Sophia Loren's record 5500 crowd of several years ago. Even "The Body" said she couldn't remember attracting a bigger crowd.

"It was so much better than Sydney (where jostling fans forced a termination of the calendar signing on Tuesday). Everyone was so well-behaved," she gushed.

The travelling Elle show attracted all sorts, including a young Tasmanian pademelon called Dude. "It's a type of wallaby," explained the pademelon's minder, Anthony Taggart, 24, a ranger at the Phillip Island Wildlife Park.

And what did Elle think of it? "She went all goo-goo-eyed. She thought it was very cute," he said.

Elle figured she must have signed between 500 and 1000 calendars in the allotted hour, but shrugged it off.

There was no writer's cramp, "but I forgot how to spell my name a couple of times" she said, flashing her perfect pearly-whites.

First in line for a signature was an enigmatic character in an Akubra called Dude by the name of "Rocket".

"I got here when they opened the doors," he said, which meant he queued up for more than three-and-a-half hours. "Last time I missed her and I wasn't going to let that happen again."

BUNGLES BLOW PTC MILLIONS

By SHANE BURKE and STEPHEN DABKOWSKI
HUNDREDS of consultants were paid millions of dollars to perform useless work, according to a review of the Public Transport Corporation.

The report of Parliament's economic and budget review committee found at least 280 consultants were employed by the transport department in the past three financial years.

But the committee heard in evidence from a senior corporation official that the consultants got "fancy money" for doing nothing.

"After three years we found they had not produced anything while being paid this fancy money," he said.

"There were project management people who did not have projects to manage and mismanaged the ones they did get."

The report, tabled in Parliament, found \$11 million was saved when the number of consultants was cut to just 55.

It also found transport

New pressure on Spyker

THE Premier, Mrs Kirner, last night was under new pressure to sack the Transport Minister, Mr Spyker, over a \$95,000 payout to former adviser Jeff Gordon.

It is understood evidence before the parliamentary privileges committee may force Mrs Kirner to take action against Mr Spyker.

The Premier last week said her minister did not know of a signed contract with Mr Gordon until she told him.

Mrs Kirner bumped into the former staffer in Noosa Heads on October 17. She said Mr Spyker

had suffered steep spending blowouts and revenue shortfalls.

But Mr Spyker, who took over the transport portfolio in April last year, blamed the recession for poor transport revenue.

And he said one of his first decisions as Transport Minister was to axe the number of consultants.

However, the Premier,



● Mr Spyker ... was "shocked" when she told him.

It is believed Mr Spyker learned of the contract at least a week before the Premier's chance meeting.

Mrs Kirner, last night joined the row over rich deals for public servants by ordering a review of contract guidelines.

Mrs Kirner admitted this was prompted by the continuing controversy involving Mr Spyker and transport staff contracts.

Mr Spyker yesterday faced new attacks over a

\$95,000 payout to former adviser Jeff Gordon.

He also faced questioning over contract details for former Trades Hall Council official Peter Parkinson, who is now on the transport payroll.

Mrs Kirner said she wanted to avoid a repeat of the Gordon payout.

"I am satisfied that salaries must be approved by ministers," she said.

"I believe what has happened in transport in Mr Gordon's and Mr Parkinson's contracts suggests that the guidelines ought to be toughened," she said.

"What concerns me, I have to say, is what I and others have called an escape clause. I believe there is plenty of opportunity for redeployment."

"I'm not impressed with escape clause contracts."

In other findings, the committee reported:

● The Public Transport Corporation's salary and wages bill blew out by \$21 million in 1990-91.

● Redundancies cost almost \$35 million but achieved only 90 per cent of the 1500 staff-cut target.

● Passenger and freight revenue was down by \$19.8 million.

The report also found that the Transport Ministry had deferred spending at the end of the last financial year to balance its cash budget.

Mr Spyker last night said the committee found a 93 per cent fall in the number of shifts lost through strikes.

"I am delighted that despite this low level of industrial dispute significant reforms are being made right across the transport sector to make the PTC more cost-efficient," he said.

"In times of recession and downturn in revenue this is really a remarkable achievement."

The committee report also had harsh words for the Government over long delays in releasing its monthly statement on the State Budget.

It also criticised the lack of detail in the statements and contrasted them unfavorably with statements by other states.

The Shadow Treasurer, Mr Stockdale, said the report showed the Government was trying to hide the state of its finances.

"This Government has made secrecy and cover-up its trademark," he said.

Snap power strike threat

VICTORIA'S power supply is still under threat from a snap strike despite a union decision yesterday to postpone any industrial action for two weeks.

Union officials were last night wary of predicting the outcome of a mass meeting of angry power workers at Morwell today.

"I must say I'm not overly confident that a snap strike won't come out of the meeting," Federated Engine Drivers' and Firemen's Association state organiser Alan Riley warned.

Feelings were running high yesterday after a 24-hour walkout was narrow-

ly avoided when Industrial Relations Commissioner Johnson offered to chair a conference between the union and the SEC.

The stoppage was delayed until November 12 when a meeting of FEDFA shop stewards and SEC officials accepted the offer

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Appendix D

Correspondence between the Committee and Mr. P. Akerman
and Mr. G. Easdown



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE. VIC. 3002
TELEPHONE 651 8911
EXT

14 November, 1991.

Mr. P. Akerman
Editor
Herald-Sun
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Akerman,

The Privileges Committee advises you that a matter was referred to the Committee by the Legislative Assembly on Thursday, 24 October 1991 regarding your page 1 report in the Herald-Sun that day.

The Committee requests you to provide it with any information you may have that would assist it with its inquiry.

I have attached an extract from the Votes and Proceedings of the Legislative Assembly of 24 October, 1991 referring the matter in the Special Report to the Committee for examination and report, together with a copy of the Privileges Committee Special Report tabled that day.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Vaughan".

Dr. G.M. Vaughan M.P.
Chairperson
Privileges Committee

Enc.

HWIT

The Herald and Weekly Times Limited
M.S. 001 111 917

Dr. G.M. Vaughan M.P.
Chairman
Privileges Committee
Legislative Assembly
Parliament House
MELBOURNE 3002

Dear Dr. Vaughan,

I do not believe I have any information which would assist your Committee with its enquiry.

Yours sincerely,



Piers Akerman
EDITOR-IN-CHIEF

November 15, 1991



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE, VIC. 3002
TELEPHONE 651 8911
EX 1

3 December, 1991.

Mr. P. Akerman
Editor in Chief
Herald-Sun
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Akerman,

As you are aware the Privileges Committee received a reference from the Legislative Assembly on 24 October 1991 in response to a Special Report of the Committee tabled the same day which related to an article appearing on pages 1 & 2 of the Herald-Sun entitled "Stoney Tells on Contract". The extract from the Votes and Proceedings is as follows:

"That the matter referred to in the Special Report of the Privileges Committee be referred to the Committee for examination and report (Mr. Roper) - put and agreed to."

As a consequence of that resolution, and pursuant to the powers conferred on the Privileges Committee by the Legislative Assembly on 3 November 1988 namely "that the Committee have power to send for persons, papers and records...", your attendance before the Committee on Tuesday 17 December 1991, is requested.

The meeting will take place in "Room K" 2nd floor, Parliament House at 11.00 a.m.

The Committee will operate under the general provisions of the Standing Orders of the Legislative Assembly and has resolved that:-

- (a) Strangers will not be admitted to the Committee, including during the hearing of evidence; and
- (b) Witnesses will generally be required to give evidence on oath or affirmation.

Furthermore you are invited to provide in writing to the Committee any statement that you may desire.

Would you please confirm your availability to attend the Committee meeting at this time, either verbally or in writing to the Secretary of the Committee Mr. Mark E. Roberts, as soon as possible.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "G.M. Vaughan".

Dr. G.M. Vaughan M.P.
Chairperson
Privileges Committee



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE VIC 3002
TELEPHONE 651 8911
FAX

3 December, 1991.

Mr. G. Easdown
Herald-Sun
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Easdown,

The Privileges Committee received a reference from the Legislative Assembly on 24 October 1991 in response to a Special Report of the Committee tabled the same day which related to an article appearing on pages 1 & 2 of the Herald-Sun entitled "Stoney Tells on Contract". The extract from the Votes and Proceedings is as follows:

"That the matter referred to in the Special Report of the Privileges Committee be referred to the Committee for examination and report (Mr. Roper) - put and agreed to."

As a consequence of that resolution, and pursuant to the powers conferred on the Privileges Committee by the Legislative Assembly on 3 November 1988 namely "that the Committee have power to send for persons, papers and records...", your attendance before the Committee on Tuesday 17 December 1991, is requested.

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- (a) Strangers will not be admitted to the Committee, including during the hearing of evidence;
and
- (b) Witnesses will generally be required to give evidence on oath or affirmation.

Furthermore you are invited to provide in writing to the Committee any statement that you may desire.

Would you please confirm your availability to attend the Committee meeting at this time, either verbally or in writing to the Secretary of the Committee Mr. Mark E. Roberts, as soon as possible.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gerald Vaughan".

Dr. G.M. Vaughan M.P.
Chairperson
Privileges Committee



The Herald and Weekly Times Limited
ACN 004 113 937

Received 4.35pm
5/12/91

[Handwritten signature]

Dr G.M. Vaughan, M.P.
Chairperson
Privileges Committee
Legislative Assembly
Parliament House
MELBOURNE 3002

Dear Dr Vaughan,

I acknowledge receipt of your letter dated 3 December 1991 in which you have requested my attendance before the Privileges Committee of the Legislative Assembly on 17 December.

Unfortunately, the purpose of my attendance before the Privileges Committee is not clear from your letter of 3 December. To ensure that due process is observed, I would be grateful if you would inform me as to whether you have requested my attendance as a witness to assist the Committee in its enquiries, on the basis that it is not intended to bring any charges against me. Alternatively, if it is intended that the Privileges Committee will or may bring charges in respect of any alleged breach of privilege, I would appreciate receiving particulars of any such charge.

I note from your letter that the Committee has resolved that strangers will not be admitted, including during the hearing of evidence. Whilst I am not sure as to the meaning to be attributed to the word "strangers" in the context of your letter, I wish to be represented by my Solicitor and Senior Counsel, Mr Ron Merkel Q.C. and, if appropriate, I will seek leave for such representation.

I also propose to raise with the Committee the question of a public hearing. Whilst I appreciate the role of the Privileges Committee, I am sure that you understand the significance of these issues involving questions of both representation and public hearing as well as the essential role of the press in a democratic society in reporting on matters of public interest and importance.

Obviously, it is in the interests of both the press and the Parliament that their respective roles do not come into conflict.

Having regard to the matters raised in my letter, you may consider it worthwhile having an informal meeting with myself and my Solicitor to discuss arrangements for my attendance before the Committee, to resolve or avoid any difficulties arising out of these matters.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Piers', enclosed within a large, hand-drawn oval.

Piers Akerman
EDITOR-IN-CHIEF

December 5, 1991



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE, VIC. 3002
TELEPHONE 651 8911
EXT

6 December, 1991.

Mr. P. Akerman
Editor in Chief
Herald-Sun
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Akerman,

I acknowledge receipt of your letter of 5 December, 1991 seeking clarification of a number of matters in connection with your attendance before the Privileges Committee.

The purpose of requesting your attendance before the Privileges Committee on 17 December, 1991 is to ascertain whether you may have any information which may be relevant to the Committee's inquiry. It is not the Committee's role nor does it have the power to bring charges against individuals or groups in respect of any alleged breach of privilege.

The effect of the Committee's resolution to exclude "strangers" from its hearing means that no persons other than witnesses, Members of the Legislative Assembly and relevant Parliamentary Officers may attend those hearings. Therefore, your solicitor will not be able to accompany you into the Committee's hearing on 17 December.

Yours sincerely,

Dr. G.M. Vaughan M.P.
Chairperson
Privileges Committee



The Herald and Weekly Times Limited

ACN 004 113 937

Dr G.M. Vaughan, M.P.
Chairperson
Privileges Committee
Legislative Assembly
Parliament House
MELBOURNE 3002

Dear Dr Vaughan,

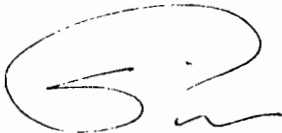
I acknowledge receipt of your letter dated 6 December 1991 in which you responded to the issues raised in my letter of 5 December 1991. Unfortunately, the purpose of my attendance is still not clear from your letter of 6 December 1991 and I would appreciate further clarification as to whether the Committee proposes to make recommendations regarding the laying of any charges, or commitment of any person, arising out of any alleged breach of privilege.

In reading your letter I was dismayed that the Committee's resolution to exclude "strangers" is being applied to deny my right to legal representation. I am unable to understand how my right to legal representation can interfere with, or obstruct, the functioning of the Committee. It is my understanding that Australia is a party to the International Covenant on Civil Political Rights ("ICCPR"). Article 14 of the ICCPR is of particular relevance as it provides that in these circumstances, I have the right to a public hearing, and to know the matters that will be dealt with at such a hearing and that I have the right not to be compelled to answer questions which may leave me open to penalties. I assume the Committee will recognise the principles contained in the ICCPR. If the Committee feels that it is unable to afford me these basic rights, I request the Committee to explain the basis upon which it has determined not to do so.

I also assume that, as the Committee maintains its decision to exclude strangers from the hearing, the hearing is to be held in private. Obviously, it is a fundamental hallmark of any democratic society that the governmental process is open to the scrutiny of the public. It is the public who are the source of the legitimacy of both the government and of Parliament itself. Accordingly, I consider that the Committee is under a duty to the people of Victoria to hold any hearing, especially a hearing which may involve the possible infringement of the rights of private citizens, in public.

Notwithstanding the concerns which have been raised in this letter, Mr Easdown and I are prepared to attend voluntarily the Committee's hearing on 17 December 1991 whilst at all times reserving our rights in relation to these matters and to raise these issues with the Committee.

Your sincerely,

A handwritten signature in black ink, appearing to be 'P. Akerman', written in a cursive style.

Piers Akerman
EDITOR-IN-CHIEF

December 13, 1991



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE, VIC 3002
TELEPHONE 651 8911
EX 7

19 December, 1991.

Mr. P. Akerman
Editor in Chief
Herald and Weekly Times
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Akerman,

Enclosed are two copies of the Transcript of Evidence given by you before the Privileges Committee on Tuesday, 17 December, 1991.

Would you please peruse the Transcript and return it to me with any necessary corrections as soon as possible.

Any alterations should be confined to matters of fact which do not materially alter the sense of answers. Further conditions laid down in connection with the corrections are:

- (a) Only such as are deemed necessary to ensure the accuracy of the report may be made;
- (b) Corrections must be made in the handwriting of the witness; and
- (c) Corrections made by a witness may not necessarily be accepted by the Committee.

The second copy of the Transcript may be retained by you as a record of any corrections you are seeking.

Yours sincerely,

Mark E. Roberts
Secretary
Privileges Committee

Enc.



LEGISLATIVE ASSEMBLY
PARLIAMENT HOUSE
MELBOURNE, VIC. 3002
TELEPHONE 651 8911
EXT

19 December, 1991.

Mr. G. Easdown
Herald-Sun
44 Flinders Street
MELBOURNE. 3000

Dear Mr. Easdown,

Enclosed are two copies of the Transcript of Evidence given by you before the Privileges Committee on Tuesday, 17 December, 1991.

Would you please peruse the Transcript and return it to me with any necessary corrections as soon as possible.

Any alterations should be confined to matters of fact which do not materially alter the sense of answers. Further conditions laid down in connection with the corrections are:

- (a) Only such as are deemed necessary to ensure the accuracy of the report may be made;
- (b) Corrections must be made in the handwriting of the witness; and
- (c) Corrections made by a witness may not necessarily be accepted by the Committee.

The second copy of the Transcript may be retained by you as a record of any corrections you are seeking.

Yours sincerely,

Mark E. Roberts
Secretary
Privileges Committee

Enc.



The Herald and Weekly Times Limited
M.N. 004 113 937

Mr Mark E. Roberts
Secretary
Privileges Committee
Legislative Assembly
Parliament House
MELBOURNE 3002

Dear Mr Roberts,

I have read the minutes of evidence and believe them
to be accurate. Copy enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Piers', enclosed within a large, hand-drawn oval.

Piers Akerman
EDITOR-IN-CHIEF

December 19, 1991

HWTT

The Herald and Weekly Times Limited

MX 004 113 937

Mr Mark E. Roberts
Secretary
Privileges Committee
Legislative Assembly
Parliament House
MELBOURNE 3002

Dear Mr Roberts,

I have read the minutes of evidence and believe them to be accurate apart from in the first paragraph of page 24 which reads "Mr EASDOWN - I would know which is true. It should read "I would not know which is true."

Sincerely,

- Geoff Easdown

Geoff Easdown
Senior Journalist

December 19, 1991

Re - Insub. Party

Appendix E

Evidence From Mr. P. Akerman

LEGISLATIVE ASSEMBLY PRIVILEGES COMMITTEE

Minutes of Evidence
Melbourne - 17 December 1991

Members present:

Mr L. S. Lieberman	Mr M. J. McDonald
Mr J.F. McGrath	Mr R. R. C. Maclellan
Mr C. R. T. Mathews	Mr E. J. Micallef

Dr G. M. Vaughan in the chair

Witness

Mr P. Akerman, Editor-in-Chief, Herald and Weekly Times Ltd
(sworn)

The CHAIRPERSON - Prior to getting under way I wish to cover certain aspects of the operation of the Privileges Committee. The Committee was appointed by resolution of the Legislative Assembly on 3 November 1988 to inquire into and report on complaints of breach of privilege referred to it by the House. The powers of the Committee are those vested in it by the enabling resolution which includes the powers to send for persons, papers and records.

In addition to the resolution appointing it, the procedures of the Committee are governed by the Constitution Act 1975 and the Standing Orders and Rules of the Legislative Assembly as relating to Select Committees.

Mr MACLELLAN - On a point of order, Mr Chairman, could a copy of the document be given to the witness?

The CHAIRPERSON - Yes, that would facilitate the process. A person attending while evidence is being taken should be aware that Standing Order No. 208, which states that the evidence taken by any Select Committee and documents presented to such Committee and which have not been reported to the House shall not be published by any member of such Committee nor by any other person.

That Standing Order applies to the proceedings of the Committee. It has been partially suspended by the House to allow the Committee to publish the evidence and documents received in the present inquiry upon such terms and conditions as it thinks fit. Persons attending this Committee should therefore observe the requirements of Standing Order No. 208 unless advised directly otherwise by the Committee in writing.

The Privileges Committee has received a resolution passed on 24 October 1991 that a matter which was the subject of a Special Report be referred to the Privileges Committee for examination and report. Evidence given by witnesses will be recorded by *Hansard* and the transcript printed.

I depart from the text to say that it is the usual practice of this Committee that the evidence be reported to Parliament. Should a witness at any time believe that part of the evidence given should not be made available to Parliament in that way the witness is at liberty to so indicate and the Committee will consider such request. I now call on the clerk to the Committee to swear in the witness.

For the record, would you please state your full name, address and occupation.

Mr AKERMAN - Piers Akerman, 44 Flinders Street, Melbourne. I am a journalist.

The CHAIRPERSON - On behalf of the Committee, thank you for appearing before the Committee today. Before inviting members of the Committee to ask you questions, do you wish to

make a statement to the Committee?

Mr AKERMAN - No.

The CHAIRPERSON - In that case, we shall proceed directly to questions.

Mr MACLELLAN - The question which I wish to begin relates to your correspondence, Mr Akerman, with the Chairperson. You indicated you believed you would be more comfortable if you had legal advisers with you. I do not know whether you yet appreciate that we are operating under archaic Parliamentary rules.

Mr AKERMAN - I am fully aware of that.

Mr MACLELLAN - It is possible for the Committee to allow others to be in the room. As you know from the Chairperson's statement, it is not possible for those persons to report anything they hear in the room until the Committee has reported to Parliament.

The Committee could facilitate your having a legal adviser with you, even senior counsel, but senior counsel could not speak on your behalf. He could advise you; indeed he could tell you quietly not to answer a question, or you could withdraw from the room temporarily and confer with him about some line of question.

That was the lead-up to this question: do you believe you should now resolve with the Committee the question of whether you can have legal counsel with you or do you now wish now to answer any questions the Committee may have?

Mr AKERMAN - My letter of 13 December sought clarification about this matter, and I would have hoped the matter could have been made clear before I appeared today. I am still unaware of whether the Committee proposes to make recommendations regarding the laying of charges against any person arising from any alleged breaches of privileges. If that can be cleared up now, I shall make a decision on whether I shall seek leave to have counsel.

The CHAIRPERSON - That matter can be cleared up now. I shall reinforce what I said in my opening remarks. This Committee is charged with a task by the Legislative Assembly and that is all the Committee has on its agenda. It is to inquire into the matter referred to it and report on it; it does no more than that.

In the past decade references have been made to the Committee by the House and the Committee has been able to make substantial progress in relation to those references without the admittance of strangers.

Mr AKERMAN - Do you propose to make recommendations or will you simply be laying bare the findings of the inquiry?

The CHAIRPERSON - The latter.

Mr AKERMAN - Then I am prepared to proceed.

The CHAIRPERSON - My colleagues can confirm that.

Mr LIEBERMAN - I do not agree with that. As I understand it, the Committee has power to frame its report to the House in such a way as to make recommendations.

The CHAIRPERSON - My answer from my non-legal background was perhaps too simplistic. I invite my learned colleagues to clarify that point.

Mr MACLELLAN - I disagree with the Chairperson because the committee could do the things you indicated, Mr Akerman, but it never has. I do not know the use of that advice to you. It will not be much comfort to you to know that the Committee has not yet made such a recommendation when you know that it could make such a recommendation. In other words, the Committee could decide by majority to recommend to the House that charges be laid. That has never been done before.

Mr LIEBERMAN - The House acts on the report at its discretion. A dissenting report could include a recommendation that the House may wish to adopt.

Mr AKERMAN - My question was whether the Committee proposes to make recommendations.

The CHAIRPERSON - At this stage, no.

Mr AKERMAN - Let us proceed.

Mr MACLELLAN - You should place on record your exact position with the *Herald-Sun*.

Mr AKERMAN - I am Editor-in-Chief of the Herald and Weekly Times Ltd.

Mr MACLELLAN - Do you take responsibility in the formal sense for what appears in the publication?

Mr AKERMAN - I do.

Mr MATHEWS - Are you familiar with the approach of the Australian Press Council that the responsibility for what appears in a newspaper rests with the newspaper rather than the individual journalist who may have written the copy?

Mr AKERMAN - I am a member of the Australian Press Council.

Mr MATHEWS - Do you have difficulty with that approach?

Mr AKERMAN - No, none whatsoever.

Mr MATHEWS - Will you describe for the Committee the step-by-step process by which copy submitted by a journalist achieves publication in your newspaper?

Mr AKERMAN - I would be pleased to. Stories are filed into an electronic data processing system where they are reviewed by senior editorial staff of various levels of responsibility ranging from the chief of staff through the news editor, a deputy editor, an editor and possibly myself. Certainly any article that is in any way out of the ordinary, or that may attract extreme attention, would be referred either to myself or to the most senior editorial executive in the building for authorisation before publication.

Mr MATHEWS - Was that the case with the material which has prompted these hearings?

Mr AKERMAN - Yes, I read this material before publication.

Mr MATHEWS - Did you see any problem arising from the submission of this copy which had been brought up for your attention?

Mr AKERMAN - I did not foresee any problem, and any concern that I may have had about the publication was outweighed in my view by the public interest.

Mr MATHEWS - Did you seek any advice as to whether publication should proceed?

Mr AKERMAN - After making my initial decision I discussed it with a number of people but I did not alter my decision.

Mr MATHEWS - Was legal advice on the point sought?

Mr AKERMAN - Yes, legal advice on the point was sought.

Mr MATHEWS - What was that legal advice?

Mr AKERMAN - The legal advice indicated that the public interest probably outweighed, in balance, the privilege attached to the material.

Mr MATHEWS - Did the legal advice make specific reference to the issue of privilege?

Mr AKERMAN - Yes, the legal advice was in spoken form; it was only on the telephone. The matter of privilege of which I was aware was discussed, but in all of these matters the editor is only provided with various advice, as I am sure you

are aware, and that is why one has this responsibility and authority to proceed.

Mr MATHEWS - Can you identify the source of the legal advice?

Mr AKERMAN - It was our consulting solicitors, Hedderwicks and Arthur Robinson.

Mr MATHEWS - Did your consulting solicitors tell you that the publication of this material could be held to be in breach of the privileges and the Standing Orders of Parliament?

Mr AKERMAN - That was canvassed.

Mr MATHEWS - Was it the advice of the solicitors that could arise?

Mr AKERMAN - It was a possibility.

Mr MATHEWS - And was it further the advice of the solicitors that the public interest might be held to outweigh that difficulty with the privileges and the Standing Orders?

Mr AKERMAN - The advice was not rendered in that form.

Mr MATHEWS - In what form was it rendered?

Mr AKERMAN - A number of options were presented in this case, as they are in every case, and the decision was taken by me after I reviewed the options that counsel had gone through.

Mr MATHEWS - Can you outline the options given to you?

Mr AKERMAN - One was that there would be no action taken; two, that there would be action taken; and, three, that a defence of public interest could be mounted or presented.

Mr MATHEWS - And the advice as to the relative merits of those options from the legal counsel?

Mr AKERMAN - I think they weighed equally.

Mr MATHEWS - So legal counsel did not make a recommendation to you; they simply put options to you?

Mr AKERMAN - Legal counsel rarely make recommendations in these matters.

Mr MATHEWS - Is the copy as it appeared in the newspaper exclusively the copy presented by Mr Easdown?

Mr AKERMAN - Yes, apart from minor grammatical changes.

Mr MATHEWS - The specific references to the Privileges Committee in the copy are by Mr Easdown?

Mr AKERMAN - Yes, to my knowledge, unless it resulted at some editing period before it reached my desk - I use "desk" in terms of the electronic device that I use - but I have no reason to believe there were any substantial alterations beyond grammatical ones.

Mr MATHEWS - So you personally accept responsibility for the appearance of this material in the newspaper?

Mr AKERMAN - Yes.

Mr MATHEWS - And you accept responsibility on the basis that your attention was specifically drawn to the Standing Orders and privileges of Parliament?

Mr AKERMAN - Yes.

Mr MACLELLAN - Was there anything unusual about your seeking legal advice about this article, or is that an every day or regular occurrence? Is what you have described a normal procedure in your editing of the publication, or was this unusual?

Mr AKERMAN - No, it is not unusual. Advice is sought on a wide range of articles that come up; I should say, gauging by the legal bills, far too often. But this article was not extraordinary. We keep a number of people on retainer. They are accessible 24 hours a day and, by and large, they protect us from the libels and defamations that other newspaper groups suffer.

Mr MACLELLAN - The article centres its attention on an affidavit of some sort, does it not?

Mr AKERMAN - It does. It centres on an affidavit that was referred to a Parliamentary committee at a time when there was enormous interest in the activities of the Victorian Public Transport Corporation. I believed the document should be aired. I believe in open government.

My record shows that in my previous posting in South Australia I vigorously campaigned to get the court system open to a far greater degree than it had hitherto been, and I was successful in having the Attorney-General amend legislation to legislate for the inclusion of media representatives in the courts in that State. I had hoped the openness in South Australia would flow through to the other States of the Commonwealth.

Mr MACLELLAN - Whose property is an affidavit? I do not ask you in a sort of copyright sense, but who do you think owns an affidavit? Somebody has sworn it and you have published it - what is unusual about that?

Mr AKERMAN - I do not believe there is anything particularly unusual about this, particularly on 17 December 1991, 200 years and two days after the declaration of the

first amendment of the American Constitution, which guarantees freedom of speech, something I should hope we will one day see in Australia.

Mr MACLELLAN - I ask you to speculate - and this is speculation - and invite you to say who you think would have known of the affidavit or statutory declaration?

Mr AKERMAN - I do not know the workings of the Parliamentary committee system or -

Mr MACLELLAN - Not of this committee.

Mr AKERMAN - Precisely of the committee to which this affidavit was presented, so I would not be able to tell you how many members of Parliament or officers of the Parliament had access to this document.

Mr MACLELLAN - Or officers of the Public Transport Corporation?

Mr AKERMAN - I do not know how the material was presented, where the statutory declaration was sworn or before whom it was sworn. I am sorry, I cannot help you there.

Mr MACLELLAN - So it could have had quite a wide distribution for all you know?

Mr AKERMAN - That is quite possible given the facsimile machine and the ubiquitous copier.

Mr MICALLEF - For clarification, were the legal options given to you oral?

Mr AKERMAN - Yes.

Mr MICALLEF - There was no advice given about which of the options would be, say, in your interests?

Mr AKERMAN - In the interests of the readers of the newspapers or of the public of Victoria?

Mr MICALLEF - In your interests in the sense that they were to protect you from any legal consequences of the actions of your newspaper.

Mr AKERMAN - They are there to advise on possible outcomes of various activities in these options but I am there to represent the readers of the *Herald-Sun* and other Herald and Weekly Times Ltd publications.

Mr MICALLEF - I am asking whether any of the options were weighted?

Mr AKERMAN - No, they were presented as being of fairly equal weight.

Mr MICALLEF - In other words, they cancelled themselves out?

Mr AKERMAN - To my mind the greater weight is the public interest. That is something that I have espoused for almost a quarter of a century in communications and something I will continue to champion.

Mr MICALLEF - We can always have a difference of opinion about what the public interest is; it depends on your bias.

Mr AKERMAN - Yes, but as there is currently an Upper House hearing into matters not unrelated to this particular statutory declaration I suggest this publication was very much in line with the interests as viewed by members of this institution, no doubt reflecting great public concern.

Mr McDONALD - Did your legal advisers point out to you what the ramifications of printing the article could be and, if so, what was pointed out to you?

Mr AKERMAN - No, the legal advisers did not go into what the possible outcomes would be.

Mr McDONALD - There was no mention to you that you could be asked to front the Privileges Committee?

Mr AKERMAN - I was aware of that.

Mr MATHEWS - Do you regard yourself as being bound by the law of the State?

Mr AKERMAN - I do, and I am a member of the Premier's commission on crime and safety. I am a law abiding citizen. However, when it comes to publication I am first and foremost a journalist and I am prepared to publish those documents which I believe to be in the public interest. This is not a new position that I have adopted for the purposes of this Committee, it is a view that I have held for many years. It is one of the principles that attracted me to publishing as a career. I am afraid, as we have seen through the publication of the Pentagon papers and other documents in other countries - indeed, documents in this country - that Parliament has no strangle-hold on truth and justice. Parliaments reverse themselves.

What is seen to be a breach of Parliamentary privilege on one occasion may not be seen as such by another government, or by the same government within a period of weeks or days.

Mr MATHEWS - Are you aware that this Standing Order has been on the books, unchanged, for a very long period?

Mr AKERMAN - I am, but there are far too many laws and regulations on the books of this Parliament and others in Australia that I would like to see swept away and replaced

with much simpler laws and regulations, which would lead the people of Australia to have more confidence in these institutions.

Mr MATHEWS - Are you saying that your professional responsibilities as a journalist override your obligation to adhere to the law?

Mr AKERMAN - I am saying that I put my personal responsibilities as an editor in regard to publishing matters that I consider to be in the interests of the readers of the *Herald-Sun* who are members of the public of Victoria before obligations that I may have under existing laws in this State.

Mr MATHEWS - Have there been previous occasions on which this sense of obligation on your part has led you to disregard laws?

Mr AKERMAN - I have been asked to explain why certain articles appeared in the *Adelaide Advertiser* but the explanation I proffered was satisfactory. I have certainly never been hauled before a Privileges Committee before.

Mr MATHEWS - You have mentioned that your objective in publishing material in Adelaide was to bring about a change in the reporting of court proceedings. Was that factor present in your mind, in regard to a desire to change the reporting of Parliamentary proceedings and the proceedings of Parliamentary committees, when you decided to authorise this report?

Mr AKERMAN - It was not the foremost thought in my mind; I was more concerned with the public interest, as at the time of publication there had been conflicting reports offered about the settlement terms of a senior public servant. There was a great deal of confusion and I saw in the statutory declaration the first opportunity to present some material which a certain party, at least, believed to be accurate.

Mr MATHEWS - You said that the matter of changing the law in regard to the reporting of Parliament through Parliamentary proceedings and the proceedings of Parliamentary committees was not uppermost in your mind in authorising publication, but was it a factor which led you to authorise the publication?

Mr AKERMAN - I would say it was a secondary consideration; the secondary consideration being my abiding concern with the openness of the democratic process.

Mr MATHEWS - So you were seeking in part to bring about such a change?

Mr AKERMAN - If on a scale of 1 to 100, 1 was public interest, possibly 65 would have been bringing about a change. I was more concerned with presenting the readers of our fine newspapers with some facts in a story which to that point had

been bedevilled with conjecture and supposition.

Mr MICALLEF - Can you provide evidence of where you campaigned in Victoria for a more open legal or Parliamentary system, apart from your current difficulties with the Privileges Committee?

Mr AKERMAN - I think there have been editorials in the *Herald-Sun* and the *Sunday Herald* talking about secrecy in government which, if you wished me to, I could find in our library and send over to you.

The CHAIRPERSON - I think last Saturday's editorial made reference to these matters.

Mr AKERMAN - Yes.

Mr MICALLEF - I mean before this case came up.

Mr AKERMAN - This case has not swayed my position one way or the other and I can assure you there were similar editorials that appeared in our publications prior to this incident, although not fixed to the United States constitution.

Mr MICALLEF - You would not like to turn the Australian scene into a circus such as we have seen in relation to the recent Kennedy trial and the situation regarding the appointment to the Supreme Court in the United States of America? You would not want to turn the Australian Parliamentary system -

Mr AKERMAN - Some members of the Australian media would have me as Clarence Akerman.

Mr MICALLEF - Is that good or bad?

Mr AKERMAN - It depends on the judgment day.

The CHAIRPERSON - On behalf of the Committee I thank you for your appearance today. The transcript of the proceedings will be provided to you in the near future, to which you may make typographical corrections.

Witness withdrew.

Appendix F

Evidence From Mr. G. Easdown

LEGISLATIVE ASSEMBLY PRIVILEGES COMMITTEE

Minutes of Evidence
Melbourne - 17 December 1991

Members present

Mr L. S. Lieberman	Mr M. J. McDonald
Mr J.F. McGrath	Mr R. R. C. Maclellan
Mr C. R. T. Mathews	Mr E. J. Micallef

Dr G. M. Vaughan in the chair

Witness

Mr G. M. Easdown, Journalist,
Herald and Weekly Times Ltd
(sworn).

The CHAIRPERSON - Before getting under way I wish to make some initial comments, a summary of which is contained in the document in front of you. The Committee was appointed by resolution of the Legislative Assembly on 3 November 1988 to inquire into and report on complaints of breach of privilege referred to it by the House.

The powers of the Committee are those vested in it by the enabling resolution, which includes the power to send for persons, papers and records.

In addition to the resolution appointing it, the procedures of the Committee are governed by the Constitution Act 1975 and the Standing Orders and Rules of the Legislative Assembly as relating to Select Committees.

Persons attending while evidence is being taken should be aware of Standing Order No. 208 which states that the evidence taken by any Select Committee and documents presented to such Committee and which have not been reported to the House shall not be published by any member of such Committee nor by any other person.

That Standing Order applies to the procedure of the Committee. It has been partially suspended by the House to allow the Committee to publish the evidence and documents received in this present inquiry upon such terms and conditions as it thinks fit. Persons attending this Committee should therefore observe the requirements of Standing Order No. 208 unless advised directly otherwise by the Committee in writing.

The Privileges Committee has received a resolution passed on 24 October 1991 that a matter which was the subject of a Special Report be referred to the Privileges Committee for examination and report.

I wish to indicate that evidence given by witnesses will be recorded by *Hansard* and the transcript printed. At this stage I depart from the text in front of you to say that you would be aware that in previous inquiries it has been the custom of the Committee to provide the evidence to Parliament. The Committee has yet to make a decision on that matter so I am unable to inform you about it. A transcript of evidence will be made available to you. I now ask the clerk to swear the witness.

For the record, would you please state your full name, address and occupation.

Mr EASDOWN - My name is Geoffrey Maxwell Easdown. I live at 145 Woodhouse Grove, North Box Hill. I am a journalist with the Herald and Weekly Times Ltd.

The CHAIRPERSON - On behalf of the Committee I thank your appearance before the Committee today to assist it in its inquiry. Do you wish to make an initial statement?

Mr EASDOWN - I have no statement to make.

Mr MACLELLAN - Do you feel you need a legal adviser with you or are you prepared to appear before the Committee without a legal adviser?

Mr EASDOWN - From the letter I received I was under the impression I was not permitted to bring a legal adviser with me.

Mr MACLELLAN - I explain that a majority of the Committee could resolve to allow strangers to come into the Committee, which would mean a legal adviser could come with you. The adviser could not speak to the Committee on your behalf but could advise you. If you had to withdraw from time to time to talk outside in the corridor and then come back that could be arranged.

Mr MACLELLAN - Would you feel more comfortable with that or are you happy to explore the situation?

Mr EASDOWN - As I said earlier, I did not think I could take it very far.

Mr MACLELLAN - I take it you are a senior reporter, is that right?

Mr EASDOWN - Yes, I am.

Mr MACLELLAN - An experienced one?

Mr EASDOWN - Yes.

Mr MACLELLAN - When you wrote the article did you have in mind questions about the finer points of privilege or were you writing it for some other reason?

Mr EASDOWN - My understanding when writing the article was to inform the public. I thought it was a matter of public concern that contracts were being entered into involving large sums of money when people could retire so soon after entering the contracts. I wrote it simply in the public interest.

Mr MACLELLAN - Who owns a statutory declaration? I am not talking about the copyright sense; is there any secrecy involved?

Mr EASDOWN - I did not think there was any secrecy about the statutory declaration I read. It seemed to be in general circulation at the time. I was one of many people who saw the document.

Mr McDONALD - Was the document you saw the original document or was it a copy?

Mr EASDOWN - It would have had to have been a copy, but I could not tell for certain. Photocopies are so good these days that it is difficult to tell.

Mr McDONALD - Did you believe it was valid?

Mr EASDOWN - I had no doubt it was valid.

Mr MICALLEF - There was some question about the bona fide of privilege in this case. Were you aware of the legal options given to your editor?

Mr EASDOWN - I had no discussions whatsoever with the lawyers.

Mr MICALLEF - I did not ask you that; I asked you whether you were aware of the options given to your editor.

Mr EASDOWN - No. I qualify that by saying I was told some legal advice had been given.

Mr MICALLEF - Are you aware some discussions had taken place about the legal bona fide of the article?

Mr EASDOWN - Yes, I was aware to that extent. I wrote the article mid-afternoon and then left the office. I came back at approximately 7 p.m. when the initial draft was rewritten.

Mr MICALLEF - Was the final draft changed much from the initial draft?

Mr EASDOWN - It was cut back.

Mr MICALLEF - Was it altered significantly?

Mr EASDOWN - The meaning was not altered. The original draft probably contained more of the affidavit than the story did.

Mr MICALLEF - Even though you were aware of some discussions that had taken place, you were not fully aware of the potential consequences of publishing the article, is that correct?

Mr EASDOWN - I was aware that there had been advice from lawyers about the question of privilege. My understanding of the matter was that I was to write the story and that is what I did. That is all I ever do.

Mr MICALLEF - I understand that. However, did you understand that you may be invited to appear before the Privileges Committee as a result of writing the article?

Mr EASDOWN - Yes.

Mr MICALLEF - Did you have some understanding of the potential consequences of writing something that may be in breach of privilege?

Mr EASDOWN - Yes, but I thought the public interest overrode that.

Mr MICALLEF - As I said to your editor, it depends on your bias as to where one sees the public interest.

Mr EASDOWN - A lot of people in the eastern suburbs of Melbourne are struggling to pay house mortgages of \$100 000 these days and this matter was being dealt with flippantly.

Mr MICALLEF - I did not ask you that. You would make a fine politician, Mr Easdown.

Mr MATHEWS - When you received the declaration did you understand it to be the declaration presented to the Committee?

Mr EASDOWN - Not at first.

Mr MATHEWS - Will you enlarge on that answer?

Mr EASDOWN - There was nothing clear when I read the affidavit that it was an affidavit to this Committee. I read it and asked questions about it and was told it was an affidavit to this Committee or a matter put before the Committee.

Mr MATHEWS - Did you understand the affidavit to have come from this Committee?

Mr EASDOWN - I did not understand whether it was directly from the Committee or whether it was one generally in circulation.

Mr MATHEWS - You said your original draft of the story included more extensive extracts from the affidavit than the version which finally appeared. Were the further extracts deleted on legal advice?

Mr EASDOWN - No, it was a matter of space.

Mr MATHEWS - When you wrote the story were you aware that the material presented to the Committee would be available for publication after it had been reported to Parliament?

Mr EASDOWN - Not at all.

Mr McDONALD - You said the statutory declaration was in circulation. To your knowledge did any other journalists have copies of it?

Mr EASDOWN - I picked up the Age and saw a convoluted version at page 3 on the day my article appeared.

Mr MATHEWS - It would have been possible for the story to have been written without reference to the Privileges Committee.

Mr EASDOWN - In retrospect it may well have been possible.

Mr MICALLEF - It would not have been as colourful.

Mr MATHEWS - You received a document whose provenance was unknown to you until you made certain inquiries, is that right?

Mr EASDOWN - Correct.

Mr MATHEWS - What was the purpose of including the reference to the Privileges Committee in the story?

Mr EASDOWN - I thought the fact that it made it genuine and that the Committee was inquiring into a matter of public interest.

Mr MATHEWS - Did it cross your mind that you would have been exposing yourself to a lesser degree had you published the story without reference to the Privileges Committee and simply on the basis of an affidavit which had been passed to you without provenance?

Mr EASDOWN - I do not carry that opinion. If you are going to run a leaked document you are going to expose yourself under any circumstances.

Mr MICALLEF - So long as you do not identify your source.

Mr EASDOWN - Exactly, and I am not going to enter into a fishing expedition with you gentlemen on that point.

Mr LIEBERMAN - Based on your answers to date, am I correct in understanding that you became aware in the afternoon before you filed the story that copies of the document you were provided with were also in the possession of other journalists or other people generally?

Mr EASDOWN - I think I became aware of it soon after I established that it was a matter before the Privileges Committee.

Mr LIEBERMAN - Was that prior to filing the story?

Mr EASDOWN - It was prior to writing the story.

Mr LIEBERMAN - On that basis the document appears to have been distributed elsewhere, is that right?

Mr EASDOWN - I am not aware; that is only speculation. I was under the impression that people had seen it previously.

Mr MATHEWS - Was your advice that the document was before the Privileges Committee received from the same source as the document itself?

Mr EASDOWN - Yes, it was.

Mr McDONALD - You were aware of the ramifications of printing the article because it was a breach of privilege. Are you aware that it is possible that the Committee saw that as contempt of Parliament?

Mr EASDOWN - Are you asking whether I am aware now or whether I was at the time?

Mr McDONALD - At the time and now.

Mr EASDOWN - I suppose the Committee can perceive it as being a breach of privilege.

Mr McDONALD - A breach of privilege is virtually contempt of Parliament.

Mr EASDOWN - That is your perception of it and I accept that.

Mr MATHEWS - Is it part of your training as a journalist to be made aware of the provisions of Parliamentary privilege?

Mr EASDOWN - Yes, it was in the very early days.

Mr MICALLEF - Where was that; what State and what country?

Mr EASDOWN - At various newspapers in this State and this country.

Mr MATHEWS - Were you aware of the terms of Standing Order No. 208?

Mr EASDOWN - No, I was not.

Mr MATHEWS - Standing Order No. 208 states:

The evidence taken by any Select Committee and document reported to such Committee, and which has not been reported to the House, shall not be published by any Member of such Committee, nor by any other person.

Mr EASDOWN - I was not aware of the exact terms.

Mr MATHEWS - Were you aware of the general thrust?

Mr EASDOWN - I was aware that certain matters attract privilege and that committees such as this sit in private. However, in this instance the overriding interest was the public interest.

Mr MATHEWS - Do you take the view that your professional obligations to the public interest override your obligations to obey the law?

Mr EASDOWN - I obey the laws of this country, but I believe the public had a right to know in this instance. It is a failing in this country that the "right to know" is not yet enshrined in legislation.

Mr MATHEWS - In the light of that answer, is it correct that you believe your obligation as a journalist in the respect you have outlined overrides your obligation to adhere to the law?

Mr EASDOWN - I believe I would publish the document again if I had to.

Mr MATHEWS - Do you understand that the publication of the material was in breach of the law?

Mr EASDOWN - I take that as your view, Mr Mathews.

Mr MACLELLAN - Mr Mathews should assist by saying to what law he is referring.

The CHAIRPERSON - Mr Mathews was using the word "law" in a broad sense. As a lawyer, you, Mr Maclellan, would wish to take him up on that point.

Mr MACLELLAN - I am just asking what law.

Mr MATHEWS - The Standing Orders and privileges of Parliament.

Mr EASDOWN - I believe you have to show intent to break a law. On the day my intention was to publish in the public interest. On this matter I believe the public interest overrode any other matter.

Mr MATHEWS - Were you conscious there was a conflict?

Mr EASDOWN - I was conscious there was a conflict. I wrote the story and left it to my editor to make a decision. He chose to publish it.

Mr MATHEWS - That makes the matter very clear.

Mr MACLELLAN - You said that you were made aware of privilege in your journalistic training. People are usually made aware of it on the basis of the safety of publication, that is that if something is privileged it is safe to publish.

Mr EASDOWN - Yes, that is right.

Mr MACLELLAN - When you answered previously were you thinking in terms of it being safe to publish or in terms of privilege being a prohibition against publication?

Mr EASDOWN - We are trained to the view that privilege is a matter of freedom to publish.

Mr MACLELLAN - You said that you wrote your story and you later became aware that the document was with the Privileges Committee. When you wrote the story that was not part of it, is that right?

Mr EASDOWN - No, I read the material. I do not know whether you have the document before you, but I would like to see it because it may not be the same one I had.

The CHAIRPERSON - I hand you a copy of the statutory declaration.

Mr EASDOWN - Yes, that is the document that I saw, both pages, although I have some doubt whether it had the words "Exhibit E" on the top corner.

The CHAIRPERSON - That was added by the Committee at the time it was tabled.

Mr MACLELLAN - Is Mr Easdown's comment about the words "Exhibit E" on the record?

The CHAIRPERSON - Yes.

Mr EASDOWN - I said that I believed the document I had in my possession did not have the words "Exhibit E" on the top. Certainly it had "Attachment A" on the second page.

Mr MACLELLAN - Mr Chairman, I do not know whether it is appropriate to draw the attention of the witness to the significance members of the Committee might draw from that statement, or whether other members may wish to ask general questions. If they do not, I will ask specific questions.

The words "Exhibit E" were applied to the copy given to the Committee to identify it as an exhibit for the Committee, so it seems to me that the copy you had was a copy not from the Committee.

Mr EASDOWN - I do not know. All I understood was that the document I had, had been presented to the Committee, but certainly I do not believe the document I had in my possession had the words, "Exhibit E" on the top corner.

Mr MICALLEF - Can we have a look at your copy?

Mr EASDOWN - I have not got it.

Mr MACLELLAN - As to Attachment A, what do you say about the following:

2. The contract between Jeff Gordon and the Public Transport Corporation was not signed ...

3(f) I recall some discussion as to whether or not the contract should be signed to complete the paperwork - certainly I seem to recall that Mr Gordon may have signed his copy of the contract. I have no recollection of signing the contract. I have never shredded a copy of the contract.

Mr EASDOWN - All I can do is accept that it says that. I have no comment.

Mr MACLELLAN - Which is true?

Mr EASDOWN - I would know which is true. I am not privy to either the internal machinations of the Public Transport Corporation or Mr Stoney's belief. I wrote my story based on the affidavit or statutory declaration and published newspaper accounts. /not

Mr MACLELLAN - Do you see in 3(f) the words "I have never shredded a copy of the contract"?

Mr EASDOWN - Yes.

Mr MACLELLAN - If in fact it turns out that Mr Stoney's secretary shredded the contract rather than his doing it, do you make any comment about someone who makes a statutory declaration saying, "I did not shred a contract" and does not say, "I asked my secretary to do it and she did"?

Mr EASDOWN - I am not a lawyer, but I would suggest the full story has not been told.

Mr MACLELLAN - Do you think this statutory declaration became available to you with a view to reinforcing Mr Stoney's story or demolishing it?

Mr EASDOWN - I do not know. I have never considered either of those positions. I was given the document and the thing I was interested in at the time was the mention of the fact that a man had written his own contract from which he had received a very handsome severance payment, some might think, eleven months later. To me that was paramount and it occupied my mind.

Mr MATHEWS - Why did you think you were given the document?

Mr EASDOWN - I believe the person who gave it to me was of the belief that he or she wanted it published.

Mr MATHEWS - But inevitably, when you are given material of that sort, you do speculate on the motives of the donors?

Mr EASDOWN - Yes, I certainly do.

Mr MATHEWS - And did you do that on this occasion?

Mr EASDOWN - I think the source brought my attention to the fact that a person had written his own contract. That is all that was mentioned to me at the time. When I say, "all that was mentioned to me" I mean it was mentioned in the context of looking at what had gone on.

Mr MATHEWS - Are you saying that the affidavit was made available to you to sustain the advice that had been given to you?

Mr EASDOWN - To sustain the advice, "Look at what has gone on"?

Mr MATHEWS - Yes.

Mr EASDOWN - Yes, I believe that would probably be the reason.

Mr MATHEWS - So you believed the person giving the affidavit to you was prompted by the same concern about the public's right to know that you were also pursuing?

Mr EASDOWN - Yes, I do not think there was any other motive involved.

The CHAIRPERSON - You do not exclude the possibility that it was given to you with the intention of reinforcing Mr Stoney's position?

Mr EASDOWN - No, not at all. In fact the person could well have had that view.

Mr MICALLEF - But the person had no way of knowing how you would write the article?

Mr EASDOWN - No.

Mr MICALLEF - Or of which view of the public interest you would take up in your pursuit of truth, justice and the Australian way?

Mr EASDOWN - No, not at all. I would not take directives from a politician.

The CHAIRPERSON - Sorry?

Mr EASDOWN - I would not take a directive on how to write a story from a politician.

The CHAIRPERSON - Are you implying that your source was a politician?

Mr EASDOWN - No, not at all.

Mr McDONALD - You indicated that when you were given the sworn declaration you were not aware at that stage whether it had been handed to the Privileges Committee. Before you published the fact that the document had been handed to the Privileges Committee you would have had to verify it with someone, and the only person who could give you that information would be a member of the Committee or a Clerk of the Parliament. Would you like to comment on that?

Mr EASDOWN - I said before I will not enter into a fishing expedition about my sources.

Mr MICALLEF - But you must have checked the authenticity of the document?

Mr EASDOWN - I was satisfied with the source of the material.

Mr MICALLEF - But you must have checked it to have been satisfied?

Mr EASDOWN - Yes, I checked it.

Mr MICALLEF - That is all we are asking.

Mr EASDOWN - But I am not saying with whom.

Mr MICALLEF - We understand that. We respect your professional ethics along those lines.

Mr LIEBERMAN - You do not have the document in your possession now?

Mr EASDOWN - No, I do not.

Mr LIEBERMAN - Or in your control?

Mr EASDOWN - No.

Mr LIEBERMAN - Do you know where it is?

Mr EASDOWN - No, I do not. Quite frankly, I do not know where it is.

Mr MATHEWS - Were you given the document or shown the document?

Mr EASDOWN - No, I was given the document.

Mr MATHEWS - It passed into your possession for some time?

Mr EASDOWN - It was in my possession for the duration of the time that I wrote the story, and that was it.

Mr MATHEWS - Was it returned to the source?

Mr EASDOWN - No.

Mr McDONALD - When I asked you earlier whether any other journalists had access to the document, you said you saw an article in the Age the next day similar or along those lines. But to your knowledge was it given to any other journalist?

Mr EASDOWN - I read the piece in the Age the next day and there are certain paragraphs in the Age story that fit in with what was said here.

Mr McDONALD - But to your knowledge no journalist said that he or she had a copy of it?

Mr EASDOWN - No.

The CHAIRPERSON - Perhaps Mr Lieberman can continue.

Mr LIEBERMAN - So you do not have it under your control either?

Mr EASDOWN - No.

Mr LIEBERMAN - Did you hand it to someone after you had finished your story?

Mr EASDOWN - The night I finished the story I think I left the document sitting on my desk. I had to attend a family funeral the next day, and when I came back to the office 24 hours later it was no longer on my desk.

Mr LIEBERMAN - Have you made inquiries as to where it is?

Mr EASDOWN - No.

Mr MACLELLAN - Are we to suppose from this that your source marched in, heavily armed and whisked it away?

Mr EASDOWN - No.

Mr MACLELLAN - There was no drama?

Mr EASDOWN - No, it was not there when I came back.

Mr MACLELLAN Is it likely that the cleaner put it in the waste bin or thought that it was old hat?

Mr EASDOWN - I could not speculate but desks do get cleaned in our office and material left on them is discarded.

Mr MACLELLAN - We should not think that an interventionist proprietor flew out to grab it?

Mr EASDOWN - No, I should not think so.

The CHAIRPERSON - As there are no further questions, on behalf of the Committee I thank you for your attendance today. A copy of the transcript of your evidence will be provided to you in the days that follow. You will be at liberty to make typographical corrections to the transcript and to return it to the secretary of the Committee if you so desire.

Mr EASDOWN - Thank you for hearing me today and for the courtesies that you have all extended.

Committee adjourned.