

PARLIAMENT OF NEW SOUTH WALES
LEGISLATIVE COUNCIL

STANDING COMMITTEE ON
PARLIAMENTARY PRIVILEGE AND ETHICS

REPORT

ON

PERSON REFERRED TO IN
THE LEGISLATIVE COUNCIL

(HON. JUSTICE SHEAHAN)

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REPORT NO. 7

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Contact Details

Correspondence and telephone inquiries concerning the Committee or its work should be directed to:

Ms Lynn Lovelock
Clerk to the Committee
Standing Committee on Parliamentary Privilege and Ethics
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Telephone: (02) 9230 2024
Facsimile: (02) 9230 2761
e-mail: lynn.lovelock@parliament.nsw.gov.au

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Committee Membership

The Hon Dr Meredith Burgmann, MLC Chair	Australian Labor Party
The Hon Jenny Gardiner, MLC	National Party
The Hon Charlie Lynn, MLC	Liberal Party
The Hon John Johnson, MLC	Australian Labor Party
The Hon Richard Jones, MLC	
The Hon Anthony Kelly, MLC	Australian Labor Party
The Hon Andrew Manson, MLC	Australian Labor Party
Revd the Hon Fred Nile, MLC	Christian Democratic Party
The Hon Peter Primrose, MLC	Australian Labor Party

SECRETARIAT

Ms Lynn Lovelock	Clerk to the Committee
Ms Velia Mignacca	Senior Project Officer
Ms Janet Williams	Committee Officer

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS
REPORT ON PERSON REFERRED TO IN THE LEGISLATIVE COUNCIL

REPORT

- 1.1 On 3 September 1998, the President of the Legislative Council, the Honourable Virginia Chadwick, MLC, received a letter from the Honourable Justice Terence William Sheahan requesting the incorporation of a response under the Legislative Council's Resolution of 13 November 1997,¹ relating to the protection of persons referred to in the Legislative Council. The letter referred to statements made by the Honourable Franca Arena, MLC, during a speech on the Wood Royal Commission on 17 September 1997, the Report by this Committee in relation to Mrs Arena's conduct, and the subsequent actions by the House on 1 July 1998. The President, having accepted the letter as a submission for the purposes of the resolution, referred it to the Standing Committee on Parliamentary Privilege and Ethics on 8 September 1998.
- 1.2. The Committee met in private session on 10 September 1998, and decided, according to paragraph 5 of the resolution, to consider the submission. The Committee met again on 17 September 1998 to consider the matter.
- 1.3. In agreeing to the attached response, the Committee did not consider it necessary to consult either Justice Sheahan or Mrs Arena on the matter. The response, which the Committee now recommends for incorporation in *Hansard*, has been agreed to by Justice Sheahan and the Committee in accordance with paragraph 5 (b) of the resolution.
- 1.4. The Committee therefore recommends:

That a response by the Honourable Justice Terence William Sheahan, in the terms specified at Appendix 1, and agreed to by Justice Sheahan and the Committee, be incorporated in *Hansard* and the Minutes of Proceedings.

The Hon. Dr Meredith Burgmann, MLC
Chair

¹ Minutes No. 16, Thursday 13 November 1997, Entry No. 3.

APPENDIX 1

**RESPONSE BY THE HONOURABLE
JUSTICE TERENCE WILLIAM SHEAHAN,
AGREED TO BY JUSTICE SHEAHAN
AND THE STANDING COMMITTEE ON
PARLIAMENTARY PRIVILEGE AND ETHICS
ACCORDING TO PARAGRAPH 5 (B) OF THE
LEGISLATIVE COUNCIL'S RESOLUTION
OF 13 NOVEMBER 1997**

Mrs Arena alleged in her speech in the House on the evening of 17 September 1997 that Justice Terence William Sheahan, as the then NSW President of the Australian Labor Party, had attended a meeting at Parliament House, with the Premier, the Party's General Secretary, and other ALP identities, on the evening of Sunday 24 March 1996.

The Reports of the Hon. John Nader RFD QC and the Standing Committee on Parliamentary Privilege and Ethics have both concluded that Mrs Arena was indeed alleging that ALP figures at the alleged meeting, including me, at least condoned approaches being made by the Premier to the Leader of the Opposition and to Justice James Wood, to secure the suppression of the names of prominent people, identified to or by the Wood Royal Commission, as paedophiles.

These and other allegations made by Mrs Arena in her speech have been accepted by the resolution of the Legislative Council on 1 July 1998 as amounting to imputations of "a criminal conspiracy".

The morning after Mrs Arena's speech I wrote to the Attorney General in the following terms:

Accepting the constraints on my responding personally to published allegations involving me, I am writing to you to place on public record my categorical denial of ever attending any meetings or having any discussions with any person, let alone the Premier or the others apparently named, to secure any cover-up at all of any alleged criminal or other improper behaviour by any person.

On 22 September 1997 I said in a further letter to the Attorney:

Obviously I am deeply concerned about these allegations and their impact, not only on me and my family but also on this Court and its Judges and assessors, not to mention Wood J, the Premier and others Mrs Arena implicated.

In my sworn evidence to the Nader Inquiry I denied, "in most emphatic terms", the allegations in, and the imputations from, Mrs Arena's speech.

I gave evidence that I was in Ryde and Parramatta on the evening of Sunday 24 March 1996, and Mr Nader specifically said in his report that he had "no doubt" that my "significantly corroborated" evidence was "true". I also specifically denied any possible involvement in any meetings or discussions along the lines of Mrs Arena's allegations, at any time or place.

Mr Nader's Inquiry reported on 7 November 1997 and found that Mrs Arena's allegations were "false in all respects", and that there was nothing "amounting to evidence in the strict sense that could have provided to any reasonable person acting in good faith any justification whatsoever for these claims, or any part of them".

The Standing Committee on Parliamentary Privilege and Ethics, in its Report tabled 29 June 1998, concluded that “Mrs Arena’s speech cannot be understood as conveying anything other than very serious allegations”, and “would be reasonably understood by the media and the community to mean”, that I participated in a meeting “to plan the suppression of names of individuals allegedly being investigated by the Royal Commission into the NSW Police Service”.

The Committee found that her allegations were untrue, that they were without any reasonable foundation, and that they were extremely hurtful and damaging to the reputation of each alleged participant.

An apology and withdrawal of the allegations in the terms resolved upon by the Legislative Council on 1 July 1998 is imperative for the following reasons:

1. At the time the allegations were made by Mrs Arena in the Legislative Council I was (and remain) a serving member of the judiciary (specifically, a judge of a superior court of record).
2. The unfounded allegations by Mrs Arena, so long as they remain on the record, continue to threaten and undermine the full public confidence which the community is entitled to have, and, indeed, must have, in members of the judiciary, and, in this particular, in myself as a judge of the Land and Environment Court of New South Wales.

Mrs Arena made her allegations in her capacity as a Member of the Legislative Council, and their withdrawal is demanded by important aspects of public interest regarding the judiciary.

I note in this regard the express finding by Mr Nader that the attack on those named damaged not only their personal reputations, but also the public offices they occupy.

Accordingly, both as a question of Mrs Arena’s public responsibility, and in accordance with the requirements of decency, nothing less than a complete withdrawal of the allegations will repair the damage resulting from them.

It would appear that I was deleted from the list of people to benefit from the Legislative Council’s resolution, in the mistaken belief at the time of the vote that I was not a Judge when Mrs Arena made her allegations in the House.

As Mrs Arena suggested, in her submissions to the Standing Committee, that the meeting she alleged I attended took place “on about 24/3/96” and possibly at a location other than Parliament House, I should repeat what I said in my first letter to the Attorney General, namely, that at no stage have I ever been involved in any discussions with any person to secure the objective I was alleged by Mrs Arena to have supported.

Although both the Nader and Standing Committee Reports have completely vindicated my denials and my evidence on these matters, the allegations against me remain on the Parliamentary record, and it is entirely appropriate, in the interests of my family, the Court and myself that they should be corrected by the incorporation of this statement in the Minutes of the proceedings of the House and in the Hansard.

Justice Terry Sheahan
September 1998

APPENDIX 2

Minutes of the Proceedings

Note:

At the time the Committee was conducting this inquiry, it was also inquiring into other unrelated matters. Those parts of the Minutes of the Meetings of the Committee which concern the other matters have been deleted from the Minutes appearing below.

Meeting No. 80

Thursday 10 September 1998

at Parliament House, Sydney at 9.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Ms Gardiner	Mr Lynn
Mr Johnson	Mr Manson
Mr Jones	Revd Mr Nile
Mr Kelly	Mr Primrose

Minutes of Meetings No. 79 were confirmed on motion of Mr Kelly.

Correspondence received:

* * *

(viii) Letter dated 8 September from the President to the Chair referring a Citizen's Right of Reply request from the Hon. Justice Sheahan.

The Committee deliberated.

Resolved, on motion of Revd Mr Nile: That the Chair prepare and submit a Draft Report on the request for a Citizen's Right of Reply by the Hon. Justice Sheahan, recommending that a response by Justice Sheahan, in a form of words agreed to by Justice Sheahan and the Committee, be incorporated in *Hansard* and the Minutes of Proceedings.

* * *

The Committee adjourned at 10.55 am until Thursday 17 September 1998 at 9.30 am.

Meeting No. 81

Thursday 17 September 1998

at Parliament House, Sydney at 9.30 am

MEMBERS PRESENT

Dr Burgmann (in the Chair)

Mr Johnson

Mr Manson

Mr Kelly

Revd Mr Nile

Mr Lynn

Mr Primrose

Apologies were received from Ms Gardiner and Mr Jones.

Minutes of Meetings No. 80 were confirmed on motion of Mr Manson.

* * *

The Committee deliberated.

The Committee considered the draft report on the inquiry into a person referred to in the Legislative Council.

Resolved, on motion of Mr Primrose: That the Report be adopted.

Resolved, on motion of Mr Kelly: That the Report be signed by the Chair and presented to the House.

Resolved, on motion of Mr Lynn: That 300 copies of the Report be printed, on recycled paper if possible.

* * *

The Committee adjourned at 10.10 am until Thursday 24 September 1998 at 9.30 am.