

Standing Committee on Parliamentary Privilege and Ethics

**Report on person referred to
in the Legislative Council
(Mr R Laughton)**

Ordered to be printed 29 August 2002

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How to contact the Committee

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Terms of Reference

The inquiry was conducted in accordance with a resolution of the Legislative Council of 13 November 1997 which permits citizens who are referred to in the House to seek a right of reply by making a submission in writing to the President of the Legislative Council (*Minutes of the Proceedings of the Legislative Council*, No. 16, Thursday 13 November 1997, Entry No. 2).

The resolution is available on the Committee's page of the Parliament's website www.parliament.nsw.gov.au, or by contacting the Committee Secretariat.

Committee membership

The Hon Helen Sham-Ho MLC *Chair*

Independent

The Hon Patricia Forsythe MLC *Deputy Chair*

Liberal Party

The Hon Amanda Fazio MLC

Australian Labor Party

The Hon Jenny Gardiner MLC

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Australian Labor Party

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Report

- 1.1** In July 2002 the President of the Legislative Council, the Honourable Dr Meredith Burgmann MLC, received a submission from Mr Robert Laughton 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.
- 1.2** The submission referred to statements made by the Honourable Charlie Lynn MLC during the adjournment debate in the Legislative Council on 19 March 2002.² The President, having accepted the submission for the purposes of the resolution, referred it to the Standing Committee on Parliamentary Privilege and Ethics on 29 July 2002.
- 1.3** The Committee met in private session on 28 August 2002, and decided, according to paragraph 4 of the resolution, to consider the submission. In considering the submission, the Committee did not find it necessary to consult either Mr Laughton or Mr Lynn on the matter. It has decided to recommend the submission's incorporation in *Hansard*.
- 1.4** The Committee draws attention to paragraph 4(2)(b) of the resolution which requires that, in considering a submission under the resolution, the Committee must not consider or judge the truth of any statements made in the House or in the submission.
- 1.5** The Committee recommends:

Recommendation 1

That a response by Mr Laughton, in the terms specified at Appendix 1, as agreed to by Mr Laughton and the Committee, be incorporated in *Hansard*.

The Hon. Helen Sham-Ho MLC
Chair

¹ *Minutes of the Proceedings of the Legislative Council*, No. 16, Thursday 13 November 1997, Entry No. 2.

² *Hansard* (pamphlet), 19 March 2002, pp. 651-652.

Appendix 1

**Response by Mr Laughton,
agreed to by Mr Laughton
and the Committee,
according to paragraph 5(b)
of the Legislative Council's
resolution of 13 November
1997**

Appendix 1

1. Background

On 19 March 2002 the Hon. C J S Lynn MLC made a statement in Parliament House, expressing his dissatisfaction with the Department of Fair Trading's handling of an investigation into the conduct of his constituent, Mr John Leach, a licensed real estate agent in Camden. The Department's preliminary investigation led to Mr Leach's licence being suspended by the Director-General for a period of 60 days.

During the introduction of his statement, Mr Lynn is reported to have stated:

After examining all the documentation pertaining to the case and after lengthy discussions with Mr Leach and his solicitor I am of the strong view that the investigative process followed by the Department of Fair Trading has been corrupted.

Mr Lynn's statement was directed at the 'unfairness' of the process used by the Department in the investigation and asked that Mr Leach be given a 'fair go'. In this regard Mr Lynn described the action as being 'something one would expect out of Gestapo headquarters'.

Mr Lynn claimed to have written to the Independent Commission Against Corruption asking it to investigate his allegation that the Department's investigation had been corrupted. In the same paragraph Mr Lynn is quoted as saying:

I have recently learned that the senior investigator for the Department of Fair Trading, Mr Robert Laughton, who conducted the initial investigation against Mr Leach, has since been removed from his job because he was caught out lying to his superiors just before Christmas. The Minister might like to check the veracity of that information if ever he gets around to having a look at this issue.

On 19 June 2002 the *Property, Stock and Business Agents Bill* was introduced to the House. In responding to the Bill, Mr Lynn again referred to the Department's investigation of Mr Leach. Mr Lynn claimed that the 'arbitrary decision' of the Director-General had destroyed Mr Leach's business and personal life.

2. Response

I have been employed with the Department of Fair Trading since February 1979. In April 1997 I was appointed as Senior Investigator Grade 11 with the Department's Rapid Response Unit. In June 1998 the NSW Governor appointed me as a Justice of the Peace. In December 2000 I accepted a lateral transfer to the Real Estate Investigations Branch as a Senior Investigator and took control of an investigation team comprising up to ten officers. The team utilises specialist investigation skills in matters arising in the real estate sector of the marketplace. My role was to lead the team in undertaking investigations into complex and major matters relating to the conduct of real estate agents and recommending courses of action to the Manager, Real Estate Investigations Branch and Executive.

In September 2001 I was asked by the then Acting Branch Manager to investigate an alleged deficiency of a large amount of money from the trust accounts of L J Hooker Camden. The results of my preliminary investigation revealed that it was in the public interest to suspend the licences and the salesperson's certificate of those involved, including the licence of Mr Leach.

At the time that Mr Lynn referred to me in the House, I had 5 years experience in investigating complex and major fair trading matters relating to the conduct of traders in the marketplace. During that period I had supervised many departmental investigators.

My integrity as an investigator has never been questioned and I have achieved many outstanding results with the Department of Fair Trading in the course of my duties. I have always adhered to ethical practices and applied fairness in my dealings with traders and consumers. I understand that the Department's investigation of Mr Leach continues unabated and that there have been further suspensions of Mr Leach's licence.

I have never met or spoken to Mr Lynn. Neither Mr Lynn nor any person nor body purporting to represent Mr Lynn has sought my explanation of events that led to me being transferred from my team leader responsibilities in December 2001 to take up project based work.

There is absolutely no substance to Mr Lynn's inference that my conduct as an investigator 'corrupted' the Department's investigation of Mr Leach's conduct. Indeed my superiors have indicated that they are satisfied with my performance as an investigator.

I am still deeply distressed by Mr Lynn's statement and I believe that my reputation as a respected senior investigator has been damaged and may cause my professional judgement in any of my past, current or future investigations to come into question. Mr Lynn's comments about me have become well known throughout the Department and they have caused me embarrassment and humiliation in front of my peers and subordinates. I feel that my hard work and highly regarded reputation have been undermined and now amount to virtually nothing because of Mr Lynn's interpretation of my situation.

3. Conclusion

The Hon. C J S Lynn MLC made a statement in the House on 19 March 2002 and identified me by name to the Legislative Council. The statement adversely affected my reputation as a senior investigator in the NSW Public Service and has caused me great distress.

The statement of the Hon. C J S Lynn MLC to the Legislative Council has caused injury to my integrity, character and profession as an investigator.