

Privileges Committee

**Report on person referred to
in the Legislative Council
(Ms S Scheff)**

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Terms of Reference

The inquiry was conducted in accordance with standing orders 202 and 203, which were adopted by the Legislative Council on 5 May 2004: *Minutes of the Proceedings of the Legislative Council*, No. 52, Wednesday 5 May 2004, Entry No. 10.

Committee Membership

The Hon Peter Primrose MLC *Chair*

Australian Labor Party

The Hon Patricia Forsythe MLC *Deputy Chair*

Liberal Party

The Hon Tony Catanzariti MLC

Australian Labor Party

The Hon Amanda Fazio MLC

Australian Labor Party

The Hon Jennifer Gardiner MLC

National Party

The Hon Kayee Griffin MLC

Australian Labor Party

The Revd the Hon Gordon Moyes MLC

Christian Democratic Party (Fred Nile Group)

Table of Contents

Report		1
Appendix 1	Response by Ms Scheff, agreed to by Ms Scheff and the Committee, according to standing order 203 (5).	3

Report

- 1.1 On 8 December 2004 the President of the Legislative Council, the Honourable Dr Meredith Burgmann MLC, received a submission from Ms Stacy Scheff requesting the incorporation of a response under standing orders 202 and 203 of the Legislative Council relating to the protection of persons referred to in the Legislative Council.
- 1.2 The submission referred to statements made by the Honourable John Hatzistergos MLC, as Minister for Justice, during question time in the Legislative Council on 26 October 2004.¹ The President, having considered the submission under standing order 202 (2), referred it to the Privileges Committee on 9 December 2004.
- 1.3 The Committee met in private session on 30 March 2005 and on 6 April 2005, and decided, according to standing order 203 (4), to consider the submission. The response, which the Committee now recommends for incorporation in *Hansard*, has been agreed to by Ms Scheff and the Committee in accordance with standing order 203 (4)(b).
- 1.4 The Committee draws attention to standing order 203 (3)(b) 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 Ms Scheff, in the terms specified at Appendix 1, as agreed to by Ms Scheff and the Committee, be incorporated in *Hansard*.

The Hon. Peter Primrose MLC

Chair

¹ *Hansard*, 26 October 2004, p. 11897.

**Response by Ms Scheff,
agreed to by Ms Scheff and
the Committee, according to
standing order 203 4(b)**

Appendix 1

Reply to comments by the Hon John Hatzistergos MLC as Minister for Justice in the Legislative Council on 26 October 2004

The following comments are provided in response to statements made by the Hon John Hatzistergos on 26 October 2004 during question time.

The statements referred to *The Australian Prisoners' Election Newspaper* of which I am the editor. In addition, I am referred to and identified in the following statement:

Following that complaint a summons was issued in the Supreme Court by a person whose name I often see in relation to such matters but I can never remember, no matter how many times I see it and even though it is in front of me at the moment.

I believe that the statements made by Mr Hatzistergos damage my reputation as the editor of the newspaper because they inaccurately represent the circumstances surrounding the Supreme Court action and the content of the newspaper.

I wish the following statement to be considered:

On 26 October 2004, several inaccurate statements were made by the Hon John Hatzistergos during question time

- 1.) The Victorian commissioner also had the good sense not to permit the distribution of this material.

The Commissioner of Corrections Victoria stated on 5 October 2004 that *The Australian Prisoners' Election Newspaper* will be made available to prisoners. That statement was also part of the affidavit filed with the NSW Supreme Court on 6 October 2004.

- 2.) As reported in Hansard, there was the following exchange between the Hon John Hatzistergos and the Hon John Della Bosca:

The Hon JOHN HATZISTERGOS:Then there was a question and answer section at the back, and guess who were the participants?

The Hon. John Della Bosca: Lee Rhiannon and Arthur Chesterfield-Evans?

The Hon. JOHN HATZISTERGOS: Close. It was the Greens and Socialist Alliance.

This statement also contains incorrect information. There were answers provided by the Democrats, Liberals, and Labor.

- 3.) A third example from Hansard is the following statement:

Voting had taken place in most of the centres, resulting in the summons being discontinued the

very next day—I might add at great cost to the taxpayers of New South Wales who had been preparing to fight the case.

I believe that the reason for the case being discontinued was because pre-polling was moved forward in correctional centres by the Commissioner for the specific purpose of preventing the Court from providing relief in the form of a judgement. I have formed this opinion from information which I received from my solicitor.

On 7 October 2004, I was advised by my solicitor that he had been informed that prisoners in every prison in New South Wales except Bathurst prison had already voted for the Federal election and that prisoners had voted by pre-poll earlier this week. Further, the prisoners at Bathurst prison would be voting between 9 am and 1 pm on the following Saturday morning.

(I decided to continue with the action on the basis that prisoners at Bathurst should still be allowed to receive the information before voting even if the other prisoners had been deprived of the newspaper by the Commissioner.)

Later that day I was further advised by my solicitor that he had been informed that voting at Bathurst prison would take place between 12pm and 4pm on Friday 8 October.

My solicitor further advised me that because of this change in circumstances, a judgement for relief would be considered futile, and therefore the judge would probably dismiss the action.