

Privileges Committee

Citizen's Right of Reply (Mr D Kennedy)

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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 Kaye Griffin MLC *Chair*

Australian Labor Party

The Hon Jenny Gardiner MLC *Deputy Chair*

Liberal Party

The Hon Greg Donnelly MLC

Australian Labor Party

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Report

- 1.1 On 14 May 2008, the President of the Legislative Council, the Honourable Peter Primrose MLC, received a submission from Mr Duncan Kennedy 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 Minister for Fair Trading, the Hon Linda Burney MP, in the answer to Question Number 0224 submitted by Dr John Kaye MLC in the Legislative Council on 17 October 2007.¹ The President, having considered the submission under standing order 202(2), referred it to the Privileges Committee on 14 May 2008.
- 1.3 The Committee met in private session on 18 June 2008, and decided, according to standing order 203, to consider the submission. The response, which the Committee now recommends for incorporation in *Hansard*, has been agreed to by Mr Kennedy 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 Mr Kennedy, in the terms specified at Appendix 1, as agreed to by Mr Kennedy and the Committee, be incorporated in *Hansard*.

The Hon. Kayee Griffin MLC
Chair

¹ *Questions and Answers Paper*, No. 20, 27 October 2007, pp 279-280. The answer was published in *Questions and Answers Paper* No. 31, 27 November 2007, pp. 851-852.

Appendix 1

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

Appendix 1

Reply to the answer given by the Minister for Fair Trading, the Hon Linda Burney MP, to Question Number 0224 submitted by Dr John Kaye in the Legislative Council on 17 October 2007

I write to seek a Citizen's Right of Reply under Standing Orders 202 and 203 in respect to the answer given by the Minister for Fair Trading, the Hon Linda Burney MP, to Question Number 0224 submitted by Dr Kaye in the Legislative Council on 17 October 2007.

The question referred to me by name, suburb and former profession and the Minister's response made it clear that she was referring to me in her answer.

The Minister for Fair Trading's answer is wrong, implies that I do not know what I am talking about, and has caused me concern in that:

- (a) The reputation and the respect that I enjoyed for many years within the security industry may have been tarnished and called into question.
- (b) Although I gave up my Security Consultant's licence and Security Sales and Installation licences some two years ago, should I want to re-enter the security industry Minister Burney's response may in the future place an impediment in the way of my regaining those licences.
- (c) In my new role as a Strata Manager I am continually coming across security works as defined in the Security Industry Act that should have been, and in the future should be, carried out under security industry licensing regulation rather than under the home building licensing regime and where those wrongful and illegal acts are putting the wellbeing of the family living in those strata title units at serious risk and that continues to concern me.

In respect to the Minister's answer to question 0224 the facts are these:

The exemption under Clause 9(1)(e) of the Home Building Regulation, when read in conjunction with the Security Industry Act, confirms that Minister Burney's response is wrong.

A literal interpretation of her answer shows inconsistencies which in fact just cannot be right. In one statement she says words to the effect that anyone installing security doors on the home **MUST** have a home building licence and then later in the answer says that they need to hold **EITHER** a home building licence **OR** a security industry licence.

I am in possession of a letter dated 8 July 1997 [ref RML 97/2146] from a former Minister of Fair Trading, Faye LoPo' addressed to the Australian Security Industry Association Limited, which also confirms that Minister Burney's interpretation of the relevant legislation is wrong.

I appeared before a Department of Fair Trading Tribunal hearing, Case No. BU 2000/9686, involving some \$24,000 worth of security grille doors and security window grilles on two homes where the specific finding of the Tribunal was in fact that although the work had been done using a legitimate Home Building Licence, as twice advised to the consumer by the Department of Fair Trading it should

be, the question of 'standard of workmanship' was not relevant because the work had been done illegally using that Home Building licence rather than a Master Security Industry licence. That finding confirms that the Minister's interpretation of the legislation, as she has expounded in her answer to question 0224, is wrong.

I am in possession of a letter dated 22 November 1994 from Abbott Tout solicitors addressed to Comalco Aluminium Supply providing an opinion which clearly demonstrates that Minister Burney's response is incorrect.

Finally, the Minister in her answer confirmed that she was aware of my 'allegations'. She must surely be aware that those allegations were in fact of criminality involving her Department and that those allegations have never been investigated by any authority with the power to do so.

In accordance with the guidelines laid down for a Citizen's Right of Reply, I limit my response directly to Minister Burney's actual answer to question 0224. I believe however that there should be a full parliamentary inquiry into the role of the Department of Fair Trading in regard to these matters.