

Standing Committee on Parliamentary Privilege and Ethics

**Report on person referred to
in the Legislative Council
(Mr J Bennette)**

Ordered to be printed 4 December 2001

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How to contact the Committee

Members of the Standing Committee on Parliamentary Privilege and Ethics can be contacted through the Committee Secretariat. Written correspondence and enquiries should be directed to:

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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

National Party

The Hon Tony Kelly MLC

Australian Labor Party

The Revd the Hon Fred Nile MLC

Christian Democratic Party (Fred Nile Group)

The Hon Peter Primrose MLC

Australian Labor Party

The Hon Janelle Saffin MLC

Australian Labor Party

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Report

- 1.1** On 9 October 2001 the President of the Legislative Council, the Honourable Dr Meredith Burgmann MLC, received a letter from Mr Jerry Bennette 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 Hon Ian Cohen MLC during debate in the Legislative Council on the Workplace (Occupants Protection) Bill on 13 October 2000.² 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 17 October 2001.
- 1.2** The Committee met in private session on 14 November 2001, and decided, according to paragraph 5 of the resolution, to consider the submission. The Committee, having consulted with Mr Bennette in writing, met again on 29 November 2001 and agreed to the attached response. The response, which the Committee now recommends for incorporation in Hansard, has been agreed to by Mr Bennette and the Committee in accordance with paragraph 5(b) of the resolution.
- 1.3** The Committee recommends:

Recommendation 1

That a response by Mr Bennette, in the terms specified at Appendix 1, as agreed to by Mr Bennette 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* (weekly pamphlet), 13 October 2000, p. 9263.

Appendix 1

Response agreed to by Mr Bennette and the Committee

Appendix 1

Introduction

The Hon I Cohen made statements and imputations to the Legislative Council on 13 October 2000 that are false regarding two separate incidents that occurred at two separate times on my land located at Suffolk Park (Byron Bay). The Hon I Cohen was not at the second incident and the incident was not reported.

It would appear that the words the Hon I Cohen stated in the Legislative Council were falsely intended to impress upon the Legislative Council that I would wilfully use force against others that may lead to infliction of serious injuries or worse.

Set out below is my response with substantiation to the Hon I Cohen's statements.

I have never at any time had an association with the Hon. I Cohen in any manner.

In about 1987 the then Mr Cohen volunteered to show my wife and myself around a property at Broken Head that we were inspecting for possible purchase. After due consideration we did not purchase the property.

In the period from 1987 to January 2000 Mr Cohen and I did not meet or talk to each other.

The Hon I Cohen's Statements

The words used by the Hon I Cohen are:

[...] Of course, the workshop also means industrial work sites. And it means a developer's land. Recently I faced a situation when; I had reason to inspect a developer's land as I believed the developer, Jerry Bennette of Byron Bay, was acting illegally against a council stop-work order. We exchanged words. He then went to the police and took out an apprehended violence order against me, which subsequently was defended by me in court and the case was dismissed. The same man tackled a young person who entered his property to complain about his land -

[...]

The Hon I Cohen: It is finished. The court case is over and the case has been dismissed. I was clearly shown to be within my rights. It is good to see that the honourable member is ever vigilant!

However, the young man went onto the developer's land where bulldozing was taking place. He was taken in a headlock, thrown on the ground and held in an uncomfortable, distressful and dangerous situation for a long period of time until the developer was convinced to get off him. This is the sort of law that will encourage this type of activity, and I see it as a dangerous direction to take.

Response:

1. The incidents involving the Hon I Cohen occurred on 8th January 2000 and 6th January 2000 respectively in an area of my property where Council approved earthworks were in progress.

On 6th January 2000 the Hon I Cohen entered on and remained on my property in spite of being asked by a security guard to leave. The Hon I Cohen eventually left the property.

The Hon I Cohen returned to my property on 8th January 2000 and made derogatory and racist statements against me in public. The Hon I Cohen's last statements caused injury.

The council stop-work order was ignored on the basis of a barrister's advice that the order was illegal. In March 2000 the Land and Environment Court dismissed the Byron Shire Council's stop-work order and ordered costs against the council.

The AVO was dismissed on technical legal grounds as amendments to the Crimes Act came into force before the matter was heard.

2. The Hon I Cohen's statements regarding the incident involving the "young man" are false. The incident occurred almost two weeks after the Hon I Cohen's actions, and on a separate parcel of my property. No bulldozer has ever been on this site.

The Hon I Cohen was not present during the incident. The incident was not reported in the media.

The "young man" as the Hon I Cohen states was actually in his mid 30's.

In spite of numerous warnings the person illegally entered on and remained on my land and assaulted me.

Upon being assaulted I took reasonable actions to protect myself from further injury by restraining the person until the police came and arrested the person.

The person was charged and bailed to appear in the local court. The person did not appear and was not represented at hearing. The person was convicted and fined.

Conclusion

The Hon I Cohen identified me by name to the Legislative Council and made statements that have adversely affected my reputation in respect of dealings or associations with others.

The Hon I Cohen's statements to the Legislative Council have caused injury in my credit, character, reputation and profession.

Jerry Bennette

Appendix 2

Minutes of the Committee's proceedings

Minutes of the Committee's proceedings

Note: Asterisks indicate text which has been deleted as it is not relevant to this inquiry.

Meeting No. 13

Wednesday 14 November 2001

at Parliament House, Sydney at 10.00 am

MEMBERS PRESENT

Mrs Sham-Ho (in the Chair)

Ms Fazio	Revd Mr Nile
Ms Forsythe	Mr Primrose
Ms Gardiner	Ms Saffin
Mr Kelly	

In attendance: David Blunt, Velia Mignacca and Janet Williams.

The Chair tabled the following correspondence:

Correspondence received

- (i) Letter dated 17 October 2001 from the President of the Legislative Council to the Chair of the Committee referring a citizen's right of reply submission from Mr Jerry Bennette.

The Committee deliberated.

Resolved, on motion of Mrs Forsythe: That the Committee agree in principle to recommend publication of Mr Bennette's submission without the shaded sections appearing in the version circulated to the Committee.

The Committee continued to deliberate.

The Committee agreed that at the conclusion of the inquiry on the citizen's right of reply, the Member concerned be informed of the proposed tabling of the Report.

The Committee adjourned at 10.25 am until Thursday 29 November 2001 at 1.00 pm.

David Blunt
A/ Clerk-Assistant Committees and Usher of the Black Rod

Meeting No. 14

Thursday 29 November 2001

at Parliament House, Sydney at 1.00 pm

MEMBERS PRESENT

Mrs Sham-Ho (in the Chair)

Ms Fazio	Revd Mr Nile
Ms Forsythe	Mr Primrose
Ms Gardiner	Ms Saffin
Mr Kelly	

In attendance: Lynn Lovelock, Velia Mignacca and Janet Williams.

Resolved, on motion of Ms Fazio: That the minutes of meeting No. 13 be adopted.

The Chair tabled the following correspondence:

Correspondence received

- (iii) Letter dated 27 November 2001 to the Clerk to the Committee from Mr Jerry Bennette agreeing to the response proposed by the Committee in relation to citizen's right of reply.

Correspondence sent

- (i) Letter dated 21 November 2001 from the Chair to Mr Jerry Bennette forwarding the response proposed by the Committee for publication in accordance with the House's resolution concerning citizen's right of reply.

Citizen's right of reply – Mr J Bennette

The Committee continued to deliberate.

Resolved, on motion of Ms Fazio: That the Chair prepare and submit a draft report on the request for a citizen's right of reply by Mr J Bennette, recommending that a response by Mr Bennette, as agreed by Mr Bennette and the Committee, be incorporated in Hansard.

Resolved, on motion of Ms Fazio: That the report be adopted.

Resolved, on motion of Ms Fazio: That the report be signed by the Chair and presented to the House.

Resolved, on motion of Ms Fazio: That the Clerk advise the citizen and the Member concerned of the proposed tabling of the Report.

The Committee adjourned at 2.40 pm sine die.

Lynn Lovelock
Clerk to the Committee