



ETHICS COMMITTEE

Report No. 166

MATTER OF PRIVILEGE REFERRED BY THE FINANCE AND ADMINISTRATION COMMITTEE ON 16 MARCH 2016 RELATING TO AN ALLEGED INTIMIDATION OF WITNESSES

Introduction and background

1. The Ethics Committee (the committee) is a statutory committee of the Queensland Parliament established under section 102 of the *Parliament of Queensland Act 2001* (the POQA). The current committee was appointed by resolution of the Legislative Assembly on 18 February 2016.
2. The committee's area of responsibility includes dealing with complaints about the ethical conduct of particular members and dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons.¹ The committee investigates and reports on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.
3. The matter in this report concerns an allegation of intimidation of witnesses with respect to the Finance and Administration Committee's (FAC) public forums and hearings for its inquiry into the North Stradbroke Protection and Sustainability and Other Acts Amendment Bill and the North Stradbroke Island Protection and Sustainability (Renewal of Mining Leases) Amendment Bill.
4. As part of its inquiry into the two bills, FAC held two public forums on Stradbroke Island and Cleveland on 8 and 10 February 2016 respectively.
5. FAC also held public hearings on 7 and 8 March 2016 on Stradbroke Island, 7 and 9 March 2016 in Cleveland, and 10 March 2016 in Brisbane. Private hearings were scheduled between public hearings for witnesses who requested one.
6. Two community members (Community Members A and B) wrote to the FAC in relation to the public forums and public hearings on Stradbroke Island, alleging intimidation of actual and

¹ *Parliament of Queensland Act 2001*, section 104B.

potential witnesses to the FAC inquiry by two other community members (Community Members C and D).

7. Community Member A was invited to attend as a witness at a public hearing on 8 March 2016, but instead appeared as a witness at a private hearing on 9 March 2016 on Stradbroke Island, along with others, due to the alleged intimidation.
8. Community Member B gave evidence as a witness in a private hearing, which Community Member B had requested from the outset of the inquiry.
9. With respect to the first allegation, Community Member A provided a screenshot of the Facebook account of Community Member C, which contained the list of witnesses giving evidence at the public hearing on Stradbroke Island on 8 March 2016, and what was considered by Community Member A to be a threatening comment which read "Fuck Sibelco I'll be there soon Dunwich Hall look out".
10. The screenshot was described by Community Member A as:

...an example of the actions in our community which results in several people remaining silent in public forums. I cannot speak for everyone though I believe one of the concerns is the potential for our wives and children to be implicated.
11. With respect to the second allegation, Community Member B outlined the behaviour of Community Member D, and provided copies of a text message and email sent to other community members by Community Member D, which were described by Community Member B as threatening messages.
12. Both the text message and email indicated conflict between community members on the island, but neither made specific reference to the proceedings of the FAC.
13. In her submission, Community Member B stated:

The lack of representation by the Quandamooka Community at the FAC Community meeting held on Monday 08 February 2016 at the Moreton Bay Research Station is a direct result of this person's behaviour – people are afraid that their spouses, children and old people will be threatened and abused if they speak out against him.
14. In the evidence provided by Community Member B, no specific reference or threat was made, in either the text message or email, at people who had given, or were going to give, evidence to the FAC's inquiry.

The referral

15. On 16 March 2016, the Chair of the FAC, Mr Peter Russo MP, rose in the House and made the following Private Members' Statement:

In accordance with standing order 268(1) and on behalf of the Finance and Administration Committee, I advise that a matter has arisen with respect to the proceedings of the Finance and Administration Committee. The committee recently received information about the potential intimidation of witnesses with respect to its recent public hearings for its inquiry into the North Stradbroke Protection and Sustainability and Other Acts Amendment Bill and the North Stradbroke Island Protection and Sustainability (Renewal of Mining Leases) Amendment Bill. The committee recommends that this matter be referred to the Ethics Committee. I will write on behalf of the committee to the Ethics Committee to provide further details.

Committee Membership

16. On 21 April 2016, the Speaker advised that in accordance with Standing Order 272 the Member for Barron River would stand aside from consideration of this matter as he was a member of the Finance and Administration Committee that referred the matter to the Ethics Committee and that the Member for Pine Rivers would replace the Member for Barron River during the committee's consideration of this matter in accordance with Standing Order 272(2).

Definition of contempt

17. Section 37 of the POQA defines the meaning of 'contempt' of the Assembly as follows:
- (1) *"Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.*
 - (2) *Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—*
 - (a) *the free exercise by the Assembly or a committee of its authority or functions; or*
 - (b) *the free performance by a member of the member's duties as a member.*

Standing Order 266 – Intimidating a witness

18. Standing Order 266 provides that the House may treat as a contempt:
- (15) *intimidating, preventing or hindering a witness from giving evidence or giving evidence in full to the House or a committee.*
19. The elements to be considered in establishing whether the allegation, on the face of it, gives rise to a contempt are—
- 1) did the conduct of the person(s) the subject of the complaint intimidate, prevent or hinder a witness from giving evidence, or giving evidence in full to the FAC?
 - 2) if yes, did the conduct of the person(s) subject of the complaint amount to, or was it intended to or likely to amount to, an improper interference with the free exercise of the committee of its functions?
20. With respect to the material provided by Community Member A, the committee considered that the Facebook post indicated displeasure with Sibelco and an intent by that person to attend the public hearing to voice that displeasure. However, the committee considered that there was no evidence of intimidating, preventing or hindering others from giving evidence.
21. With respect to the material provided by Community Member B, there is no clear link to the proceedings of the FAC.
22. Furthermore, the committee considered that there was nothing to indicate that Community Members A and B were intimidated, prevented or hindered in giving evidence to the FAC, as they both gave evidence to the FAC inquiry in private, and therefore the free exercise of the committee's functions were not interfered with.
23. Under Standing Order 270(1)(a) when a matter is referred to the committee it may summarily dispose of the matter if it believes it is trivial, technical or vexatious or does not warrant further attention by the committee.
24. On the basis of the above findings, the committee determined that this was not a matter that warranted further attention by the committee.

Conclusion

25. Due to the lack of connection between the Facebook page, text message or email with the actual proceedings of the FAC, and the lack of evidence that there was any actual interference with the free exercise of the FAC of its functions, the committee determined that this was not a matter that warranted further attention by the committee.

Conclusion

Due to the lack of connection between the Facebook page, text message or email with the actual proceedings of the FAC, and the lack of evidence that there was any actual interference with the free exercise of the FAC of its functions, the committee determined that this was not a matter that warranted further attention by the committee.

Recommendation

The committee recommends that the matter of privilege referred by the Finance and Administration Committee on 16 March 2016 relating to an alleged intimidation of witnesses does not warrant the further attention of the House.



Don Brown MP
Chair

May 2016

Membership — 55th Parliament

Mr Don Brown MP, Chair
Member for Capalaba

Mr Glen Elmes MP, Deputy Chair
Member for Noosa

Ms Nikki Boyd²
Member for Pine Rivers

Mr Linus Power MP
Member for Logan

Mr Jeff Seeney MP
Member for Callide

Mr Trevor Watts MP³
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² On 21 April 2016, the Member for Pine Rivers replaced the Member for Barron River for consideration of this matter in accordance with Standing Order 272(2).

³ On 10 May 2016, the Member for Toowoomba North replaced the Member for Mudgeeraba as a member of the committee.