

APPENDIX 1

THE LEGISLATIVE AND FINANCIAL POSITION OF THE COMMONWEALTH AND STATE GOVERNMENTS

The Commonwealth Constitution sets out the legislative powers of the Commonwealth and the States. The main Commonwealth powers are found in section 51 of the Commonwealth Constitution, which contains 39 separate heads of power, together with a small number of additional powers in section 52. Some of the crucial Commonwealth legislative powers are section 51(i) – the power over trade and commerce with other countries and amongst the States; section 51(ii) – the taxation power; section 51(vi) – the defence power; section 51(xx) – the corporations power; and section 51(xxix) – the external affairs power.

Some section 51 powers are exercised exclusively by the Commonwealth. However, the majority of section 51 powers are concurrent powers, in the sense that they may also be exercised by the States. Subject to a few exceptions, the Commonwealth Constitution does not confine the matters about which the State may make laws.¹ Accordingly, the Parliament of New South Wales can pass laws on a wide range of subjects such as education, health, law and order, and transport.

In the event of inconsistency between Commonwealth and State laws, section 109 of the Commonwealth Constitution provides:

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

While the Commonwealth Constitution explicitly sets out the heads of power reserved for the federal government, in recent times federal governments have used a number of powers under the Commonwealth Constitution, notably the external affairs power and the corporations power, to enact laws in areas traditionally outside commonwealth control.

Most recently, the use of the corporations power by the federal government to legislate with respect to industrial relations was challenged by the States in *New*

1 The most important exceptions are that the States cannot impose duties of customs and excise (s 90) and cannot raise defence forces without the consent of the Commonwealth Parliament (s 114).

South Wales v Commonwealth.² The States argued that the Commonwealth *Workplace Relations Amendment (Work Choices) Act 2005* was not a valid law under the Commonwealth Constitution because it was not supported by any of the heads of power granted to the Commonwealth by section 51 of the Commonwealth Constitution. The majority decision of the High Court found against the States. Kirby and Callinan JJ dissented.

Federal governments have also in recent years been able to influence areas traditionally outside the Commonwealth's legislative competence through the Commonwealth's strong financial position with respect to the States. This strong financial position of the Commonwealth derives from two considerations: the Commonwealth's near monopoly over taxation and the discretion allowed to the Commonwealth to distribute taxation revenue to the States with funding conditions attached.

The Commonwealth's taxation power vis-à-vis the States has changed significantly since federation. Section 52(ii) of the Commonwealth Constitution, the taxation power, is a concurrent power in the sense that it can be exercised by both the Commonwealth and the States. Indeed, until 1942 the States levied income tax – the major source of taxation revenue in Australia. However, in 1942, at the height of World War II, the Commonwealth induced the States to vacate the field of income tax through a combination of measures, both coercive and punitive, in four pieces of legislation passed by the Commonwealth Parliament as a wartime necessity. These measures were upheld by the High Court in *South Australia v Commonwealth*³ (the *First Uniform Tax* case) and later largely upheld in *Victoria v Commonwealth*⁴ (the *Second Uniform Tax* case). As a result, the States were obliged to vacate the field of income tax to the Commonwealth.

The Commonwealth's near monopoly over taxation also rests on section 90 of the Commonwealth Constitution, which gives the Commonwealth the exclusive power to impose 'duties of customs and of excise'. The High Court has interpreted this power extremely broadly. In 1997 in *Ha v New South Wales*,⁵ State excise and franchise tax regimes were struck down based on the Court's reading of section 90.

However, while the Commonwealth collects almost all taxation revenue in Australia, the States are required under the Constitution to fund the delivery of important and expensive services such as public education, health and law and order. This situation, where the Commonwealth collects much of the taxation revenue in Australia, and then redistributes that revenue to the States and Territories to fund State-provided services, is called vertical fiscal imbalance.

2 (2006) 231 ALR 1.

3 (1942) 65 CLR 373.

4 (1957) 99 CLR 575.

5 (1997) 189 CLR 465.

The Commonwealth Constitution also gives the Commonwealth considerable discretion when distributing revenue to the States. Section 96 states:

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State *on such terms and conditions as the Parliament thinks fit*. (emphasis added)

The phrase ‘on such terms and conditions as the Parliament thinks fit’ has been interpreted literally by the High Court. In *Attorney-General (Vic) (Ex rel Black) v Commonwealth*⁶ (the DOGS case), Barwick CJ stated:

[T]he Court has earlier decided that grants on like detailed conditions relating to matters over which the Commonwealth lacks legislative power are validly made under s 96 and that the conditions are enforceable according to their terms.⁷

Related to the Commonwealth’s power to grant financial assistance to any State ‘on such terms and conditions as the Parliament thinks fit’ is the extent of the executive’s power to appropriate revenue for the purposes of the Commonwealth under section 81 of the Constitution, which provides:

All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and *subject to the charges and liabilities imposed by this Constitution*. (emphasis added)

A narrow reading of this section would suggest that the Commonwealth may appropriate revenue only for those purposes for which the Commonwealth has legislative power under section 51 of the Constitution. However, this has not been the approach of the High Court, which has adopted a very wide reading of section 81: that the Commonwealth may appropriate money for any purpose it deems necessary. This view was adopted in *Victoria v Commonwealth and Hayden*⁸ (the AAP case). Although a very fragmented decision, the High Court essentially found that the Commonwealth has the power to engage in activities peculiarly adapted to the government of a nation which cannot otherwise be carried out. This position was later reaffirmed in *Davis v Commonwealth*,⁹ which found that the Commonwealth’s legislative powers extend beyond those specifically stated in the Constitution and ‘include such powers as may be deduced from the establishment and nature of the Commonwealth as a polity’.¹⁰

Accordingly, the Commonwealth has power to appropriate money and grant financial assistance to the States, regardless of whether it is within Common-

6 (1981) 146 CLR 559.

7 *Attorney-General (Vic) (Ex rel Black) v Commonwealth* (1981) 146 CLR 559 at [37].

8 (1975) 134 CLR 338.

9 (1988) 166 CLR 79.

10 *Davis v Commonwealth* (1988) 166 CLR 79 at [13].

APPENDIX 1

wealth legislative powers under section 51 of the Constitution, and can impose terms and conditions on those receiving the grant, but also on those who benefit from the grant. This has allowed the Commonwealth to move into fields such as health, higher education and the environment.

APPENDIX 2

THE 1978 REFORM OF THE LEGISLATIVE COUNCIL

In June 1977, the Premier, the Hon Neville Wran, introduced in the Legislative Assembly the Constitution and Parliamentary Electorates and Elections (Amendment) Bill, which provided for a reduction in membership of the Council from 60 to 45 and for members to be directly elected by the people under a non-preferential proportional system with the whole State as one electorate, similar to the system in use in South Australia and Israel.¹ Under the bill voting was to be on a group or list system with one vote for any one group. Groups not receiving a quota of one-sixteenth or 6.25% of formal votes cast would have their votes discarded in the count. Council elections were to be held simultaneously with the Assembly and members would have nine-year terms (three Assembly terms). Casual vacancies in the Council were to be filled from the next person on the list of the group from which the vacancy occurred. If there were no person on the list the vacancy would be filled by a person from the same political party at a joint sitting of both Houses, as is the case in the federal Senate. The President was to be elected by the House and in the event of a deadlock the appointment was to be determined on the nomination of the party group receiving a majority of votes at the most recent Council election.

Under the provisions of the bill, the Council would go through a transition period at the end of which the House would consist of 45 members. At the first periodic Council election, the 30 members whose terms were due to expire in 1979 and 1982 were to retire and the Council would then consist of 43 members – 28 continuing members, whose terms were due to expire in 1985 and 1988, and 15 new members elected at the first Council periodic election. At the second periodic Council election, the 14 continuing members whose terms were due to expire in 1985 would retire and be replaced by a further 15 elected members. The Council would then consist of 44 members. At the third periodic Council election, the 14 continuing members whose terms were due to expire in 1988 would retire and be replaced by a final 15 elected members. The transition process would then be complete and the Council would consist of 45 elected members. Conveniently, of the 28 continuing members at the time the bill was introduced, 14 were from the Government (Labor) and 14 from non-government parties.²

1 *LA Debates* (2/6/1977) 6533-6550.

2 There were two vacancies in the Council at the time the reform bill was introduced.

The bill passed the Assembly without amendment on 7 June 1977 and was sent to the Council for concurrence. In the Council, the second reading of the bill was amended to refer it to a select committee, by 32 votes to 23.³ The committee was to comprise five Opposition members and three Government members. However the Leader of the Government, the Hon Paul Landa, indicated that Government members would not participate in the select committee inquiry.⁴ Being mindful of the two months 'failure to pass' provision in section 5B of the *Constitution Act 1902*, the committee presented an interim report on 4 August 1977 in which it indicated that it had not been able to complete its investigations and review all the evidence and required more time to consider the bill.⁵ Since the committee did not have leave to report from time to time, the chair of the committee had earlier sought leave of the House for the committee to do so. However, objection was taken and the motion lapsed.⁶ In presenting an interim report without leave and thus fulfilling its reporting requirements, the committee extinguished itself. The committee was subsequently revived by motion on notice on 18 August 1977.⁷

On 10 November 1977, five months having elapsed since the Constitution and Parliamentary Electorates and Elections (Amendment) Bill was first sent to the Council, Premier Wran reintroduced the bill into the Assembly under the terms of section 5B, on the grounds that the Council had 'failed to pass' the bill by not returning it to the Assembly within two months.⁸ The Assembly passed the bill on 17 November 1977 and again sent the bill to the Council for concurrence. The second reading of the bill was again amended in the Council to refer the bill to the select committee appointed by the House on 18 August 1977, by 30 votes to 20. This time the committee was given leave to report from time to time.⁹ When proposing the adjournment of the House for the Christmas recess on 2 December 1977, the Leader of the Government in the Council, the Hon Paul Landa, moved that the House adjourn until Wednesday 25 January 1978. However, the Hon Sir John Fuller, Leader of the Opposition, successfully moved an amendment, against the wishes of the Government, for the House to adjourn until 10 January 1978. During the debate Sir John Fuller indicated that the select committee would be in a position to report before the expiration of the two-month statutory period stipulated under section 5B, which was at midnight on 17 January 1978.¹⁰

As foreshadowed by Sir John Fuller, the select committee presented its report when the House resumed on 10 January 1978. In its report the committee recom-

3 *LC Minutes* (8/6/1977) 421-422.

4 *LC Debates* (8/6/1977) 6905.

5 *Interim Report of the Select Committee on the Constitution and Parliamentary Electorates and Elections (Amendment) Bill, Joint volume of Papers (1976-1877-1978) Vol 3*, p 977. See also *LC Minutes* (4/8/1977) 440-441.

6 *LC Minutes* (4/8/1977) 440.

7 *LC Minutes* (8/8/1977) 459-460.

8 *LA Debates* (10/11/1977) 9503-9505.

9 *LC Minutes* (23/11/1977) 647-648.

10 *LC Debates* (2/12/1977) 10866-10869.

mended that the bill should be rejected because the list system of voting did not allow an elector to vote for a candidate of their choice, no preferences were allowed, and groups securing less than a quota of formal votes cast were excluded, thus unduly favouring major parties. The committee also recommended the establishment of a State constitutional convention to review the method of election, functions and powers of the Council.¹¹

Immediately on presentation of the committee's report, the Leader of the Government moved that the second reading of the bill stand as an order of the day for the next sitting day.¹²

The second reading debate on the bill commenced on the following day, 11 January 1978, and the Leader of the Opposition, Sir John Fuller, moved an amendment to the second reading that the bill be rejected and returned to the Assembly for reasons similar to those contained in the report of the select committee. The amendment was carried, 34 votes to 23, and the bill returned to the Assembly with a message rejecting the bill, including nine reasons for its rejection,¹³ and requesting the adoption of the recommendation of the select committee for the convening of a constitutional convention to review the method of election, functions and powers of the Council.¹⁴ There was no precedent for the Council having previously responded to a bill in this manner.

Subsequently, on 25 January 1978, the Council received a message from the Assembly requesting a free conference on the bill under section 5B of the *Constitution Act 1902* and advising of the appointment of 10 members of the Assembly as managers for the conference.¹⁵ In moving a motion agreeing to the request for the free conference the Leader of the Government proposed that the free conference be held in the Public Works Committee Room (an Assembly committee room) on Tuesday 31 January 1978 at 2.15 pm. The Leader of the Opposition successfully moved an amendment that the free conference be held in a Council committee room, as it was accepted practice that when the Assembly requests a conference the Council determines the time and place of the meeting.¹⁶ The 10 managers appointed by the Council represented the majority opinion of the Council on the bill and were thus all Opposition members, including the

11 *Report from the Select Committee on the Constitution and Parliamentary Electorates and Elections (Amendment) Bill, Joint volume of Papers (1976-1977-1878) Vol 3, p 981. See also LC Minutes (10/1/1978) 734.*

12 The former SO 169 provided that, when a bill has been reported on by a select committee, a future day may be fixed for the second reading.

13 The main reason for rejection was the proposed 'list' system of voting.

14 *LC Minutes (11/1/1978) 740-743; LC Debates (11/1/1978).*

15 The 10 managers for the Assembly were government ministers including the Premier and Deputy Premier.

16 The former SO 152A provided that if a free conference is requested by the Assembly under section 5B, the Council shall agree to the conference being held without delay and the time and place for holding the conference shall be appointed by the Council.

Leader and Deputy Leader of the Opposition.¹⁷ On 31 January 1978, at the time appointed for the free conference the Clerk, by direction of the President, called over the names of the Council managers. All Council managers having answered in their places, they proceeded to the meeting of managers, attended by the Usher of the Black Rod, to receive the managers from the Assembly.¹⁸ As required by the standing orders, the business of the House was suspended during the free conference.¹⁹ The last free conference had taken place 50 years earlier²⁰ and no officer of the House had experience in the necessary arrangements and only scanty guidance was available from past records. On this occasion the Usher of the Black Rod kept an unofficial record of the proceedings of the free conference.²¹

At the free conference, Premier Wran acted as spokesperson for the Assembly managers and Sir John Fuller as spokesperson for the Council managers. With both managers adopting a hard line from the start of discussions a compromise seemed remote. The Premier was insistent that the Council allow the Constitution and Parliamentary Electorates and Elections (Amendment) Bill to go to a referendum of the people and Sir John Fuller requested the government to accept the recommendations of the select committee for a constitutional convention. As a compromise, Sir John Fuller put forward a proposal that the first election of the Council be held simultaneously with the next general election of the Assembly and that the Council be elected by a fully preferential proportional voting system as used in the Australian Senate.

Recognising the criticisms that had been levelled at the proposed list system, at the second meeting of managers the Premier proposed a mixed system of voting in which an elector could express a preference for groups or individuals. With Sir John Fuller indicating that the Opposition would only negotiate on a preferential, proportional election system, a deadlock seemed inevitable. During later meetings on the second day, the Premier provided details of a system of voting favoured by the Government. Under the system a voter could vote for a group or allocate preferences for individual candidates, with votes counted under the Senate system.

When the conference resumed on the third day, Sir John Fuller indicated that he could not accept the Government's proposal and put forward a seven-point plan as a compromise. Under the proposal of Sir John Fuller, voting would be optional preferential with a voter being required to vote for at least 15 candidates, and

17 *LC Minutes* (25/1/1978) 752-753, *LC Debates* (25/1/1978) 11246-11251. The former SO 147 provided that, when any conference is requested by the Assembly, the time and place for holding the conference is to be appointed by the Council.

18 Former SO 147.

19 Former SO 149; *LC Minutes* (31/1/1978 - 07/2/1978) 768.

20 *LC Minutes* (10/3/1927) 142.

21 See J Evans, Usher of the Black Rod, *Constitution and Parliamentary Electorates and Elections (Amendment) Bill: Record of proceedings of Free Conference of managers and associated documents*, Legislative Council, 1978; Mr Smith, an Opposition manager also kept a record of discussions.

further preferences if desired; the first election for the Council would be held simultaneously with the next Assembly election; a new bill to effect this would be considered by the conference of managers; the Opposition would support passage of the reform bill and a referendum on the bill; and the referendum would be held on 10 June 1978.²²

Whilst still supporting the concept of a list system, the Premier indicated that the Government also wished to come to a compromise on the system of voting, and proposed an optional preferential voting system with a voter being required to vote for at least 10 candidates. With agreement having been reached on all matters except the requirement of a voter to vote for 15 or 10 candidates, the Opposition agreed to the Government's proposal of 10 candidates. A memorandum of agreement was then prepared and ratified by the Premier and Sir John Fuller.

After three days of meetings, the managers reported to both Houses on 7 February 1978 that they had reached agreement on the system of voting and procedures for reform of the Council. The report stated that the managers had agreed that the system of voting would be optional preferential voting with a voter being required to vote for at least 10 candidates, with the option of voting beyond 10 candidates if the voter wished. A ballot paper with less than 10 numbered squares would be invalid, but a ballot paper numbered 10 or beyond would be formal unless the numerical order was broken. The first election for the Council would be held simultaneously with the next election for the Assembly, and the date of the referendum on the Constitution and Parliamentary Electorates and Elections (Amendment) Bill would be 10 June 1978. The agreement also provided that the Parliamentary Counsel would be instructed to prepare an amendment to give effect to the agreement of the managers and that the Government and Opposition parties would support and not oppose a 'YES' vote at the referendum.²³

The managers were subsequently given leave by the House to continue to meet with the managers for the Assembly to work out the details of the compromise and to resolve issues concerning the drafting of amendments to the bill. Over the following weeks informal discussions took place with both the Parliamentary Counsel and Crown Solicitor on the form of amendments to the Constitution and Parliamentary Electorates and Elections (Amendment) Bill. After two further meetings, the managers again reported to both Houses on 8 March 1978 that the free conference had agreed that the bill be amended to give effect to the earlier agreement and that action in this regard should be initiated in the Council. The final report of the free conference was ordered to be considered in committee of the whole at a later hour. In a rare and unusual procedure a message was then sent to the Assembly on 8 March 1978 requesting the return of the bill and the Council's message of 11 January 1978.²⁴ This was necessary because, if any bill or

22 At a subsequent meeting of the managers it was agreed that the referendum be held on 17 June 1978.

23 *LC Minutes* (31/1/1978-07/2/1978) 768-770.

24 *LC Minutes* (8/3/1978) 876.

APPENDIX 2

amendment of it were initiated by the Assembly, the Assembly would no longer be capable of relying on the 'failure to pass' provision in section 5B. The Assembly returned the bill and message to the Council, as requested. On return of the bill, the Council agreed to a motion by the Leader of the Government that the House withdraw its rejection of the bill. This was to allow the bill to be then considered in committee of the whole in the usual manner. Eighty-eight amendments were agreed to in committee to give effect to the agreement reached at the free conference.²⁵ The bill was then returned to the Assembly with a message withdrawing the Council's earlier rejection of the bill and requesting the concurrence of the Assembly in the amendments made.²⁶ The amendments to the Constitution and Parliamentary Electorates and Elections (Amendment) Bill were promptly agreed to by the Assembly on the same day.²⁷

25 *LC Debates* (9/3/1878) 12542-12556.

26 *LC Minutes* (8/3/1978) 877-888. Interestingly, the Minutes of Proceedings and Hansard do not show the bill as having been read a third time before return of the bill to the Assembly with amendments.

27 *LA Votes and Proceedings* (8/3/1978) 704; *LC Minutes* (8/3/1978) 890.

APPENDIX 3

THE PRE-1895 POWER TO FINE MEMBERS FOR NON-ATTENDANCE IN THE HOUSE

On 14 April 1830, the Council adopted a resolution imposing a fine of £5 on any member who neglected to inform the Clerk before 10.00 am on the day of meeting of the Council that they were unable to attend due to ill health or other cause.¹

The power to fine was later included in the standing orders adopted on 27 October 1843, which provided that a member not attending a call of the House without reasonable excuse or leave of absence, be fined £5 and committed to the custody of the Serjeant-at-Arms until the fine was paid (SOs 61, 62).

Following adoption of the new standing orders and before their approval by the Governor, seven members were absent on a call of the House. However, the Speaker explained that, as the new standing orders had not been assented to by the Governor, the House had no power to enforce their attendance. There was also an instance where the Council remitted a fine imposed on three members who were absent on a call of the House when the members apologised for their late attendance.²

On 18 June 1847 two members, Dr John Dunmore Lang and Mr William Suttor, failed to attend a call of the House and a motion was moved that they be fined £5 and committed to the custody of the Serjeant-at-Arms until the fine was paid. However, as the Speaker was about to put the question on Dr Lang, the matter was superseded by an amendment that Dr Bland be called on to move a motion in his name relating to an address to the Governor.³

The standing orders adopted in 1849 went even further in providing for fines for both members and other persons. A member not attending a call of the House, or who was absent for more than two weeks without leave, was guilty of contempt (SOs 46, 47). A member who wilfully disobeyed an order of the Council or any

1 *LC Minutes* (14/4/1930) 79.

2 Dr Darvall and Mr Icely attended before the House proceeded to business and apologised: *LC Minutes* (6/12/1844) 299. Dr Bland attended later and apologised: *LC Minutes* (6/12/1844) 303.

3 *LC Minutes* (18/6/1847) 69.

APPENDIX 2

member or other person who wilfully or vexatiously interrupted the conduct of business, was also guilty of contempt (SO 48). Any member or other person adjudged guilty of contempt was to be fined £20, and in default of payment committed to the custody of the Serjeant-at-Arms for a period not exceeding 14 days, unless earlier discharged by order of the Council or the fine paid (SO 49). Similar provisions were contained in the standing orders adopted on 6 November 1851 (SOs 61 to 64) and in the standing orders adopted on 4 December 1856 (SOs 151 - 153), except that the 1856 standing orders only applied to members and not to other persons. The 1856 standing orders continued in force until the adoption of new standing orders in 1895.

While there were several instances of members not being present at a call of the House in 1853, no action was taken to impose a fine on the members, the Council opting instead to take down their names, order their attendance on a future day or excuse their attendance by leave.

APPENDIX 4

CASES OF CONTEMPT IN THE COUNCIL

The cases of contempt or possible contempt which have arisen in the Council are summarised below, arranged in categories according to the nature of the particular contempt or possible contempt.

Disruption to proceedings of the House

The Hon James Wilson (various cases, 1915-1922)

On 15 December 1915, during consideration of the Finance Taxation Bill in committee of the Whole, the Hon James Wilson interrupted proceedings on several occasions, claiming for example that the Chairman did not 'understand the Bill' and that the House had been 'insulted by this want of intelligence'. In response to this conduct, Mr Wilson was named by the Chairman, reported to the President, named by the President, adjudged guilty of contempt by the House and suspended from the House for 24 hours.¹ Prior to the resolution of contempt being passed, he was given an opportunity to make an explanation of his conduct, but the resulting explanation degenerated into an incoherent tirade. Later in the sitting, however, he was permitted to apologise to the House and the resolution of suspension was rescinded.²

These events foreshadowed a tendency for increasingly unpredictable behaviour on the part of Mr Wilson who was removed from the chamber on a further five occasions - 23 March 1916,³ 21 September 1916, 21 October 1920 (with the Hon John Hephher), 24 August 1922 and 12 October 1922. On these occasions, his removal was by order of the President, under the predecessor to standing order 192, although on the final occasion, following removal under that procedure, he was also suspended by the House under the predecessors to standing orders 190 and 191.

On the latter occasion, immediately on the President taking the Chair and reporting a message to the House, Mr Wilson interrupted proceedings by asking

1 *LC Debates* (15/12/1915) 4748-4650.

2 *LC Debates* (15/12/1915) 4771.

3 On this occasion, as in the case in 1915, Mr Wilson was allowed to return to the chamber later in the same sitting to apologise for his conduct: *LC Debates* (23/3/1916) 5674-5682.

an incoherent question and refusing to comply with the President's call to order. The President then instructed the Usher of the Black Rod to remove him from the chamber, to which the member made an offensive retort. The President then reported Mr Wilson's conduct to the acting representative of the government in the House with a view to having steps taken 'to protect the dignity of this House and the dignity of the Chair'. In response, the acting representative of the government, Sir Joseph Carruthers, moved that Mr Wilson be adjudged guilty of contempt and suspended from the House for the remainder of the session, to which the House agreed. In doing so, the House rejected a suggestion by another member that the House should not act too hastily and that Mr Wilson should be offered the opportunity to explain his conduct.⁴

The Hon Marie Bignold (1989)

On 18 October 1989, during debate on a motion expressing a lack of confidence in the then Minister for Police and Emergency Services, the Hon Marie Bignold made comments about the State's abortion law, including a remark that members of Parliament shared the guilt for '40,000 aborted fetuses'. The President ruled that the remark was offensive and ordered Ms Bignold to withdraw it. On refusing to comply, Ms Bignold was named by the President, adjudged guilty of contempt by the House and suspended from the House for 24 hours, under the predecessors to standing orders 190 and 191.⁵

The Hon Elisabeth Kirkby (1991)

On 14 November 1991, during debate on the Tobacco Advertising Prohibition Bill, the Hon Elisabeth Kirkby stated: 'I am not in the hands of the tobacco lobby, as the Liberal Party is, and I do not have to follow the Liberal Party line'. On a point of order being taken, the President ruled the comment to be unparliamentary and 'properly offensive' to the member concerned, and ordered Ms Kirkby to withdraw it. Ms Kirby proceeded to withdraw the comment, but only 'under protest'. In response, she was reported by the President, adjudged guilty of contempt by the House and suspended for the remainder of the sitting under the predecessors to standing orders 190 and 191. During debate on the motion of suspension, the Leader of the Government observed that the suspension would effectively be for only one minute as he was about to move the adjournment of the House.⁶

The Hon Michael Costa (2007)

On 21 June 2007, in response to a question without notice, the Treasurer, the Hon Michael Costa, referred to the federal government and federal Treasurer, the Hon Peter Costello, as 'tax dodgers', and then stated: 'I notice that the Hon Greg Pearce

4 *LC Debates* (12/10/1922) 2507-2508.

5 *LC Debates* (18/10/1989) 11370-11374, 11379-11381.

6 *LC Debates* (14/11/1991) 4572-4574.

supported Peter Costello in dodging taxes'. The Hon Greg Pearce raised a point of order and requested the President to instruct Mr Costa to withdraw the allegation that he supported a 'tax dodger' or 'tax dodgers'. The President ruled the words to be offensive and directed Mr Costa to withdraw them, but Mr Costa declined.⁷ The President ruled that Mr Costa was guilty of gross disorder and ordered that he be removed from the House under standing order 192 until the end of Question Time.⁸

Failure to obey an order of the House

The Hon Alfred Lutwyche (1859)

On 3 February 1859, a matter of contempt arose in relation to the following comment made by the Attorney-General, the Hon Alfred Lutwyche, in the course of debate in the House concerning an address to the Governor General for papers:

That to charge an Attorney-General, either directly or indirectly, either in or out of Parliament, with a political bias in the discharge of the duties of his Office, is a misdemeanor.

The House subsequently resolved, on the motion of the Hon Edward Wise, that these words, as taken down by the Clerk in the course of debate, were 'contrary to the privileges of the House, disorderly, and unparliamentary'.

A further resolution was then passed requiring the Attorney-General to withdraw the words. When the Attorney-General refused to do so, Mr Wise further moved that the Attorney-General be declared guilty of contempt. However, before the motion could be moved, the Attorney-General called the attention of the President to the lack of a quorum, whereupon the House was adjourned.⁹

When the House met again on 9 February 1859, Mr Wise again drew the attention of the House to the matter of privilege.

The Attorney-General subsequently withdrew the words.¹⁰

The Hon Michael Egan (various cases, 1995-1998)

On a number of occasions in the period 1995-1998 the Treasurer and Leader of the Government in the House, the Hon Michael Egan, was adjudged guilty of contempt and suspended from the House for failing to comply with orders for the tabling of documents. The complex proceedings in the House surrounding those events, and the series of landmark judicial decisions to which they gave rise, are discussed in Chapters 17 and 18. The resolutions of the House concerning contempt and suspension are summarised below.

7 *LC Debates* (21/6/2007) 1464-1465.

8 *LC Debates* (21/6/2007) 1467.

9 *LC Minutes* (3/2/1859) 13-14.

10 *LC Minutes* (9/2/1859) 14.

APPENDIX 4

On 13 November 1995 the House adjudged Mr Egan in contempt for failing to comply with several orders requiring the production of documents concerning various matters (closure of certain veterinary laboratories, redevelopment of Sydney Showground and recentralisation of the Department of Education). The House also referred an inquiry to the Privileges Committee as to what sanctions should be imposed in relation to the Minister's conduct.¹¹

On 2 May 1996, before the Committee had reported,¹² the House adjudged Mr Egan in contempt for failing to comply with a further order for the production of documents, passed the previous day, concerning a gold mine at Lake Cowal. The resolution of the House also suspended Mr Egan for the remainder of the day's sitting, and ordered him to attend in his place at the Table of the House on the next sitting day to explain his reasons for not complying with several previous orders for the production of documents. Mr Egan refused to leave the House in accordance with this resolution. The President then directed the Usher of the Black Rod to escort him from the chamber and parliamentary precincts.¹³

On 20 October 1998, the House adjudged Mr Egan in contempt for failing to comply fully with an order for the production of documents made on 13 October 1998 concerning Sydney's water supply. It suspended Mr Egan for five sitting days or until he fully complied, whichever occurred first.¹⁴

On 26 November 1998, the House adjudged Mr Egan in contempt for failing to comply fully with an order for the production of documents made on 24 November 1998 concerning various matters. It also required Mr Egan to table certain documents by the following day (including documents relating to Sydney's water supply) and specified that if he failed to comply with that requirement he would be suspended for the remainder of the session or until he did comply.¹⁵

On 27 November 1998 the President noted the presence of Mr Egan in the House and advised that no papers had been received by the Clerk as required by the order of the previous day. The President therefore directed the Usher of the Black Rod to escort Mr Egan from the chamber.¹⁶ Following his removal, Mr Egan remained suspended from the House for the remainder of the session (which lasted three further sitting days).

11 *LC Minutes* (13/11/1995) 292-296.

12 The Committee reported on 10 May 1996, finding that it would not be appropriate to recommend the imposition of particular sanctions, as the House's powers to order the production of documents were at that stage 'so uncertain and ill-defined': Standing Committee on Parliamentary Privilege and Ethics, *Report on Inquiry into Sanctions where a Minister Fails to Table Documents*, Report No 1, May 1996.

13 *LC Minutes* (2/5/1996) 114-118.

14 *LC Minutes* (20/10/1998) 774-776.

15 *LC Minutes* (26/11/1998) 952-961.

16 *LC Minutes* (27/11/1998) 970.

Interference with committee witness

The Hon Jeff Shaw (1995)

On 14 November 1995, the Leader of the Opposition in the Council moved a motion to adjudge the Attorney General, the Hon Jeff Shaw, guilty of contempt for reported statements attempting to deter the Director of Public Prosecutions from appearing before the Standing Committee on Law and Justice in relation to an inquiry concerning the Crimes Amendment (Mandatory Life Sentences) Bill.

An amendment to the motion was moved by a cross-bench member to refer an inquiry on the more general question of the position of public officials called to give evidence before parliamentary committees instead of an inquiry concerning the statements made by the Attorney General.¹⁷ The motion as amended was passed by the House, with the result that the possible contempt aspect of the matter was not pursued further.

The Hon Dr Andrew Refshauge MP (1998)

On 5 March 1998, General Purpose Standing Committee No 2 heard evidence from a member of the Board of Directors of the New England Health Service, as part of an inquiry concerning the budgetary processes of the Health Department. In the course of that evidence, the witness claimed that, in a conversation before the hearing, the Health Minister, the Hon Dr Andrew Refshauge MP, had attempted to persuade him not to attend the hearing and give evidence. Following a special report from the General Purpose Standing Committee identifying this as a possible contempt, the House referred the matter to the Privileges Committee for inquiry and report.

The Privileges Committee noted as a preliminary issue that, irrespective of any conclusions it might reach about contempt in this case, there was no scope for the Council to take action against the Minister as he was a member of the other House. It considered, however, that it was appropriate to examine the available evidence concerning the Minister's conduct and to form an assessment in light of the principles of contempt. In the result, having examined the available evidence, the Committee concluded that, while Dr Refshauge had made comments critical of the General Purpose Standing Committee, he had not attempted to intimidate the witness or coerce him not to attend the hearing, and that therefore no contempt or breach of privilege had occurred. The Committee advised, however, that 'caution should be exercised by Ministers and Members when in discussion with witnesses before parliamentary committees'.¹⁸

¹⁷ *Ibid* 3062-3065.

¹⁸ Standing Committee on Parliamentary Privilege and Ethics, *Report on Inquiry on Special Report from General Purpose Standing Committee No 2*, Report No 9, November 1998.

NSW Police Service (2001)

On 23 April 2001, during an *in camera* hearing before General Purpose Standing Committee No 3 concerning policing at Cabramatta, four police officers tendered a written submission which included reference to the recruiting of school students by drug criminals in the Cabramatta area. The next day, the *Sydney Morning Herald* published details of the submission. Following this, the four officers received written directions from their commanding officer which they believed to be a 'directive memorandum' requiring them to provide details of any information they had concerning the published allegations. A further memorandum was issued on 27 April 2001 addressed to the four officers, but only delivered to the one on duty at the time. Compliance with a 'directive memorandum' is required under clause 9 of the *Police Service Regulation 2000*.

As a result of these communications, media reports circulated that the four officers 'felt pressured and intimidated'. In response, General Purpose Standing Committee No 3 tabled a special report in the House detailing the events surrounding the appearance of the officers before the Committee and requesting that the Privileges Committee inquire into and report on whether a breach of privilege had occurred in relation to the serving of the 'directive memorandum' and subsequent actions of the Police Service. The House agreed to refer the matter to the Privileges Committee.

The Privileges Committee concluded that the issuing of the memorandum had resulted in the intimidation of the four officers, and that this had the potential to obstruct the General Purpose Standing Committee in the performance of its functions by discouraging the officers concerned and other potential witnesses from appearing before the Cabramatta inquiry and future inquiries. The Committee accepted, however, that such a result had not been intended by Police management, which had not set out to penalise the officers for their evidence or deter other officers from giving evidence. In these circumstances, the Committee found that a contempt, although unintended, had occurred, but recommended that no action be taken against the senior officers concerned. The Committee did, however, make recommendations aimed at ensuring that senior officers of the Police Service be aware of their obligations relating to parliamentary committees and parliamentary privilege in future.¹⁹

Adverse reflections on committees

The Revd the Hon Fred Nile (1988)

On 27 September 1988, the Revd the Hon Fred Nile circulated a letter to coordinators of the Call to Australia Citizens' Movement concerning the Select Committee

¹⁹ Standing Committee on Parliamentary Privilege and Ethics, *Possible Intimidation of Witness before General Purpose Standing Committee No 3 and unauthorised disclosure of Committee Evidence*, Report No 13, November 2001.

on the Police Regulation (Allegations of Misconduct) Bill 1988. The letter claimed that the Committee, under its Chair, the Hon Marie Bignold, a fellow member of the Call to Australia Group, was conducting a 'witch-hunt' with the aim of discrediting a Government minister and gaining electoral advantage for the Australian Labor Party, which was then in opposition.

On 13 October 1988, Revd Nile made a personal explanation to the House, in which he explained that the 'private and confidential letter' had 'mischievously fallen into the hands of the media', and apologised for and withdrew 'any possible imputations of improper motives and all personal reflections on members of this House or on this House or any select committee'.²⁰ Nevertheless, on 9 November 1988, the House referred the matter to the Privileges Committee for inquiry and report.

In its report, the Privileges Committee noted that the letter was to have been a confidential communication between Revd Nile and his coordinators and therefore of limited circulation, and that the House of Commons Committee of Privileges in 1977 had recommended that the mode and extent of publication should be taken into account when complaints of contempt are being considered. It also gave weight to the fact that Revd Nile had since apologised for his conduct to the House. In those circumstances, the Committee concluded that, although Revd Nile may have been intemperate and unwise in his actions and may have reflected on the motives of members of the select committee, such conduct did not amount to a substantial interference with the performance of the functions of Parliament and therefore did not constitute a contempt.²¹

The Hon Paul Whelan MP (2001)

On 26 February 2001, in a media release, the then Police Minister, the Hon Paul Whelan MP, claimed that General Purpose Standing Committee No 3 had 'seriously abused its authority' in the conduct of an inquiry concerning policing at Cabramatta. He also expressed concern at the 'absence of procedural fairness' in the inquiry and 'disgust at the Committee's conduct'. Subsequently, in a radio interview, the Minister called the inquiry a 'political vendetta'.

In response to such conduct, rather than treat the matter as a possible contempt, the Council passed a resolution censuring the Minister for his interference in the Committee's proceedings and affirming that the Committee was properly conducting its inquiry.²²

20 Standing Committee upon Parliamentary Privilege, *Documents issued by the Reverend the Honourable FJ Nile, MLC*, December 1989.

21 *LC Minutes* (8/3/2001) 884-886.

22 *LC Minutes* (7/3/2001) 878, (8/3/2001) 883-886.

Refusal to answer questions

The Financial Controller, Parliament of New South Wales (1996)

On 6 June 1996, at a hearing before a Council Estimates Committee concerning the budget estimates for the Legislature, the Financial Controller refused to provide direct answers to questions from the Committee. This action was taken at the direction of the Speaker of the Legislative Assembly, who claimed that the Financial Controller is an officer of the Assembly, and that he had accordingly directed the Financial Controller to respond to questions either through the President or by taking the questions on notice. Following the hearing, the Estimates Committee reported the matter to the House as a possible contempt. The House then referred the matter to the Privileges Committee for inquiry and report.

The Privileges Committee took the view that the Financial Controller is a joint service officer of the Council and Assembly, and as such could have been found in contempt of the Council. In the circumstances, however, it recommended that neither the statutory power to enforce answers to lawful questions²³ nor the common law contempt power should be invoked, as the Financial Controller had acted on an instruction from the Speaker and had indicated his willingness to provide answers indirectly or in writing at a later date.²⁴

Abuse of freedom of speech

The Hon Franca Arena (1997)

On 17 September 1997, the Hon Franca Arena made a speech in the Council in which she alleged that certain prominent persons, including the Premier and the Commissioner of the Royal Commission into the New South Wales Police Service, had been involved in meetings or agreements concerning an alleged 'cover-up' of high-profile paedophiles. In response to these claims, the Parliament passed the *Special Commission of Inquiry Amendment Act 1997* to enable either House, by resolution, to authorise the Governor to establish a Special Commission of Inquiry to investigate such matters relating to parliamentary proceedings as was specified in the resolution. The Act also permitted the House to declare by resolution that parliamentary privilege be waived in connection with the inquiry. On 25 September 1997, in accordance with the *Special Commission of Inquiry Amendment Act 1997*, the Council passed a resolution authorising the Governor to establish a Special Commission of Inquiry to investigate Mrs Arena's claims and whether she had any evidence to support them. The Special Commission reported on 7 November 1997, finding that Mrs Arena had no evidence to support her claims.

On 11 November 1997 the Attorney General moved a motion in the Council proposing that, in view of the findings of the Special Commission, Mrs Arena be

²³ *Parliamentary Evidence Act 1901*, s 11.

²⁴ Standing Committee on Parliamentary Privilege and Ethics, *Report on Inquiry Arising from Special Report of Estimates Committee No 1*, Report No 4, May 1997.

adjudged guilty of conduct unworthy of a member of the House, and expelled from the House.²⁵ The following day, as an amendment to that motion, the House resolved to refer the matter to the Privileges Committee instead.

The Committee found that Mrs Arena had made serious allegations imputing criminal misconduct against persons both inside and outside Parliament, without any reasonable foundation, upon information reasonably capable of being checked by her, and that such allegations were extremely damaging to the reputations of the persons concerned. It further found that her conduct in making such allegations was conduct which fell below the standards which the House is entitled to expect from its members and brought the House into disrepute. On that basis, it recommended that Mrs Arena be called on to withdraw the allegations made in her speech and provide a written apology to the House in certain specified terms.²⁶

On 1 July 1998 the Council passed a resolution in the terms recommended by the Committee. The resolution specified that failure to submit the required apology and withdrawal within five sitting days would result in Mrs Arena's suspension from the House, such suspension to continue until the apology and withdrawal were forthcoming. On 16 September 1998, however, on the motion of Mrs Arena, the House resolved to accept a statement of regret in specified terms as a sufficient response to the resolution of 1 June 1998.²⁷

The Hon Michael Gallacher and the Hon John Hannaford (1999)

On 8 September 1999, the Leader of the Opposition in the Council, the Hon Michael Gallacher, and another Opposition member, the Hon John Hannaford, made statements in the House concerning allegations of sexual harassment against the Lord Mayor of Sydney. The same day, the Attorney General tabled a letter from the President of the Anti-Discrimination Board which indicated that the Board's records contained no complaint against the Lord Mayor, and no complaint alleging sexual harassment listing the Sydney City Council as a respondent.

On 14 September 1999, the House agreed to a motion by the Leader of the Government in the Council referring the statements made by the two members to the Privileges Committee for inquiry and report. The terms of reference for the inquiry required the Committee to consider whether the members' conduct in making the statements constituted an abuse of privilege.

In its report, the Privileges Committee acknowledged that it would be open to the Committee to seek to identify appropriate principles to be applied in relation to the exercise of members' freedom of speech, but that it considered that the application of such principles retrospectively would be improper. In those

25 *LC Debates* (11/11/1997) 158-9.

26 Standing Committee on Parliamentary Privilege and Ethics, *Report on inquiry into the conduct of the Honourable Franca Arena MLC*, Report No 6, June 1998.

27 *LC Minutes* (16/9/1998) 693-695.

circumstances it concluded that ‘any finding of abuse of privilege under present circumstances could be perceived as an unwarranted restriction on members’ freedom of speech’.²⁸

Conduct unworthy of a member

The Hon Alexander Armstrong (1969)

On 25 February 1969, the Leader of the Government in the Council moved a motion to adjudge the Hon Alexander Armstrong guilty of conduct unworthy of a member, to expel him from the House, and to declare his seat vacant.²⁹ In support of the motion, the Leader of the Government informed the House that Mr Armstrong had been party to an arrangement for the purpose of procuring false evidence for the divorce court, and that documents and evidence in the case of *Barton v Armstrong*³⁰ demonstrated that Mr Armstrong entertained as a real possibility the bribery of a Supreme Court judge. He also drew attention to a comment made by Street J in that case indicating that: ‘[O]n any point of importance [Mr Armstrong] would not hesitate, if he thought it necessary for his own protection or advantage so to do, to give false evidence’. In those circumstances, the House agreed to the motion, with the result that Mr Armstrong was expelled. Subsequently, Mr Armstrong unsuccessfully challenged the House’s actions in the New South Wales Court of Appeal.³¹

The Hon Malcolm Jones (2003)

In 2003 the Independent Commission Against Corruption (ICAC) investigated the conduct of the Hon Malcolm Jones in relation to his use of parliamentary entitlements with a view to determining whether such conduct amounted to corrupt conduct under the *Independent Commission Against Corruption Act 1988*. The investigation focused on allegations that Mr Jones had used certain entitlements for purposes not connected with his parliamentary duties, such as membership drives for ‘micro’ political parties unconnected with his own party, as well as allegations that he was ineligible to claim the Sydney Allowance, an allowance intended for country members residing in Sydney during sitting periods.

During the investigation the ICAC used its power under section 23 of the *Independent Commission Against Corruption Act 1988* to enter and inspect the Parliament House office of Mr Jones. Further, search warrants were obtained to carry out searches of a home unit owned by Mr Jones and the headquarters of his party, the Outdoor Recreation Party. Private and public hearings were also held

28 Standing Committee on Parliamentary Privilege and Ethics, *Inquiry into statements made by Mr Gallacher and Mr Hannaford*, Report No 11, November 1999.

29 *LC Debates* (25/2/1969) 3858.

30 [1969] 2 NSW 451.

31 *Armstrong v Budd* (1969) 71 SR (NSW) 386.

and evidence was taken from a number of witnesses, including Mr Jones, present and former parliamentary staff, and the Secretary of the Outdoor Recreation Party.

In its report on the investigation, released on 10 July 2003, the ICAC found that Mr Jones had knowingly misused entitlements provided under Part 3 of the *Parliamentary Remuneration Act 1989*, and had engaged in corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988*. On that basis it recommended that the Director of Public Prosecutions consider prosecuting Mr Jones for certain criminal offences,³² and that consideration be given to Mr Jones' expulsion from the Council. It also made further recommendations aimed at corruption prevention.

Receipt of the ICAC report was reported to the House when sittings resumed on 2 September 2003. The same day, a cross-bench member, Ms Lee Rhiannon, gave notice of a motion to expel Mr Jones from the House in light of the ICAC report. The following day, however, on the motion of the Leader of the Government in the Council, the Hon Michael Egan, the House resolved that, before the House considered the ICAC report, Mr Jones should be permitted to address the House in relation to matters contained in the report and have leave to table documents relating to such matters. Following the passage of that resolution, Mr Jones addressed the House and tabled certain documents.³³

On 4 September 2003 Mr Egan gave notice of a motion that Mr Jones be adjudged guilty of conduct unworthy of a member and expelled from the House. However, on 16 September 2003, before the motion had been moved, the President informed the House that Mr Jones had tendered to the Governor his resignation as a member of the Council.³⁴

Unauthorised disclosure of material

Sun Herald (1993)

On 3 January 1993, the *Sun Herald* newspaper published details of *in camera* evidence given by the former Police Minister to the Joint Select Committee Upon Police Administration in November 1992. The Joint Select Committee attempted to ascertain the source of the disclosure, without success. Subsequently, it tabled a special report in both Houses stating that the disclosure was 'of sufficient seriousness as could constitute a substantial interference or likelihood of such with the work of the Committee, the Committee system or the functions of the Houses', but that 'in this particular instance the disclosure will not interfere with

32 Breaches of sections 178BA or 178BB of the *Crimes Act 1900* (obtaining money by deception or false/misleading statements), the common law offence of breaching public trust, and a breach of section 87 of the ICAC Act (giving false evidence before the Commission).

33 *LC Minutes* (3/9/2003) 265-266.

34 *LC Minutes* (16/9/2003) 283.

the Committee members' work'.³⁵ The Council referred the special report to the Standing Committee upon Parliamentary Privilege for inquiry and report.

The Standing Committee upon Parliamentary Privilege found that a breach of privilege had been committed by the person who originally disclosed the evidence (whose identity had not been discovered), the journalist who wrote the article and the acting editor who approved its publication. However, in line with House of Commons precedents, the Committee was not prepared to recommend sanctions against those who gave the disclosure wider publicity, in the absence of any information as to the identity of the original source. The Committee also found that no contempt of Parliament had occurred, in light of comments contained in the Special Report and in the testimony of the joint committee Chair indicating that the publication had not interfered with the work of the Joint Committee or deterred any witnesses from coming before it.³⁶

Sydney Morning Herald (2001)

On 24 April 2001 the *Sydney Morning Herald* published details of a confidential submission provided to General Purpose Standing Committee No 3 at an *in camera* hearing concerning policing at Cabramatta.

The Committee reported the unauthorised disclosure to the House after attempting unsuccessfully to find the source. In its report on the matter, the Committee indicated that it regarded the publication of the material seriously, and as potentially interfering with its functions, but that it did not believe the source of the disclosure would be discovered through further inquiry. The House referred the matter to the Privileges Committee.

The Privileges Committee took the view that, as it was unlikely the source of the disclosure would be discovered, the most appropriate course of action would be to recommend the referral of an inquiry for the development of appropriate guidelines to deal with any future cases of unauthorised disclosure of committee proceedings or draft reports.³⁷ Subsequently, following the referral of such an inquiry by the House, the Committee recommended the adoption of certain guidelines by the House.³⁸

35 Joint Select Committee Upon Police Administration, *Special Report; Disclosure of in camera evidence*, 2 February 1993.

36 Standing Committee upon Parliamentary Privilege, *Report Concerning the Publication of an Article Appearing in the Sun Herald Newspaper containing Details of In Camera Evidence*, October 1993.

37 Standing Committee on Parliamentary Privilege and Ethics, above n 19.

38 Standing Committee on Parliamentary Privilege and Ethics, *Report on guidelines concerning unauthorised disclosure of committee proceedings*, Report No 23, December 2002.

Attempting to intimidate a member

Anonymous correspondence (1997)

On 25 November 1997 the Hon Franca Arena asked the President a question without notice concerning a letter she had received, which contained 'threats to my family and a threat to me of blackmail'. According to Mrs Arena, the letter was 'signed by the Gay Men's Defence Committee' and had been 'circulated to all members of the Upper House'.³⁹

The following day, the President made a statement to the House about the matter, indicating that the letter made demands of Mrs Arena in her capacity as a member of parliament and threats as to what would happen if she did not accede to those demands, which in his opinion constituted a serious contempt. He acknowledged, however, that the perpetrators of the contempt were 'nameless and probably unidentifiable'. He went on to note that Mrs Arena had since referred the matter to the police for criminal investigation and expressed the view that in the circumstances this was 'the only practical action' to be taken.⁴⁰

Cardinal George Pell (2007)

On and after 6 June 2007, it was reported in the Sydney media that the Catholic Archbishop of Sydney, Cardinal George Pell, had made comments concerning possible 'consequences' for members of Parliament who supported the Human Cloning and Other Prohibited Practices Amendment Bill 2007. On 12 June 1997, following receipt of correspondence from a member of the House raising the matter as a possible contempt, the President referred the public comments of Cardinal Pell to the Privileges Committee for inquiry and report. The terms of reference for the inquiry required the Committee to consider the comments and determine whether they constituted a contempt.

In assessing whether or not a contempt had occurred, the Committee had regard to the context in which the comments were made and reported in the media, and the intent with which they had been made, as indicated by Cardinal Pell in a written response to the inquiry. It also considered statements made by members in the House concerning the impact of the comments on their voting intentions, the eventual passage of the Bill by the Parliament with a sizeable majority in each House, and the length of time which had elapsed since the Bill had been passed, during which there had been no reported complaints of members having suffered adverse treatment as a result of voting for the Bill. In those circumstances, the Committee found that no contempt had occurred and recommended that no further action be taken.⁴¹

39 *LC Debates* (25/11/1997) 2354.

40 *LC Debates* (26/11/1997) 2494.

41 Privileges Committee, *Comments by Cardinal George Pell concerning the Human Cloning and Other Prohibited Practices Amendment Bill 2007*, Report No 38, September 2007.

Misuse of committee evidence

Police Integrity Commission (2003)

In January 2003, the Police Integrity Commission published a report concerning 'Operation Malta' which included an extract from and assessment of certain evidence which had been given by the then Police Commissioner before General Purpose Standing Committee No 3 in budget estimates hearings in 2000. In response, the President of the Council wrote to the Commissioner of the Police Integrity Commission drawing his attention to the principle of immunity of parliamentary proceedings from impeachment or question, and identifying passages of the report that may have breached that immunity and may have constituted a contempt of Parliament. In reply, the Commissioner expressed concern that any breach of parliamentary privilege may have occurred and advised that he would seek advice from the Crown Solicitor in relation to the matter.

Following receipt of such advice, the Commissioner wrote to the President apologising unreservedly to the House for having breached parliamentary privilege. He also advised that appropriate mechanisms would be put in place to prevent any breach of parliamentary privilege arising in future or allow the Presiding Officer of the House to make submissions in the event of any future similar case. In light of this response no further action was taken in relation to the matter as the House was prorogued for an election.⁴²

Auditor-General (2003)

In March 2003, the Auditor-General released a report on investigations conducted under the *Protected Disclosures Act 1994*, which included references to an allegation that the Director-General of a government department had misled a parliamentary committee. These references included the observation that while there was no evidence to support the allegation, the Director-General's evidence to the Committee would have been different had certain analysis of the information been conducted. As the report appeared to be examining the evidence of a witness before a committee, the Clerk of the Parliaments wrote to the Auditor-General highlighting the issues of parliamentary privilege involved and seeking clarification as to whether the relevant section of the report involved an investigation of the accuracy of the evidence before the Committee.

In his reply, the Auditor-General advised that he had been unaware of the immunity attaching to evidence given before parliamentary committees, but that in this case the Audit Office had not questioned the witness about his evidence before the

42 The case was summarised by the Clerk of the Parliaments in a submission provided to the Standing Committee on Parliamentary Privilege and Ethics on 28 November 2003 and made public by the Committee on 1 December 2003: Standing Committee on Parliamentary Privilege and Ethics, *Parliamentary Privilege and seizure of documents by ICAC*, Report 25, December 2003, Appendix 8.

Committee. The Clerk accepted this assurance and no further action was taken in relation to the report.⁴³

Misuse of statements made in the House

Police Integrity Commission (2003)

On 27 May 2003, the Hon Charlie Lynn made a statement in the House which raised a number of allegations. The next day, he forwarded a copy of his statement to the Police Integrity Commission. Before investigating the allegations, the Commissioner of the Police Integrity Commission wrote to the President of the Council seeking any comments, in keeping with the commitment made by the Commission following the 2001 case concerning the NSW Police Service cited earlier. In response, the President instructed Mr Brett Walker SC, who provided advice on the appropriate conduct of questioning of Mr Lynn by the Commission so as to avoid any breach of privilege or contempt.⁴⁴

Misuse of members' documents

Local Court (1994)

In 1994 the Hon Stephen Mutch received a subpoena from the Local Court to produce documents in the case of the *Police v Dyers*. The defendant was the leader of a religious group. Mr Mutch had raised matters relevant to the group on at least three occasions in the House.

In response to the subpoena, both Mr Mutch and the President of the Council submitted affidavits claiming parliamentary privilege and public interest immunity. The basis for the claim of parliamentary privilege was that the member had used the relevant material to prepare speeches in the House. The magistrate granted privilege to the documents on the two grounds requested.

Royal Commission into the Police Service (1996)

In November 1996, the Hon Franca Arena was served with a notice by the Royal Commission into the New South Wales Police Service to attend and produce documents relating to paedophilia. In response, submissions were made to the Royal Commission by both Mrs Arena and the President of the Council that the information and documents sought by the notices were covered by parliamentary privilege in that they formed the basis of a speech in the House on 31 October 1996. Following such submissions, no further action was taken in relation to the notice.⁴⁵

43 *Ibid.*

44 *Ibid.*

45 *Ibid.*

ICAC (2003)

In 2003, officers from the ICAC executed a search warrant on the Parliament House office of the Hon Peter Breen in the course of an investigation concerning Mr Breen's use of parliamentary entitlements. During execution of the warrant, the officers seized a laptop computer, two computer hard disk drives and a quantity of documents. They also downloaded onto a compact disc information from Mr Breen's personal drive on the parliamentary network.

The President of the Council wrote to the Commissioner of the ICAC raising questions as to the lawfulness of the search and drawing attention to issues relating to the application of parliamentary privilege. In reply, the laptop and computer hard drives were returned to the President by ICAC, together with 'imaged' copies of both taken by ICAC. Only the documents were retained by ICAC, but they were placed in 'quarantine' until the issue of access had been settled.

Subsequently, on a motion of Mr Breen, the House referred an inquiry in relation to the matter to the Privileges Committee to determine whether any breach of privilege or contempt had occurred, and what procedures could be adopted to determine whether any of the items had been immune from seizure by virtue of parliamentary privilege.

In its report on the matter, the Committee found that the seizure of at least some of the material involved a breach of Article 9 of the *Bill of Rights 1689* but that in the circumstances no contempt had occurred. It specified, however, that any subsequent attempt by the ICAC to use documents falling within the scope of proceedings in Parliament in their investigation would amount to a contempt. The Committee also recommended the adoption by the House of a particular procedure which would enable the issues of privilege arising to be assessed while also protecting the integrity of the evidence required by the ICAC for its investigation.⁴⁶

The recommended procedure was later adopted by the House,⁴⁷ resulting in the release of most of the seized material to the ICAC for its investigation and the isolation of a small number of documents in respect of which a claim of parliamentary privilege was made. Subsequently, following a further inquiry by the Privileges Committee,⁴⁸ the House upheld the claim of privilege relating to those particular documents,⁴⁹ which were later released to Mr Breen.

In a subsequent inquiry, the Committee recommended the adoption of a protocol to be followed in any future instances involving the execution of search warrants by investigatory or law enforcement bodies.⁵⁰

46 Standing Committee on Parliamentary Privilege and Ethics, above n 42.

47 *LC Minutes* (4/12/2003) 493-495.

48 Standing Committee on Parliamentary Privilege and Ethics, *Parliamentary Privilege and seizure of documents by ICAC No 2*, Report No 28, March 2004.

49 *LC Minutes* (1/4/2004) 650.

50 Privileges Committee, *Protocol for execution of search warrants on members' offices*, Report No 33, February 2006.

APPENDIX 5


TIMELINE OF THE ELECTION PROCESS FOR THE 2007 COUNCIL PERIODIC ELECTION

23 November 2006	—	Last sitting day of the Legislative Council for 2006
15 January 2007	—	The Governor prorogued the Legislative Council
2 March 2007	—	Fixed term of Parliament expired and Legislative Assembly dissolved
5 March 2007	—	The Governor issued writs and electoral rolls were closed
8 March 2007	—	Nominations for election closed
24 March 2007	—	Election held
1 May 2007	—	Legislative Council election results declared
2 May 2007	—	Return of writ
8 May 2007	—	Parliament met

APPENDIX 6

LEGISLATIVE COUNCIL SAMPLE BALLOT PAPER

NEW SOUTH WALES Election of 21 Members of Legislative Council



BALLOT PAPER

	GROUP A	GROUP B	GROUP C	GROUP D
<p>You may vote in one of two ways</p> <p>either</p> <p>Place the number "1" in the square above the group of candidates for whom you desire to vote. You may if you wish, vote for additional groups of candidates by placing consecutive numbers in the squares above the groups of candidates in order of your preference for them.</p> <p>Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.</p>	<input type="checkbox"/> GROUP A NO FUN PARTY	<input type="checkbox"/> GROUP B PURPLE PARTY	<input type="checkbox"/> GROUP C 1	<input type="checkbox"/> GROUP D OASIS PARTY
<p>or</p> <p>Place the number "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14" and "15" in the squares opposite the name of the candidate for whom you wish to vote for additional candidates by placing consecutive numbers beginning with the number "1" in the squares opposite the names of additional candidates in order of your preference for them.</p> <p>Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.</p>	<p>GROUP A NO FUN PARTY</p> <p><input type="checkbox"/> MORTON, Mick NO FUN PARTY</p> <p><input type="checkbox"/> COOPER, Chiara NO FUN PARTY</p> <p><input type="checkbox"/> FLYNN, Monica NO FUN PARTY</p> <p><input type="checkbox"/> CLIFFORD, Greg NO FUN PARTY</p> <p><input type="checkbox"/> SMYTH, Veronica NO FUN PARTY</p> <p><input type="checkbox"/> NELSON, Debbie NO FUN PARTY</p> <p><input type="checkbox"/> FRENCH, Mike NO FUN PARTY</p> <p><input type="checkbox"/> WATSON, Peter NO FUN PARTY</p> <p><input type="checkbox"/> GRAY, Lee NO FUN PARTY</p> <p><input type="checkbox"/> JOHNSON, Terry NO FUN PARTY</p> <p><input type="checkbox"/> GULLS, Jarrid NO FUN PARTY</p> <p><input type="checkbox"/> JACKSON, Chlie NO FUN PARTY</p> <p><input type="checkbox"/> ELBEN, Tony NO FUN PARTY</p> <p><input type="checkbox"/> COLLY, Lynda NO FUN PARTY</p> <p><input type="checkbox"/> FRANK, Grib NO FUN PARTY</p>	<p>GROUP B PURPLE PARTY</p> <p><input type="checkbox"/> CARROCK, Aime PURPLE PARTY</p> <p><input type="checkbox"/> CRIST, Leslie PURPLE PARTY</p> <p><input type="checkbox"/> CHAMPA, Lynda PURPLE PARTY</p> <p><input type="checkbox"/> GRAY, Peter PURPLE PARTY</p> <p><input type="checkbox"/> NG, Jie PURPLE PARTY</p> <p><input type="checkbox"/> ACARNA, Mike PURPLE PARTY</p> <p><input type="checkbox"/> GRAHAM, Les PURPLE PARTY</p> <p><input type="checkbox"/> WHELAN, Peter PURPLE PARTY</p> <p><input type="checkbox"/> PORTER, Henry PURPLE PARTY</p> <p><input type="checkbox"/> BAGRETT, Jig PURPLE PARTY</p> <p><input type="checkbox"/> ORSON, Jakob PURPLE PARTY</p> <p><input type="checkbox"/> LANYARD, Jodie PURPLE PARTY</p> <p><input type="checkbox"/> LAROCK, Greg PURPLE PARTY</p> <p><input type="checkbox"/> PRINCE, Leah PURPLE PARTY</p> <p><input type="checkbox"/> JOGSON, Nib PURPLE PARTY</p>	<p>GROUP C</p> <p><input type="checkbox"/> PARRY, Tony</p> <p><input type="checkbox"/> JONES, Lily</p> <p><input type="checkbox"/> ZOWIE, Mandy</p> <p><input type="checkbox"/> LALLARD, Gordon</p> <p><input type="checkbox"/> JIMMISON, Ailie</p> <p><input type="checkbox"/> FARNSWORTH, China</p> <p><input type="checkbox"/> HORTON, Luke</p> <p><input type="checkbox"/> JECOVIC, Peter</p> <p><input type="checkbox"/> MOORE, Chris</p> <p><input type="checkbox"/> WHITE, Jason</p> <p><input type="checkbox"/> JACKSON, Joanne</p> <p><input type="checkbox"/> LEE, Ray</p> <p><input type="checkbox"/> NGUAN, Jirod</p> <p><input type="checkbox"/> YOUNG, Gillian</p> <p><input type="checkbox"/> WILLOW, Carol</p>	<p>GROUP D OASIS PARTY</p> <p><input type="checkbox"/> BORGAN, Boris OASIS PARTY</p> <p><input type="checkbox"/> CHURCH, Peter OASIS PARTY</p> <p><input type="checkbox"/> WILSON, Steve OASIS PARTY</p> <p><input type="checkbox"/> TURCH, Robbie OASIS PARTY</p> <p><input type="checkbox"/> GIBERON, Lily OASIS PARTY</p> <p><input type="checkbox"/> RAMGATE, Alan OASIS PARTY</p> <p><input type="checkbox"/> DAWN, Paris OASIS PARTY</p> <p><input type="checkbox"/> SCOTTS, Lawrence OASIS PARTY</p> <p><input type="checkbox"/> FISHERS, Tammy OASIS PARTY</p> <p><input type="checkbox"/> ANNAN, Mike OASIS PARTY</p> <p><input type="checkbox"/> POTTS, Eric OASIS PARTY</p> <p><input type="checkbox"/> EAGAN, Rowena OASIS PARTY</p> <p><input type="checkbox"/> RATTON, Keren OASIS PARTY</p> <p><input type="checkbox"/> HESBY, Inga OASIS PARTY</p> <p><input type="checkbox"/> CONNELL, Frank OASIS PARTY</p> <p><input type="checkbox"/> GIFFORD, Nellie</p> <p><input type="checkbox"/> LANSON, Robert INDEPENDENT</p> <p><input type="checkbox"/> JACK, Kerry</p> <p><input type="checkbox"/> VORGAN, Sylvia</p> <p><input type="checkbox"/> THOMSON, Janet INDEPENDENT</p>

APPENDIX 7

CASUAL VACANCIES IN THE LEGISLATIVE COUNCIL SINCE 1978

APPENDIX 7

APPENDIX 8

CASUAL VACANCIES - SENATE (NEW SOUTH WALES) SINCE 1901

APPENDIX 8

APPENDIX 9

**THE REPRESENTATION OF PARTIES IN THE
LEGISLATIVE COUNCIL SINCE 1978**

Notes

- 1 The President has a casting vote but not a deliberative vote. Therefore the number of cross-bench votes needed by the government depends on the party the President is chosen from.
- 2 As discussed in Chapter 2, the reconstitution of the Council to a directly elected chamber of 45 members took place in three stages. The first stage was a House of 43 members in 1978, then 44 members in 1981, and finally 45 members in 1984.
- 3 The Coalition was reduced to 17 members after the Hon Finlay MacDiarmid of the National Party resigned from the party to be an independent in July 1985.
- 4 The three cross-bench members were supplemented by the addition of the Hon Finlay MacDiarmid.
- 5 The Hon Marie Bignold resigned from the Call to Australia Party to be an independent in March 1991.
- 6 The Council was reconstituted to a chamber of 42 members in 1991.
- 7 The Hon Marie Bignold was one of the three members to lose their seat in consequence of the 1991 reconstitution of the Council. This reduced the cross-bench from five members to four.
- 8 The Hon Richard Jones resigned from the Australian Democrats to be an independent in March 1996.
- 9 Two members joined the seven-member cross-bench during the course of the 51st Parliament: the Hon Franca Arena resigned from the Labor Party to be an independent in November 1997, and the Hon Helen Sham-Ho resigned from the Liberal Party to be an independent in June 1998.
- 10 When the cross-bench increased from seven members to nine in 1998, the Labor Government required five of nine cross-bench votes.

APPENDIX 10

THE CODE OF CONDUCT FOR MEMBERS

PREAMBLE

- The Members of the Legislative Assembly and the Legislative Council have reached agreement on a Code of Conduct which is to apply to all Members of Parliament.
- Members of Parliament recognise that they are in a unique position of being responsible to the electorate. The electorate has the right to dismiss them from office at regular elections.
- Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution of Parliament, and using their influence to advance the common good of the people of New South Wales.
- Members of Parliament acknowledge that their principal responsibility in serving as Members is to the people of New South Wales.

THE CODE

1 Disclosure of conflict of interest

- (a) Members of Parliament must take all reasonable steps to declare any conflict of interest between their private financial interests and decisions in which they participate in the execution of their office.
- (b) This may be done through declaring their interests on the Register of Disclosures of the relevant House or through declaring their interest when speaking on the matter in the House or a Committee, or in any other public and appropriate manner.
- (c) A conflict of interest does not exist where the member is only affected as a member of the public or a member of a broad class.

2 Bribery

- (a) A Member must not knowingly or improperly promote any matter, vote on any bill or resolution or ask any question in the Parliament or its Committees in return for any remuneration, fee, payment, reward or benefit in kind, of a private nature, which the Member has received, is receiving or expects to receive.
- (b) A Member must not knowingly or improperly promote any matter, vote on any bill or resolution or ask any question in the Parliament or its Committees in return for any remuneration, fee, payment, reward or benefit in kind, of a private nature, which any of the following persons has received, is receiving or expects to receive:
 - (i) a member of the Member's family;
 - (ii) a business associate of the Member; or
 - (iii) any other person or entity from whom the Member expects to receive a financial benefit.
- (c) A breach of the prohibition on bribery constitutes a substantial breach of this Code of Conduct.

3 Gifts

- (a) Members must declare all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.
- (b) Members must not accept gifts that may pose a conflict of interest or which might give the appearance of an attempt to improperly influence the Member in the exercise of his or her duties.
- (c) Members may accept political contributions in accordance with part 6 of the Election Funding Act 1981.

4 Use of public resources

Members must apply the public resources to which they are granted access according to any guidelines or rules about the use of those resources.

5 Use of confidential information

Members must not knowingly and improperly use official information which is not in the public domain, or information obtained in confidence in the course of their parliamentary duties, for the private benefit of themselves or others.

6 Duties as a Member of Parliament

It is recognised that some members are non-aligned and others belong to political parties. Organised parties are a fundamental part of the democratic process and participation in their activities is within the legitimate activities of Members of Parliament.

7 Secondary employment or engagements

Members must take all reasonable steps to disclose at the start of a parliamentary debate:

- (a) the identity of any person by whom they are employed or engaged or by whom they were employed or engaged in the last two years (but not if it was before the Member was sworn in as a Member);
- (b) the identity of any client of any such person or any former client who benefited from a Member's services within the previous two years (but not if it was before the Member was sworn in as a Member); and
- (c) the nature of the interest held by the person, client or former client in the parliamentary debate.

This obligation only applies if the Member is aware, or ought to be aware, that the person, client or former client may have an interest in the parliamentary debate which goes beyond the general interest of the public.

This disclosure obligation does not apply if a Member simply votes on a matter; it will only apply when he or she participates in a debate. If the Member has already disclosed the information in the Member's entry in the pecuniary interest register, he or she is not required to make a further disclosure during the parliamentary debate.

This Code of Conduct was adopted by the Council for the purposes of section 9 of the Independent Commission Against Corruption Act 1988 on 21 June 2007.¹

¹ LC Minutes (21/6/2007) 148-150.

APPENDIX 11

TIME LIMITS ON DEBATES AND SPEECHES IN THE COUNCIL

The following time limits on debates and speeches apply in the Council:

Adjournment motions (SO 31)	Debate: 30 minutes Speakers: 5 minutes
Committee reports (SO 232)	Debate: 60 minutes Chair/Mover: 15 minutes Speakers: 10 minutes Chair/Mover: 10 minutes in reply
Private members' motions (SO 186)	Debate: 180 minutes Mover: 30 minutes Speakers: 20 minutes Debate interrupted 15 minutes before end of debate time Mover: 10 minutes in reply
Private members' bills (SO 187)	<i>Leave to bring in bill</i> Debate: 60 minutes Speakers: 10 minutes Debate interrupted 10 minutes before end of debate time <i>Second and third readings</i> No debate time limit Mover: 30 minutes Speakers: 20 minutes Mover: 20 minutes in reply
Disallowance motions (SO 78)	Debate 90 minutes Mover/Minister: 15 minutes Speakers: 10 minutes
Matters of public importance (SO 200)	<i>Question of urgency</i> Mover/Minister: 10 minutes <i>Debate</i> Debate: 90 minutes Mover/Minister/Opposition: 15 minutes Speakers: 10 minutes

NEW SOUTH WALES LEGISLATIVE COUNCIL PRACTICE

Urgency motions (SO 201)	<i>Question of urgency</i> Mover/Minister: 10 minutes <i>Debate</i> Mover/Minister/Opposition: 15 minutes Speakers: 10 minutes
Ministerial statements (SO 48)	No time limit for Ministers, Leader of the Opposition given equal time to respond
Suspension of standing orders (SO 198)	Debate: 30 minutes Speakers: 5 minutes
Question time (SO 64)	Question: 1 minute Answer: 4 minutes Answer to supplementary question: 2 minutes

APPENDIX 12

THE POWER TO AMEND MONEY BILLS IN THE UK PARLIAMENT

The House of Commons has always claimed that the House of Lords has no power to amend a money bill and that in the event of a dispute between the Houses the will of the Commons must eventually prevail. As early as 1661 the Commons indicated its objection to the initiation of money bills by the Lords. In 1671 the Commons went further, resolving 'That in all aids given to the King by the Commons, the rate or tax ought not to be altered by the Lords' while in 1678 it resolved:

That all aids and supplies, and aids to his Majesty in Parliament, are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords.¹

By the Revolution of 1688 the Lords only had power to withhold assent to money bills, although the framework of parliamentary control of finance had become established according to two principles that still apply today:

- that the exclusive power to levy taxation lay with Parliament;
- that from the proceeds of taxation, Parliament granted supplies to the Crown, most of which are appropriated to particular purposes.²

It was around 1698 that the distinction first appeared between the moneys to be used by the Crown in its personal capacity and moneys for the services of government generally. In addition, the establishment of an 'aggregate fund', later to be known as the 'consolidated fund', into which all taxes were to be paid and out of which expenditure could be made in accordance with parliamentary appropriation, also dates to this time. Previously, particular taxes were imposed and appropriated to particular purposes.³

1 *House of Commons Journal* (13/4/1671) 235; (3/7/1678) 509.

2 Saunders C, 'Parliamentary Appropriation', in Saunders C *et al*, *Current Constitutional Problems in Australia*, ANU Press, Canberra, 1982, p 5.

3 *Ibid*.

Relations between the Commons and Lords were finally regulated in 1911 with the passage of the *Parliament Act 1911*.⁴ In that Act provision was made to provide that where a money bill which had been passed by the House of Commons and sent to the House of Lords but not passed by the Lords within one month was, unless the House of Commons otherwise directed, to be presented to the monarch for Royal Assent notwithstanding that the House of Lords had not passed the bill. A 'money bill' was carefully defined, and provision was made for the endorsement on every money bill of a certificate of the Speaker of the House of Commons that it was a money bill. Such a certificate was declared to be conclusive for all purposes and to be not liable to be questioned in any court of law.⁵

4 I & II Geo V c15.

5 Crown Solicitor's advice, 'Constitution Act', 13 October 1948, p 2.

APPENDIX 13

THE FORM OF A PETITION TO THE COUNCIL

PETITION

TO THE HONOURABLE THE PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL OF NEW SOUTH WALES

The Petition of certain ... [*Identify here, in general terms, who the petitioners are, eg: citizens of New South Wales or residents of (name of city, town, suburb)*]

state that: ... [*Briefly give here the facts or circumstances of the case which the petitioners wish to bring to the notice of the House.*]

Your petitioners request that the House will ... [*Outline here the request for action that the House should or should not take.*]

[Name Address Signature]

Subsequent pages of a petition must repeat the facts and request from the first page of the petition ...

Your petitioners request that the House will ... [*Outline here the request for action that the House should or should not take.*]

[Name Address Signature]