

DISSENTING REPORT OF THE SOLE GOVERNMENT SENATOR ON THE SENATE SELECT COMMITTEE INTO CERTAIN ASPECTS OF QUEENSLAND GOVERNMENT ADMINISTRATION RELATED TO COMMONWEALTH GOVERNMENT AFFAIRS

Chapter One

1.1 This Enquiry was a farce from the beginning.

1.2 The farcical nature of the Enquiry was clearly demonstrated by:

- Its manner of creation
- the Terms of Reference
- the way in which the Labor Party first opposed its setting up when it was thought to include the Bligh Labor Government but later supported the Enquiry when they thought (erroneously) that it did not allow examination of the Bligh Labor Government
- the composition of the Voting Members of the Committee
- the fact that most submissions no matter how irrelevant, defamatory, and unsubstantiated were accepted by the majority of the Committee
- The refusal of the Committee to allow persons maligned in submissions a right of reply
- the lack of any natural justice
- refusal of the majority of the Committee to invite as witnesses anyone nominated by Government Senators
- the preponderance of Union, Left wing politicians and radical Green witnesses called.

1.3 Because of this, Government Members consider that nothing worthwhile emanates from this Committee and that it lacks even basic credibility, and does not warrant the waste of any further of the Senate's time.

1.3 Government Members of the Committee make just two recommendations –

Recommendation 1

1.4 That the Committee Office should table a full and complete Report of the costs to the Committee office of this Enquiry including all of the changed arrangements and cancelled bookings that had been made and that the Committee Office also include an estimate of the costs of Senators attending, and in cases cancelling arrangements for, Hearings

Recommendation 2

1.5 Any Report of the Majority of the Committee should be consigned to the scrapheap.

1.6 In Chapter 2 Coalition Senators give some brief highlights of aspects of this Enquiry which demonstrate its farcical nature and why because of its lack of credibility the whole exercise has been a waste of time and an embarrassment to the Senate. In Chapter 3 Coalition Senators make some limited observations.

Chapter 2

Creation of Enquiry

2.1 Before setting out the full Terms of Reference for the Committee, it is instructive for a proper understanding of the Enquiry and its Report, for the manner in which the Enquiry was created, to be noted.

2.2 The Original Motion proposing Terms of Reference took the following courses.

(i) On the 28th August, 2014 the Leader of the Palmer United Party in the Senate, Senator Lazarus sought Leave to treat as a Formal Motion a Motion to establish a Select Committee on Certain Aspects of Queensland Government. Leave was denied.

(ii) On 23rd September, 2014 the Leader of the Palmer United Party sought Leave to amend his Notice of Motion relating to the establishment of the Select Committee which was agreed but formality was denied. Senator Lazarus then moved Suspension of Standing Orders so that he could put the Motion and this was carried.

(iii) Senator Lazarus then moved that all debate be gagged and the Motion be put but this was defeated.

(iv) Debate then ensued but Senator Lambie from the Palmer United Party then moved the gag and this was ultimately carried.

(v) Senator Lazarus' Motion was then put but an amendment was moved by Senator Abetz on behalf of the Government to have the Terms of Reference varied to include an examination from the 21st March, 2009 effectively including an examination of the Bligh Labor Government.

(vi) The amendment was put and carried, with the Greens Political Party voting with the Government.

(vii) The amended Motion was then put but was defeated when the Labor Party joined the Government to defeat it, with only the Greens Political Party and Palmer United Party supporting it.

2.3 (i) On the 30th September, 2014, the Leader of the Palmer United Party, Senator Lazarus again moved substantially the same Motion to establish the Select Committee and when Leave to introduce that Motion was denied, Senator Lazarus moved for suspension of Standing Orders so that he could move the substantially similar Motion which had been amended only to allow the Committee to investigate the Newman LNP Government, negating the previous week's Motion that included the Bligh Labor Government in its investigation.

(ii) The Motion was carried with the Opposition, Greens Political Party and Palmer United Party supporting it.

2.4 Whilst paragraph (a) of the Terms of Reference related to an Enquiry during the term of the Newman Government, the other Terms of Reference (numbered (b) to (g)) were, in error by the mover, not so restricted and consequently the actions of the Bligh Labor Government were able to be investigated although during the course of the Enquiry, the majority of Members of the Committee avoided any scrutiny of the Bligh Government.

Terms of Reference

2.5 The Terms of Reference are set out below in full

(1) That a select committee, to be known as the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs, be established to inquire into and report on:

(a) the amount of Commonwealth funds allocated or paid to the State of Queensland since 26 March 2012, with particular reference to:

(i) the purposes for which the funds were appropriated by the Parliament,

(ii) performance measures in relation to Commonwealth funds paid to the State of Queensland,

(iii) identified breaches of funding agreements or conditions,

(iv) the proportion of the Queensland State budget derived from Commonwealth funds, and

(v) whether any Commonwealth funds have been used by the State of Queensland for state government advertising or party political purposes,

(b) the administration of the Queensland courts and judicial system insofar as it relates to cross vesting arrangements, with particular reference to judicial independence and separation of powers;

(c) approval process for the development of projects for the export of resources or services insofar as they are administered by the Commonwealth or under a bilateral agreement with the Commonwealth;

(d) the extent to which Queensland State Government policies and practices are consistent with Australia's obligations under international environmental law instruments;

(e) whether it is appropriate for the Federal Minister for the Environment to delegate his approval powers to the Queensland State Government under the Environment Protection and Biodiversity Conservation Act 1999 by way of approval bilateral agreements or strategic assessments;

(f) the extent to which Queensland State Government policies and practices are consistent with Australia's obligations under international human rights instruments, with particular reference to:

(i) the administration of prisons, and

(ii) detention without trial; and

(g) any other matter the committee considers relevant.

(2) The committee will inquire into and report on the adequacy of Commonwealth oversight of the approval of coal seam gas projects in Queensland.

(3) That the committee presents its final report on or before 27 March 2015.

(4) That the committee consist of 5 senators, 1 to be nominated by the Leader of the Government in the Senate, 2 to be nominated by the Leader of the Opposition in the Senate, 1 to be nominated by the Leader of the Australian Greens, and 1 to be nominated by the Leader of the Palmer United Party.

(5) That:

(a) on the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators, participating members may be appointed to the committee;

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and

(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(6) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(7) That the committee:

(a) appoint as chair the Leader of the Palmer United Party in the Senate; and

(b) elect as deputy chair a member elected by the committee.

(8) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(9) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(10) That the quorum of the committee be 3 members.

(11) That the committee and any subcommittee have power to send for and examine any person and any document, to move from place to place (including, but not limited to, major metropolitan and regional centres in Queensland and the committee shall conduct public hearings in Nambour, Ipswich, Mackay, Rockhampton, Kingaroy, Mt Isa, Bundaberg, Toowoomba, Townsville and Cairns) to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.

(12) That the committee shall report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(13) That the committee has power to appoint subcommittees consisting of 2 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(14) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(15) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Composition of Committee

2.6 Under the Terms of Reference agreed to by the Labor Party, the Greens Political Party and the Palmer United Party, the Government was only given one voting position on the Committee, filled by Senator Ian Macdonald, although three other Queensland Senators, Senator Barry O'Sullivan, Senator James McGrath and Senator Matthew Canavan participated in some of the early meetings of the Committee and attended most of the Hearings of the Committee.

2.7 Following the Queensland Election, no Government Senator attended any Hearings of the Committee.

2.8 It should be noted that traditionally Committees of the Senate are established with membership roughly in proportion to the Senators in the Parliament from the different political parties with the major parties usually having roughly equal membership with one position being allocated to minor parties or cross-benchers.

2.9 In all of the records of the Senate, I can find no other occasion where the party with the greatest number of Senators in the chamber (33) was given one position on a Senate Committee, the Opposition in the Senate (25 Senators) being given two positions on the Committee, a minor party with only 10 Senators being given one member on the Committee and a minor party with only 3 members being given one member on the Committee with that latter Senator, in accord with the Terms of Reference being appointed the Chairman of that Committee with a casting vote.

2.10 The composition of the Committee is relevant because it showed from the outset that the Committee lacked any credibility and that it was established for purely partisan political purposes, and in furtherance of a public commitment by the Leader of the Palmer United Party to destroy Campbell Newman because of his refusal to deal favourably with Mr Palmer's mining interests in Queensland.

Timing of Enquiry

2.11 It should be noted the Committee was, in accordance with the Terms of Reference, to take evidence and table its report between September 2014 and March 2015, the date required for reporting being the date generally expected, in September 2014, to be about the time of the next Queensland election. It should be noted that the Queensland Election campaign would be effectively occurring during the time the Committee was to conduct Hearings and Report. The campaign would

be fought by the sitting Liberal National Party government with a record majority in the Queensland Parliament and a small opposition Labor Party, and minor parties, Palmer United Party and the Greens Political Party indicating an intention to campaign vigorously in the Queensland State Election.

Chapter 3

Government Senators' Observations

3.1 It should be noted that a substantial number of submission that were accepted by the majority of the Committee, were unsubstantiated allegations which were never tested in evidence before the Committee. At no stage was any natural justice shown by allowing those maligned and accused in the submissions and in the evidence given, to answer the allegations, respond, or present other evidence.

3.2 Witnesses selected by the majority of the Committee were all witnesses from the radical environment movement, from prominent supporters of the Greens Political Party, from the Union Movement and from politicians of non LNP political persuasion. None of these witnesses gave evidence that could be accepted as accurate, balanced or useful.

3.3 No opportunity was offered to the Government of Queensland or any LNP politician or Party organization to respond to any of the allegations or to give evidence.

3.4 It should also be noted from a reading of the Hansard transcript that many of the accusations made by various witnesses related to the time of the Bligh Labor Government which preceded the Newman Government and some of the more specific allegations of impropriety, corruption and malpractice occurred in the time of the previous Bligh Labor Government.

3.5 The only one allegation of corruption that was made referred to a former Labor Party Federal Minister.

3.6 The Government Member on the Committee objected to the publication of most of the submissions which were defamatory, unsupported, contained allegations against persons who were not accorded natural justice.

3.7 There were a substantial number of submissions received by the Committee which were completely irrelevant to the Terms of Reference of the Committee and some of these were rightly rejected by the whole of the Committee.

3.8 Other submissions which did contain unsubstantiated defamatory allegations were allowed to be published whereas submissions naming Senators on the Committee were prevented by the majority of the Committee from being published.

3.9 The Senate should note the arbitrary, unfair, unbalanced way in which submissions were accepted and rejected and should also note the total lack of natural justice available to those who had been unfairly maligned in an unsubstantiated way.

3.10 The Senate should also note that without exception all nominations made by Government Members for witnesses to be called to give evidence were ignored and rejected by the majority of the Committee.

3.11 The doctrine of comity (which provides that one level of Government should render appropriate respect for the processes of another) were ignored in the Terms of Reference.

3.12 The whole process of this Enquiry is an embarrassment to the Senate. The Senate should resolve never again to establish a Committee that is so blatantly political, so manifestly lacking in natural justice and so damaging to the reputation that the Senate has built up over many years for the quality, balance and intellectual rigor of the Reports it produces. This Enquiry lacks all three attributes

Senator Ian Macdonald