

The Senate

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Committee of Privileges

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Possible false or misleading evidence and  
improper refusal to provide information to the  
Finance and Public Administration Committee

131<sup>st</sup> Report

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# Possible false or misleading evidence and improper refusal to provide information to the Finance and Public Administration Committee

## Introduction

1. On 7 February 2007, the Senate referred the following matter to the Committee of Privileges on the motion of Senator Forshaw, also on behalf of Senator Murray:

Having regard to the material presented to the Senate by the President on 6 February 2007, whether any false or misleading evidence was given to a Senate committee, whether there was any improper refusal to provide information to a committee and whether any contempt was committed in that regard.<sup>1</sup>

2. The reference of the matter derived from a letter written by Senators Forshaw and Murray to the then President of the Senate, Senator the Hon. Paul Calvert, on 7 December 2006.<sup>2</sup>

3. Senator Forshaw had been the chair, and Senator Murray a member, of the former Finance and Public Administration References Committee which reported on its inquiry into the regional partnerships and sustainable regions programs in October 2005. The report included the following account, quoted by Senators Forshaw and Murray:

### *Possible offence by a witness*

1.46 The Committee took evidence from Mr Greg Maguire, a central figure in the allegations of Mr Tony Windsor MP that he was offered an inducement not to stand for the seat of New England at the 2004 federal election. During his appearance before the Committee Mr Maguire claimed that his companies had made contributions to Mr Windsor's state and federal election campaigns. When asked to provide details to the Committee, he refused to answer but instead undertook to provide the information on notice. The information was important for corroborating some of Mr Maguire's evidence and was material to the Committee's examination of the matter.

1.47 Contrary to his undertaking at the hearing, Mr Maguire subsequently failed to provide the information to the Committee. The Committee wrote to Mr Maguire on three occasions to remind him of his undertaking. On the final occasion the Committee drew his attention to Senate procedural resolutions which make it an offence for a witness to fail to answer

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1 *Journals of the Senate*, 7 February 2007, p.3382.

2 See Appendix for copies of relevant documents.

questions and provide information when required to do so. Mr Maguire informed the secretariat that he would not be making a response.

1.48 During this process the Committee received fresh evidence which raised serious doubts about the veracity of Mr Maguire's statements. The Committee provided this evidence to Mr Maguire and invited him to comment. Mr Maguire also refused to respond to this material.

1.49 The Committee is deeply concerned by Mr Maguire's evasiveness on this matter. His refusal to provide relevant information made it difficult to not only corroborate his evidence before the inquiry but also to verify whether Mr Maguire had disclosed these election contributions to the Australian Electoral Commission (AEC).

1.50 Given the obligation on both donors and recipients to disclose both cash and in-kind contributions to election campaigns, the Committee is concerned that Mr Maguire may be in breach of the Electoral Act. The Committee is particularly troubled by the conflicting evidence provided by Mr Maguire and Mr Windsor, as well as Mr Maguire's refusal to clarify the matter despite repeated requests by the Committee for him to do so. The Committee intends to write to the Australian Electoral Commissioner asking that the matter be investigated.<sup>3</sup>

4. The Australian Electoral Commission (AEC) was unable to pursue an investigation into possible breaches of electoral law by Mr Maguire because the only relevant material it could identify was protected by parliamentary privilege and could not be used.<sup>4</sup> Subsequently, the Finance and Public Administration Committee (the successor committee to the separate legislation and references committees from 11 September 2006) wrote again to Mr Maguire requiring him to provide the information previously requested. According to the letter from Senators Forshaw and Murray to the President:

Mr Maguire informed the committee secretary that he would not provide the information, nor would he respond to the committee's latest approach to him.

5. Senators Forshaw and Murray then decided to raise Mr Maguire's conduct as a matter of privilege on two counts:

- first, that Mr Maguire refused to respond to the committee's requests that he provide the information that he had undertaken to provide at the hearing, namely, a list of his companies ; and
- secondly, that in failing to corroborate his claim that his companies made substantial financial contributions to Mr Windsor's political campaigns, a claim denied by Mr Windsor and his campaign chairman, Mr Stephen Hall, and unable to be substantiated by the AEC, Mr Maguire knowingly gave

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3 *Regional Partnerships and Sustainable Regions Programs*, PP 226/2005, pp. 10-11.

4 See Finance and Public Administration Committee, Supplementary Budget Estimates Hansard, 31 October 2006, pp. F&PA 14, 16-17.

false or misleading evidence to the Finance and Public Administration References Committee.

### **Conduct of the inquiry**

6. On 1 March 2007, the Chair of the Privileges Committee wrote to Mr Maguire enclosing a copy of its terms of reference, the letter and attachments from Senators Forshaw and Murray raising the matter of privilege with the President, and information about its procedures. The letter sought Mr Maguire's response by no later than 4 May 2007 to the terms of reference.

7. On the same day, the Chair also wrote to the then Chair of the Finance and Public Administration Committee, Senator Mason, seeking copies or records of all previous communications between Mr Maguire and the committee (or its predecessor), together with any response the committee wished to make to the terms of reference.

8. The Privileges Committee has had considerable experience inquiring into cases of possible false or misleading evidence before committees. A summary of its findings in these cases and of its approach to contempt inquiries in general may be found in its most recent overview report which covers the period 1966 to December 2005. The overview report also confirms, however, that the committee has not had occasion to investigate a case of improper refusal to provide information to a committee. The committee therefore decided to seek advice from the Clerk of the Senate on certain factors that might affect the committee's determination of whether an action may constitute contempt. The Clerk's advice was provided on 12 March 2007.

9. The Secretary of the Finance and Public Administration Committee responded on behalf of the committee on 29 March 2007, enclosing documents which that committee had authorised for release in response to the Privileges Committee's request and indicating that the committee had decided not to provide written comments.

10. Mr Maguire did not meet the committee's deadline of 4 May 2007, but was allowed an extension of time until 12 June 2007 and a response from a firm of Tamworth solicitors acting on his behalf was received on 7 June 2007. In accordance with its usual practice, the committee provided a copy of the solicitor's response in confidence to Senators Forshaw and Murray for any response they wished to make. Similarly, a copy of the senators' joint response, received on 21 June 2007, was provided in confidence to Mr Maguire for any comment he wished to make by 13 July 2007. The committee also provided Mr Maguire with a final opportunity to honour his initial undertaking to the Finance and Public Administration References Committee to provide the list of companies he owned that he claimed had made financial donations to the various election campaigns of Mr Tony Windsor MP.

11. A response from Mr Maguire's solicitors was received on 11 July 2007, but the requested list of companies was not provided.

12. The committee initially received all documents *in camera*, but in accordance with its usual practice, reserved the right to publish them at a later stage of the inquiry and does so now in the form of attachments to this report.<sup>5</sup>

### Consideration of issues

13. Paragraph (12) of Senate Privilege Resolution 6 sets out relevant matters which the Senate may treat as contempts:

A witness before the Senate or a committee shall not:

...

- (b) without reasonable excuse, refuse to answer any relevant question put to the witness when required to do so; or
- (c) give any evidence which the witness knows to be false or misleading in a material particular, or which the witness does not believe on reasonable grounds to be true or substantially true in every material particular.

#### *Possible false or misleading evidence*

14. In raising the matter of privilege, Senators Forshaw and Murray were concerned that Mr Maguire may have given false or misleading evidence to the Finance and Public Administration References Committee by claiming that his companies had made contributions to the state and federal election campaigns of Mr Tony Windsor MP. This claim was contradicted in later evidence to the committee by Mr Windsor and, separately, by his campaign chairman, Mr Stephen Hall, both of whom denied that any such contributions had been made. The committee reported on its concern at Mr Maguire's evasiveness, and that serious doubts had been raised about the veracity of his evidence. At a subsequent estimates hearing by that committee's successor, witnesses from the AEC testified that they could find no evidence apart from the information before the committee (which was covered by parliamentary privilege) to substantiate the claim. A prosecution was therefore unlikely.<sup>6</sup>

15. Mr Maguire was given several opportunities by the Finance and Public Administration References Committee to substantiate his claims to have supported Mr Windsor's campaign, by providing details of his companies to the committee in accordance with an undertaking given at a public hearing on 10 March 2005<sup>7</sup>. He failed to do so. In the absence of that information the references committee was unable to make a specific finding that Mr Maguire had given false or misleading

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5 See Appendix for copies of all correspondence and advice referred to in this section.

6 Finance and Public Administration Committee, Supplementary Budget Estimates Hansard, 31 October 2006, pp. F&PA 14, 16-17.

7 Finance and Public Administration References Committee Hansard, Regional Partnerships Program, 10 March 2005, p. F&PA 49.

evidence to that committee. The matter was followed up by the successor committee but Mr Maguire continued his silence.

16. Despite two further opportunities given to him by this committee, Mr Maguire continues to withhold the information he initially volunteered. Leaving aside, for the time being, its great concern at Mr Maguire's conduct, the Privileges Committee therefore finds itself in the same position as the Finance and Public Administration Committee in being unable to make a specific finding on whether Mr Maguire gave false or misleading evidence to a committee. It would be open to the Senate or the Privileges Committee to conclude, as urged by Senators Forshaw and Murray in their joint response to the submission from Mr Maguire's solicitors, that Mr Maguire probably gave false or misleading evidence to the Finance and Public Administration References Committee. A conclusion of this nature, however, cannot form the proper basis for a finding of fact or support an assessment of whether an alleged contempt occurred.

17. It would also be open to the Privileges Committee to exercise its powers to require Mr Maguire to attend before the committee and produce the information. This option is considered further in the next section of the report which deals with improper refusal to provide information to a committee.

*Improper refusal to provide information to a committee*

18. The second issue for consideration is whether Mr Maguire refused, without reasonable excuse, to provide information to the Finance and Public Administration References Committee and its successor. Documents received from that committee and published in the appendix to this report show five attempts by the references committee and its successor to elicit the promised information from Mr Maguire.<sup>8</sup>

19. At this point, several questions arise in relation to the allegations against Mr Maguire with reference to paragraph (12)(b) of Privilege Resolution 6:

- did the committee's numerous requests to Mr Maguire to provide the information amount to a requirement to do so within the terms of the resolution?
- was the question which the committee pressed Mr Maguire to answer a relevant question within the terms of the resolution?
- if Mr Maguire did refuse to answer a relevant question when required to do so, was the refusal an improper refusal, or did he have a reasonable excuse?

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<sup>8</sup> See correspondence to Mr Maguire from committees, dated 14 March 2005, 5 April 2005, 12 August 2005, 21 September 2005 and 15 November 2006. (Appendix, pp.88, 96, 99,102 and 105). Only the first letter was replied to.

*Was there a requirement to provide information?*

20. In addressing the first question, the committee was assisted by advice from the Clerk of the Senate. The committee had sought the Clerk's advice on whether it should assess the following scenarios differently:

- a witness gives an undertaking to a committee to provide information on notice but fails to do so despite several requests;
- a witness fails to produce information to a committee after having been formally ordered to do so.

The pertinent parts of the Clerk's advice are as follows:

It is clear from this formulation that the contempt of refusing to answer a question occurs when there has been a requirement for a witness to do so. In other words, a witness is not guilty of the contempt unless there has been a requirement to answer a question.

This necessity of a requirement to answer is also made clear by paragraph (10) of Privilege Resolution 1, which sets out the process to be followed by a committee when a witness objects to answering a question. Under that provision, a committee is not to report a witness to the Senate for refusal to answer a question until the committee has considered the objection and informed the witness that the committee requires an answer to the question.

It has always been thought that it would not be fair to a witness to require the witness to answer a question where the witness appears voluntarily, and that a requirement to answer should be imposed only on a witness who has been formally summoned to appear. In the past, therefore, committees have formally summoned witnesses to appear before requiring that they answer questions, and have made a break in their proceedings for that purpose where a witness initially appears voluntarily. In effect, that practice is preserved in paragraph (10) of Privilege Resolution 1, and a witness who, in accordance with that provision, is recalled and informed of a requirement to answer is effectively under summons.

There is no prescription in the rules of the Senate of any particular form of words which must be used by a committee in requiring a witness to answer a question. The only obligation imposed on a committee by the Senate's rules is that the committee must indicate that it requires an answer. Committees have used various terms to indicate that they require answers to be provided or information to be supplied.

In that context, and with reference to the first of the two situations postulated by the Privileges Committee, it may be that repeated requests from a committee to supply information which a witness, appearing voluntarily, has undertaken to supply, may be regarded as sufficiently indicating that the committee has required the witness to respond. This may be particularly so where the committee has informed a witness of the possible consequences of a failure to respond, as the Finance and Public Administration Committee apparently did, according to the letter of Senators Forshaw and Murray in which they raise the matter now before the Privileges Committee.

Whether the committee sufficiently indicated that it required the witness to respond is a matter for the Privileges Committee to assess in the course of its inquiry and in the light of all the facts of the case.

In relation to the second of the two situations postulated by the Privileges Committee, clearly where a witness has been formally ordered by a committee to produce information and fails to do so, the primary condition for the contempt, that is, a requirement by the committee to respond, has been met.

The Senate's formulation of this contempt, whereby a requirement or order to answer is a precondition of the failure to do so being held to be a contempt, concurs with the traditional understanding of this contempt in both parliamentary and judicial proceedings.

21. Having considered each of the letters written to Mr Maguire by the Finance and Public Administration References Committee and its successor, this committee is satisfied that Mr Maguire can have been in no doubt that he was required to respond. Letters sent by the committee in August and September 2005 to follow up two earlier reminders indicate clearly that the committee required the information, and the second letter informed Mr Maguire of the possible consequences of his failure to respond. These possible consequences were explained in more detail in the successor committee's letter of November 2006 which informed him of its decision to pursue the matter further in the wake of evidence given by the AEC at an estimates hearing, referred to previously in paragraphs 4 and 14.

22. The references committee did not issue a formal subpoena in exercise of its inquiry powers under standing order 24(14), but there can be no doubt whatsoever, from the number of letters to Mr Maguire, the language used and the explanation of possible consequences of non-compliance, that the committee had sufficiently indicated its requirement that Mr Maguire respond.

*Was the information relevant?*

23. With respect to the second question posed in paragraph 15 in relation to whether the pressed question was a relevant question for the purpose of the contempt as formulated in paragraph (12)(b) of Privilege Resolution 6, the committee notes the advice of the Clerk of the Senate, as follows:

The Senate's formulation of the contempt also raises the issue of whether a question which a witness has been required to answer was a relevant question. This is also in accordance with the traditional understanding of this contempt.

It appears from the letter of the senators raising the matter of privilege that the Finance and Public Administration Committee determined that the information it sought from the witness was relevant to the committee's inquiry. Considerable weight attaches to that committee's conclusion. It would be open to the Privileges Committee, however, to make its own assessment of the relevance of the information in determining whether a contempt was committed,

as the commission of the contempt depends on the relevance of the information sought.

24. The committee received widely divergent submissions on this point from Senators Forshaw and Murray on the one hand, and Mr Maguire's solicitors on the other. The latter argued that the issue of Mr Maguire's contributions to Mr Windsor's past election campaigns was "quite peripheral" to the regional partnerships inquiry (and that, therefore, failure to resolve it could not constitute interference with the proper exercise by the Finance and Public Administration Committee of its functions, given that the committee had been able to finalise its report without the information). Senators Forshaw and Murray, in response, argued that Mr Maguire was a necessary witness and his evidence was directly relevant to the committee's examination of a particular regional partnerships program grant, for the proposed Australian Equine and Livestock Centre in Tamworth:

In his detailed opening statement and during evidence Mr Maguire vigorously claimed that statements made and evidence given by the Member for New England, Mr Windsor MP, were misleading and untrue. Mr Maguire directly challenged Mr Windsor's honesty and his credibility as a witness. Mr Maguire also specifically stated that he and his companies had "*...made substantial financial contributions to his [i.e. Mr Windsor's] political campaigns over the years.*"

It was therefore very relevant to the Committee's inquiry that this particular project, where political interference had been alleged and the honesty of Mr Windsor's evidence questioned, for the Committee to seek documentary evidence of Mr Maguire's claims of financial support to Mr Windsor. It was relevant to test the truth of Mr Maguire's claim given that no record of such donations had been identified on the AEC register of declarations.<sup>9</sup>

While it may be open to the Privileges Committee to make its own assessment of relevance, the committee has found no reason to dispute the assessment of the Finance and Public Administration Committee and its predecessor in deciding to pursue the information and that of Senators Forshaw and Murray in raising Mr Maguire's failure to supply it as a matter of privilege. This committee accepts that the information sought was relevant to the committee's inquiry and that the committee was entirely within its powers to follow up the non-provision of the information. Moreover, it had a duty to do so, notwithstanding that the committee had presented its report on the regional partnership program, in order to protect the integrity of its proceedings.

*Did Mr Maguire have a reasonable excuse not to respond?*

25. Although the terms of reference for the inquiry refer to an improper refusal to provide information, the committee has taken this to mean, in the terms of paragraph (12)(b) of Resolution 6, that the refusal was without reasonable excuse.

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9 Correspondence from Senators Forshaw and Murray, 21 June 2007, Appendix, p. 119.

26. From March 2005, when Mr Maguire first agreed to provide the Finance and Public Administration Committee with a list of his companies, until December 2006, when Senators Forshaw and Murray, members of both the former and successor committees, raised this matter of privilege, Mr Maguire had provided no explanation at all for his extraordinary conduct to either the references committee or its successor. Apart from a single letter to the committee dated 23 March 2005 in which Mr Maguire reiterated that he had provided financial support to Mr Windsor, details of which both Mr Windsor and his campaign manager, were "fully aware", Mr Maguire remained silent.<sup>10</sup>

27. As has been noted above, the AEC reported back to the committee on the outcome of its investigation into possible breaches of the electoral law by Mr Maguire at the estimates hearings on 31 October 2006. It was after this last occasion that the Finance and Public Administration Committee wrote its final letter to Mr Maguire in which it mentioned that the AEC's inquiry had been inconclusive.

28. Mr Maguire's solicitors argued that the decision of the Finance and Public Administration Committee to refer matters to the AEC should have been the end of the matter and that any further pressing of the issue was either beyond the committee's powers or, if not beyond its powers, beyond the "proper and efficacious use of those powers". A possible breach of the electoral laws was "not properly a matter for the committee in the context of the inquiry that it was undertaking" and having been informed that the committee had referred the matter to the AEC, Mr Maguire was entitled to consider that he was not required to "expose himself...to the 'double jeopardy' of further investigation by the committee".

29. In this committee's view, this conclusion and the reasoning used to reach it are unsound. The references committee was not inquiring into a possible breach of the electoral laws. It was taking steps to ensure that Mr Maguire did not find himself in contempt in relation to the evidence he gave to the committee or to the evidence he offered, but ultimately refused to provide. These are distinct matters, but even if they were not, there is nothing to prevent proceedings for contempt being taken before, during or after criminal proceedings for the same acts. There is no protection against double jeopardy for an act that may be dealt with both as an offence and as a contempt, although it is extremely unlikely that this would occur in practice and it has not happened in Australia.<sup>11</sup>

30. It is plausible that Mr Maguire believed, and his legal advisers encouraged or supported his belief, that the committee's referral of the matter to the AEC superseded its requirement that he produce information to the committee; or that because the

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10 That letter continues: "I relied upon them to lodge any necessary paperwork concerning contributions by me or my companies towards Mr Windsor's campaign". See appendix, p.90

11 *Odgers' Australian Senate Practice*, 11<sup>th</sup> edition, p.66

committee had presented its report, it had no ongoing obligation to defend the integrity of its proceedings. Both assumptions, however, are wrong.

31. The committee has noted the circumstances in which Mr Maguire became involved in the regional partnerships inquiry. In November 2004 Mr Maguire was named by Mr Windsor in the House of Representatives as the person who allegedly conveyed to Mr Windsor, on behalf of senior figures in The Nationals, an offer of a government appointment in return for his withdrawal as a candidate for federal Parliament. Mr Windsor's submissions and evidence to the regional partnerships inquiry traversed this material and its connection with the Australian Equine and Livestock Centre at Tamworth, a project which he alleged was tainted by political interference. The references committee then provided this evidence to Mr Maguire for his response in accordance with the adverse reflection procedures in paragraphs (11) to (13) of Privilege Resolution 1 which provides for the protection of witnesses appearing before Senate committees. Mr Maguire was therefore drawn into the inquiry because the committee invited him to respond to adverse comments made by other witnesses, not because he chose to make a submission in the first place.

32. Mr Maguire's solicitors have provided this committee with accounts of the unwelcome media attention Mr Maguire and his family received after he gave evidence to the inquiry. According to their first response made on his behalf:

8. Our client notes that since giving evidence he has been the subject of media comments and speculation on a number of occasions, such as reports often relying upon comments provided by the Member for New England.

In a relatively small community such as Tamworth this adverse comment and speculation has been damaging to our client and his family and, in consequence, our client has been reluctant to further expose himself or offers to what could best be described as "trial by media".

It has particularly been this factor which has impacted upon our client's actions since he gave evidence in March 2005.<sup>12</sup>

33. These observations were reiterated in the second response made on Mr Maguire's behalf:

...he has been the subject of repeated media comment and indeed as late as June of this year has been the subject of an article in the electorate newsletter of the Member for New England, Mr Tony Windsor. This newsletter we understand was distributed to all private letter boxes throughout the New England electorate.

In that newsletter Mr Windsor MP, amongst other things quotes from a previous letter written by Senators Forshaw and Murray.

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12 Correspondence from The Law Company, 10 July 2007, Appendix, pp.114-115.

Our client wishes to emphasise that whilst he wishes no disrespect to the Senate, or indeed any of its committees, it appears that anything he now does or any information he supplies, will lead to further attacks on him by the Member for New England, Mr Tony Windsor. Our client believes he has no appropriate avenue to seek redress to these attacks, which are particularly damaging to his business and personal reputation. Of equal concern is the impact that this continued publicity has upon his wife and children.<sup>13</sup>

34. While condemning Mr Maguire's cavalier attitude to the inquiry, this committee acknowledges the invidious position he found himself in. It notes that the entirely proper and appropriate actions of the references committee in applying procedures for the protection of witnesses, by inviting Mr Maguire to respond to adverse evidence from Mr Windsor and Mr Hall, may have had the unintended effect of ensuring that an issue of intensely partisan local political interest continued to receive attention in the federal Parliament, thereby prolonging the normal duration of media attention such parochial episodes usually attract. The inquiry by this committee may have had a similar effect. Neither inquiry created the media interest. This was generated by Mr Windsor's revelations in the House of Representatives in November 2004. Nonetheless, Mr Maguire may have felt unprepared for the media storm and, as a result, decided, very unwisely in this committee's view, to ignore the references committee's demands of him in the hope that the problem would go away. The committee notes that Mr Maguire appears to have taken legal advice throughout his period of contact with Senate committees.

*Use of coercive powers to require the production of information*

35. In paragraph 17, the committee referred to the possible use of its coercive powers to require Mr Maguire to attend before it and produce information, as an alternative to the unsatisfactory finding that Mr Maguire probably gave false or misleading evidence to the references committee.

36. There is a significant difficulty facing the committee in taking this aspect of the inquiry further. In order to make a finding whether false or misleading evidence was given, the committee would need to obtain from Mr Maguire not only the list of the companies he owned at the relevant time, but also evidence that any of those companies had indeed made financial contributions to Mr Windsor's election campaigns. The committee would need to hold a hearing to question Mr Maguire about that evidence. The committee would also need to address Mr Windsor's direct contradiction, in further submissions to the regional partnerships inquiry, of Mr Maguire's claims. This would inevitably involve the committee examining Mr Windsor's evidence.

37. Mr Windsor is a member of the House of Representatives. He was previously a member of the NSW Legislative Assembly. As a member of a House of Parliament,

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13 Correspondence from The Law Company, 4 June 2007, Appendix, p. 122.

he enjoys all the immunities of that House. It is a well established rule that one House may not inquire into or adjudge the conduct of a member of another House.<sup>14</sup> Any attendance by Mr Windsor at a hearing of this committee would need to be authorised by the House of Representatives in response to a formal request from the Senate by message under standing order 178. Authorisation by the House of Representatives for Mr Windsor's attendance would not, however, suspend the operation of the rule. The rule would also prevent any cross-examination of Mr Windsor by Mr Maguire or his counsel in accordance with the procedures under Privilege Resolution 2 for the protection of witnesses before the Privileges Committee. In exercising its coercive powers to require Mr Maguire to attend a hearing and produce documents, the committee could not therefore ensure that he received procedural fairness because of the immunity enjoyed by Mr Windsor. The committee does not intend that any adverse inferences be drawn about Mr Windsor's evidence or conduct from its inability to examine his evidence. It is a necessary effect of the rule of comity between the Houses that Mr Windsor's role cannot be examined and this, in the committee's view, is an insuperable barrier to reaching a definite finding.

## Observations

38. Senate committees rely on the willingness of witnesses from all sections of the community to provide their knowledge, expertise and experiences. The credibility of committees' conclusions and recommendations and the value of their reports rely in large part on the truthfulness and sincerity of witnesses and their testimony. Consequently, any conduct by a witness that undermines the integrity or credibility of the committee inquiry process may be conduct that amounts to, or is likely to amount to, an improper interference with a committee's exercise of its authority or performance of its functions.

39. This has been one of the more unsatisfactory inquiries of the committee. Conduct by a witness that would normally warrant the most serious criticism will remain unaddressed because jurisdictional issues prevent a full examination by the committee of all the circumstances. In other circumstances, a finding of contempt against Mr Maguire would appear to be almost a foregone conclusion. As a result of his conduct, Mr Maguire emerges from both this committee's inquiry and that of the former Finance and Public Administration References Committee with little credibility. Mr Maguire has suffered the embarrassment of national and local media attention and possible local notoriety as a person who is willing to make allegations under parliamentary privilege, but not willing or able to substantiate them.

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14 *Odgers' Australian Senate Practice*, 11<sup>th</sup> edn, p. 425 and pp.423-27 generally.

**Conclusion**

40. In respect of whether any false or misleading evidence was given by Mr Maguire to the Finance and Public Administration References Committee, the committee is unable to make a specific finding in the absence of the relevant information, but recommends that the Senate accepts that the matter is not amenable to further pursuit by means of the exercise of formal inquiry powers against Mr Maguire.

41. In respect of whether there was any improper refusal to provide information to the Finance and Public Administration References Committee and its successor, the committee finds that Mr Maguire did refuse to provide information, but that given the committee's inability to examine all the circumstances, no contempt can be found.

John Faulkner  
**Chair**

