

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF PRIVILEGES

PERSON REFERRED TO IN THE SENATE

(MS YOLANDA BROOKS)

(56TH REPORT)

JUNE 1995

© Parliament of the Commonwealth of Australia 1995

ISSN 1038-9857
ISBN 0 642 22981 3

This document was produced from camera-ready copy prepared by the Committee of Privileges, and printed by the Senate Printing Unit, Parliament House, Canberra.

MEMBERS OF THE COMMITTEE

Senator Baden Teague (**Chairman**) (South Australia)

Senator the Honourable Margaret Reynolds (**Deputy Chairperson**) (Queensland)

Senator Bruce Childs (New South Wales)

Senator John Coates (Tasmania)

Senator Christopher Ellison (Western Australia)

Senator Jim McKiernan (Western Australia)

Senator Robert Woods (New South Wales)

REPORT

1. On 20 June 1995 the President of the Senate, Senator the Honourable Michael Beahan, received a letter from Ms Yolanda Brooks seeking redress under the resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (Privilege Resolution 5). The letter referred to statements made by Senator Ian Macdonald in the Senate, on 18 November 1993 during discussion of matters of public interest, and on 28 June 1994 during the adjournment debate. The President, having accepted Ms Brooks' letter as a submission for the purposes of the resolution, referred the letter to the Committee of Privileges on 20 June 1995.
2. The Committee met in private session on 22, 26 and 27 June 1995, pursuant to paragraph (3) of Privilege Resolution 5, to consider the submission from Ms Brooks. Ms Brooks' submission was lengthy, and was accompanied by several attachments. In accordance with the requirement of subparagraph (8)(3) of Resolution 5 that a submission must be succinct and strictly relevant to the questions in issue, the Committee made certain modifications to Ms Brooks' response. The response, which the Committee now recommends for incorporation in *Hansard*, has been agreed to by Ms Brooks and the Committee in accordance with Resolution 5(7)b).
3. The Committee recommends:

That a response by Ms Brooks, in the terms specified at Appendix 1, and agreed to by Ms Brooks and the Committee, be incorporated in *Hansard*.

**Baden Teague
Chairman**

**RESPONSE BY MS YOLANDA BROOKS
AGREED TO BY MS BROOKS
AND THE COMMITTEE OF PRIVILEGES
PURSUANT TO RESOLUTION 5(7)(b) OF THE SENATE OF
28 FEBRUARY 1988**

I wish to raise a matter of concern to me in relation to two speeches by Senator Ian Macdonald in the Senate on 18 November 1993 and 28 June 1994.

I wish to seek redress under the Resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (Privilege Resolution 5).

I apologise for not submitting a response earlier but I was not aware that I could do so.

My concerns relate to references by the Senator to the dismissal of the Shire Clerk of the Whitsunday Shire Council in Queensland. The Senator revealed the content of affidavits that are still in the jurisdiction of the courts. The affidavits referred to were filed in the Supreme Court relating to reasons why four councillors moved to terminate my position. The hearing is still pending. The purpose of the court hearing was to determine whether or not my position was terminated for being a "whistleblower".

The following is a brief history of events which are pertinent:

- 1.I was appointed by the Whitsunday Shire Council as Shire Clerk in September 1992, commencing duties on 16 November 1992.
- 2.I was selected from 45 other applicants for the position and I was the only woman applicant.
- 3.I am a qualified Municipal Clerk and have been since 1971. I hold the Clerk's

Certificate for Victoria, New South Wales and Queensland. I am a member of the Institute of Municipal Management, member of the International City Managers Association and hold a Continuing Programme Development Certificate. I have been awarded by the Institute of Municipal Management two overseas study fellowships; one was to study office automation extensively throughout the USA and the other was to study occupational health and safety legislation throughout Australia and New Zealand. I have also studied garbage disposal throughout China with the Australia China Foundation Society.

4.I have held various positions in Local Government since 1971: Chief Administrative Officer, City Accountant for 7 years, Deputy Town Clerk for a period over 11 years; assisted the Chairman of the Local Government Commission in Melbourne in relation to research into feasibility studies of amalgamation proposals of councils, and more recently Shire Clerk and Chief Executive Officer.

My principal employers have been the City of Collingwood in Victoria - 17 years, the Local Government Commission, Victoria - 4 years, the Shire of Narrabri, New South Wales - approximately 2 years, and the Whitsunday Shire Council from November 1992 to the present.

The above is a list of all my employers since commencing my career in local government. My position has never been terminated prior to 12 July 1993.

A brief account of events between 1992 and the present will I believe assist.

Shortly after commencing with the Whitsunday Shire Council I was required to investigate the disappearance of the pecuniary interest register. This investigation included internal investigations and led to police investigations culminating in my alerting the Criminal Justice Commission in my capacity as Shire Clerk. Whilst this matter was ultimately resolved it precipitated the beginning of political, administrative and internal problems which have plagued me ever since.

There has been ongoing and continuing contact with the Criminal Justice Commission (C.J.C.) over a number of matters during my period of employment. The matters which were reported to the C.J.C. all related to pecuniary interest.

The series of events mentioned above culminated in four councillors moving to terminate my position on 12 July 1993. What followed was industrial action, intervention by the Criminal Justice Commission, Minister for Local Government,

the Attorney-General and other legal intervention which is still ongoing.

1. On 18 November 1993 Senator Ian Macdonald said:

"The council voted, for reasons I will not go into, to dismiss the shire clerk because members of the council were not able to work with her, and for other reasons". (Senate *Hansard*, p. 3121)

This comment is damaging to my reputation. This is particularly so when it is read in the context of the speech as a whole.

2. On 28 June 1994 Senator Ian Macdonald again referred to the matter (Senate *Hansard*, pp. 2186-2188).

I do not believe that the Senator's version of the circumstances is an accurate reflection of the situation. The revealing of the content of the affidavits by my opponents prior to the court hearing has been damaging to me personally and professionally. It has been an attempt to prejudice my position but it does not reflect the extraordinary circumstances that existed at work.

The speech on 28 June 1994 has given an opportunity for a local paper to publish the transcript verbatim from *Hansard*. It took two full pages on 6 July 1994, all page 1 and 3. There was also a front page Editorial on 13 July 1994. This exercise is particularly interesting when it is known that one of the persons who gave an affidavit along the lines mentioned was the Editor of the *Whitsunday Times*.

The allegations against me are without basis in fact. The publication of the material has had direct detrimental impact on me.

By making the affidavits of my opponents public it has no doubt affected the public perception of my professional credibility and has done irreparable damage to my future career in local government or indeed any future employment prospects I may have had. The affidavits referred to portray a completely different situation to that which pertained at work, the seniority of my position and the extent and degree of my responsibility as the Shire Clerk.

I have high moral expectations and am an extremely hard working individual. I find the insinuations totally offensive.

Senator Ian Macdonald's remarks in relation to my general competence and unwanted sexual advances were completely unnecessary and unwarranted.

The comment "dispute between elected councillors and the Shire Clerk" implies that there was a problem between "all" councillors and the Shire Clerk. This statement is not true. The Shire Clerk had the support of 5 of 9 councillors and all indoor and outdoor employees, as well as a good part of the community. This was witnessed by "all" employees going on strike etc. Therefore, reference to the "council" when the council was so divided is misleading.

Reference to the campaign of smear and innuendo is exactly what these ex-councillors are doing to me ... the opportunity that Senator Ian Macdonald has given these persons by revealing their affidavits in the Senate pre-empts the decision of the court. Indeed even though the court may find in my favour the adverse, negative publicity has irrevocably damaged my credibility, and caused exceptional private hardship financially, emotionally, physically and socially. The statements by Senator Ian Macdonald are incorrect and the publication of his speech in the local paper, the *Whitsunday Times*, is damaging to my proven reputation as an honest and hard working person.

During the period March 1994 to May 1994 negotiations between council and my solicitors continued in relation to settling outstanding matters. The transcript of the Senator's speech in the *Whitsunday Times* inflamed the situation, new councillors were embarrassed, it tarnished their view and alienated them in some way which was apparent in the manner some of them spoke to me.

In carrying out my duties I did no more or less than any other person in my position was required to do according to law. It is my impression that one reason I was appointed was because certain councillors felt that they could "bully" me to be a "rubber stamp" rather than what was required from a professional Shire Clerk.

In summing up, Senator Ian Macdonald has no personal knowledge of this council's procedures or operations. He does not know me personally, nor has he had discussions with me. He has no direct knowledge of my performance as Shire Clerk. He has relied on biased opinion and secondhand information. No attempt has been made to substantiate the allegations levelled against me mainly by former councillors who were subsequently not elected at the last council elections held in March 1994.

YOLANDA BROOKS