

**House of Representatives  
Committee of Privileges**

**Report on whether misleading evidence  
was given to the Standing Committee on  
Finance and Public Administration  
on 30 April 1991**

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**MEMBERS OF THE COMMITTEE**

**MR G GEAR, MP (CHAIRMAN)**

**# MR P H COSTELLO, MP (DEPUTY CHAIRMAN)**

**HON J A CROSIO, MBE, MP**

**HON J D M DOBIE, MP**

**DR H R EDWARDS, MP**

**\* MR M H LAVARCH, MP**

**MR G T JOHNS, MP**

**MR P J McGAURAN, MP**

**MR P K REITH, MP**

**MR J H SNOW, MP**

**HON W E SNOWDON, MP**

**# (Mr Costello was Acting Chairman of the Committee during the conduct of the inquiry)**

**\* (Nominee of the Leader of the House)**



1. On 10 September 1991, Mr A J G Downer, MP, raised, as a matter of privilege, the question of whether Mr S Paddison of the State Bank of South Australia had misled the Standing Committee on Finance and Public Administration in giving evidence to the committee on 30 April. A copy of the *Hansard* record of Mr Downer's statement in raising the matter is at Attachment A.
  
2. Mr Speaker considered Mr Downer's complaint and reported to the House on it on 11 September. Mr Speaker stated that, having considered the matter and having examined material provided to him by Mr Downer, he was satisfied that a *prima facie* case existed such as would warrant precedence being granted to a motion in respect of the matter. Mr Downer then moved the following motion, which was agreed to by the House:

That the House refer to the Committee of Privileges the question of whether Mr Stephen Paddison of the State Bank of South Australia misled the Standing Committee on Finance and Public Administration in an answer given to the Committee on 30 April this year in response to a question about non-performing loans and losses by the bank.

A copy of the *Hansard* record of the Speaker's statement is at Attachment B.

### Conduct of inquiry

3. The committee wrote to Mr Downer inviting him to present a written submission in support of the complaint he had raised, with attachments containing the material on which he relied in complaining that evidence given by Mr Paddison had been misleading. A copy of the submission received from Mr Downer is at Attachment C. The committee also received written advice from the Secretary of the Standing Committee on Finance and Public Administration, who provided a copy of the transcript of evidence taken by that committee on 30 April, together with a supplementary statement submitted to his committee on behalf of the bank on 30 April, and other papers.

4. Having considered the written material before it, the committee resolved that Mr Paddison should be invited to give oral evidence on the matter. The committee made available to Mr Paddison the *Hansard* record of proceedings on the issue in the House on 10 and 11 September, and it published to him the submission, with attachments, received from Mr Downer.
5. Unfortunately it was not possible for evidence to be heard from Mr Paddison until 7 November. When Mr Paddison gave evidence to the committee, he was assisted by Mr N Bertram, a solicitor with the bank.
6. At the commencement of his appearance, Mr Paddison presented a statement to the committee, and a copy of this statement is at Attachment D.
7. As the committee saw it, the key issue for determination was whether Mr Paddison had misled the committee in his answer to Mr Downer's question:

On page 4 of your supplementary statement, you referred to the fact that:

it is likely a much fuller internal and public analysis of the Bank's bad and doubtful debt situation has and is taking place than for any publicly listed bank.

In the light of that analysis - and I guess it is not complete by the wording of that statement - is that publicly stated figure of \$2.5 billion worth of non-performing loans and approximately \$1 billion lost by the bank still applicable....?

8. Mr Paddison had answered in the following terms:

Firstly, as I think I commented earlier, I believe that any official confirmation of our loan projections is most appropriately carried out in the context of our full year results - a formal announcement by our board and our shareholder. So I will not comment on that. I did comment that I thought that we were feeling fairly comfortable with our assessment procedures in an environment such as we have now. If you were plus or minus 10 per cent, I think that you would feel that you had done a pretty reasonable job of estimation, and we are certainly within those parameters. . . .

9. The concern that Mr Paddison's answer may have been misleading arose from information contained in a copy of a confidential memorandum signed by the State Bank's General Manager, a Mr Guille, and dated 21 March 1991. Mr Downer provided an edited copy of this memorandum to the Committee of Privileges, and the authenticity of this document was subsequently confirmed by Mr Paddison. An attachment to the memorandum showed that the management of the bank projected Non-Productive Accounts to reach \$3.48 billion by December 1992 and potential losses to reach \$1.3 billion by that date. The essence of the complaint was that it was reasonable to presume that Mr Paddison, as a senior officer of the bank, would have known of Mr Guille's memorandum of 21 March and the projections attached to it when he gave evidence to the Finance and Public Administration Committee on 30 April. Mr Paddison confirmed to the committee that he was so aware.

10. In his evidence to the Committee of Privileges, Mr Paddison stated, inter alia:

I express regret that the answer which I gave to Mr Downer's question has resulted in his forming the view that I misled the Standing Committee. It was not my intention to mislead the Standing Committee or any person who heard or read my evidence.

With the advantage of time to reflect, I acknowledge that the clarity of my evidence has been compromised by the qualifying comment following my assertion that I did not wish to comment on Mr Downer's question (the plus or minus 10% variance comment). In this regard I was trying to convey the impression that our loan losses assessment procedures were still regarded as essentially accurate.

I acknowledge that my evidence would have been enhanced by an explanation of the significance of the particular figures referred to by Mr Downer MHR - i.e. the net figures of \$2.5 b and the net present value loss of \$1.0 b. I apologise for not recognising at the time the desirability of ensuring such clarity.

and later

...My comment was meant as reassurance that our loan assessment procedures were still regarded as accurate.

11. Mr Paddison stated that the variance between the figures quoted to him by Mr Downer, and contained in a press release issued by the bank on 10 February, and those quoted in the attachment to the memorandum provided to the Board by Mr Guille was explained by the fact that the figures quoted by Mr Downer were net figures, whereas the figures quoted from the 21 March memorandum to the Board were gross figures. Mr Paddison stated, inter alia, that—

the figures referred to in the announcement on 10 February 1991 that 'non-accrual loans .... could reach \$2.5b' and 'losses are estimated to be in the order of \$1b' were net figures, that the non-accrual loan figures took into account allowances for write-offs and recoveries and the loss figures were calculated on a net present value basis, and that the gross figures available at that time were naturally higher;

it was his belief as at 30 April that the net figure for projected non-accrual loans was within  $\pm 10\%$  of \$2.5b and that the net present value of likely losses was within  $\pm 10\%$  of \$1b but that, despite this belief this was not the intent of his comment, which was meant, he said, as reassurance that the bank's loan assessment procedures were still regarded as accurate; and

he did not regard Mr Downer's questions as inviting him to advise of gross figures, and that he understood Mr Downer to be concerned with the accuracy of the figures to which he drew attention (which in Mr Paddison's terms were net figures).

12. The committee examined Mr Paddison thoroughly on this matter. It does consider that Mr Paddison's answer to Mr Downer's question was somewhat ambiguous. Nevertheless the Committee has concluded that Mr Paddison did not intend to mislead the Standing Committee on Finance and Public Administration in his answer to Mr Downer.



**Finding**

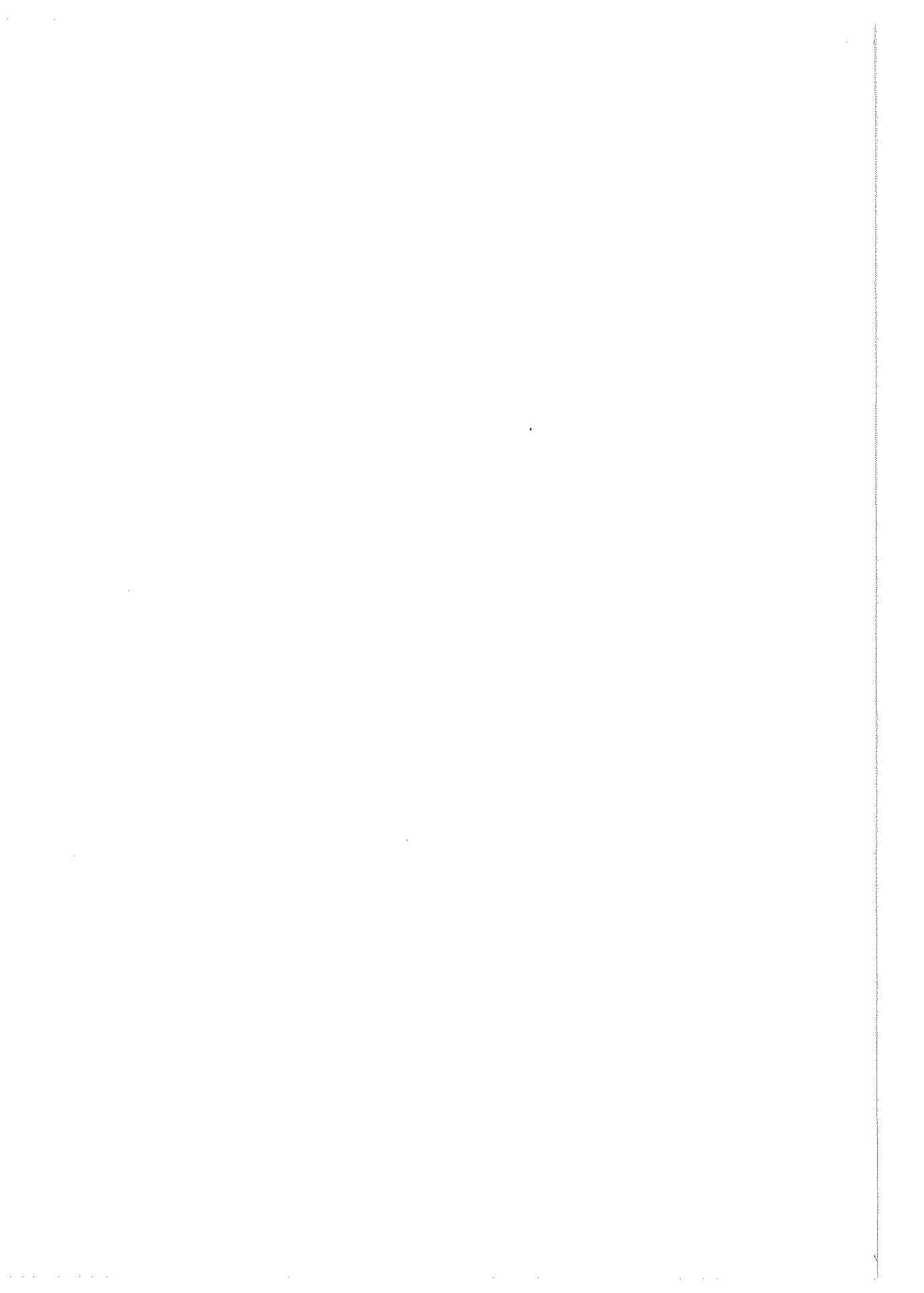
13. The committee finds that no contempt was committed by Mr Paddison in his evidence to the Standing Committee on Finance and Public Administration on 30 April.

**Recommendation**

14. In view of its finding, the committee recommends that the House take no further action on this matter.

**P H COSTELLO**  
**Acting Chairman**

**14 November 1991**



**PRIVILEGE**

**Mr DOWNER (Mayo)**--Mr Speaker, I wish to raise with you a matter of privilege. On 30 April this year Mr Stephen Paddison, the then Chief Executive of the State Bank of South Australia, appeared before the House of Representatives Standing Committee on Finance and Public Administration, which is colloquially known as the banking inquiry, to give evidence in relation to the affairs of that bank. In the course of the hearing I asked Mr Paddison the following question:

. . . is that publicly stated figure of \$2.5 billion worth of non-performing loans and approximately \$1 billion lost by the bank still applicable?

In the course of his reply, Mr Paddison said: If you were plus or minus 10 per cent, I think that you would feel you had done a pretty reasonable job of estimation, and we are certainly within those parameters.

I obtained today a confidential memorandum signed by the Bank's General Manager, Mr Guille, which was dated 21 March 1991--over one month before Mr Paddison's appearance before the Committee. That memorandum states in its summary that the recent growth of non-productive items, together with forecasts, was summarised in attachment 1. Attachment 1 contains a table which shows that as at 28 February this year the management of the State Bank of South Australia projected non-performing loans to reach \$3.48 billion by December 1992 and its losses to reach \$1.3 billion by that same date. This information clearly suggests that Mr Paddison misled a committee of this Parliament on 30 April of this year. Mr Speaker, I ask whether you would consider the matter with a view to my moving a motion to refer it to the Committee of Privileges.

**Mr SPEAKER**--I will give consideration to the matter and I will report back to the House, hopefully at a later hour today.

**Mr Hand**--These committees are a nonsense. They are a waste of taxpayers' money.

**Mr SPEAKER**--Order! I ask the Minister for Immigration, Local Government and Ethnic Affairs not to interject.

**PRIVILEGE**

Mr SPEAKER—Yesterday the honourable member for Mayo (Mr Downer) raised, as a matter of privilege, the question of whether a witness to the Standing Committee on Finance and Public Administration may have misled that Committee. The essence of the honourable member's complaint was that a Mr Paddison, a senior executive of the State Bank of South Australia, had given a certain response to a question about non-performing loans and possible bank losses when appearing before the Committee on 30 April. The honourable member said that he had since received a document which indicated that, well before the evidence in question was given to the Committee, substantially higher estimates of non-performing loans and possible bank losses had been prepared at a senior level within the bank and notified to the bank's board.

The honourable member has since made available to me a copy of a chart he received which he felt substantiated his concern that the Committee may have been misled. Whilst I have no means of knowing the authenticity of the document or the validity of any of the statements that have been made, on its face the document does appear to reveal a discrepancy between the response given by Mr Paddison on 30 April and projections on the same matters apparently known at senior levels within the bank.

Whilst I would normally ask the Committee to consider the matter itself, I think at this stage the House might deal with it. Misleading a committee is certainly a traditional category of contempt and on the information available to me, although it is not a completely clear cut matter, I am prepared to accord precedence to a motion in respect of the matter raised by the honourable member for Mayo.

Motion (by Mr Downer) agreed to:

That the House refer to the Committee of Privileges the question of whether Mr Stephen Paddison of the State Bank of South Australia misled the Standing Committee on Finance and Public Administration in an answer given to the Committee on 30 April this year in response to a question about non-performing loans and losses by the bank.

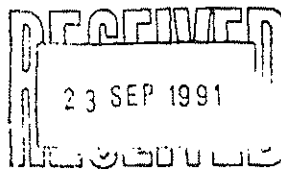


PARLIAMENT OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

P.O. BOX 535  
MOUNT BARKER, S.A. 5251  
TEL. (08) 391 0880  
FAX. (08) 391 0097

ALEXANDER DOWNER, M.P.  
FEDERAL MEMBER FOR MAYO  
SHADOW MINISTER FOR TRADE  
AND TRADE NEGOTIATIONS

18 September 1991



Mr P H Costello MP  
Acting Chairman  
House of Representatives Committee  
of Privileges  
Parliament House  
CANBERRA 2600

Dear Mr Costello,

I refer to your letter of 12 September 1991 in which you asked for a written submission to support the complaint I raised in the House of Representatives on 10 September concerning evidence Mr Stephen Paddison of the State Bank of South Australia gave to the Standing Committee on Finance and Public Administration.

Mr Paddison appeared before the Committee on 30 April 1991 in Adelaide. At that hearing I asked Mr Paddison:-

"On page 4 of your supplementary statement, you referred to the fact that:

It is likely a much fuller internal and public analysis of the Bank's bad and doubtful debt situation has and is taking place than for any publicly listed bank.

In the light of that analysis - and I guess it is not complete by the wording of that statement - is that publicly stated figure of \$2.5 billion worth of non-performing loans and approximately \$1 billion lost by the bank still applicable? Or, as a result of this analysis, have you begun to reassess those figures? And on page 11 you refer to the fact that you are repaying the indemnity to the South Australian taxpayers at some time in the future. At this stage, do you have any sense of when you will be repaying that money to the taxpayers?

Mr Paddison - Firstly, as I think I commented earlier, I believe that any official confirmation of our loan projections is most appropriately carried out in the context of our full year results - a formal announcement

by our board and our shareholder. So I will not comment on that. I did comment that I thought that we were feeling fairly comfortable with our assessment procedures in an environment such as we have now. If you were plus or minus 10 per cent, I think that you would feel that you had done a pretty reasonable job of estimation, and we are certainly within those parameters. In terms of your latter comment, I just missed the last point."

It is clear that Mr Paddison's answer to my question about the size of the non-performing loans and losses of the Bank was that "...if you were plus or minus 10 per cent, I think that you would feel that you had done a pretty reasonable job of estimation, and we are certainly within those parameters".

However, in a memorandum to the Board of Directors dated 21 March 1991 - that was over one month before Mr Paddison appeared before the Committee - the State Bank's General Manager, Mr C W Guille, estimated that the losses of the Bank would reach \$1.3 billion by December 1992 and that its non-productive loans would reach \$3.4 billion by that same date.

For the Committee's consideration, I attach a copy of that document from which I have exorcised the names of those companies which have non-productive accounts and which are in financial difficulties. I have taken the names of those companies out of the document in the interest of commercial confidentiality.

The existence of this document was reported in the Adelaide Advertiser of 31 August 1991 and I attach the appropriate article.

As Mr Paddison was the Chief Executive of the State Bank at the time of his appearance before the Parliamentary Committee it is very hard to believe he had no knowledge of a minute from his own Bank to the Board of Directors just six weeks earlier.

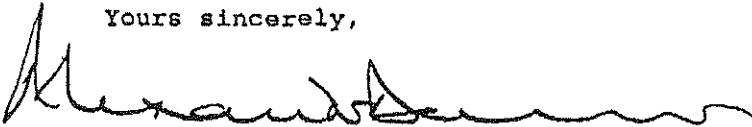
It is also clear from my question to Mr Paddison of 30 April 1991 that I was interested in the likely ceiling of the State Bank's non-productive loans and its losses, not a month by month running analysis of losses and non-performing loans so far accumulated.

My question to Mr Paddison referred to the Supplementary Submission by the State Bank to the Committee and I quoted from page four. That Supplementary Submission refers on page

four to the "...prospective losses..." of the Bank and to the indemnity package against "future losses". The 10 February statement by the Bank which is referred to in the supplementary statement (and a copy of which I enclose) also relates to "potential losses of the State Bank Group" and uses the figures Mr Paddison subsequently quoted to the Committee.

From my reading of the appropriate documents I believe Mr Paddison misled the House of Representatives Standing Committee on Finance and Public Administration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alexander Downer', written in a cursive style. The signature is positioned above a horizontal line.

ALEXANDER DOWNER

AD:WA

Attachments not included in printed report





COMMITTEE OF PRIVILEGES  
HOUSE OF REPRESENTATIVES

SUBMISSION OF STEPHEN GARTH PADDISON - CHIEF OPERATING OFFICER  
STATE BANK OF SOUTH AUSTRALIA OF 97 KING WILLIAM STREET  
ADELAIDE


SOUTH AUSTRALIA

1. I acknowledge that the Hansard report of the Proceedings of the House of Representatives on the 10th September 1991 accurately reports the question put to me by Mr. Downer MHR and my answer at the hearing of the Standing Committee into Finance and Administration on the 30th April 1991.
2. I acknowledge that an interpretation of my answer is as suggested by Mr. Downer MHR - i.e. that the figures of \$2.5b and \$1.0b announced by the State Bank of South Australia on 10th February 1991 were still regarded as correct within  $\pm 10\%$  as at the date of giving evidence being the 30th April 1991.
3. I agree that the document referred to by Mr. Downer MHR in his written submission to this Committee:-
  - (a) is a copy of a paper dated 21st March 1991 presented to the Board of Directors of the State Bank of South Australia at its meeting on 28th March 1991;
  - (b) accurately reflects the state of knowledge within the State Bank of South Australia as at March 1991 with respect to the gross level of the State Bank of South Australia Group's non-productive items as at 28th February 1991;
  - (c) came to my attention prior to 30th April 1991, the day upon which I gave evidence before the Standing Committee on Finance and Public Administration.
4. I express regret that the answer which I gave to Mr. Downer's question has resulted in his forming the view that I misled the Standing Committee. It was not my intention to mislead the Standing Committee or any person who heard or read my evidence.

With the advantage of time to reflect, I acknowledge that the clarity of my evidence has been compromised by the qualifying comment following my assertion that I did not wish to comment on Mr. Downer's question (the plus or minus 10% variance comment). In this regard I was trying to convey the impression that our loan loss assessment procedures were still regarded as essentially accurate.

5. I acknowledge that my evidence would have been enhanced by an explanation of the significance of the particular figures referred to by Mr. Downer MHR - i.e. the net figures of \$2.5b and the net present value loss of \$1.0b. I apologise for not recognising at the time the desirability of ensuring such clarity.
6. The explanation for the variance between Gross and Net non-accrual and loan loss figures in the context of Mr. Downer's question is as follows:-
- (a) calculations of the State Bank of South Australia Group's non-performing loans (non-producing items) and of its likely losses have at various times been calculated as gross figures and/or as net figures.
  - (b) the figures referred to in the announcement by the Chairman of the Board of Directors of the State Bank of South Australia on 10th February 1991 that "non-accrual loans .....could reach \$2.5b" and "losses are estimated to be in the order of \$1b" were net figures. The non-accrual loan figures took into account allowances for write-offs and recoveries and the loss figures were calculated on a net present value basis. The gross figures available at that time, which have never been made public, were naturally higher.
  - (c) it was my belief as at 30 April 1991:-
    - . that the net figure for projected non-accrual loans of the State Bank of South Australia was within  $\pm$  10% of \$2.5b; and
    - . that the net present value of the likely losses of the State Bank of South Australia Group was within  $\pm$  10% of \$1.0b.I stress that despite this belief this was not the intent of my comment. My comment was meant as reassurance that our loan assessment procedures were still regarded as accurate.
  - (d) I did not regard Mr. Downer's questions as inviting me to advise the Standing Committee of the gross figures with respect to projected non-accrual loans and likely losses. I understood him to be concerned with the accuracy of the figures to which he drew my attention, namely the net figures of \$2.5b and \$1.0b.

- (e) The figures referred to in the State Bank of South Australia Board Paper dated 21 March 1991 referred to by Mr. Downer MHR are gross figures and thus not comparable to the figures announced by the Chairman of Directors of the Bank on 10th February 1991.



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STEPHEN GARTH PADDISON  
6th November 1991.



**INQUIRY CONCERNING EVIDENCE GIVEN TO THE STANDING  
COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION**

**Memorandum by the Clerk of the House of Representatives**

**THE REFERENCE**

On 11 September 1991 the House agreed to the following motion:

That the House refer to the Committee of Privileges the question of whether Mr Stephen Paddison of the State Bank of South Australia misled the Standing Committee on Finance and Public Administration in an answer given to the Committee on 30 April this year in response to a question about non-performing loans and losses by the Bank.

The matter was raised in the House on 10 September by Mr Downer who stated that on 30 April during the course of evidence being taken by the Standing Committee on Finance and Public Administration he (Mr Downer) had asked Mr Paddison "...is that publicly stated figure of \$2.5 billion worth of non-performing loans and approximately \$1 billion lost by the Bank still applicable?" Mr Downer said that in the course of his reply Mr Paddison had said "If you were plus or minus ten per cent, I think that you would feel you had done a pretty reasonable job of estimation, and we are certainly within those parameters".

Mr Downer went on to say that he had obtained a confidential memorandum signed by the Bank's General Manager, a Mr Guille, which was dated 21 March 1991. Mr Downer said "That memorandum states in its summary that the recent growth of non-productive items, together with forecasts was summarised in Attachment 1. Attachment 1 contains a table which shows that as at 28 February this year the management of the State Bank of South Australia projected non-performing loans to reach \$3.48 billion by December 1992 and its losses to reach \$1.3 billion by that same date". Mr Downer said that the information clearly suggested that Mr Paddison had misled the committee on 30 April. The full text of Mr Downer's remarks is at attachment A.

Mr Speaker responded to the matter on 11 September stating that Mr Downer had made available to him a copy of the chart to which he had referred. The Speaker said that whilst he had no means of knowing the authenticity of the document or the validity of any of the statements, on its face the document did appear to reveal a discrepancy. The Speaker said that misleading a committee was certainly a traditional category of contempt and that, although the matter was not a completely clear-cut one, he was prepared to accord precedence to a motion. The full text of Mr Speaker's statement is at attachment B.

## GENERAL LAW RELATING TO PRIVILEGE AND CONTEMPT

A detailed explanation of the law and practice of the House relating to privilege and contempt is set out in House of Representatives Practice<sup>1</sup>. A definition of contempt is given which makes it clear that actions which may not breach a particular privilege or immunity may still be punished as contempts<sup>2</sup>. More information on this point is set out at pages 701-3 of House of Representatives Practice<sup>3</sup>.

It is noted that section 4 of the Parliamentary Privileges Act 1987 provides

"Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a Member of the Member's duties as a Member."<sup>4</sup>

In effect this provision sets a threshold: to be a contempt an action must amount or be intended or likely to amount to improper interference with the free exercise by a House or committee of its authority or functions etc.

## PARTICULAR REFERENCES RELEVANT TO THE PRESENT REFERENCE

Amongst the matters listed as contempts in House of Representatives Practice are the following:

- . giving false evidence and;
- . persistently misleading a committee.<sup>5</sup>

May states:

Witnesses who have .... prevaricated, given false evidence, wilfully suppressed the truth or persistently misled a committee have been considered guilty of contempt<sup>6</sup>.

## PRECEDENTS

### Senate

In recent years, the Senate Committee of Privileges has reported on three matters of a similar nature to the present case.

### 14th Report from the Senate Committee of Privileges

In February 1989 the Senate's Committee of Privileges reported on a reference as

to whether false or misleading evidence had been given to an Estimates Committee in relation to the attendance in Canberra on 1 and 2 September 1988 of three persons and whether in relation to the appearance of those persons before the Select Committee on the Administration of Aboriginal Affairs, there had been an attempt to manipulate the evidence laid before the Select Committee. Estimates Committee E had been told, in response to a question as to whether these persons had been brought to Canberra to prepare or present evidence to the Select Committee on the Administration of Aboriginal Affairs, that they had not and that they had been brought to Canberra for consultations with the Secretary. In the event however the officers did give evidence to the Select Committee and the Committee of Privileges was asked to investigate whether false information had been given to the Estimates Committee.

The Committee of Privileges received submissions on the matter and found no evidence that the three representatives had come to Canberra for purposes other than those stated in evidence to the Estimates Committee. It therefore found that no false or misleading evidence was given to Estimates Committee A, and that there had been no attempt to manipulate the evidence laid before the committee.<sup>7</sup>

#### 15th Report from the Senate Committee of Privileges

In March 1989 the Committee of Privileges reported on whether false or misleading evidence had been given by a public servant to an Estimates Committee in relation to the Department of Defence project known as Project Parakeet. In a submission to the Committee of Privileges the officer in question said that the discussions of the project with the Estimates Committee were of a "partial nature so as not to pre-empt Ministers". He did not believe that false or misleading evidence had been given (as opposed to the paraphrasing by others of what he had said) and said that if Senators were misled, it was certainly not deliberate on his part, and he apologised for any deficiencies in the phrasing of his responses which did not make the position sufficiently clear. The Committee of Privileges concluded that "technically" the evidence that had been given to the Estimates Committee was correct, although it said that it would have been more helpful to the Senators concerned if the particular officer had been more forthcoming in answering the questions put to him.

The committee concluded that there was no intention to give any false or misleading evidence to the Estimates Committee and that therefore no contempt of the Senate had been committed.<sup>8</sup>

#### 26th Report from the Senate Committee of Privileges

In its 26th report in November 1990 the committee dealt with the question of whether evidence given to Estimates Committee B in regard to asbestos in RAN ships had been misleading.

In this case additional information was provided by the Department of Defence in response to questions asked by a Senator in an Estimates Committee hearing, and it was later claimed that by failing to refer to certain earlier information held by the Navy on the dangers of asbestos, the answer provided had tended to give a false

impression. The Committee of Privileges received written submissions on this matter and ascertained that the officer who had provided the information in question had been required to do so at very short notice and that, at the time of preparing the material, he did not have personal knowledge of the existence of the earlier documents. The Committee of Privileges accepted that the reply drafted by the officer was accurate to the best of his knowledge and belief at the time. The Committee concluded that the officer did not know, and in the circumstances could not reasonably have known, of the existence of the additional material. It concluded that no contempt had been committed in the matter.<sup>9</sup>

## House of Commons

### Select Committee on Abortion (Amendment) Bill

In April 1983 the House of Commons Committee of Privileges reported on a case involving a Mr M Litchfield and a Ms S Kentish who had given evidence in 1975 to a Select Committee on the Abortion (Amendment) Bill. Mr Litchfield and Ms Kentish were the authors of a book "Babies for Burning" and in their evidence to the Select Committee they gave certain answers as to statements made in their book. Several years later a Mr Pond, who was mentioned in the book and in the evidence, sued Mr Litchfield and Ms Kentish for libel, and was successful. Apparently Mr Litchfield and Ms Kentish had relied on a defence of justification. The matter was then raised in the House, it being claimed that the outcome of the court case proved that false or misleading evidence had been given to the Select Committee. The Committee of Privileges noted that, although the subject matter before the Select Committee was the same as that dealt with in the court case, it was not demonstrable beyond doubt that the facts with which the court was concerned were precisely those on which the defendants had answered questions before the Select Committee. The Committee felt that it was unrealistic to embark on a full review of the evidence that had been given in 1975. Accordingly the Committee decided that, subject to any further instructions from the House, it would be inappropriate to proceed any further.<sup>10</sup>

### Allighan case

In 1947 the House of Commons dealt with the case of Mr Garry Allighan, MP. Mr Allighan had published newspaper articles containing serious allegations to the effect that Members 'sold' reports of party room meetings, and the matter was referred to the Committee of Privileges. The Committee eventually discovered that Mr Allighan himself had been selling reports of party room meetings, and that he had misled the Committee in his evidence. This was reported to the House which eventually resolved that Mr Allighan "in persistently misleading the Committee of Privileges in his evidence ... has committed a grave contempt of this House in disregard of the Resolution ... That if it shall appear that any person hath given false evidence in any case before this House, or any committee thereof, this House will proceed with the utmost severity against such offender". Mr Allighan was expelled from the House.<sup>11</sup>



## THE TASK BEFORE THE COMMITTEE

As I see it, the Committee would first need to satisfy itself as to the facts in this matter. Presumably this would involve examining the record of the evidence given by Mr Paddison to the Committee, and comparing this with whatever other material has been relied upon to claim that Mr Paddison gave misleading evidence. Having gone as far as it can in seeking to ascertain the facts the Committee would then need to reach some conclusions as to the matter. It would presumably consider the question of intent, although I note that the terms of section 4 of the *Parliamentary Privileges Act 1987* make it clear that it is not technically necessary to establish an intent to cause improper interference, it would be sufficient, at least in terms of the Act, to establish that certain conduct amounted or was intended or likely to amount to improper interference. Nevertheless regard would usually be had to intent.

In discharging its responsibilities the committee has substantial powers. In the first place, by virtue of section 49 of the Constitution, the UK Parliamentary Witnesses' Oaths Act 1871 applies. That Act enabled committees of the House of Commons to administer oaths to witnesses and that power is enjoyed by the Committee of Privileges.

Secondly, the committee has power to "send for persons, papers and records" - that is, it has the power to compel the attendance of witnesses and the production of documents. These powers are backed by the authority of the House itself.

Committees of Privileges both in the UK and Australia have, as well as making findings on particular complaints, made recommendations to the House as to what action it might take.

Examples of findings and recommendations have included -

- . that no contempt or breach is involved;
- . that the dignity of the House is best maintained by taking no action;
- . that the matter could constitute a contempt but it is inconsistent with the dignity of the House to take action;
- . that a technical contempt had been committed but further action would give added publicity and be inconsistent with the dignity of the House;
- . that, in the circumstances, a finding that a contempt had been committed should not be made;
- . that a contempt of the House had been committed but, in view of the (humble) apology tendered, no further action is recommended;
- . that although it would be open to find that a contempt had been committed, in the circumstances and having regard to ..... such a finding should not be made;

that a contempt of the House had been committed but the matter was not worthy of occupying the further time of the House;

that a serious contempt (breach) has been committed and the House should .....

There is nothing binding about this list, and the committee may express its findings and any recommendations as it chooses.

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## NOTES

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1. House of Representatives Practice (2nd edition), AGPS, Canberra 1989 (chapter 19).
2. Op cit pp. 686-7.
3. Op cit pp. 701-3.
4. Act No. 21 of 1987.
5. House of Representatives Practice, p. 665.
6. May's Parliamentary Practice, 21st edition, Butterworths, London, 1989, p. 116.
7. PP 461, 1989.
8. PP 461, 1989.
9. PP 438, 1990.
10. H.C. 336, 1982-83.
11. H.C. 138, 1947.

Attachments not included in printed report

COMMITTEE OF PRIVILEGES  
MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Thursday, 12 September 1991

PRESENT:

Mr Costello  
Mr Johns  
Mr Lavarch

Mr McGauran  
Mr Snowdon

The meeting opened at 12.22pm.

The Secretary advised the committee of the absence of the Chairman, Mr Gear. On the motion of Mr McGauran, Mr Costello was elected as Acting Chairman of the Committee.

The minutes of the meeting held on 20 June 1991 were confirmed.

The Acting Chairman presented the following papers:

- (a) a letter dated 12 September from Mr Beazley nominating Mr Lavarch to serve on the committee during the inquiry into the matter referred to it on 11 September;
- (b) extracts from the Votes and Proceedings Nos 85 and 86 dated Tuesday 10 and Wednesday 11 September 1991 respectively concerning a complaint raised by Mr Downer of possible misleading evidence given to the Standing Committee on Finance and Public Administration.

The committee deliberated.

Resolved (on the motion of Mr Lavarch) - That Mr Downer be invited to present a written submission to the committee in connection with his complaint with attachments on which he relies in complaining that evidence given to the Standing Committee on Finance and Public Administration by Mr Paddison was misleading.

The committee adjourned at 12.32 pm until 12.15pm on Thursday 10 October 1991.

Confirmed.

ACTING CHAIRMAN

COMMITTEE OF PRIVILEGES  
MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Thursday, 10 October 1991

PRESENT:

Mr Costello (Acting Chairman)	
Mr Dobie	Mr McGauran
Mr Lavarch	Mr Snow

The meeting opened at 12.17pm.

The minutes of the meeting held on 12 September 1991 were confirmed.

The Acting Chairman presented the following papers:

- (a) a letter dated 18 September from Mr A J Downer, MP (with attachments);
- (b) a letter dated 17 September from Mr D Elder, Secretary, House of Representatives Standing Committee on Finance and Public Administration (with attachments);
- (c) a memorandum from the Clerk of the House.

Resolved (on the motion of Mr Dobie) - That the letter from Mr Downer, with attachments, and the letter from Mr Elder, with attachments, be received as evidence.

The Committee deliberated.

Resolved (on the motion of Mr McGauran) - That the Committee authorises the publication to Mr Paddison of the material received from Mr Downer.

Mr McGauran moved - That Mr Paddison be invited to appear before the Committee.

Question-put.

The Committee divided.

Ayes, 2

Mr Dobie  
Mr McGauran

Noes, 2

Mr Lavarch  
Mr Snow

The number for the "Ayes" and the "Noes" being equal, the Acting Chairman stated that he would give his casting vote for the "Ayes" - and so it was resolved in the affirmative.

The Committee deliberated.

The committee adjourned at 12.44 pm until 12.15pm on Thursday 17 October 1991 or such other time as may be notified.

Confirmed.

ACTING CHAIRMAN

COMMITTEE OF PRIVILEGES  
MINUTES OF PROCEEDINGS

Parliament House - Canberra  
Thursday, 7 November 1991

PRESENT:

Mr Costello (Acting Chairman)	
Mrs Crosio	Mr McGauran
Mr Dobie	Mr Snow
Mr Lavarch	Mr Snowdon

The meeting opened at 12.15pm.

The minutes of the meeting held on 10 October 1991 were confirmed.

The committee deliberated.

Resolved (on the motion of Mr McGauran) - That today's hearing of the committee be conducted in camera.

Mr Stephen Garth Paddison, Chief Operating Officer, State Bank of South Australia, 97 King William Street, Adelaide, South Australia (advised by Mr Neal Bertram, solicitor) was called and made an affirmation.

Mr Paddison presented a document 'Submission of Stephen Garth Paddison - Chief Operating Officer, State Bank of South Australia of 97 King William Street, Adelaide'.

The witness was examined.

The witness withdrew.

Resolved (on the motion of Mr Snowdon) - That the document presented by Mr Paddison and the evidence taken this day be received as evidence.

The Committee deliberated.

The committee adjourned at 1.05 pm until 12.15pm on Thursday 14 November 1991.

Confirmed.

ACTING CHAIRMAN



