

A summary of an inquiry into a Member deliberately misleading the House in the House of Representatives of Parliament of Australia

Craig THOMSON, a former Member of the House was accused of misleading the House in the course of a statement to the House on 21 May 2012 in relation to an allegation of theft. On 22 May 2012, the House agreed to a motion to refer this matter to the Standing Committee of Privileges and Members' Interests. During the period between the referral and the release of the investigation report, THOMSON was charged with criminal matters and involved in the related court proceedings.¹

2. According to the inquiry report released in 2016, the Standing Committee relied on the test adopted by the House of Representatives of New Zealand to ascertain if THOMSON had misled. On the question of whether the statement made by THOMSON was factually incorrect, the Standing Committee, drawing reference to the court findings, concluded that the statement was at odds with the findings of the court. On the question of whether THOMSON knew his statement was misleading and he intended to mislead, the Standing Committee considered that: (a) he expressly sought to address the House; (b) he had personal knowledge of the matters he raised; (c) he made the statement in a situation of formality; and (d) he had a significant period of time whether to make a statement and to consider his words. As a result, the Standing Committee was of the view that "in cases of such a formal and deliberate character, a presumption of an intention to mislead the House will more readily arise". The Standing Committee also found no available evidence to rebut such a presumption.

3. Having concluded that THOMSON did mislead the House in his statement, the Standing Committee moved on to establish if the action satisfied the test on contempt as stated in the Parliamentary Privileges Act 1987, i.e. "whether it amounts or is likely to amount to an improper interference with the free exercise by a House of its authority or functions". The Standing Committee was of the view that "the making of misleading statements by a member of Parliament tends to obstruct the House in the performance of its functions by diminishing the respect due to the House", and "the circumstances of the case would be likely to amount to an improper interference with the

¹ The Standing Committee suspended its inquiry on 14 February 2013, after THOMSON was charged with a number of criminal matters including theft from a trade union for which he served as a secretary between 2002 and 2007. The inquiry lapsed on 5 August 2013 after the term of the Parliament ended. The matter was referred to the Standing Committee again following a court ruling which convicted THOMSON of a number of theft charges in February 2014. The judicial proceedings of the case came to an end on 18 December 2014.

House's exercise of its authority and functions, and thereby constitutes a contempt of the House".²

4. The Standing Committee made two recommendations to the House, after considering the principle that the power to hold a person contempt should be exercised "as sparingly as possible" and that THOMSON had undergone difficult personal situations over a sustained period. The recommendations were (a) finding THOMSON guilty of a contempt and (b) recommending a reprimand for his conduct. The House resolved its agreement to the recommendations of the Standing Committee on 4 May 2016. The reprimand was delivered by way of a personal letter addressed to THOMSON, and signed by the Clerk.

² See page 16 of the investigation report (https://www.aph.gov.au/Parliamentary_Business/Committees/House/Privileges_and_Members_Interests/Completed_inquiries/44) (English version only).