



PAC-R-318

**Correspondence 3.5
Meeting – 23/02/2012**

Mr. John McGuinness,
Chairman,
Committee of Public Accounts,
Leinster House,
Dublin 2

Date: 15th February 2012

Re:- Your request for a note on the Cally appeal to the Supreme Court

Dear Chairman,

I refer to the above and to yours of the 17th inst and note the contents of same.

The Committee on Procedure and Privileges, on behalf of Seanad Éireann, decided on the 26th of January 2011 on foot of legal advice that this matter should be appealed to the Supreme Court.

Summarising what is a very detailed judgment, the decision of the High Court ended what was previously interpreted in judicial comments (though not authoritatively ruled upon) as a distinction between matters concerning the disciplining of Members of the Oireachtas (i.e. previously generally interpreted as being non-justiciable) on the one hand and the situation where decisions affected third parties or non-members of the Oireachtas (i.e. generally interpreted as being justiciable) on the other.

Notwithstanding the apparent persuasive value of these previous judicial comments, the High Court examined the issues raised in former Senator Cally's legal challenge from first principles and decided *inter alia* on the important justiciability (jurisdictional) question that Article 15.10 of the Constitution did not prevent the intervention of the High Court.

An appeal was lodged with the Supreme Court Office on the 23rd of February 2011 and the Supreme Court Office has indicated that it will be approximately mid 2014 before this matter is heard.

Thus it is the Select Committee of Members' Interests of Seanad Éireann and the Committee on Procedure and Privileges of Seanad Éireann that deal with the appeal and matters arising from same.

Yours sincerely.

Senator Paddy Burke
Chairman
Committee on Procedure and Privileges

