

**THE CLIFFE — LETTER FROM CORRUPTION AND CRIME COMMISSIONER
REFERRING COMPLAINTS**

Motion

Resumed from an earlier stage of the sitting.

MR J.R. QUIGLEY (Mindarie) [2.56 pm]: In respect of the motion, the Attorney General asked me whether the reference back to the Chair should expire because the member for Midland had denounced the allegation as being false. That, of course, would amount to this proposition —

Several members interjected.

Point of Order

Mr B.S. WYATT: The Minister for Regional Development is yelling something over here and I cannot hear the member for Mindarie. The Speaker has time and again called the opposition to order for that exact issue, so I ask the Speaker to direct the Minister for Regional Development to at least be quiet so that we can listen to the debate.

Mr R.F. Johnson: Toughen up, princess!

Mr B.S. Wyatt: What was that, old fella?

The SPEAKER: Order, members! If indeed the Minister for Regional Development was being louder than he normally is, I ask him to stop that particular behaviour in this place. Member for Victoria Park, I know that at the end of question time there is often a departure from this place by various members to other things they have to do. I assumed that that was part of that noise. I did not know; thank you for bringing it to my attention, and I hope that the Minister for Regional Development will desist, if that was his behaviour.

Debate Resumed

Mr J.R. QUIGLEY: I was just addressing the proposition raised by the Attorney General by way of an interjection question to me, which, of course, I am always happy to accept from the Attorney General. He asked whether, given the Corruption and Crime Commission referred back to this place an allegation that it had characterised as involving serious misconduct, this allegation should simply be allowed to expire on the floor of the Assembly with nothing ever happening to it, given also that if the allegation was misconduct simpliciter as a matter of course—as it was with me and the member for South Perth—it would be sent back to the CCC. Once an allegation of serious misconduct has come to this place, should it simply end here and die on the floor of the chamber? The Attorney General said that the member for Midland had denounced the allegation as fatuous, but of course every person against whom an allegation is brought denies it, except for those who plead guilty at the other end of the Terrace. The mere fact that a member in this chamber would deny and denounce an allegation cannot resolve the matter satisfactorily for the public of Western Australia—surely it cannot! Surely there has to be some process by which the Premier hopefully is given the tick-off that his conduct did not involve serious misconduct. I choose that of the two options because I am extending the full benefit and presumption of innocence to our honourable Premier on this allegation that he has involved himself in serious misconduct. If the motion is not passed, two million Western Australians will witness an allegation of serious misconduct, raised not by the opposition, but characterised by the Corruption and Crime Commission—by the commissioner himself, Mr Roberts-Smith, QC—just vaporise in this room and disappear into nothingness. Although at one level that might be a good outcome for the Premier of Western Australia, I am sure that a far better outcome for the Premier of Western Australia would be a report back to this chamber by the Procedure and Privileges Committee totally exonerating the Premier, as it exonerated me.

Mr C.J. Barnett: I don't want that. I don't want to be compared with you.

Mr J.R. QUIGLEY: No, I did not say that the Premier could ever achieve my standard. I was just saying that in terms of the acquittal of the allegation, the Premier could also have that happy outcome. However, if the CCC sends that serious allegation to this chamber and we do nothing about it, this chamber will have failed the people of Western Australia, who look to this Parliament, as the peak organisation in the Western Australian community, for accountability and to set a benchmark of accountability. How will the member for Kalgoorlie—formerly the member for Murchison-Eyre—feel, having been referred to the CCC and having been investigated by the CCC, and then being forced to vote with the government to protect the Premier from investigation of the allegation? He will have to be shoehorned into dispensing with these allegations, which are against the Premier and the member for Midland. As I said at the outset, they are mere allegations—but mere allegations of serious misconduct—for which there has to be a process for proper acquittal. Otherwise, elements within this

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

community will forever and a day accuse the members of having engaged in serious misconduct, and, in support of their defamatory allegations in the wider community, will be able to cite the *Hansard* from this Parliament in which you, Mr Speaker, reported that the CCC categorised the allegations as involving serious misconduct.

There is no other way out for this chamber than to get this letter off to the privileges committee and let the privileges committee deal with it. I am not a member of the privileges committee. I agree with the Attorney. It is more likely that the privileges committee would look at the matter itself than try to send it elsewhere, because it would have to get the concurrence of someone else. It is not mandated by legislation. That is the business of the privileges committee. That is not the motion of the chamber. The motion before the chamber is not who should investigate it, but that it should not just evaporate in this chamber and hang around here like a smelly, noxious emission. I hope that is not unparliamentary. It has to go to the privileges committee, and the committee can liaise with the CCC to see what in the blazes the CCC was talking about. It can call the CCC—I know that the CCC goes before the privileges committee from time to time—to appear before the privileges committee, and it can say, “Mr Roberts-Smith, what’s the evidence? Why are you saying that this could involve serious misconduct?” The privileges committee could have a look at it. The important—

Mr C.J. Barnett: He did not say that.

Mr J.R. QUIGLEY: What is that?

Mr C.J. Barnett: You said that the CCC commissioner said that this could involve serious misconduct. He never said that.

Mr J.R. QUIGLEY: He characterised the allegation.

Mr C.J. Barnett: No, he did not—quite the opposite.

Mr J.R. QUIGLEY: He did. I will read it again. He said that the CCC “has formed the view that the allegations raised against Mr Barnett and Ms Roberts are of serious misconduct”.

[Member’s time extended.]

Mr C.J. Barnett: Yes, that is correct. That is what he did say, but not what you said previously.

Mr J.R. QUIGLEY: Then I apologise, Premier, if there was a slip between cup and lip —

Mr C.J. Barnett: There certainly was.

Mr J.R. QUIGLEY: — but it was an unintentional dribble on my tie, and I go back to the actual record, or go back to the teabag, and the message on the teabag is that Mr Barnett and Mrs Roberts are involved in allegations—or are the subject of allegations is a better way of characterising it —

Mr C.J. Barnett: Can I ask you one question?

Mr J.R. QUIGLEY: Certainly, Premier.

Mr C.J. Barnett: You’re an experienced lawyer, well versed in criminal matters, and have experience of the CCC. Do you consider them to be credible allegations?

Mr J.R. QUIGLEY: Premier, I hope not, but because of section 152 of the act, which the Attorney General has agreed with, the CCC is prohibited from giving this chamber such evidence that I could make the judgement as to whether they are credible.

Mr C.C. Porter: But it has given you the complaint.

Mr C.J. Barnett: It has read it.

Mr J.R. QUIGLEY: That is right. The CCC has given us the complaint, but it has not given us what sits behind the complaint. That is why I am saying that the privileges committee can simply call up the commissioner on a Wednesday morning and say, “Mr Commissioner, is there anything in this? Is this credible?” The Speaker will be there and the member for Rockingham will be there, and they can hear firsthand from the commissioner why he has written this letter and what is behind it and decide whether anything should happen. I am not here to accuse the Premier of serious misconduct, and I do not stand here accusing our honourable Premier of serious misconduct. What I am here to do is to urge upon this house a sensible way forward for the public of Western Australia, so that a letter involving an allegation of serious misconduct—an allegation characterised as serious misconduct—does not just come to this chamber and die on the floor of the Assembly; that the public of Western Australia can see that there was an orderly and proper way to deal with it.

I go back, in conclusion, to my final point. Had the CCC written back—I do not know what its evidence was—to the Speaker and said, “This involves an allegation of misconduct”, we would not be here talking about this. If the CCC had put it one rung lower, we would not be here occupying the Parliament’s business time all day

Extract from Hansard

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

Wednesday. If the CCC had just said that the allegation is one of misconduct, section 27B would have been the operative section. The Speaker would have had to refer it to the privileges committee, and the privileges committee would have had its process to deal with it. The privileges committee might have said that it is fatuous too, and decided not to hold an inquiry, as is its right; and if it had said that it was spurious, after hearing from the CCC commissioner, as is its right, and that it would not hold an inquiry, as is its right, it would not have gone back to the CCC. It would have been properly disposed of in the privileges committee, which would have reported back to this chamber, and the chamber could have adopted the report of the privileges committee, or otherwise. I expect, given the constitution of the chamber, it would adopt the report of the privileges committee.

Mr C.C. Porter: That is my point, member; that the Speaker maintains his discretion in the more serious matters.

Mr J.R. QUIGLEY: That is correct. What I am saying is that that discretion should not be exercised in a way that would see the letter from the CCC just thrown in the bin under the Clerk's table in this chamber. That would be untenable for the public of Western Australia. There has to be some process to deal with it, and the appropriate process is the adoption of the passage of this motion through this chamber. Let us get it off to the privileges committee. It can deal with it, and I feel confident, having heard the member for Midland, that she will get a merit stamp on her wrist, and I think the Premier might be looking forward to one, too. But there has to be the proper process.

MR J.N. HYDE (Perth) [3.10 pm]: We are giving the Premier the chance to speak but he is still not taking it. I have some concerns with this motion. Members of this house need to be fully informed about what we are doing and what our expectations are in referring this matter to the Procedure and Privileges Committee. We need a guarantee from the Premier that he will appear before this committee, that he will answer questions in a full and frank way and that he will provide absolutely all the information identified by the Corruption and Crime Commission. I also encourage the privileges committee to make this an open hearing. This is an issue of transparency and involves allegations, be they spurious or serious, against the highest office in this Parliament of elected non-Speaker-type officials.

This matter has come to us because the Speaker has made a determination that it is for the house to decide. We should not be making that decision lightly. This matter could not only have been sent to the privileges committee but also this Parliament could have conducted its own open hearing in a transparent way before the public of Western Australia. The Joint Standing Committee on the Corruption and Crime Commission could have dealt with this matter, either in a closed hearing or open hearing. This Parliament could have directed its officer, the Parliamentary Inspector of the CCC, to gather further information before we make a decision on whether we should screw it up and put it in the bin or refer it on fully.

Two issues surround the CCC referring the matter to the Speaker. The first one Mr Justice Roberts-Smith raises is that the allegations centre crucially on the truth or accuracy of what Mr Barnett and Mrs Roberts said in Parliament and the motivation for saying what they did. Earlier today the member for Midland addressed those issues in this place in a full and frank way. Perhaps the Premier could have addressed this place in the same way, attesting to this house that what he said in his grievance was totally true and totally accurate and explaining exactly what his motivation was for raising those issues. The CCC went on to say that these are issues of parliamentary privilege and the allegations cannot be investigated without impeaching or calling into question what was said in Parliament by Mr Barnett and Mrs Roberts and using the Bill of Rights as justification. As we have seen before, there is some conjecture about this. The Legislative Assembly could very well determine that this is not a matter of limited privilege or a degree of privilege and we could request the CCC to undertake actions that we would not see as limiting privilege. The whole area of privilege is very nebulous. As we saw in debate last year, the President of the Legislative Council took a particular view of the primacy and the extension of parliamentary privilege that I certainly do not agree with as a member of the Assembly.

As well as needing confirmation of whether the privileges committee will hold a public hearing, we need confirmation of whether the Premier will definitely appear before the committee.

The next issue relates to the grievance. This is not an issue about The Cliffe. Many people have a view on The Cliffe. The issue relates to the motivation and the accuracy of the information provided here. Some people on this side of the chamber, me in particular, certainly had stronger views on the prevention of the demolition of The Cliffe and the issue of listing before the issue of the grievance. We have the most experienced former minister sitting in the Parliament who was, to be frank, very much comatose for three years in terms of taking up issues once he lost the leadership. This was an issue about which he had informed information and strong views. We as parliamentarians respected the fact that he chose this as an important issue to raise. Whether he is right or wrong is not the issue. We respected the issue that he raised. It certainly caused me to re-evaluate my view of The Cliffe.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

On a couple of occasions members have raised grievances without declaring a perception of bias or a perception of association. We had a famous one when a member of the opposition—it might have been the former member for the area surrounding Bunbury —

Mr C.J. Barnett: Perhaps the Easton petition might come to mind.

Mr J.N. HYDE: I was not in Parliament at that time. Without referring to Bernie Masters and his seat, the issue was about a school cleaner or a school caretaker. A grievance was raised about the connection of the person involved being established in that grievance. That all came out later.

All we needed, as we got from the member for Midland, was a public statement from the Premier saying that there were no perceptions of conflict or bias. When we are dealing with somebody in the Premier's position, we are dealing with perceptions in an allegation, let alone going further with somebody trying to prove that an allegation has merit. As parliamentarians, we have the right to hear the Premier confirm that there were no perceptions or no possibilities of any bias and that any disclosures were made.

There is another issue relating to this matter being sent to the procedures committee and maybe one of the reasons why it should have been considered. Perhaps the Speaker may have considered why he did or did not send it to the joint standing committee. The Speaker has not spoken on this motion; he has merely tabled his letter. If the joint standing committee is not involved, perhaps the privileges committee needs to establish from the CCC whether there is any evidence, apart from this one letter from one complainant. If the extent of evidence behind any of these allegations is one piece of paper from one person, I would think that that would be a very important piece of information that either the Parliament as a whole would use to determine whether it is going forward or that the privileges committee would use. Speaking without my joint standing committee hat on, given this letter from the commissioner, a copy of which he disclosed to us under section 152(4)(d), we would assume that no other printed material was used to base this allegation. That is a very pertinent fact that somebody should obtain before this matter goes further and before we end up wasting too many people's time. That is a very important issue if the effect of this motion is that this matter goes to the procedure committee. Clearly, if there was further information behind that allegation other than that one printed letter, that is something that may cause this house to revisit its decision today. Again, we are working on supposition regarding the CCC's interpretation of serious misconduct.

Mr C.J. Barnett: It is an allegation—an allegation that, if it were true, would constitute serious misconduct. It is like an axe murderer.

Mr J.N. HYDE: Correct, but I am using that in the terms of the Commissioner of the Corruption and Crime Commission, where he is determining, in dealing with the allegation, whether the allegation is of misconduct or serious misconduct. That is the point everybody is discussing. Again, as we have discovered through the Gail Archer report, the word "misconduct" has been debated and is open to interpretation. Again, we, the Procedure and Privileges Committee, or whoever deals with this matter, should be informed whether the Corruption and Crime Commission has used other material to determine unequivocally that this allegation is of serious misconduct.

The other issue on which we need some sort of comment from the government, and which we have not yet received, is the reporting time. What is the view of the house? Is this something that should be looked at extensively? Is it an inquiry that will take three months or six months? Will we impose a reporting date, as is often the case when the house or a minister refers a matter to a committee? The government needs to give its views on these very important issues to the house.

I know that the Premier has raised the point that this is the same kind of matter as saying that Joe Bloggs is an axe murderer, but this is very different. If the allegation is spurious or malevolent, the Corruption and Crime Commission Act provides the capacity to impose a fine of \$60 000 and a jail sentence of three years, if a belief is not seriously held by a complainant. The house should say to the Procedure and Privileges Committee or whichever body deals with this matter that, if it decides in four minutes that there is no merit in this complaint, it should make a recommendation back to the Parliament that as this allegation comes from only one source with no evidence, the CCC should take action under the act. These are all very important issues the house should be considering in deciding where to refer this matter.

Because the motion was amended, the possibility was lost of making a very quick amendment to the act giving the CCC direction that these matters should always be addressed by it. If that were the will of the house and of the other place, that amendment would have made many of these issues superfluous. The present government is only one year into its term. Just as it threw allegations at us when we were in government, it will find that aggrieved people in the community will be making allegations with absolutely no foundation. If this issue gets an enormous amount of publicity, we will start hearing calls by people to take away the transparent responsibilities of the CCC and start doing things in-house, because people's reputations may be damaged.

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

Mr C.J. Barnett: What do you think may have been the motive behind the person making the allegations? Have you considered that?

Mr J.N. HYDE: I am just battling to get the Premier to place his motives on the record. I have never met the person in question. As I have said, I am assuming that this is one complaint in one letter from one person. We really need to have confirmation from the CCC, or whatever group deals with this matter if it is not to be done in this house in full debate, about any extra information. That would surely be something that could be asked of the CCC—that is, what is its opinion on the motivation of the person involved in making the complaint?

The other issue that should be considered, and why this is different from a nutter making a complaint about the Premier or someone else being an axe murderer, is that this has figured very prominently in the local newspaper in the Premier's electorate. The complainant has had some of his suppositions and allegations dealt with by what is normally a serious newspaper. For all the reasons I have outlined, this is not just something that we are handballing to the Procedure and Privileges Committee, expecting it to make a five-minute decision and bin it. I urge that committee very strongly to hold open hearings on this matter and to take seriously the advice and opinions I have offered about what further information the committee should be seeking from the CCC.

MR C.C. PORTER (Bateman — Attorney General) [3.27 pm]: In considering the process that we potentially face with the passage of this matter from the Corruption and Crime Commission and, potentially, through this house, some points raised by the members for Perth and Mindarie seem to me to be fundamentally correct. Other points about the procedure have not been as correct. However, it seems that the starting point here is section 3(2) of the Corruption and Crime Commission Act 2003, which in effect preserves parliamentary privilege. It states —

Nothing in this Act affects, or is intended to affect, the operation of the *Parliamentary Privileges Act 1891* or the *Parliamentary Papers Act 1891* and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament, unless that House so resolves.

That provision was considered in the Archer report on page 220 at paragraph 695, which states, in part —

It appears that the section was retained in the form recommended by the Legislation Committee to accommodate the fact that some matters would not be exclusively determined by the House as a result of the proposed section 27B(3)

That means that investigations against a politician involving privilege are exclusively the province of the house, except in circumstances where they fall within the ambit of section 27B(1)(a). In summary, misconduct that involves parliamentary privilege will always be referred to the Parliament. Serious misconduct that involves parliamentary privilege should always be referred to the Parliament. However, serious misconduct that does not necessarily involve parliamentary privilege can still be investigated by the CCC. Serious misconduct alleged against a politician that he is running drugs or doing something of that nature, which has nothing to do with parliamentary privilege, can still be investigated by the CCC. That is my understanding of how the process is meant to work.

Then I refer to section 27A. It is the case that that section states that, despite any contrary provisions in this act, an allegation of misconduct, not being serious misconduct, against a member of Parliament having to do with the performance and functions of his office—that is, involving privilege—must be sent by the CCC to this place. That reinforces the default position set out by section 3(2) that all matters of serious and non-serious misconduct involving a politician must be sent by the CCC to this place. However, section 27A is meant to interact with section 27B(1)(a), which states that if the matter has been referred by virtue of section 27A—that is to say, it is misconduct simpliciter involving parliamentary privilege—it must be sent by the Speaker to the Procedure and Privileges Committee. That is not an anomaly or glitch or anything of that nature. It was meant to say that in instances of serious misconduct involving parliamentary privilege, which by virtue of section 3(2) must be sent to this place and to the Speaker, the Speaker retains a discretion, as does the house, evidenced in the very motion that we are now debating, as to what to do with it. What the member for Mindarie asserted, and this is where I take issue with him, is that there would never be an incident or an occasion where an allegation of serious misconduct referred to the Speaker should stop here. The point that the member for Perth was trying to make is that if we assume that the only information that has been provided to the Corruption and Crime Commission, or is in the possession of the CCC, is that complaint and the documents that are annexed to the letter sent to this place, we are getting close to the territory where this is so spurious that perhaps it should wither on the vine here.

There might be instances and examples where this house considers that the complaint being lodged against a politician is so without merit and so spurious that it is not further investigated. I take what the member for Midland said on face value. If I do that, this matter might well be in that category.

Extract from Hansard

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

I take the member for Perth's point that we do not know whether further information has been received by the CCC; equally, we know that the CCC cannot investigate the complaint. I base my opinion on what has been sent here; therefore, I am working on the assumption that there has not been further investigation by the CCC.

The point is, and this is where I disagree with the member for Mindarie, that there may well be instances when complaints are so vexatious, so without merit and so spurious that this mechanism has been preserved in the Corruption and Crime Commission Act to allow members, by virtue of this motion, to say, "No, it requires or merits no further investigation." That is not a glitch. Members might think there are better ways of doing it, but it is not an anomaly.

Ms J.M. Freeman: I understand it to mean that if they are very serious, then they are not sent up. What you are talking about is vexatious, frivolous allegations and those sorts of things, which is quite different to what seems to be the case.

Mr C.C. PORTER: An allegation of misconduct simpliciter might be vexatious or spurious, just as an allegation of serious misconduct might be. This legislation says that, as a Parliament, we preserve the right to nip in the bud a spurious allegation of serious misconduct. I understand the member's point, but the reason that we might do that is because we want to retain the rights occasioned to us under parliamentary privilege to not put individuals against whom spurious allegations of serious misconduct have been made to further investigation. I know that the member thinks that that is counterintuitive. I tend to view that as being quite proper in the context of parliamentary privilege if we say, "Let the Procedure and Privileges Committee investigate it if it is a minor matter, but if it is a serious allegation that is spurious and vexatious, let us reserve the power for this body, after due debate, to determine not to hand it on."

Mr P. Papalia: That is fine if it is a government member. What happens if it is an opposition member?

Mr C.C. PORTER: The point is that there are two members involved here. I would assert that the allegations are equally spurious against both of them and that is the reason we have this ability in terms of this debate to determine that it go no further. The point I am making is that that is not improper. In fact, that was precisely what was meant to have been achieved by the terms of the Corruption and Crime Commission Act.

Ms J.M. Freeman: The problem is that it can be seen to be improper. We have to be held up to be proper on all occasions.

Mr C.C. PORTER: It is, as this debate has shown, a complicated concept to communicate, but there is nothing necessarily improper about the Parliament maintaining, in the most important sphere of its decision making, its own privilege. That is what we are doing. If that is an issue that needs to be communicated to the general public in situations like this, perhaps it can be. It will not be easy. That is the reason why we have this process. It is a quite proper process. Based on what the member has said today it seems to me that we are well and truly in the territory where, by virtue of a motion to be debated by this house, we might decide it not be sent to the privileges committee because, frankly, it lacks any merit that I can see whatsoever.

MR C.J. BARNETT (Cottesloe — Premier) [3.34 pm]: I thank members for their comments. These allegations relate not only to me and my son, but to others. The allegations are spurious, frivolous, if we ignore the fact that they cause substantial harm, probably vexatious and probably self-interested, but most certainly false. The question before the house now is: do we continue to use up public resources, as we have today—many thousands of dollars that it takes to keep this Parliament operating—and send this matter to the Procedure and Privileges Committee? Maybe it will be dismissed out of hand if it goes to that committee, but just maybe there will be a further round of investigations, interviews, requests for the Corruption and Crime Commission to assist and thousands of dollars spent on this spurious, vexatious, frivolous and false accusation.

This Parliament is now charged with deciding whether these claims or allegations made against me and others have any merit whatsoever. I do not think this matter should go to the Procedure and Privileges Committee because I know they are false, spurious, vexatious and malicious claims. However, I will not stand in the way, but I will hold this Parliament and members in this Parliament accountable for their actions if they choose to do so. I will not let that go through to the keeper. The decision to be made is quite clear: does this Parliament commit more resources to investigating these claims? That is for members to judge.

I will go through this and take a little time of the house. Basically, the motion moved by the member for Rockingham was more to do about the CCC. He then tried to substantiate these claims and give them some substance by claiming that in the original grievance that I raised over two years ago on The Cliffe, I somehow misled Parliament. He raised issues of what motive I would have had. I do not think I did. Even so, if there was an error in a grievance, is that a matter for the Procedure and Privileges Committee? I do not think so. However, having checked the facts and the dates I do not believe there was an error, and I will come back to that.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

The member for Mindarie made the point that the matter could be sent to the Procedure and Privileges Committee because basically that action would clear the air. His argument does have some merit. This matter has received a lot of publicity and in a sense its referral to this committee would clear the air. The Labor Party will get what it wants. I can tell members now what the headline in *The West Australian* will be, “Barnett under investigation”, and the 200 000 or 300 000 people in the community who read the paper will think I, my son and other innocent parties have done something wrong. The Labor Party will get what it wants. Is that natural justice; is that a proper use of the three or four hours of the Parliament that has been taken up debating this issue so far? Would it be a proper use of the time of the Procedure and Privileges Committee and, indeed, the CCC, if it is brought into it? Is that us using our role as members of Parliament, our responsibility over the administration of this state and public funds appropriately? I put it to members that it is not. That is the reason I do not support this matter going to the Procedure and Privileges Committee. However, in a sense, personally, I do not care because it will go nowhere. Members opposite will be making a decision to waste public time, money and resources on a frivolous, vexatious, malicious and false accusation.

The question was asked why I did not walk in here when Parliament resumed and make a statement. I do not believe I have anything at all to account for and that is why I did not and I will not make a statement. When the commissioner of the CCC gave me a copy of all the documentation, my interpretation was that he did not place a great deal of importance on it, but he did what he was required to. He gave it to me and said that he would be sending a copy to the Speaker because he felt obliged to do so. I have no complaint with that. What happened is that he gave it to me and I checked some details with my son, as one would. I was away for a few days but at the first realistic opportunity, at a press conference, and from memory the Attorney General was there, I made a public statement. I made that public statement on 13 July and for the benefit of members I will read into *Hansard* the public statement I made in front of a full press gallery and which I made available to anyone who wanted to see it. I said on 13 July, of my own volition, voluntarily, with no fear and nothing to hide, that —

On Tuesday 30 June, I was informed in writing by the Corruption and Crime Commissioner, the Honourable Len Roberts-Smith, that the CCC had received a complaint against me.

The complaint alleges that there has been some form of misconduct in relation to my role in seeking the removal of ‘The Cliffe’ — a property in Peppermint Grove in my electorate of Cottesloe — from the Register of State Heritage Places.

By way of a grievance in the Legislative Assembly on 30 August 2007, I argued the case for the removal of ‘The Cliffe’ from the Register of State Heritage Places I did so as the Member for Cottesloe in representing a constituent.

On 14 May 2008, I moved a motion in the Legislative Assembly for the removal of ‘The Cliffe’ from the Register of State Heritage Places. The Legislative Assembly agreed to that resolution. A similar motion was passed in the Legislative Council on 29 May 2008. Removing a property from the Register of State Heritage Places requires the consent of both Houses of Parliament.

These actions are all on the public record and I stand by them.

The allegation appears to suggest that my motivation to have ‘The Cliffe’ removed from the Register of State Heritage Places was in some way designed to benefit my son, Russell Barnett, who is Chair of a public company. Mr Mark Creasy, the owner of ‘The Cliffe’, is a shareholder of that company. I have only become aware of this association since this complaint has been made and knew nothing of it at the time of taking action in relation to ‘The Cliffe’.

This allegation is false and I refute it unequivocally. I take particular exception that this allegation involves my son who is not a public figure and played no role whatsoever in my actions with respect to ‘The Cliffe’.

I have been informed by the CCC Commissioner that the CCC has forwarded a copy of the complaint to the Speaker of the Legislative Assembly because the Commissioner states that the allegation centres on what has been said in the Parliament and, therefore, the issue of Parliamentary privilege arises.

I make this statement today in the interests of openness and accountability, principles upon which this government was elected and which I stand by wholeheartedly. However, I am restricted in what I can say at this stage.

I expect that, in due course, the full details of the complaint will become public.

That is what I said publicly and openly, not in the sanctity of this Parliament but out there publicly for anyone to read and anyone to report, in front of the full media of Western Australia. That is open, that is accountable and that is honest.

Extract from Hansard

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

Let me refer to the documents. The document referred to the Speaker by the Commissioner of the Corruption and Crime Commission was from one Brian Waldron, a resident of Sydney. He provided a whole lot of material to the CCC commissioner. I am sure that members have not bothered to read it, and I think they would be wasting their time if they did, but let me share with them some of the flavour and the quality of Mr Brian Waldron and his correspondence. I will read from a letter he wrote to the Corruption and Crime Commission dated 15 April 2009. I will select a couple of paragraphs. The first reads —

There is nothing in the history of Russell Barnett's association with Solbec that immediately declares some wrongdoing. Still there is something about it that suggests that something a bit crook may have been involved in these arrangements. I do not have the investigative powers of your commission, but I can imagine a narrative from what little I have learnt that could plausibly explain an involvement between the Premier and his son's interests.

Mr Waldron continues —

That in itself doesn't suggest anything underhand, but it is plausible that Mark Creasy influenced Solbec to choose Kirke Securities as the underwriters of its share issue, with the condition that they then offer Russell Barnett a seat on the board. As Solbec's largest shareholder he could have threatened to sell his stake at a time when they were trying to raise more capital. It could have sunk the whole share offer and possibly crashed the company.

Mr Waldron goes on —

In this narrative, Col Barnett tells Creasy that he'll do what he can about *the Cliffe* if Creasy can influence Solbec to use Russell's Kirke Securities in the deal to raise capital and to get him on the board. What would Solbec do? Exactly what they did. They were after the injection of cash and these sort of conditions were just greasing the wheels. They got the money and they continue operating.

What a scurrilous, outrageous assertion that is from a Mr Robert Waldron of Sydney. What I find outstanding in this house is that the Labor Party and the opposition take it seriously. That reflects on them that they take that sort of garbage, scuttlebutt, outrageous, defamatory material—it is defamatory—and they treat it seriously. That is why I say that I will hold them to account, personally and individually, for their actions in this Parliament.

Mr M. McGowan: What does that mean?

Mr C.J. BARNETT: Let me go on. The opposition has had its say for three hours. Now opposition members will hear from me.

Mr M. McGowan: What does it mean?

Mr C.J. BARNETT: It does not mean a damn thing. Opposition members have wasted this house's time all day and now they will listen for a little bit longer.

I contacted my son, as one would, and asked him about this. Yes, he chairs the company. It was about to go through capital raising. My son is highly qualified. He was a stockbroker initially and is now involved in venture capital. He had to immediately act to advise the ASX once these allegations were made, as did others involved in the business. A statement that the company put out reads —

Perth, Australia. 13 July 2009: The Board of Freedom Eye Limited (ASX: FYI) announce that they are aware and have read the statement made earlier today by the Premier of Western Australia, The Honourable Colin Barnett. A copy of the Premier's statement is attached hereto.

The Company implicitly agrees with all statements made by the Premier with respect to this matter and hereby reject and deny all of the claims made within the complaint.

The Directors of Freedom Eye Ltd are currently receiving advice on what further actions (if any) they may take in regard to this matter and will take whatever action they deem necessary and appropriate to protect the Company from any adverse commercial consequences that might result from these unsubstantiated allegations.

Immediately, other people, not only my son but shareholders and directors of a publicly limited ASX company, are involved.

Let me make a few comments about my son. He is an adult who can look after himself. Members opposite are not even listening now. That is the measure of the people opposite. My son does not need me to protect him any more. Why was he chair of this company? Indeed, he has also been a director of other companies. It is because he is highly qualified. He is experienced in company governance matters and ASX regulation. He basically in this case is an independent chairman of the company. He is not a significant shareholder, and certainly was not at

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

that stage. He was appointed as a chairman simply to advise the company and handle governance issues. He has a good reputation in business in this town because of his high standard of ethics and his knowledge of ASX. Members opposite have affected his career, and Mr Waldron has affected his career, because my son stands on his principles and his high regard in business. He is appointed to independent directorships because of his skill and knowledge in governance matters. That is what has been questioned in this, as have his fellow directors.

May I also state that from my son's point of view he has never met Mr Creasy. To the best of his knowledge he may have had a telephone conversation with him more than 10 years ago when he was working as a young stockbroker and Creasy was one of the clients of the firm, but he cannot even recall that. He is absolutely certain that he has never ever met Mark Creasy. That is a fact.

Let us talk about motive. I know the motive of the member opposite is to try to somehow create the impression that the Premier of Western Australia is under investigation and to try to make the sort of slur that damned the Labor government over its seven years. That is what it is about. That is the motivation.

Mr P. Papalia: You are incredibly thin skinned.

Mr C.J. BARNETT: The opposition is accusing me of corruption! These allegations are of corruption and the member is supporting it.

Mr P. Papalia: No-one is accusing you of corruption.

Mr C.J. BARNETT: Mr Waldron is.

Several members interjected.

Mr C.J. BARNETT: They are now backing off.

Several members interjected.

Mr C.J. BARNETT: Members opposite will listen to me now, for as long as it takes!

Several members interjected.

The ACTING SPEAKER (Mr J.M. Francis): Order! Member for Perth!

Mr C.J. BARNETT: Accusations have been made against me.

Mr J.N. Hyde interjected.

The ACTING SPEAKER: Member for Perth, I call you for the first time.

Mr C.J. BARNETT: Mr Speaker —

Mr J.N. Hyde: You don't know if it is Robert or Brian. Which one? Have you got a document that we don't?

The ACTING SPEAKER: Member for Perth, I have just called you to order for the first time. Do not push me!

Mr C.J. BARNETT: It is Brian Waldron, actually.

Mr J.N. Hyde: You said Robert.

Mr C.J. BARNETT: I have never met the man, to the best of my knowledge, and have never spoken to him either. I do not know who this character is.

When these allegations were made, I went home and told my wife, as one does. She got out her computer and started playing around on it. Within half an hour she had tracked down Mr Brian Waldron. I do not know the guy, and I think his allegations are outrageous, but clearly he was a friend of the Triffids. This is about the Triffids. This is about a music group of the 1980s, the lead singer of which grew up at The Cliffe. Three days after this issue was out, I thought the media would certainly work this out for themselves, but they did not. After an ABC interview, I did a doorstop and I said, "Don't you get it? It is about the Triffids." It is about the Triffids. The Triffids is a successful group. It is hardly the Rolling Stones or the Beatles, but it is a successful group. This is about the Triffids.

Mr J.R. Quigley: It is about the CCC's letter.

Mr C.J. BARNETT: The member for Mindarie has had his say!

Mr Brian Waldron is obviously a friend of the Triffids; he liked the Triffids. He and some of his friends are involved in promoting the Triffids. Indeed, the Triffids have had a great deal of publicity. I even heard that their sales have gone up in recent weeks. They are back out there; the Triffids are back!

I understand that many people have a genuine concern about the heritage value of The Cliffe, and I acknowledged that in the grievance and debates that took place two years ago. I can understand and respect that.

Extract from Hansard

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

I happen to think that The Cliffe is an interesting building. It is old, but it is dilapidated and I do not think it is deserving of being on the state heritage register. That is why I moved the grievance.

However, to suggest that I was doing it in some way to benefit my son is absolutely scurrilous, outrageous, and will no doubt have its consequences. I find it extraordinary that was taken seriously in the media—I guess I can accept that, as the media is the media and it does its job—but I find it extraordinary that members of Parliament, including experienced members of Parliament, would give the issue the credibility of devoting to it a day in Parliament.

Ms M.M. Quirk: It has not been a day.

Mr C.J. BARNETT: The opposition has spent three and a half or four hours on it so far. The people promoting this are not the people who quite genuinely care about the heritage values of The Cliffe. The people promoting this are the friends, supporters and fans of the Triffids. It is all about the Triffids.

I will read some extracts and material—again from the web—and refer to a few comments as I am talking about this complaint —

The complaint was made by a career public servant Brian Waldron - a regular visitor to the wooden Perth mansion —

That is, The Cliffe —

as a teenager when he befriended The Triffids' singer and songwriter, Dave McComb

Mr Waldron runs the Save The Cliffe website with another friend of the band, rock photographer Bleddyn Butcher, who is writing a biography of McComb, and former Triffids guitarist, Graham Lee.

Graham Lee also runs the official website of the Triffids.

In 2006 Melbourne based independent label Liberation Blue...released Born Sandy Devotional ...

The article goes on. These guys are promoting the Triffids. They are promoting reissues of the Triffids' records. I do not know whether that is their sole motivation, but that is what they are doing. They are interested in the Triffids and the glorification of the Triffids. They may care about the heritage of The Cliffe, but this is about the Triffids.

Several members interjected.

The ACTING SPEAKER: Premier, please take your seat. The member for Midland was heard in total silence by every member in this house this morning when she made her explanation about this issue. I would expect that every member of this house gives the Premier the same right to be heard in silence.

Point of Order

Mr J.R. QUIGLEY: With the greatest respect, and not wishing to cavil with the Chair, this morning when the member for Midland was heard in absolute silence, it was during a personal explanation. Here we have a boisterous debate, and I have been interjected on during that debate. This is a debate, not the Premier's personal explanation.

The ACTING SPEAKER: On the member's point of order, this is the debate and this morning it was a personal explanation. I understand the difference, but a very serious allegation has been made against two members of this house and whether it is in debate or in personal explanation, I think that both members deserve the right to be heard in total silence.

Mr P. Papalia: It does not matter what you think, it is standing orders.

The ACTING SPEAKER: It does when I am in the chair, member for Warnbro.

Debate Resumed

Mr C.J. BARNETT: I do not know Brian Waldron or the other people involved. Their association and all of their activity on the web is all about the Triffids. They might have some romantic notion about the house, but this is being driven by a group of people who are fans, friends and associates of the Triffids. Good luck to them if they think the Triffids are so good, and good luck to them if they want to release their records, but that does not give them the right to accuse me, basically, of criminal conduct, or accuse my son or Mark Creasy. It does not give them the right to do that. This Parliament does itself no good service to give credibility to those sorts of claims. Mr Waldron will be accountable, and that will be a process for others, because it is not simply me who has been attacked under this. It is not me alone who has been defamed under this.

Extract from Hansard

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

To try to give some substance to this attempt by the opposition to attack me over it, or whatever they are trying to do—I do not know what they are trying to do—members opposite said I misled Parliament in the original grievance two years ago and that I got it wrong. People can make mistakes in Parliament, but I checked and I do not think that I did.

Everyone knows that a house that was built in the 1890s has a certain amount of heritage value. I do not deny that. It is an interesting house; it is part of the history of Peppermint Grove and it has had a colourful history. It certainly has some architectural and heritage merit but not, in my view, sufficient to have it listed on the state Register of Heritage Places. I made the comment that when the Creasys bought this property, they were not aware of any heritage listing. I was accused of misleading Parliament. The member for Rockingham tried to suggest that was another reason for the committee to look at this issue. A memorial of the Western Australian Heritage Act, F919032, was lodged on 3 July 1995. The transfer of the property to Sharon Creasy, the wife of Mark Creasy, occurred on 17 July 1995. From that piece of information that the heritage notification occurred on 3 July 1995 and the transfer to the Creasys happened on 17 July 1995, the opposition asserts that I misled the Parliament, and that the Creasys must have known about it. The Creasys are not impoverished and this is not a cheap real estate transaction. The Creasys had an agent, Shellabears—well known in the western suburbs—acting for them, and the transfer of The Cliffe from the owner, Dr McComb, to Chris Shellabear happened on 7 April 1995. It was purchased on behalf of the Creasys by the real estate agent well before that listing was made. That is not denying there had been talk over decades about the property having heritage value. That is public information. This assertion, which has been brought in at the last minute by the opposition trying to give substance to its motion, is wrong. If members opposite want it, I have all the title deeds and documentation to show them.

This has been the opposition's day. Members opposite will get their headline. They are getting a news broadcast now, and a lot of people will form the view that Colin Barnett is no better than the Labor Party. Congratulations; members opposite have made their little political point! If the matter goes to the Procedure and Privileges Committee, they will get reports in the media—"Barnett under investigation", "Premier under scrutiny"—and my son will be dragged through the mud, unfairly and unreasonably, because members opposite have given credibility to these outrageous, vexatious and irresponsible claims by Brian Waldron, Triffids fan and groupie from Sydney. This says more about members opposite than about anyone else in this debate. The government will not stand in the way of the opposition referring this to the Procedure and Privileges Committee. I am not going to stand here as the Premier of Western Australia and somehow deny the opposition that little moment, but I place it on record that I regard this as an absolute affront to this Parliament, to me, to my son, and to other people innocently involved in this issue. I regard this as something that will be accountable to this Parliament and to members. It is outrageous for the opposition to waste public resources, as it has today, by referring this matter to the Procedure and Privileges Committee. The government will not hinder the motion and will not oppose it, but the opposition does this on its own neck.

Debate interrupted, pursuant to standing orders.

[Continued below.]

Standing Orders Suspension — Motion

MR R.F. JOHNSON (Hillarys — Leader of the House) [4.00 pm] — without notice: I move —

That so much of standing orders be suspended as is necessary to enable the motion to refer matters to the Procedure and Privileges Committee to be continued and determined prior to entering into private members' business today.

I move this motion because I believe it is the wish of the house for this debate to come to a conclusion. I believe that the Premier has finished his comments, but there may be other comments. Obviously we need to take a vote on this, otherwise nothing will happen; the motion will stay in abeyance, and that is not the wish of this side of the house.

MR M. MCGOWAN (Rockingham) [4.01 pm]: The opposition is in agreement.

Question put and passed with an absolute majority.

Motion Resumed

MR E.S. RIPPER (Belmont — Leader of the Opposition) [4.01 pm]: I do not want to detain the house at length, but I want to correct a number of the arguments the Premier has put to the house. I can understand his anger and his concern about his son and members of his family. Many members of Parliament have, over the past two decades, experienced similar angst. The Premier is not the first one to have such anxiety about people close to him. The house faces a particular issue; the Corruption and Crime Commission has written to the house

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

in response to a complaint that it has received and has said, "This is yours; we don't have the power to investigate it." If it had the power to investigate it, it is conceivable that it could have decided that there was nothing to the complaint; but it did not have the power to investigate it. Only the Legislative Assembly, according to the legislation, has the power to investigate this matter.

Are we to do nothing in the face of that correspondence from the CCC?

Mr P. Abetz: Yes.

Mr E.S. RIPPER: "Yes," says a member of the Liberal Party backbench! "We do nothing; we leave the allegation unresolved. We don't give the complainant any chance to make his point. We don't investigate, we don't ask any questions." I do not think that that is satisfactory. I do not think that that is an open, accountable and honest government. I do not think that it satisfies public confidence to take such an approach.

The Premier has tried to assert that the opposition has come to Parliament and made allegations. As far as I can recall, the opposition has not asked any questions about this during question time. We have not moved a matter of public interest or taken any other action in response to the fact that the CCC has placed this matter on the table of this house. We at least believe that there is public interest in the institution of Parliament being seen to properly resolve a matter such as this. If we were to take no action and simply dismiss the matter as frivolous and not investigate it just because the Premier said it was frivolous, we would be saying to the public that we cannot be trusted as an institution to deal with allegations of serious misconduct.

The Premier has been very precious about this issue. I have been here long enough to have seen the Premier throw allegations at people on this side of the house over and again. I have been personally offended by the Premier's propensity to refer to all Labor Party members as part of a corrupt organisation. I certainly took serious personal exception to having those sorts of allegations thrown against me as a person because of the Premier's views, in his former capacities, about the behaviour of other people.

The Premier has shown that he has a glass jaw on this issue, but he was prepared to dish it out and make all sorts of allegations from opposition against the Labor Party. He is well known for his self-righteous and pompous speeches about what he believes to be misconduct in the Australian Labor Party. Labor Party people also have sons, daughters, wives, husbands and partners, they have friends and other relatives, and they know that when such allegations are made, they can be hurtful to those people. Nevertheless, this allegation was not made by this side of the house. The opposition has simply responded to a letter from the CCC, in which the CCC has informed the Legislative Assembly that this matter is ours to investigate.

The Premier says that it is on the Labor Party's head that this investigation will occur, and that it is on the Labor Party's head that taxpayers' resources will be used.

Mr M. McGowan: Neck.

Mr E.S. RIPPER: "On the opposition's neck" was the phrase he used.

Let us be reasonable here. What scale of resources will be consumed by the Procedure and Privileges Committee, beyond the resources that would ordinarily be consumed anyway when conducting such an inquiry? Would we take that approach to any other allegation of serious misconduct against a member of Parliament?

I have heard that there are members who vote with the Premier and his government who have told the Premier that he will have to face the privileges committee or else they will cross the floor. That is what I have heard; I do not have direct evidence of that. However, I would suggest that the Premier may not have all the choices he imagines he has on this issue, judging from the comments I have heard. I do not have direct evidence, so it may be possible that I am corrected on that matter.

I return to the issue before the house. An allegation has been made to the CCC that cannot be investigated by the CCC, and the CCC has referred the matter to us. If we are proud of our institution and we want it to have credibility and respect in the community, we have to be seen to be doing something about this. We cannot just leave it. It is just another aspect of the position that the Premier occupies, a position I hope to occupy one day. When an allegation is made against the most senior political figure in the state, it is all the more incumbent upon us as an institution to be seen to be handling the matter properly.

I do not need to say a lot more. This debate has taken a lot longer than necessary; it could have been a very short debate had the Premier yesterday made a statement in response to the Speaker's statement and put a motion on the notice paper that he would refer this matter to the Procedure and Privileges Committee. Had he done that, the opposition would have taken no action and made no complaint.

I think the Premier has grossly mishandled this issue, because he has lost an opportunity to demonstrate that he is the open, accountable and honest Premier he said he would be. Instead, he has acted in an arrogant and angry manner, and the result has been an extended debate that, with hindsight, was entirely unnecessary.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 12 August 2009]

p5817b-5829a

Mr John Quigley; Mr Ben Wyatt; Mr John Hyde; Mr Christian Porter; Mr Colin Barnett; Acting Speaker; Mr Rob Johnson; Mr Mark McGowan; Mr Eric Ripper

Question put and passed.