

PROCEDURE AND PRIVILEGES COMMITTEE

*Second Report — “Misleading the House: Statements Made by the Member for Darling Range” —
Adoption — Motion*

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [12.20 pm]: I move —

That this house accepts the second report of the Procedure and Privileges Committee titled “Misleading the House: Statements Made by the Member for Darling Range”, and endorses all eight of the committee’s recommendations, and hereby revokes any and all privileges the member for Darling Range would otherwise have as a former member of the Parliament.

Yesterday, the Procedure and Privileges Committee brought down its report about the former member for Darling Range. I am sure most members have had the opportunity to read the report. In that report were 15 key findings and eight subsequent recommendations. I want to briefly go through some of the key findings and then touch on the recommendations. Then, I will refer to the body of my motion.

Finding 1 of the report highlighted that the member for Darling Range was not awarded a Bachelor of Arts degree with honours in physical education and applied social sciences by the University of Leeds as he claimed. Finding 2 concluded that the committee was satisfied that the biographical information provided by the former member for Darling Range was misleading, at the time he made the statements he knew they were inaccurate, and in making those statements the member for Darling Range intended to mislead the house. That is a very serious finding. Accordingly, the committee found that the member for Darling Range deliberately misled the house and had thereby committed a contempt of Parliament. Finding 3 was that the former member for Darling Range was not awarded a certificate of higher education in policing by the University of Portsmouth. Finding 4 highlighted that the committee was satisfied on a range of issues and that the former member for Darling Range’s statement in his biographical information, including references in his inaugural speech about the police force supporting him twice through university, was misleading and that he knew those statements were inaccurate, and in making those inaccurate statements, the former member for Darling Range intended to mislead the house. Finding 5 highlighted that the former member for Darling Range was found not to have been awarded a diploma of local government, nor did he complete nine out of 10 modules as he claimed. Finding 6 highlighted that the committee was satisfied that the statements about the diploma of local government made to this Parliament were misleading. The former member for Darling Range knew that the information was inaccurate and in making that statement it was his intention to mislead the house. Finding 7 was that the former member for Darling Range did not serve in the Balkans in late 1998 as claimed. Finding 8 highlighted again that the committee was satisfied that in his inaugural speech the former member for Darling Range’s statement about the Balkans was misleading, that he knew it was inaccurate and that he intended to mislead the house. Again, the committee found accordingly that those statements were a deliberate misleading of the house and thereby a contempt of Parliament. Finding 9 highlighted that the former member for Darling Range did not serve in an international capacity while serving the West Midlands police. Accordingly, he could not have been under any genuine but mistaken belief that he was entitled to wear the medals he wore. Finding 10 related to the Australian Police Overseas Service Medal. Again, the committee found that the statements about that medal were misleading and therefore the former member for Darling Range intended to mislead the house. In finding 11, the committee found that he had deliberately misled the house with regard to five statements in contention and thereby “committed a sustained and gross contempt of Parliament”. Finding 12 highlighted that the former member for Darling Range in his written submissions to and his testimony before the committee deliberately sought to mislead it by asserting he had a degree from University of Leeds, that he had a certificate of higher education in policing from the University of Portsmouth, that he had completed nine out of 10 modules of the diploma of local government, and that in the second half of 1998 he was on secondment from West Midlands police and served with the United Nations mission in Bosnia where he provided security for a team investigating war crimes. Finding 13 was that the former member for Darling Range deliberately sought to deceive the committee by providing to it a forgery of a degree from the University of Leeds. Finding 14 was that, accordingly, the former member for Darling Range, in providing that deliberately misleading testimony and submissions, had committed a gross and aggravated contempt of Parliament. Finding 15 was that the member for Darling Range had deliberately misrepresented his educational qualifications and work history over an extended period. They are extremely serious findings from your report, Mr Speaker, which was tabled yesterday.

I will not go through the recommendations but, of course, the eight recommendations sought to impose a series of responses upon the former member for Darling Range. Key to that, of course, was recommendation 7 that the Legislative Assembly expel the member for Darling Range as a member of the Legislative Assembly and declare the seat of Darling Range vacant by reason of such expulsion.

We all know the gravity of this particular report to the Parliament, the very serious findings and the very serious outcomes of the eight recommendations. Essentially, as you found, Mr Speaker, the former member for

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Darling Range did not tell the truth about his experience and his university degrees, and grossly misled this house, as are the words of your findings. That is unacceptable. That is why it is appropriate for this Parliament to endorse all eight of the committee's recommendations, bearing in mind, of course, that subsequent to the tabling of the report yesterday the former member for Darling Range made a personal explanation through the standing orders and subsequently tendered his resignation from this house. Subsequent to that, the Premier moved a motion that declared the seat of Darling Range vacant and set in place the process by which writs can be commenced at an appropriate time agreed to by you, Mr Speaker. This is a grave situation for the Parliament. I think it is only the second time in Australian parliamentary history that a proposal to expel a member has been moved.

Therefore, given the report's serious findings and serious recommendations, it is the view of the government and, I hope, of the Parliament, that all eight of the committee's recommendations be endorsed. Also in this motion before the house is the revocation of any and all of the privileges the member for Darling Range would otherwise have as a former member of Parliament. That is important because, as we all know, when we leave this place, we become former members of the Parliament of Western Australia and entitlements and privileges are given to people who have served this place. The member for Darling Range does not deserve any of those now. The member for Darling Range has abrogated any privileges he should receive as a now former member of this place. That is why the motion I have moved includes revocation of any and all privileges that the member for Darling Range might otherwise have been eligible for as a former member.

Mr Speaker, I know that earlier today, in the proceedings of Parliament, you read out a letter from the Commissioner of Police. The Attorney General may make comment about that matter during this debate, so I will not touch on that at the moment; I will leave it to the Attorney General to comment on. However, I ask that the members of this chamber support this motion about what occurred because it is gravely serious and the motion reflects that gravity.

DR M.D. NAHAN (Riverton — Leader of the Opposition) [12.31 pm]: I would like to make some comments on this. Firstly, the Liberal Party, the opposition, supports the content of this motion but will seek to add an amendment to it. As the Leader of the House indicated, it is a serious and unprecedented moment for our Parliament, but one that we must take.

This is an excellent but difficult report by all involved and one that needed to be done. I would like to quote from the report. It deals with whether we have a precedent and a need to take the action that the committee report recommended. A very good quote refers to an issue in the New South Wales legislature about the expelling of one of its members in 1969. It states —

In our democracy, in the parliamentary institution in the free world, it is essential that the standing of Members of Parliament in the eyes of the community should be maintained at a high level. It is necessary to maintain certain standards for the very preservation of the institution of Parliament itself ... We are members of a sovereign law-making body and for this reason the House itself is given a measure of responsibility in the control of the behaviour of its members.

To a large extent in this house, we have special powers to govern ourselves and set our own standards.

On page 99, the report goes on to quote Mr Clinton Hall, the member for Oxford in the United Kingdom Parliament in 1947, when they considered a similar issue. In summary it states —

Our profession is, although we are deeply divided on many matters, an honourable one.

That would be debatable in the community, but I think we all share the belief that we are or seek to be an honourable profession, and a profession we are. It continues —

We are Members of this House of Commons and we owe it to this House —

As we do here —

and to the world that we insist upon disciplinary action and a standard of conduct which will enable us to hold up our heads as such and carry on our business in the proper manner. If we do not do that, be sure of this, no profession in the world can maintain its prestige or position unless in the last resort it is prepared to impose sanctions on its members ...

Our profession is particularly important. All professions have standards and processes by which to enforce those standards. We must also do that and we have one. Ours is more important. Although all professions are important, ours in this case is the governance of Western Australia and we have special powers.

The Procedure and Privileges Committee pursued its work diligently to examine the claims that Mr Urban made outside this house, before coming to this house, when he first entered this house and to the privileges committee itself. As the Leader of the House indicated, Mr Urban persistently and consistently misled in detail along the chain, including the privileges committee. I have read the report. It is strange behaviour for anyone, I must admit,

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but he did so and he often supported his claims with forged documents. In other words, he perjured himself in the governance, at the Procedure and Privileges Committee of this house set up to examine his claims and his bona fides. He then told lies and provided forged documents.

The committee, reluctantly I assume, came to the correct decision that he must be expelled, and we support that. It comes down to our standing as members, the standing of this house, the standing of Parliament, amongst not only ourselves, but also the community we represent. If we fail to take these measures, the standards of institutions such as local governments and others, which measure their standards by those of Parliament, might also wane. We have no choice but to take this unprecedented move and accept recommendation 2 of the privileges committee.

The Liberal Party thinks we need to examine a further step. I understand—I have received documentation—that the police are pursuing criminal investigations parallel to the Procedure and Privileges Committee’s investigation, but also before the member came into this house, for claims he made in his application to become a member of the police. That was discussed somewhat in this house. The report indicates that some of the documents the committee received as fraudulent documents were also provided to the police in Mr Urban’s applications to the police in 2001 and 2005. That is a matter for the police to investigate.

We are interested in the matter before us and the information and the behaviour of Mr Urban in giving evidence to the privileges committee. Under section 15 of the Parliamentary Privileges Act 1891, the “House may direct Attorney General to prosecute for other contempts”. It states —

It shall be lawful for either House to direct the Attorney General to prosecute before the Supreme Court any such person guilty of any other contempt against the House which is punishable by law.

It is our contention that it may be appropriate under section 57 of the Criminal Code to find that Mr Urban perjured himself. Therefore, if the Attorney General is satisfied—I will read out the amendment to this motion—that there is potential for perjury under section 57 of the Criminal Code and under section 15 of the Parliamentary Privileges Act to prosecute Mr Urban, there is precedent for this.

In 1990, action was taken against a Mr Smith, who gave evidence before the Standing Committee on Procedure and Privileges in the other place relating to an issue of phone tapping, where he perjured himself by stating that he did not tap phones, when it was subsequently found out that he did. Action was taken by the upper house under the same process and the Attorney General was asked to investigate whether Mr Smith committed criminal action under section 57 of the Criminal Code by perjuring himself before the privileges committee. It was pursued, and Mr Smith got two consecutive convictions totalling 20 months in jail for perjury. That is the precedent we have received for this. We are not saying that there is a clear case in which the Criminal Code applies. I will move that the house direct the Attorney General to investigate and report back to this house in two weeks his findings in those positions. Again, this is separate from the decisions made by the police and perhaps other bodies that Mr Urban has provided false information to in the pursuit of jobs. I suggest that there might be others but I do not know. This relates to our house and, as I indicated, we have a lot of special powers in this house to govern and set the standards for ourselves. The Procedure and Privileges Committee found systematic, detailed and comprehensive acts of Mr Urban lying to Parliament, and that he perjured himself. They are most grievous acts against the sovereignty of Parliament. The committee, under the chairmanship of the Speaker, has recommended that Mr Urban be expelled, which we accept, but we also think that, as in the case of Mr Smith, we should examine the issue of criminality in terms of perjury.

Ms R. Saffioti: I know a lot of drunk-drivers who went to jail.

Dr M.D. NAHAN: Yes, I know the minister does not like this.

Ms R. Saffioti interjected.

Dr M.D. NAHAN: I know the minister does not like this. I know that, as usual, she is trying to politicise every aspect of this.

Mr R.H. Cook: That’s pathetic.

Dr M.D. NAHAN: No, it is not. Members opposite are comparing his actions in perjuring himself, misleading and providing forged documents.

Several members interjected.

The SPEAKER: Members, this is a very serious issue and I want to hear it in silence, please.

Amendment to Motion

Dr M.D. NAHAN: I move to add the following words to the end of the motion —

And further —

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- (1) That the Attorney General report to the house within two sitting weeks whether he is of the opinion that there are reasonable grounds for securing a conviction against the former member for Darling Range under section 57 of the Criminal Code; and
- (2) if the Attorney General is not satisfied that there are reasonable grounds for securing a conviction, to advise the house of the reasons why.

It is a serious issue. I will read the proposed amended motion in full. It states —

That this house accepts the second report of the Procedure and Privileges Committee titled “Misleading the House: Statements Made by the Member for Darling Range”, and endorses all eight of the committee’s recommendations, and hereby revokes any and all privileges the member for Darling Range would otherwise have as a former member of the Parliament. And further —

- (1) That the Attorney General report to the house within two sitting weeks whether he is of the opinion that there are reasonable grounds for securing a conviction against the former member for Darling Range under section 57 of the Criminal Code; and —

Several members interjected.

The SPEAKER: Members!

Dr M.D. NAHAN: It continues —

- (2) if the Attorney General is not satisfied that there are reasonable grounds for securing a conviction, to advise the house of the reasons why.

Several members interjected.

The SPEAKER: Minister for Health and Minister for Transport, I call you both to order for the first time.

Dr M.D. NAHAN: I will reiterate the reasons for this proposed amendment to the motion.

Mrs M.H. Roberts interjected.

The SPEAKER: Minister for Police, I want to hear this in silence. You will have your opportunity to talk.

Mr R.H. Cook interjected.

The SPEAKER: Minister for Health! You will have the opportunity to talk. This is very serious —

Several members interjected.

The SPEAKER: I do not want to hear any more interjections on this very important issue. We are talking about a person’s life and career here.

Dr M.D. NAHAN: I will reiterate the logic of this.

Mr R.H. Cook interjected.

The SPEAKER: Minister for Health, I call you to order for the second time. I will not put up with this!

Dr M.D. NAHAN: I will reiterate the logic of this proposed amendment. Yesterday, we received a report that recommended unprecedented moves by Parliament to expel a member. We spent yesterday reading through the report and it is profound. We respect and accept the report’s recommendations. It goes to the heart of our responsibility here, in many ways, to set our own standards. We have that responsibility, which is the logic followed by the Speaker through the report. However, other issues need to be pursued.

Mrs M.H. Roberts: That are appropriately dealt with by police.

Dr M.D. NAHAN: Yes. The minister —

The SPEAKER: Minister for Police, I call you to order for the first time. You will have an opportunity to stand and talk on this issue.

Dr M.D. NAHAN: The issue that we think needs to be examined under the Criminal Code is not necessarily about what Mr Urban did with the police or otherwise prior to coming into Parliament; we think the issues that occurred within Parliament need to be examined, specifically the clear evidence that he systematically and comprehensively misled the Procedure and Privileges Committee and provided forged documents. That is why he was expelled; we have evidence of that. We take our committees seriously—we do. We enforce them. We ensure that people do not leak information from them and we ensure and have set precedents that if someone misleads—perjures themselves—within the committees, we take action against them. We did so in 1990 in the case of Mr Smith. Why would we not apply the same precedent to Mr Urban? He is different from Mr Smith because Mr Smith was not

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a member of Parliament at that time, or ever, to my knowledge—Mr Urban was. We ask—I think it is the only logical and appropriate next step, which is not a remit of the committee—for a decision that is incumbent upon this house. This power is expressly included in the Parliamentary Privileges Act 1891 and to be used if it arose. We argue that if Mr Urban, under section 57 of the Criminal Code, is found to have perjured himself and that we require the Attorney General to look at that. Under the act, it has nothing to do with the decision of the police or any other party outside this Parliament. It is for us to determine whether he perjured himself under section 57 of the Criminal Code. Under section 15 of the Parliamentary Privileges Act, we can then hold Mr Urban in contempt and use those powers. That is an appropriate second step beyond the recommendations made in the committee's report.

This is not an act of picking on Mr Urban. This is not a political act. The suggestion is to follow through on Parliament's powers to govern the behaviour of its members and to hold sacrosanct evidence given before committees and to uphold the standing of Parliament in the community and in this place. It is a reasonable and appropriate process that is provided to this Parliament by the laws that govern us. That is what we are pursuing. I urge members opposite to put their feelings for their former colleague aside. I understand that he was part of their party and that they have considerations for him that are natural and appropriate, but this is about us and the standing of this chamber in the community and the groups and agencies that we govern. That includes local government and other government agencies that look to us to set the standards. I think this is something that the community wants us to do. We will wait for the views of the Attorney General to determine whether anything will come of it. I urge members on all sides to accept this proposed amendment. It is appropriate and logical, and it follows from the recommendations in the report tabled by the Speaker.

MR M. MCGOWAN (Rockingham — Premier) [12.50 pm]: I would like to address the issues before the house. As I began by saying yesterday, I thank the committee and the researchers for the work they did on preparing this comprehensive report. It involved a huge amount of research to get to the bottom of a lot of the issues surrounding Mr Urban that no-one was aware of and no-one could really have had the capacity to be aware of, apart from Mr Urban. I am grateful to the committee for discovering that information. The report is a lesson in truthfulness and honesty, and is an example to all members of Parliament, in both houses, of the need to be honest and truthful about themselves and their circumstances, and their past. Obviously, Barry Urban failed that test. I have apologised to the people of the electorate of Darling Range for the role that Barry played as a Labor member of Parliament, and the fact that we preselected him as a member of our party to run for that electorate. He misled the people of that electorate, and he misled me, the preselectors, and a lot of other people in the course of these issues.

I used a debate in this place last year to refer Mr Urban to the Procedure and Privileges Committee. Members might recall that, at that point in time, Mr Urban was not coming into Parliament, had not expressed his point of view, and had not provided any information to back his claims about his degrees, medals or whatever. Eventually, he arrived in this place and gave a statement to the house. We afforded him, I suppose you could say, that level of natural justice and due process, and then I stood in this place and referred him to the Procedure and Privileges Committee. It is important to note that the government referred him to the committee to get to the bottom of his claims about himself. To reiterate, a lot of people were misled during the course of these events. I refer members to the report that was tabled yesterday. I quote from page 89 of the report, which reads —

Given that the Committee has established that Mr Urban did not serve in Bosnia, does not hold any university qualifications, and did not achieve the rank of Sergeant, it necessarily follows that Mr Urban has committed resume fraud with respect to his representations to WA Labor preceding the 2017 State General Election.

In other words, he misled everyone. Page 97 of the report reads —

The Committee is of the view that the Member for Darling Range has demonstrated a pattern of serial dishonesty and deception for at least two decades and a steadfast refusal to acknowledge or express contrition for this deception. Indeed, when first challenged about his deception, in November last year, the Member attempted to deflect blame and he has continued to avoid responsibility for his actions. This is not a case of a single error of judgment or a single lapse of rectitude, which a member has subsequently acknowledged and attempted to expiate.

I try to take people at face value; I think it is in my nature. If someone tells me something to my face, I generally believe them. If someone tells me they were in the Army, they served in Bosnia, or they paratrooped out of an aircraft, why would I seek to contact their former commanding officer, or call someone in England to confirm whether that was true? It is very hard to do. If someone gives the party a copy of a university degree, are we to then say that that is not true—that is wrong; that is not right? If I were to hand someone a photocopy of my university degree, would they say to my face, "That's wrong; you didn't attend the University of Queensland and graduate in law in 1989—that's a lie." No; that person would believe that that is what I did. I tend to believe people when they tell me things. Lots of people in this place tell me things all the time, on all sides, about their lives. That

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is the nature of human contact. We talk to people, they tell us about things that have happened in their lives—where they grew up, what they did in their past career, who they have known, and events they have experienced. We take people at face value when they tell us these things. It is part of the human condition, I think, for 99 per cent of us to accept at face value what we are told. We do not generally look for alternative explanations; we are not generally suspicious about things.

Barry Urban has clearly constructed in his mind events and circumstances that do not exist. One journalist wrote that he is a Walter Mitty-type character. I thought that was a pretty good explanation; he is a Walter Mitty-type character. He lives in a world that he has constructed in his head. I do not know whether he believes it. Maybe he does. Maybe he believes it in his head. Maybe that is part of the mental issues he is confronting that he referred to yesterday. Whatever it is, he told a whole pack of lies to a lot of people over a long time, and now we are dealing with the consequences of that. I am dealing with the consequences of that, and the people of Darling Range are dealing with the consequences.

The irony of all of this is that, from what I have seen in photographs, unless they are photoshopped, he served in the Army and in the police force. According to what I saw in today's paper, and what I saw some months ago, he actually did serve in the British Army, and he did serve in the police force. I think in evidence to your committee, Mr Speaker, a former commanding officer in either the police or the Army said that he had served. The irony is that those two facts alone—that he served in the Army and in the police force—actually look quite good on a resume. People respect someone who has done those things. He did not have to tell a pack of lies. Those two facts alone would have been enough for him to say to the party, and the people of Darling Range, "I've got this background in which I did those two things." However, for some reason, he felt compelled to expand upon that in quite outrageous ways. Then he felt compelled to not tell the truth in front of a parliamentary committee, and compound the lies. Why he thought he would get away with it, when every single time in the past couple of months he has been caught out telling lies, is beyond description and beyond explanation, except to say that maybe in his mind he has constructed a belief system in which he somehow believes this.

Sometimes in life we meet people who have a view of themselves that no-one else shares. I suppose we have all met people like that—they have a view of themselves, but everyone else has a different view. He lied, disgraced himself, humiliated himself, and embarrassed himself, and he has suffered some pretty grievous consequences here, which have resulted in him being totally degraded, and he has done it all to himself. It is completely self-inflicted. I, for one, shake my head at what he has done and why he has done it. As I said, he did not need to. As far as I can tell, he served in the Army and in the police force. I know that he was a local councillor, because I got on a bus once with the local council, and he was on the bus wearing a badge saying "Councillor Barry Urban". I assume that was correct. None of the other councillors said that he was not a councillor. I do not speak to him anymore, but I am of the view that whatever Barry Urban now tells us has to be triple checked or, frankly, do not believe it.

The argument has been put that, somehow, I should have known all of that—that all of it was untrue. Somehow, I should have known that he did not serve in Bosnia. Somehow, when he gave copies of his degree to the party, we should have checked whether they were real. I am not sure that any political party does that.

I think the Leader of the Opposition has a degree from some university in the United States. I doubt whether the Liberal Party contacted that university and said, "Is this a real degree?" I am sure that when I told the Labor Party that I have a law degree from the University of Queensland, the Labor Party did not contact that university and say, "Is this a real degree, or is this guy lying?" I mean, we take people at face value. Clearly, we need to improve our vetting processes. In a state election in which 90 parliamentary seats are up for preselection, with a range of candidates, sometimes multiple, and with huge levels of activity, I do not know that it is within the capacity of any political party to undertake the sort of investigation that was undertaken by the Procedure and Privileges Committee and outlined in this report. However, having said that, clearly we need to do better, and Labor needs to do better, in our vetting processes.

I think the people who will suffer as a consequence of this are Barry Urban's wife and children. His two children go to school. No doubt this will be a very difficult period for his family, in particular his children at school. I hope that what is occurring in this place does not impact on his wife and children too adversely. I am sure it will be adverse, but I hope it is manageable for them. I have a great deal of sympathy for them in these circumstances.

Yesterday, the government moved to accept the report of the Procedure and Privileges Committee immediately. We did that because I thought that the explanation given by the Speaker, and by the speakers on all sides, was comprehensive, direct and easily understood. I accepted it upfront. We moved to accept the report immediately. However, the opposition said, "No; we want to read the report and come back here tomorrow." We had actually prepared two motions. To be honest, we had thought that we might bring on this matter again today. However, we thought the opposition wanted the matter dealt with immediately, so we thought we were doing the right thing by all sides of the Parliament. I suppose in that circumstance that whatever we had done would have been seen as wrong by the opposition.

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Dr M.D. Nahan: That's not true.

Mr M. McGOWAN: My judgement is that the opposition would have looked for a reason to be critical.

Mr S.K. L'Estrange: That's an assumption.

Mr M. McGOWAN: That is my assumption. The opposition would have looked for a reason to be critical, and that is why it wanted to debate the matter today.

Mrs L.M. Harvey interjected.

The SPEAKER: Member for Scarborough!

Mr M. McGOWAN: Members opposite may have noticed that we accepted what they said.

Dr M.D. Nahan: Because it was appropriate.

Mr M. McGOWAN: Yes, it was appropriate. We accepted what members opposite said. We listened to their argument and we accepted what they said.

I now want to address the amendment. I know how opposition works. I expect that the amendment was drafted, in conjunction with the officials of the house, and that a strategy was created last night and this morning about how the Attorney General must give an opinion and the like, and that the opposition wanted to move that amendment in order to —

Ms R. Saffioti: Ratchet it up.

Mr M. McGOWAN: Yes, ratchet up this issue. I suspect that the opposition did that without the knowledge of what the Commissioner of Police was going to do. I will say this to the opposition, and I am being as reasonable as I can —

Dr M.D. Nahan interjected.

The SPEAKER: I called government members to order when they interjected. I will hear this in silence. I repeat: we are talking about a very serious issue.

Mr M. McGOWAN: The opposition wanted to move that amendment in order to elevate this issue and come up with a new line of attack. I know what opposition is like. That is what oppositions do. However, I would urge members opposite to listen to the argument—in the same way that we did last night—about why, in light of the letter and analysis from no less than the Commissioner of Police, what they are proposing is not the right course of action to take. I will quote the letter from the police commissioner, which was tabled by the Speaker half an hour ago. The letter is signed by Chris Dawson, Commissioner of Police, and is dated today, 9 May 2018. I quote —

... I intend to instruct the Major Fraud Squad to commence a criminal investigation into the actions of Mr Barry Urban to determine if a criminal act has occurred.

Do members opposite seriously think that the Attorney General should run an inquiry from the Attorney General's office or some other arm of government at the same time as the police are running an inquiry using the resources of the major fraud squad and at the direction of the police commissioner? To me, that does not make sense. What would happen if the police find that charges should be pursued but the Attorney General finds that charges should not be pursued? Who would we follow in that case? What would we do? If I were the police commissioner, I would see the opposition's motion as a vote of no confidence in what he has decided to do. The opposition needs to do what we did last night. Opposition members need to listen to the arguments and determine that in light of the events that have occurred since they decided on their strategy, they will change their strategy. The police commissioner is newly appointed and highly respected. I would say he is probably the most respected person in Western Australia. The police commissioner has decided on a course of action. The opposition wants to undermine that course of action. That is how I would see it if I were the police commissioner.

The Opposition is calling for the Attorney General to provide a legal opinion to the Parliament. I am not sure that it is possible for the Attorney General to do that. That strikes me as a strange course of action. Would members opposite like the Attorney General to get legal advice and table it on anything they might do at any given point in time? I mean, that is not what an Attorney General is responsible for. In light of the police commissioner investigating these matters—as he should—my advice to opposition members is that they withdraw the amendment, endorse this report, and let the police undertake their investigation and inquiry. That would be a sensible and reasonable way forward. I think the Attorney General will speak shortly.

In closing, I do not know whether the opposition will listen to my advice. I am giving that advice in good faith. I believe that in light of the police commissioner's letter, what the opposition is proposing will be seen as a strange course of action. Members opposite should think about this logically, rather than being tied up in politics and

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unhappiness and hatred of me and the government and thinking they can score a point. If they decide to proceed with this course of action, they will embarrass themselves.

I want to go back to Barry Urban and what he did. As I have said, he engaged in disgraceful conduct. He misled the Parliament and lied to his electorate. I have no time for it. I am very disappointed in him. I am very disappointed that he did that to so many people in the course of what has occurred. However, I hope that we have all learnt a lesson from that. I hope in particular that Barry Urban's wife and children are not the ones who will suffer from what has occurred.

MR D.T. REDMAN (Warren–Blackwood) [1.08 pm]: It is pleasing to have the opportunity to speak so soon after the Premier has made his comments. In my view, the Premier has shown that he has a massive glass jaw on this issue. I will point out why I say that. Three things have happened within the government since this issue arose. I will get onto the nature of the report and the recommendations as I go through this. The first thing that happened was that the Premier said, "Remember, it was the government that moved the motion to refer this matter to a committee." The government could not get this matter to a committee quickly enough. It wanted to get on the high ground in pursuing this issue. That is understandable. We have all seen the articles in the paper and heard the public commentary from the member for Darling Range and all the situations that emerged. The Premier has run the argument that, "We are the ones who called for the inquiry; we are on the high ground; so do not blame us", as though that is a strong defence. The Premier then talked about what happened yesterday, when the government pulled the stunt of asking Parliament to accept the recommendations in the committee report, when no-one had had the chance to read that report. I cannot think of one example in this place in which members have been required to make a decision on a report that they have not had a chance to read. Yes, as the Premier said, the commentary was compelling. Our member of Parliament was there and we had no idea what the outcomes of that report were going to be until it was tabled in this place and we heard the commentary from you, Mr Speaker. To ask Parliament to then make a decision to accept all the recommendations and all the elements attached to that—there are a lot, including the one we are debating today—was fundamentally a stunt. We saw it happen again today when the Leader of the Opposition moved a very plausible motion to ask, through a parliamentary process, for an opinion from the Attorney General about whether this should go beyond what the commission is prepared to pursue. Again, the defence of the Premier was to go right back and quote the account of Barry Urban misleading the Labor Party. The Premier is using all these defences: "It wasn't us. I did the mea culpa and I apologised to the people of Darling Range." Sure, but he ran the defence by saying, "Don't blame us. We're on the high ground." He went right through the issues and said, "How could we have possibly known that he was going to present fraudulent reports and the like?" They are three examples of why the Premier is showing a glass jaw on this issue and grappling to get onto the high ground. Yet the arguments run by the opposition yesterday and today are about preserving the integrity of this place. They have not been about preserving the integrity of the Labor Party, the Premier or anyone else, but about preserving the integrity of this place.

I want to walk through how we got to this point. Mr Speaker, I commend you and your committee for the challenge that you faced, which was an extremely unique circumstance in Western Australian politics, let alone nationally or internationally, in which we have a report about the potential contempt by a member of Parliament. Mr Speaker, you made the point yesterday that that contempt extended to representations to your committee. One would have thought that by that stage, someone might have taken one or two steps back and given you some scope to be slightly more lenient. I commend the challenge it was to make recommendation 7. It takes a massive decision and a huge effort to recommend that this place expel a member. It is something that no-one, least of all the opposition, takes lightly. We do not take this stuff lightly and we think it is important that the house deals with it appropriately. I will also say, and the Premier touched on this as well, that everyone in this place understands the pressure and stress that I am sure the member for Darling Range is under. Potential mental health issues were somewhat referred to, as well as the impact on his family and the public humiliation. Everyone understands that. I do not believe, however, that that understanding and compassion for someone in that situation should restrict us from maintaining the community's confidence in the parliamentary process. That is what we are debating today. Yesterday, we saw the stunt. Today, we had the Premier's response, defending his party's position as distinct from defending the position and the sanctity of Parliament.

What is the amendment about? A member of Parliament is being held in contempt. It is a massively serious issue. Amongst the commentary and the recommendations, besides expulsion from Parliament, was taking away the privileges of Parliament. My understanding is that parliamentary privileges extend to use of the dining room and the gym. I cannot think of too many past that. This place is an extension of the community. I would argue that taking away the privileges that someone in this place has is pretty minimal. Yes, there is a recommendation to expel, but the member resigned from this place. What sanctions are imposed on someone for holding Parliament in contempt to the highest level? One sanction is losing a handful of privileges. I am sure the community will say that that is a pretty big slap on the wrist.

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Mr V.A. Catania: No more scones.

Mr D.T. REDMAN: Yes. The member has resigned, so Parliament did not actually remove him from this place. One could strongly argue that that is fairly minimal. A fairly significant part of the discussion in this report is about the parliamentary process and that Parliament should have the right to resolve issues in and of itself when these sorts of matters come to the fore. That is reflected in quotes from all over the world in the Westminster system in which that point has been made. I will just explain a couple of them. Page 92 of the report states —

The Committee is also of the view that Mr Urban’s deliberate misrepresentations constitute an attack on this House by undermining the trust and mutual respect that members should be able to have in one another.

Further down that page it states —

The Committee is also of the view that Mr Urban’s deliberately misleading statements undermine the legitimacy of the most important parliamentary privilege—freedom of speech.

That is what gives us the right to stand up and have these sorts of debates. By extension, on page 93 it states —

Parliaments are equally cognisant that the abuse of the privilege by members can bring the institution of Parliament into disrepute, diminish public confidence in its processes, undermine its authority, impugn the integrity of all members, and prompt the ‘questioning of the legitimacy and continuing relevance of parliamentary privilege’.

A good chunk of this report reflects on the fact that this issue is an attack on the parliamentary process and the sanctity of Parliament. It also makes the point, with reference to other examples around the world, that recommending expulsion is not a sanction as such, but is more focused on protecting the integrity of Parliament.

We therefore move to the debate. The member resigned and walked out the door before it got to the point of Parliament taking that position. What is the community’s view? The community’s view is really important in this. It will be asking, “Is there a difference between the outcomes and the sanctions that apply to a member of Parliament who has held the highest authority of the land in contempt versus a member of the public who may well have taken the same stance?” I believe that the public will not be that happy with this outcome. Yes, he has resigned; he was not kicked out. Yes, there is a big stack of public humiliation, which, no doubt, is a big factor in play, and some would argue that that is a sanction in itself. The issue here is that there may be a view, and I hold that view, that the sanctions are not necessarily commensurate with the contention that this committee has taken. The motion moved by the Leader of the Opposition refers to whether there are some unresolved issues in respect of criminal matters that might be outstanding. The Premier made the point that we are doing this because the Commissioner of Police has said that the police are going to look into it. The Premier quoted beautifully from one part of the commissioner’s letter, but he did not quote the rest. It is important to see the context of the commissioner’s letter. The third paragraph states —

While it is the case that section 8 of the *Parliamentary Privileges Act 1891* provides for the Legislative Assembly and the Legislative Council to punish summarily for certain contempts of Parliament, the findings in the Report also include possible criminal acts that extend beyond the scope of misleading Parliament.

That is the context.

Mr J.R. Quigley: Criminals.

Mr D.T. REDMAN: Yes. The letter goes on —

This includes the finding that the Member for Darling Range provided a forgery of a degree from the University of Leeds, as well as the finding that he wore a commemorative international policing service medal when he was not entitled to do so.

The commissioner’s response is somewhat limited in the scope of what he is going to look into. I have sought some advice on this and I must say that it is a challenge to understand the advice, but I will put it in simple terms. If the commissioner were to seek advice on whether the matters before the Parliament and the matters that the Speaker has considered in his committee are matters that he could investigate or choose to prosecute, he will butt up against the sanctity of Parliament and the issues of parliamentary process and may well stop right there. That is my understanding. The Leader of the Opposition’s amendment takes a step beyond what the Commissioner of Police is saying and will not limit an inquiry to the issues that sit outside the parliamentary privilege constraint. That is what the Leader of the Opposition’s amendment will do. It is absolutely appropriate that this place, in responding to a member of its own and after the Procedure and Privileges Committee argued that Parliament should hold the right to do that, actually consider the merits of other sanctions that might well be imposed in accordance

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with the issues that have been brought before the house through the committee's report. All that is happening here is that the Leader of the Opposition is simply asking that the Attorney General report to the house within two sitting weeks whether he is of the opinion that there are reasonable grounds for securing a conviction against the former member for Darling Range. This is coming from the house.

Mr J.R. Quigley: Will you take an interjection?

Mr D.T. REDMAN: The Attorney General will have his chance to talk.

This is not looking in from outside and at whether there are any constraints on just how far they may go. The letter points to that exact constraint. It is more than reasonable for the opposition to support this amendment and, quite frankly, the government should be supporting it, too. Rather than all the defensive arguments that the glass-jaw Premier is running—"We didn't know about it" and "It wasn't us"—the government should let it play out through the house, as it rightly should do and as it has done so far, so that we can give the community confidence in this place. This place is an extension of the community and it is reasonable that we move with every endeavour to give the community confidence in Parliament's processes and confidence that this institution is indeed an extension of the people.

I ask the government to support this amendment. I do not think it is unrealistic given the gravity of what has happened. It is uncharted territory for a lot of us. I am sure that between now and when the Attorney General comes back with a view or an opinion, all of us would have had a chance to get some advice. It is a view and it may well be that at the time Parliament says that there are too many threats on the institution of this place and it might shut it there and then. I think it is reasonable that we take that step and certainly I support the amendment moved by the Leader of the Opposition.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [1.22 pm]: I rise to speak to the amendment and to clarify further the reason that the opposition has moved this amendment. It is not politically driven in any way, shape or form, and by no means has it been moved to undermine the competency of our police force to investigate matters such as the one Commissioner Dawson indicated that the police will be doing in his letter to you, Mr Speaker, in response to the report that was tabled yesterday. The opposition has moved this amendment for a number of reasons. I would like to draw members' attention to the letter from Mr Dawson to you, Mr Speaker, which was tabled today. The third paragraph of Mr Dawson's letter is very clear. It reads —

While it is the case that section 8 of the *Parliamentary Privileges Act 1891* provides for the Legislative Assembly and the Legislative Council to punish summarily for certain contempts of Parliament —

He is referring to section 8 of the Parliamentary Privileges Act, which gives Parliament the opportunity to punish summarily for contempts of Parliament —

... the findings in the Report also include possible criminal acts that extend beyond the scope of misleading Parliament. This includes the finding that the member for Darling Range provided a forgery of a degree from the University of Leeds, as well as the finding that he wore a commemorative international policing service medal when he was not entitled to do so.

The police are looking to investigate the fraud and forgery allegations in this letter, as they should. The police need to determine whether Mr Urban misrepresented his credentials when he applied for a position with WA Police Force. They need to determine whether he committed a crime by wearing those police medals and misrepresenting his war and policing service. However, members also need to be aware that Mr Urban was a member of Parliament and subject to the parliamentary privilege that affords us protection against evidence that we may give to committees as part of the committee interrogation process. This is where we look at section 57 of the Criminal Code. A Parliament in the history of Western Australia with members who are no longer members of this place made a decision to incorporate into the Criminal Code specific section 57 about false evidence before Parliament. Section 57 reads —

Any person who in the course of an examination before either House of Parliament, or before a committee of either House, or before a joint committee of both Houses, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination, is guilty of a crime, and is liable to imprisonment for 7 years.

The opposition is asking that the Attorney General interrogate whether section 57 of the Criminal Code can be applied in this instance and whether this Parliament can prosecute Mr Urban for the misleading information he presented to Parliament and, indeed, for his contempt of Parliament, which is what the committee's report found.

Dr A.D. Buti interjected.

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The SPEAKER: Member for Armadale!

Dr A.D. Buti: Don't you agree with it?

Mrs L.M. HARVEY: Member for Armadale, I will take your interjection. I have no quarrel with the findings or recommendations of this report nor indeed with the committee's deliberations. I think the report is very thorough and I am very pleased that the government gave me 12 or so hours to read it so that we can discuss it in a sensible fashion in this place today. I have no quarrel with the report. The committee has absolutely done what it was required to do. All the privileges committee can do is make a recommendation to Parliament about its findings and what it has found to be contempt as a result of the former member for Darling Range's representations to Parliament.

Dr A.D. Buti: Could they have also recommended what you are now seeking?

Mrs L.M. HARVEY: I do not believe so, member for Armadale. I do not believe that it is the prerogative of the committee to recommend to Parliament that it takes certain action. I believe the committee has reported to Parliament —

Dr A.D. Buti: But it has; it made a recommendation, which was to expel him.

Mrs L.M. HARVEY: Can I finish my sentence? The committee has interrogated this matter very diligently. A suite of evidence was put before it and it has made some very good findings and substantiated those findings with the evidence that was provided and now it has made some recommendations. However, no committee of this Parliament can tell Parliament what actions it should take in response to reports. It is up to this Parliament to make a decision as to whether a referral to the Director of Public Prosecutions or the Attorney General is the appropriate course of action to ensure that the evidence that Mr Urban provided using parliamentary privilege can be used as part of a prosecutorial process, and that is why we have moved the amendment.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale, this is not a cross-examination. I know you are a good lawyer, but the member for Scarborough will continue.

Mrs L.M. HARVEY: Thank you for your protection, Mr Speaker.

We want to ensure that Parliament uses all its available powers to set a very serious precedent for this sort of behaviour in the hope that it might act as a deterrent in the future. We want to make sure that Parliament considers all available options to ensure that Mr Urban faces the consequences of his actions. That is what the community believes should occur. The police will do their own investigation. We need to understand whether the police can use the evidence provided under privilege to a parliamentary committee as part of that evidentiary process. I do not know whether they can.

Mrs M.H. Roberts: They provided a lot of the evidence.

Mrs L.M. HARVEY: The Minister for Police can belittle our attempts, but we want to make sure that no stone is left unturned in ensuring that there are consequences for Mr Urban for misrepresenting himself in this place and for his grave contempt of Parliament. The police may be able to prosecute Mr Urban for his allegedly fraudulent practices around the presentation of his résumé when he applied for a position with WA Police. I do not know whether the police can do that. It is unclear. I do not believe that section 57 of the Criminal Code has ever been used. This might be an interesting test to see whether section 57 of the Criminal Code can be used in this matter. All the Parliament is asking is that the Attorney General seek some advice and report back in two weeks on whether section 57 is relevant in this case. That is what we are asking. It is not unreasonable at all. We are asking for clarification of a rarely used section of the Criminal Code to see whether it might apply in this circumstance. This Parliament has been gravely offended and insulted by the misrepresentations of Mr Urban.

There is some precedent. In May 1990, there was a motion about an individual, Mr Robert Smith, resulting from a select committee of privilege. That motion, which was put forward by Hon Norman Moore, member for Mining and Pastoral Region—a wonderful gentleman, now retired—asked —

That —

- (i) the Attorney General consider evidence given by Robert Smith to a Committee of Privilege of this House relating to Smith's denials of having unlawfully intercepted or recorded certain telephone conversations;
- (ii) not later than six sitting days from the date on which this resolution is passed, advise the House whether, in light of Smith's subsequent conviction for an offence arising from the same or

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similar facts, the Attorney General is of the opinion that grounds exist for laying a charge against Smith under section 57 of the Criminal Code for perjury; and

- (iii) if the Attorney General is satisfied that an offence has been committed by Smith in terms of section 57, the Attorney General is hereby directed in terms of section 15 of the Parliamentary Privileges Act 1891, to prosecute Smith accordingly.

Under section 15 of the Parliamentary Privileges Act, the house may direct the Attorney General to prosecute for other contempts. It states —

It shall be lawful for either House to direct the Attorney General to prosecute before the Supreme Court any such person guilty of any other contempt against the House which is punishable by law.

We have section 15 of the Parliamentary Privileges Act and section 57 of the Criminal Code. It is the intersection of those two legislative instruments, which Parliaments in Western Australia previously made into law, that we are seeking this Parliament to now consider as a way of ensuring that no stone is left unturned in prosecuting Mr Urban. Yes, he has lost his job. Does he have any remorse? I do not know. We need to send a very strong message that misleading the Parliament, misleading the community, and being paid, with taxpayer funds, for a position that was fraudulently obtained is a very serious matter. This Parliament has the power to ask the Attorney General to seek prosecution under section 57 of the Criminal Code. It has been done before. Very rarely does this Parliament exercise its powers in this fashion. We are asking the Attorney General to consider interrogating this as an option, by way of an amended motion from the floor of this house.

It is not a political witch-hunt in any way, shape or form. I believe the police will have to conduct their own investigation from the ground up, because they are not always able to use evidence that has been obtained under privilege. We want to make sure that all evidence that has been obtained under privilege can be used to prosecute Mr Urban as is appropriate. It is not a political witch-hunt. We are saying that a power is available to this Parliament and we should exercise it. We should set the standard. If we set the standard for Mr Urban by way of a sanction from this place and a direction to the Attorney General to prosecute, we are saying to every individual in the Australian community that the Parliament will not tolerate this contempt. We will be saying that we are setting a new standard and setting the bar quite high. I believe people in the community of Western Australia actually need to hear that Parliament is taking action like this. We can look at the debacle in federal politics at the moment, with members falling over like a domino chain because they have not managed to renounce citizenship of another country. We now have by-election after by-election because federal members of Parliament have not accurately reflected their citizenship status. I think people in the community are fed up with the Parliaments tolerating this kind of behaviour. It is not acceptable. If someone seeks to become a politician and is a citizen of another country, they need to renounce it. If someone has not achieved educational qualifications, they should not say that they have. People should not lie or mislead in order to obtain a position as a member of Parliament. People should not have contempt for the parliamentary process and contempt for our Parliament, which is the place that makes the law in the state of Western Australia. That is all we are asking. It is not outrageous. It is not onerous. We are saying that, as a Parliament, we should use the powers available to us to ensure that this Parliament takes the step to make those sanctions and bring those charges against the former member for Darling Range and to set a new standard here in Western Australia. It is up to this government to make that decision—it has the numbers. I implore the government to consider this on its merits. I think the Attorney General would like the intellectual engagement of understanding whether section 57 of the Criminal Code is still relevant. Let us test its relevancy. If it is no longer relevant, maybe we need to change that legislation. Let us ensure that there are proper sanctions from this house for Mr Urban.

MS M.J. DAVIES (Central Wheatbelt — Leader of the Nationals WA) [1.36 pm]: I want to speak briefly on this matter. I spoke yesterday in relation to the referral motion and the move for the government to deal very swiftly with the recommendations of the committee. Again, I echo the statements of the member for Warren–Blackwood and also members of the opposition that we had concerns about dealing with it immediately. It was obviously a serious report. It has 195 pages, 15 findings and eight recommendations. We are dealing with someone's life, essentially, and setting a significant precedent. My thanks go to the government for being willing to give us 24 hours to at least have the opportunity to read the report, to have a discussion and to try to understand whether there are options beyond just the revocation of privileges, as recommended by the committee. That was something we felt, as members of Parliament, we needed the opportunity and time to investigate and consider, and to find out whether there is anything else we should be pursuing.

There is a notion in the house that this is a witch-hunt, as has been said. Clearly, the Premier is aggrieved; anyone would be who had been lied to. Clearly, this gentleman had been doing this for a long time. Anyone who has been lied to feels aggrieved. From my perspective, in the processes of parties and processes in which people provide information, if there is no reason to disbelieve them, one does not—I absolute agree with the Premier on that front.

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He is right to be aggrieved. He clearly feels that burden heavily—we can see that from the conversation and his contribution earlier today. The discussion today is what the member for Scarborough, the member for Warren–Blackwood and the Leader of the Opposition put forward—that is, about making sure that we, as a Parliament, are dealing with the issue in a way that upholds the integrity of the Parliament and so that the public understands we have taken this seriously.

One step we could take is accept the recommendations of the committee’s report, but another step potentially open to us, which would cause no harm, is to ask the Attorney General to provide an opinion—or advice, if that is how it needs to be couched according to semantics and the way the motion is worded. That is a genuine proposal to demonstrate that the Parliament, firstly, does not accept what occurred when this gentleman lied to people, and that we, as a group, will take every opportunity to uphold what the public believes is the appropriate response. I agree that it is one thing for a person to lose their job and to be prevented from entering this house—as the public would expect when someone has lied and fraudulently presented themselves and their papers to those who assisted them in attaining that job; I do not for one moment imagine that he would want to come back to this place—however, people in employment outside this house would be prosecuted. We welcome the police commissioner’s investigation. I think it is entirely appropriate that that has been done swiftly, and I am sure the public appreciates that as well. I will not go into whether there is any intersection, confusion and potential restrictions of that investigation with a parliamentary committee’s investigation and the privilege of Parliament because it has been canvassed already. The Premier was asking whether we expected him to have been able to detect that this man was lying. Nobody does or did expect that. That is not where this side of the house is coming from. For people who trick others and do it again and again, we have the Consumer Protection Division—people who deal with professional fraudsters and tricksters all the time. He has clearly done this again and again. We have all been duped and I think we all have a right to feel incredibly aggrieved. But being aggrieved and actually making sure that we are setting that example, maintaining a standard and sending a strong message to the public is another thing. The Nationals WA is supporting the amendment and we ask that the government seriously consider it and take it as it is being offered—that is, making sure that the integrity of this Parliament is maintained and demonstrating to the public that we have done everything possible to make sure that this type of behaviour is not repeated in this place.

MR P.A. KATSAMBANIS (Hillarys) [1.43 pm]: At the outset, I indicate that at the moment I will confine my comments to the amendment moved by the Leader of the Opposition. In many ways, we are travelling through uncharted waters. That is why it is critically important that we take the time to examine the powers and underlying procedures that enable us to exercise our powers in this house. We know through the Procedure and Privileges Committee that this house can examine the matters that were examined in the case of the former member for Darling Range, and that that examination led to the report tabled in this place yesterday. I commend you, Mr Speaker, and other members of that parliamentary committee, as well as the advisory staff, for the extraordinarily thorough work they did. Over the past 24 hours, I have had the opportunity to read the report, as many other members have done. In any other circumstance, a report as thorough and compelling as this one would deserve congratulations. I am not sure that that is the appropriate term in these circumstances; but, well done for dealing with a very, very difficult topic.

We all know that tabling the report is not the end of the process; it is the start of the process. With the effluxion of just a few hours, some of the recommendations of the report were rendered pointless, as the former member chose to resign from this place rather than go through long and drawn-out proceedings. I wish that member all the very best in the future. I hope that he receives care and attention, and appropriate treatment, and I hope that he continues to do that into the future so that he can get his health and life back on track. However, this house is left with a compelling committee report—I am not trying to flatter anyone—from what is the most important committee in this place. That committee determines the procedure and privileges of members of the Legislative Assembly and it has made some serious findings. They are not commentary, suggestions or ideas, but serious findings—findings of contempt and findings of deliberately misleading this house.

The committee found six separate findings in which the former member for Darling Range deliberately misled this house, thereby committing a contempt of Parliament. Two critical factors in those findings are that the former member deliberately misled the house and that he committed a contempt of Parliament through misleading the house. No-one is arguing against that; we welcome the report. Despite members’ commentary yesterday, the report is not a judicial finding of any judicial standard of proof, be it beyond reasonable doubt or on the balance of probabilities, but it is a substantial finding from the most senior and most important committee in this place. It needs to be treated with respect and I think everyone is treating it with respect.

What do we do? What are our powers as a Parliament when someone is found to have engaged in misleading conduct in the Parliament or in a committee of the Parliament and, therefore, engaged in contempt of the Parliament? The first place we would go to find those powers is the Parliamentary Privileges Act 1891, which gives the Parliament under certain circumstances—under section 8—the ability to punish summarily for certain

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contempts. Those contempts are listed in sections 8(a) to 8(g) of the Parliamentary Privileges Act 1891. That section was amended as late as 2010. Interestingly, misleading the house is a contempt that is not included under those powers in section 8. It is taken out; it is carved out. Section 14 of the Parliamentary Privileges Act gives the house the power to direct the Attorney General to prosecute offences of contempts under section 8 instead of proceeding summarily. That is a choice of the house. The house can exercise its power to act summarily or it can direct the Attorney General to prosecute through the Supreme Court rather than the house acting as a judge and jury in those circumstances. As I said, it exclusively carves out misleading the Parliament.

Before I leave this act and go to other acts, section 15, “House may direct Attorney General to prosecute for other contempts”, states —

It shall be lawful for either House to direct the Attorney General to prosecute before the Supreme Court any such person guilty of any other contempt against the House which is punishable by law.

“Punishable by law” is the critical factor. When the house carved out misleading the house from the types of contempts that the house itself could prosecute under section 8 or could direct the Attorney General to prosecute under section 14, it moved the offence of misleading the house by providing false evidence into the Criminal Code. Hence, we have section 57, “False evidence before Parliament”, of the Criminal Code that states —

Any person who in the course of an examination before either House of Parliament, or before a committee of either House, or before a joint committee of both Houses, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination, is guilty of a crime, and is liable to imprisonment for 7 years.

We know that giving false evidence before Parliament is a contempt of the Parliament. It flows through from the original common law that we adopted from the United Kingdom Parliament. We know that the Parliamentary Privileges Act gives the power of prosecuting authority for other contempts that are breaches of the law to the Attorney General on direction of the house, preserving the house’s power to direct the Attorney General. We know that section 57 exists. On the evidence provided in the report of the Procedure and Privileges Committee, we have strong and compelling evidence to suggest, not to conclude—that is not our job—that there is a prima facie case that the former member breached section 57. I note that the Attorney General is paying attention intently. I am sure that if I got that wrong, he would interject or otherwise deal with it later.

From the house’s point of view, we have been misled. One of the powers available to us is to direct the Attorney General under section 15 of the Parliamentary Privileges Act to commence proceedings in the Supreme Court for that contempt, which is the misleading of the house through the committee. These are slightly uncharted waters because, again, we do not have a lot of precedent in this area. We do know of the case of Mr Smith. The other place—the Legislative Council—considered Mr Robert Smith’s evidence. I think there had been some cases against a member of Parliament with a similar surname that do not relate to this matter directly. Mr Robert Smith gave evidence. The Council was not happy with that evidence whatsoever and moved on 10 May 1990 —

That —

- (i) the Attorney General consider evidence given by Robert Smith ...
- (ii) not later than six days from the date on which this resolution is passed, advise the House whether, in light of Smith’s subsequent conviction for an offence arising from the same or similar facts, the Attorney General is of the opinion that grounds exist for laying a charge against Smith under section 57 of the Criminal Code for perjury; and
- (iii) if the Attorney General is satisfied that an offence has been committed by Smith in terms of section 57, the Attorney General is hereby directed in terms of section 15 of the Parliamentary Privileges Act 1891, to prosecute Smith accordingly.

Back then, the Legislative Council directed the Attorney General to go ahead and prosecute if he found anything wrong. That was a very strong direction. We know from reading cases that Mr Smith, in an unreported decision of the District Court—I think there was a reported District Court case on 21 October 1991—that he was so prosecuted. They are powers of the house. The house determines whether it has been misled. The house can then direct the Attorney General to take action. That action—that misleading of the house; that false evidence—is not contained in the Parliamentary Privileges Act; it has been carved out and put into the Criminal Code to indicate that the appropriate penalty is a term of imprisonment of up to seven years. So far so good.

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Then we go to the very correct and very proper response of the Commissioner of Police to the report that was tabled yesterday. The letter that was tabled in this house earlier today indicated that the Commissioner of Police had instigated a criminal investigation into misleading statements made to Parliament by the member for Darling Range. As other members in this place have pointed out, one of the critical paragraphs in the short letter is paragraph 3, which reads —

While it is the case that section 8 of the *Parliamentary Privileges Act 1891* provides for the Legislative Assembly and the Legislative Council to punish summarily for certain contempts of Parliament, the findings in the Report also include possible criminal acts that extend beyond the scope of misleading Parliament.

I emphasised those last words in my speech and I will repeat them: “that extend beyond the scope of misleading Parliament”. Then he referred to what those possible criminal acts might be. So already in his letter, the Commissioner of Police has pointed out that he is not interested in the misleading of Parliament. He is not interested in contempt; he is moving on to other matters. He spells it right out. In the following paragraph, he states —

Consequently, I intend to instruct the Major Fraud Squad to commence a criminal investigation into the actions of Mr Barry Urban to determine if a criminal act has occurred.

We want him to do that. I applaud him for it. I commend him for it. We as an opposition—I think I speak for every member of this chamber—have full faith, trust and confidence in the Commissioner of Police and in our police force to do these things. But the Commissioner of Police has not indicated to Parliament that he is conducting any examination under section 57, which is contained in chapter 8 of the Criminal Code. He is concentrating on fraud through the major fraud squad. That is the offence contained in part VI of the Criminal Code, specifically in chapter XL, which is headed “Fraud” and contains only one section in that entire chapter—section 409.

Dr A.D. Buti interjected.

Mr P.A. KATSAMBANIS: It is clear that the Commissioner of Police has left aside the misleading of Parliament, despite what is in section 57. He has left that aside and is concentrating on the fraud. I wish the police officers in that investigation all the very best in dealing with that issue. It is complex.

We are now left with the misleading of Parliament. What do we do with it? There is a provision in the Criminal Code. There is a provision in the *Parliamentary Privileges Act 1891* for this house to direct the Attorney General in this case. This motion is asking for that. It is not treading on the toes of the police commissioner at all.

Dr A.D. Buti interjected.

Mr P.A. KATSAMBANIS: Despite the constant interjection, it is not treading on the toes of the Commissioner of Police. It is certainly not interfering with any investigation of the major fraud squad.

Debate interrupted, pursuant to standing orders.

[Continued on page 2436.]