

41ST PARLIAMENT



Procedure and Privileges Committee

Report 1

Report on a Person Adversely
Referred to in the Legislative Assembly —
Hon Simon O'Brien

Presented by
Mr Stephen Price MLA
September 2021

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Procedure and Privileges Committee

*Report on a Person Adversely
Referred to in the
Legislative Assembly —
Hon Simon O'Brien*

Report No. 1

Presented by

Mr Stephen Price MLA
Deputy Speaker of the Legislative Assembly

Laid on the Table of the Legislative Assembly on 16 September 2021

Report

In my capacity as Speaker of the Legislative Assembly, I referred to the Procedure and Privileges Committee a letter from Hon Simon O'Brien seeking to use Standing Order 114 to respond to statements made in the Legislative Assembly on Friday 4 December 2020 and Wednesday 16 June 2021 by the Attorney General, Hon John Quigley MLA.

The Committee has agreed to recommend the incorporation in *Hansard* of the appended response by Hon Simon O'Brien.

In accordance with Standing Order 114, the Committee has not considered or judged the truth of any statements made in the Legislative Assembly or in the submission.

Recommendation

The Committee recommends —

That a response by Hon Simon O'Brien, in the terms specified in the Appendix to this Report, be incorporated in *Hansard*.



HON MICHELLE H ROBERTS MLA
CHAIR OF THE COMMITTEE
16 SEPTEMBER 2021

Appendix One

Response by Hon Simon O'Brien

Agreed to by Hon Simon O'Brien and the Procedure and Privileges
Committee Pursuant to Standing Order 114

Response Pursuant to Legislative Assembly Standing Order 114

I write to seek an opportunity to respond to false and damaging claims made on several occasions by Hon J.R. Quigley MLA in his capacity as Attorney General, notably during Question Time on 4 December 2020 and during debate on the Corruption, Crime and Misconduct Amendment Bill 2021 on 16 June 2021.

The remarks which I challenge as false and damaging are contained in these passages:

LA Hansard 4 December 2020 page 8406 during Question Time (in answer to QWN 984)

... in the Legislative Council on 5 September 2019, Hon Simon O'Brien said —

I might add that I feel some empathy for anyone caught in the situation that Mr Edman and his family seem to be caught in at the moment.

He was expressing support publicly in the Parliament for Mr Edman, who we know is corrupt on the findings of the report. (1A)

And

Only two days before Hon Simon O'Brien telephoned support for Mr Edman, on 14 August, the procedure and privileges committee tabled the report.

... [Point of Order, interjections and responses omitted]

The whole procedure of the committee has been corrupted by someone within that committee ringing up a former Liberal colleague who was a target of the CCC to offer support for them whilst they were sitting on that privileges committee. (1B)

And

It is up to the new Leader of the Opposition now to go out and ask Mr O'Brien whether it was he who sent this text or voicemail message to Mr Edman, and, if it is, he should ask Mr O'Brien to resign from the privileges committee and the Liberal Party should throw him out of the Liberal Party room before Christmas. Otherwise, there is no room for the new leader of the Liberal Party to say, "We are against corruption at all levels." You will go into this election with a stinking mess hanging around your neck like a dead albatross if you do not deal with this corruption at this stage. This state cannot afford to return to a party that tolerates this sort of corruption and this sort of cover-up, Leader of the Opposition. (1C)

And

Appendix One

LA Hansard 16 June 2021 page 1590 during debate on the Corruption, Crime and Misconduct Amendment Bill 2021

... the most senior person then in the Liberal Party, the longest-serving member of the Liberal Party and a member of the Standing Committee on Procedure and Privileges of the upper house, Mr Simon O'Brien, rang the corrupt Mr Edman to say, "I support you, mate, and I'll support you all the way." (2A)

And

Someone in the Liberal Party, the longest serving member of the Liberal Party, at the time also a member of one of the most senior committees of this Parliament, the Standing Committee on Procedure and Privileges of the Legislative Council, was ringing up the corrupt Mr Edman offering him his ongoing support. (2B)

And

[Referring to me] One of the "Black Hand Gang" was embedded in the committee and was able to cut off the inquirer at the knees.

Mr Deputy Speaker, I rest our case. I say no more. I commend the bill to the house. (2C)

The one aspect of these remarks which is accurate is that I was indeed at the material time the longest serving member of the Liberal Party and a member of the Standing Committee on Procedure and Privileges (PPC). I was also Father of the House, Deputy President and Chairman of Committees. For one in such a position to be accused of corrupting the workings of a Standing Committee and using membership of a Standing Committee to attempt to interfere in an inquiry for the benefit of a suspect are allegations of extraordinary gravity. The Parliament needs to be reassured that these claims are false.

Background

This mischief appears to derive from paragraph 437 of the Corruption and Crime Commission (CCC) Report dated 26 November 2020: *Report on electorate allowances and management of electorate offices*.

Paragraph 437 stated:

On 16 August 2019, Mr Edman received a text message from a member of the Procedure and Privileges Committee (not the Hon Ricky Mazza MLC) offering support.

Appendix One

The paragraph refers to a text message sent to Mr Phil Edman; the footnote refers to a telephone call. I understand the CCC subsequently clarified this ambiguity by letter to the Speaker dated 3 December 2020 advising that the communication was in fact a voice message.

The relevant background is as follows:

In August 2019 I had for some months been aware (through the PPC) of a covert investigation by the CCC into Mr Edman. Throughout this period, the PPC interest in the matter was not publicly known. Mr Edman attempted to telephone me during this time – possibly two or three calls. I neither answered nor returned those calls, specifically to avoid being placed, or being seen to be placed, in a conflicted position. (As it happens, I had not communicated with Mr Edman for years anyway – probably not since he left Parliament in May 2017, or shortly thereafter.) I reported these attempts to contact me to the PPC contemporaneously.

On 14 August 2019 the CCC investigation became public knowledge, with raids and media attention and so on. It was reported among other things that Mrs Edman, rather than expose herself and her children to the distress and humiliation of that event, had refused to remain at the Edman residence during the search of the property. Given the degree of public infamy that had been visited on Mr Edman since the earlier revelations about him in the Craig Peacock case, the ongoing pressure of CCC actions, the likely reactions of family and associates to these disclosures (regardless of whether he had brought it upon himself or not), one might understandably be concerned for Mr Edman's state of mind. (WA Police apparently were, I am told, visiting to take possession of his licensed firearms.) That also occurred to me when I saw he tried to call me at 10.14 am on 16 August 2019. My dilemma then was to maintain a prudent separation, whilst being mindful that seeming to reject contact completely might be a factor that could lead Mr Edman to self-harm.

I have requested of the CCC a copy of the transcript of the message referred to in paragraph 437, specifically for the purpose of giving it to the Legislative Assembly Procedure and Privileges Committee; that request has been declined.

Nonetheless, I have an independent recollection of leaving a voice message on Mr Edman's telephone about this time and generally recall the content of the message and the demeanour in which it was given.

My message to Mr Edman was to this effect:

Phil, I am glad this call has gone through to message bank, because the reason I am ringing is to say it is not possible for us to talk, given the respective positions we find ourselves in. I understand you are doing it tough right now; try not to let it get you down too much, but as I say it is not possible to have a discussion.

Appendix One

Clearly, this was not a message of support in anything like the way it has been portrayed. Motivated by decent concerns, it was a polite way of saying “don’t call me – I won’t be talking to you”.

My response to the comments made

Mr Quigley’s remarks on 4 December 2020 were clearly for political consumption, being premeditated and intended to reflect adversely on my character and my role in an ongoing PPC inquiry related to the privileges of the Parliament. My objection is they were also false, as well as injurious to my reputation.

(1A) ... in the Legislative Council on 5 September 2019, Hon Simon O’Brien said—

I might add that I feel some empathy for anyone caught in the situation that Mr Edman and his family seem to be caught in at the moment.

He was expressing support publicly in the Parliament for Mr Edman, who we know is corrupt on the findings of the report.

I did not express “support publicly in the Parliament for Mr Edman, who we know is corrupt”. The context in which I used the word empathy clearly meant I could understand the nature of the difficult circumstances facing anyone caught in the situation that Mr Edman and his family were in.

(1B) Only two days before Hon Simon O’Brien telephoned support for Mr Edman, on 14 August, the procedure and privileges committee tabled the report.

... [Point of Order, interjections and responses omitted]

The whole procedure of the committee has been corrupted by someone within that committee ringing up a former Liberal colleague who was a target of the CCC to offer support for them whilst they were sitting on that privileges committee.

It has been my experience over many years that the integrity of Parliamentary Standing Committees is sacrosanct, an integrity that is further protected by the professional guidance of Parliamentary staff. It is preposterous to allege that the “whole procedure” of the PPC was corrupted and I reject the allegation. In fact, the PPC steadfastly resisted outside pressures to abandon its duty to the Parliament throughout the period May 2019 to December 2020.

(1C) It is up to the new Leader of the Opposition now to go out and ask Mr O’Brien whether it was he who sent this text or voicemail message to Mr Edman, and, if it is, he should ask Mr O’Brien to resign from the privileges

Appendix One

committee and the Liberal Party should throw him out of the Liberal Party room before Christmas. Otherwise, there is no room for the new leader of the Liberal Party to say, "We are against corruption at all levels." You will go into this election with a stinking mess hanging around your neck like a dead albatross if you do not deal with this corruption at this stage. This state cannot afford to return to a party that tolerates this sort of corruption and this sort of cover-up, Leader of the Opposition.

Putting to one side the political hyperbole, this is a direct charge of corruption against me and was obviously intended to cause reputational damage.

My advice to the Parliament in response is there was never any malfeasance, nor any "cover-up". I had reported the fact of the rejected telephone call and my response to it to the President and the PPC members at the time. I self-identified publicly in response to questions from the media following the Question.

(2A) ... the most senior person then in the Liberal Party, the longest-serving member of the Liberal Party and a member of the Standing Committee on Procedure and Privileges of the upper house, Mr Simon O'Brien, rang the corrupt Mr Edman to say, "I support you, mate, and I'll support you all the way."

Whether this assertion is an invention of Mr Quigley, or based on erroneous advice provided to him, or a combination of both, it is completely untrue.

(2B) Someone in the Liberal Party, the longest serving member of the Liberal Party, at the time also a member of one of the most senior committees of this Parliament, the Standing Committee on Procedure and Privileges of the Legislative Council, was ringing up the corrupt Mr Edman offering him his ongoing support.

Again, whether this assertion is an invention of Mr Quigley, or based on erroneous advice provided to him, or a combination of both, it is completely untrue.

(2C) [Referring to me] One of the "Black Hand Gang" was embedded in the committee and was able to cut off the inquirer at the knees.

Mr Deputy Speaker, I rest our case. I say no more. I commend the bill to the house.

This is the most serious and disturbing allegation, for two reasons.

Firstly, the suggestion that an inquiry was sabotaged (by me or the PPC) is a fiction.

Secondly, the narrative seems to suggest that this falsehood was the final vocal flourish to decide argument on a controversial Bill then before the House. If the House did give

Appendix One

weight to this argument, then the House may have been misled. It is this final point which compels me to bring my submission; that is, knowing the truth I am obliged to bring it to your attention.

It is necessary that a firm rebuttal of this allegation and an enunciation of the facts be placed on the record, which I offer in these terms:

The allegation is baseless and false. The PPC was not involved in the Edman investigation except for safeguarding the privileges of the Parliament. This is made clear in the several published reports of the PPC relating to these matters. My comments to the Legislative Council on 5 September 2019 (see *Hansard* p. 6515) detailed what the PPC's actions were about. I later summarised the key point in these terms:

As I said earlier, this is not about a former member, whether they be called Edman or anything else. It is about the privileges of the house. (*Hansard* p. 6536, 5 September 2019.)

Never to my knowledge has any person (within the PPC or without) suggested that the outcomes for a person under investigation should be mitigated. The PPC and all its members went to great efforts to facilitate the inquiries of the CCC and WA Police, whilst ensuring to the greatest extent possible that the privileges of the Parliament were safeguarded.

The PPC has consistently asserted that questions of parliamentary privilege were not matters for the Director General of the DPC, the State Solicitor's Office, the Attorney General or the Solicitor General (see for example PPC Report 55, p. 95). The recent findings of the Supreme Court on this subject are also worthy of Members' attention (see [2021] WASC 223).

The foregoing is my response to allegations raised in the House which adversely affect my reputation. In accordance with Standing Order 114, I now respectfully request my response be recorded in *Hansard*.

Simon O'Brien
9 September 2021

Appendix Two

Committee's Functions and Powers

Legislative Assembly Standing Order 284 provides the following functions, powers and terms of reference to the Procedure and Privileges Committee —

Procedure and Privileges Committee

- 284.** (1) A Procedure and Privileges Committee will be appointed at the beginning of each Parliament to —
- (a) examine and report on the procedures of the Assembly; and
 - (b) examine and report on issues of privilege; and
 - (c) wherever necessary, confer with a similar committee of the Council.
- (2) Membership of the committee will consist of the Speaker and four other members as the Assembly appoints.
- (3) Standing Order 278 will apply except that where possible any report of the committee will be presented by the Deputy Speaker.
- (4) When consideration of a report from the committee is set down as an order of the day it will be considered using the consideration in detail procedure.



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