



**LEGISLATIVE ASSEMBLY OF QUEENSLAND**

**PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE**

**A report on a complaint by the Honourable Gordon Nuttall MP**

**Report No. 70**

**May 2006**

## **COMMITTEE MEMBERSHIP 51st PARLIAMENT**

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## CHAIRMAN'S FOREWORD

In 2005, the Crime and Misconduct Commission (the CMC or the Commission) investigated allegations against the Honourable Gordon Nuttall MP. The Leader of the Opposition, Mr Lawrence Springborg MP, had complained to the Queensland Police Service alleging that Mr Nuttall, then the Minister for Health, gave false answers to questions asked of him by Mr Stuart Copeland MP, a member of an estimates committee of the Legislative Assembly, during committee hearings in June 2005.<sup>1</sup> The Commissioner of Police referred the complaint to the Crime and Misconduct Commission.

On 7 December 2005, the Commission provided its report in the matter to the Attorney-General, Hon Linda Lavarch MP. The Attorney-General tabled the report in the Legislative Assembly later that day.<sup>2</sup>

On 16 February 2006 Mr Nuttall tabled in the Legislative Assembly an opinion from Mr Tony Morris QC which was highly critical of the CMC's investigation and report.

By letter dated 16 February 2006, Mr Nuttall wrote to the Parliamentary Crime and Misconduct Committee (the PCMC or the Committee) requesting it take various actions.

As an initial step in its consideration of the matters raised by Mr Nuttall, the Committee sought a response from the CMC to the matters raised by Mr Nuttall.

Following consideration of the complaints and the response received from the CMC, the Committee resolved on 8 March 2006 to refer the matter to the Parliamentary Crime and Misconduct Commissioner for examination and report to the Committee. The full terms of reference, together with the concerns raised by Mr Nuttall, are set out in the report of the Parliamentary Commissioner, Mr Alan MacSporran SC.

The Parliamentary Commissioner has delivered his report to the Committee. In summary, Mr MacSporran's view is that the actions of the CMC were appropriate in all the circumstances.

Additionally, the Committee is of the opinion that from the viewpoint of good public policy and practice, CMC reports dealing with complex legal issues where there are conflicting legal opinions should fully set out the CMC's reasons for preferring the legal opinions it adopts.

**Geoff Wilson MP**  
Chairman

20 April 2006

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<sup>1</sup> Mr Copeland is also a member of the PCMC. The PCMC places on record that Mr Copeland abstained from all deliberations of the PCMC regarding Mr Nuttall's matter.

<sup>2</sup> The report, *Allegations concerning the Honourable Gordon Nuttall MP*, is available at <http://www.parliament.qld.gov.au/view/publications/publications.asp?area=other&LIndex=9&SubArea=other>



## 1. INTRODUCTION

The Committee has resolved to table the report of the Parliamentary Crime and Misconduct Commissioner (Parliamentary Commissioner) in the Legislative Assembly. It is the practice of the Committee when tabling such a report to provide some background detail regarding the role and powers of both the Committee and the Parliamentary Commissioner.

The PCMC monitors and reviews the performance of the functions of the CMC. The Committee is established under the *Crime and Misconduct Act 2001* (the Act) as a bipartisan committee of the Queensland Legislative Assembly. It has the following functions:

- to monitor and review the performance of the CMC's functions;
- to report to the Legislative Assembly where appropriate on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission;
- to examine reports of the CMC;
- to participate in the appointment of commissioners;
- to conduct a review of the activities of the CMC at the end of the Committee's term ("the three year review"); and
- to issue guidelines and give directions to the CMC where appropriate.

The PCMC can also receive complaints and deal with other concerns which it may be aware of about the conduct or activities of the CMC or an officer or former officer of the CMC.

The Committee is assisted in its oversight process by the Parliamentary Commissioner. Mr Alan MacSporran SC was appointed as the Parliamentary Commissioner in December 2004. Mr MacSporran's appointment is for a period of two years and is on a part-time basis.

The Parliamentary Commissioner has a number of functions under the Act. These include carrying out the following, as required by the Committee:

- conduct audits of records kept by and operational files held by the CMC;
- investigate complaints made about or concerns expressed about the CMC;
- independently investigate allegations of possible unauthorised disclosure of information that is, under the Act, to be treated as confidential;
- report to the Committee on the results of carrying out the functions of the Parliamentary Commissioner; and
- perform other functions the Committee considers necessary or desirable.

To assist in the performance of these functions, the Parliamentary Commissioner has wide powers.

Any decision by the Committee to ask the Parliamentary Commissioner to investigate or review and report on a matter must be made unanimously or by a multi-party majority of the Committee.

## 2. BACKGROUND – MR NUTTALL’S COMPLAINTS

In 2005, the Crime and Misconduct Commission investigated allegations against the Honourable Gordon Nuttall MP. The Leader of the Opposition, Mr Lawrence Springborg MP, had complained to the Queensland Police Service alleging that Mr Nuttall, then the Minister for Health, gave false answers to questions asked of him by a member of an estimates committee of the Legislative Assembly during committee hearings in June 2005. The Commissioner of Police referred the complaint to the Crime and Misconduct Commission.

On 7 December 2005, the Commission provided its report in the matter to the Attorney-General, Hon Linda Lavarch MP. The Attorney-General tabled the report in the Legislative Assembly later that day.

On 16 February 2006 Mr Nuttall tabled in the Parliament an opinion from Mr A J H (Tony) Morris QC which was highly critical of the CMC’s investigation and report. Mr Nuttall quoted at length from the opinion and stated he would write to a number of entities, including the Parliamentary Crime and Misconduct Committee, requesting:

- (a) referral of the matter to the Parliamentary Crime and Misconduct Commissioner for investigation.
- (b) a judicial review of the CMC’s investigation and processes that led to the report.
- (c) a full review of the *Crime and Misconduct Act 2001*.
- (d) an inquiry into the operations and conduct of the CMC with recommendations regarding its future structure and role.
- (e) referral to the Members’ Ethics and Parliamentary Privileges Committee to consider matters of privilege arising for all members.<sup>3</sup>

By letter dated 16 February 2006, Mr Nuttall wrote to the Committee requesting it take all these actions. Each of these requests is now considered in turn.

## 3. COMMITTEE’S RESPONSE TO MR NUTTALL’S REQUESTS

### (a) Referral of the matter to the Parliamentary Crime and Misconduct Commissioner for investigation

As an initial step, by letter dated 1 March 2006 the Committee sought from the CMC a response to the matters raised by Mr Nuttall. Copies of the Committee’s letter and the CMC’s response dated 2 March 2006 are attached to this report.

Following consideration of the complaints and the response received from the CMC, the Committee resolved on 8 March 2006 to refer the matter to the Parliamentary Crime and Misconduct Commissioner for examination and report to the Committee. The full terms of reference are set out in the attached report of the Parliamentary Commissioner, Mr Alan MacSporran.<sup>4</sup> The concerns raised by Mr Nuttall are also set out in more detail in the Parliamentary Commissioner’s report.<sup>5</sup> The Committee makes some additional comments on the CMC report in section 5 below.

<sup>3</sup> Queensland, Legislative Assembly, Parliamentary Debates (Hansard), 16 February 2006 at 189-190.

<sup>4</sup> At page 3.

<sup>5</sup> At pages 5 and 6.

**(b) A judicial review of the CMC's investigation and processes that led to the report.**

The Committee has no power to authorise or direct that a judicial review be undertaken of the CMC's investigation and processes leading to its report in Mr Nuttall's matter or of the report itself. What rights Mr Nuttall might have at law, for example to seek a declaration from the Supreme Court regarding the legality of the CMC's report, is a question on which Mr Nuttall would need to seek independent legal advice. It is not a matter for the Committee.

**(c) A full review of the *Crime and Misconduct Act 2001*.**

Under section 292(f) of the *Crime and Misconduct Act 2001* the Committee is required approximately every three years to conduct a review of the Act and the operation and performance of the CMC. Such a review was announced on 2 March 2006 and public submissions close on 12 May 2006. The review focuses on systemic issues and not individual grievances which are handled through the normal Committee complaints process.

**(d) An inquiry into the operations and conduct of the CMC with recommendations regarding its future structure and role.**

As noted under (c) above, the Committee has commenced its regular statutory review of the CMC. The Premier is reported as ruling out any broad inquiry as sought by Mr Nuttall.<sup>6</sup>

**(e) Referral to the Members' Ethics and Parliamentary Privileges Committee to consider matters of privilege arising for all members.**

The Speaker referred the present "matters of privilege" to the Members' Ethics and Parliamentary Privileges Committee (MEPPC) on 16 February 2006.<sup>7</sup> The MEPPC has announced that it will report in relation to those matters of privilege.<sup>8</sup> Accordingly, there is no necessity for the PCMC to consider the issue of any referral to the MEPPC.

**4. THE REPORT OF THE PARLIAMENTARY COMMISSIONER**

The Parliamentary Commissioner has delivered his report to the Committee. The Parliamentary Commissioner, after examining the CMC's report, and having had regard to the concerns raised by Mr Nuttall and to the response from the CMC to the Committee, has concluded that the actions of the CMC were appropriate in all the circumstances.

**5. ADEQUACY OF REASONS**

One of the complaints made by Mr Nuttall was that the CMC had failed to give reasons for its decision to adopt certain legal advices it had received in preference to other advices that were before it. In his opinion, Mr Morris argued forcefully that the rules of natural justice imposed a legal obligation upon the Commission to give such reasons. Whether there was such a legal obligation to give reasons has been considered in detail by the Parliamentary Commissioner in his report.

As the Parliamentary Commissioner concluded, the proposition that the laws of natural justice require the CMC to give reasons in its report as asserted by Mr Morris is not supported by any judicial authority. Nor is there any other legal obligation which required the giving of reasons in this case.

<sup>6</sup> *The Courier-Mail* 18 February 2006 *Nuttall's plea rejected* by Rosemary Odgers and Malcolm Cole.

<sup>7</sup> Queensland, Legislative Assembly, Parliamentary Debates (Hansard), 16 February 2006, at 237.

<sup>8</sup> *Matter of Privilege Referred by the Speaker on 24 August 2005 Relating to the Alleged Misleading of Estimates Committee D*, MEPPC report number 72 tabled 2 March 2006, page 3.

In the view of the Committee, it is not simply a question of whether the Commission was required as a matter of law to give reasons. The Committee has looked at the question of what the Commission could have done, from the point of view of good public policy and practice, and in the interests of optimal transparency and accountability. The Committee notes there is no legal prohibition or constraint on the Commission providing full grounds and reasons for its decision, should it choose to do so.

For the reasons set out below, the Committee is of the view that, whilst there was no legal obligation on the CMC to provide reasons, in the circumstances, on balance, it would have been preferable had it done so.

- The Commission attached to its report full copies of all relevant legal advices that were available to it. Further, the Commission provided some brief reasons in its report itself. However, it should be noted those legal opinions total 155 pages. The subject matter of those legal opinions dealt with matters of considerable complexity and novelty. Bearing this in mind, and given these factors and the consequences of the Commission's decision to prefer certain legal advices over others, it would have been preferable had the Commission expanded on its statement at page 2 of its report that:

*This report does not canvass the various opinions; the contents of each speaks for itself. Suffice to say that the CMC, after careful consideration, has accepted, and relies on, the opinions of Logan and Gageler.*

The Committee believes that this would have made the report more user-friendly to the reader. Moreover, it might have avoided at least some of the subsequent criticisms made by Mr Morris on Mr Nuttall's behalf.

- The Committee acknowledges that the CMC was reporting to the Attorney-General by virtue of the combined effect of provisions in its own Act and in the *Parliament of Queensland Act 2001*. One of the legal opinions relied upon by the CMC advised not only that the Attorney-General was the appropriate person to whom the CMC should report but also that the Attorney-General should bring the report to the attention of the Parliament and to seek its direction. Accordingly the CMC could have reasonably anticipated that the Nuttall report would become a public document. In its letter to the Committee dated 2 March 2006, the CMC states:

*It is true that the CMC envisaged that its report could become public, through being tabled in Parliament, if the Attorney-General were to act upon the same view of the law as held by the CMC.*

- The report dealt with a matter that had received considerable publicity, and it was highly likely the report itself would receive similar levels of publicity.
- The CMC clearly had formulated its reasons for relying on some legal views and rejecting others; otherwise it could not properly have come to the conclusions it did. In such circumstances, there should have been little difficulty in setting these out in full in its report.
- In March 2005 the CMC made public a report on the "Palm Island Bribery Allegation".<sup>9</sup> This was a report into an offer made by the Premier of Queensland to the Palm Island Aboriginal Council. In that matter, there was complex legal argument over various issues upon which there were conflicting legal opinions. The report included extensive reasons for the CMC decision on the legal issues involved. The Committee believes that

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<sup>9</sup> *Palm Island bribery allegation: report of a CMC investigation into an offer made by the Premier of Queensland to the Palm Island Aboriginal Council*, Crime and Misconduct Commission, March 2005.

this is an appropriate model for CMC reports when dealing with conflicting legal opinions (including attachments).

- The Committee is mindful that the CMC's official misconduct jurisdiction extends well beyond Members of the Queensland Parliament and elected members of local government to many thousands of public servants and local government employees. It is appropriate therefore that CMC reports in complex cases like the present one, and particularly where the report is likely to enter the public domain, provide full reasons, especially in relation to conflicting legal opinions, so that the reports might be more comprehensible to those without legal training or access to legal advice.
- The CMC is a vital part of the integrity and accountability system in the Queensland public sector. The media and academic and other commentators on public affairs play an important role in assessing the accountability of the CMC itself. CMC reports that fully set out the reasons for CMC decisions enable the CMC to be subject to constructive critical examination, to the benefit of the Queensland public.

## **APPENDIX A**

**REPORT BY THE PARLIAMENTARY CRIME AND MISCONDUCT  
COMMISSIONER ON HIS EXAMINATION OF THE CRIME AND MISCONDUCT  
COMMISSION'S REPORT INTO ALLEGATIONS CONCERNING THE  
HONOURABLE GORDON NUTTALL MP**

**REPORT ON THE EXAMINATION  
OF THE  
CRIME AND MISCONDUCT COMMISSION'S  
REPORT INTO ALLEGATIONS CONCERNING  
THE HONOURABLE GORDON NUTTALL MP**



**OFFICE OF THE  
PARLIAMENTARY CRIME & MISCONDUCT COMMISSIONER**

**MARCH 2006**

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**INTRODUCTION**

In order to properly assess and place in context the concerns expressed by Hon G Nuttall MP (hereinafter referred to as “Hon Nuttall”) and Mr A J H Morris QC, it is necessary to briefly refer to the background.

On Friday 8 July 2005, Hon Nuttall, then Minister for Health, appeared before a public hearing of a Queensland Parliamentary Committee, namely Estimates Committee D – Health, where he was questioned at length about comments he had previously made concerning overseas-trained doctors.

On 15 July 2005, the Leader of the Opposition, Mr Lawrence Springborg MP, wrote to the Officer in Charge of the Brisbane City Central Police Station requesting that an investigation be conducted to ascertain whether, by his answers to questions posed during the Estimates Committee hearing, the Minister had committed an offence against section 57 of the Criminal Code. On 28 July 2005, the Queensland Police Service referred the complaint to the Crime and Misconduct Commission.

On 7 December 2005, the report of the CMC’s investigation was provided to the Attorney-General in accordance with advice received from counsel, and tabled by the Attorney-General in Parliament. Later that day, after examining the CMC report, Hon Nuttall resigned as Minister for Primary Industries and Fisheries and as a member of the Executive Council. The circumstances in which the report was tabled are conveniently summarised in the Premier’s statement to Parliament on 9 December 2005 as follows:-

*I was advised of the recommendations of the CMC report whilst in Bundaberg. I was determined that the Government would release the report in full to the public as soon as I could arrange for this to happen.*

*The CMC had resolved to deliver this report to the Attorney-General so that the Attorney could obtain direction from the Parliament on the course it wishes to follow. ...*

*Despite the difficulties posed by distance and timing I arranged for a copy of the report to be sent to Bundaberg so that I could release it to the public by the media. At about 1:30pm that day a member of the Attorney-General’s staff personally tabled a report at the Queensland Parliament, enabling the report’s public release. I held a media conference at about 1:30pm at Bundaberg Hospital and released the report.<sup>1</sup>*

Immediately after the Premier’s statement to Parliament, Hon Nuttall provided to the House a personal explanation concerning matters arising from the CMC report. He apologised to the House for anything in his answers at the Estimates Committee hearing that misled the Committee or Parliament. He accepted that his answer to the question was careless although not deliberately or knowingly false or misleading.

After protracted debate, Parliament resolved:

*That, notwithstanding anything contained in standing and sessional orders—*

- 1. the House notes the Crime and Misconduct Commission’s report—the report—on its investigation into allegations against the Honourable Gordon Nuttall MP tabled by the Attorney-General and Minister for Justice on 7 December 2005;*

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<sup>1</sup> Ministerial statement Hon Peter Beattie MP (Premier and Treasurer) Hansard 09.12.05 page 4718.

2. *the House notes the report by the commissioner of the Queensland Police Service on these matters;*
3. *the House notes the resignation of the member for Sandgate as a minister and a member of the Executive Council on 7 December 2005;*
4. *the House notes the ministerial statements made today by the Honourable the Premier and Treasurer and the Honourable the Attorney-General and Minister for Justice about the matters the subject of the report;*
5. *the House notes the member's statement and apology to the House today about the matters the subject of the report;*
6. *the House determines under section 38 (Decisions on contempt) of the Parliament of Queensland Act 2001 that the member's conduct be now dealt with by this parliament as a contempt; and*
7. *the House accepts the member's resignation as a minister and a member of the Executive Council and the apology made today to the parliament as the appropriate penalty in accordance with section 39—Assembly's power to deal with contempt—of the Parliament of Queensland Act 2001.*

On 16 February 2006, during the first sitting week of the year, Hon Nuttall tabled in Parliament an advice from Mr Morris QC dated 8 February 2006 and made his complaint about the conduct of the CMC.

## TERMS OF REFERENCE

At a meeting on 8 March 2006, the Parliamentary Committee resolved in accordance with section 295(3) of the *Crime and Misconduct Act 2001* (the *C&M Act*), that—

*pursuant to section 295(2)(f) of the Crime and Misconduct Act 2001, the Parliamentary Crime and Misconduct Commissioner be asked to:*

- 1. examine the report of the Crime and Misconduct Commission's investigation into allegations against Hon Gordon Nuttall MP, having regard to:*
  - (a) the concerns raised by Hon Nuttall in his letter to the Committee dated 16 February 2006 and in his statement in the Legislative Assembly on 16 February 2006, and in the opinion of Mr A J H Morris QC dated 8 February 2006; and*
  - (b) the response by the Crime and Misconduct Commission in its letter dated 2 March 2006.*
- 2. report to the Committee, advising whether, in respect of those concerns, the actions of the Commission were appropriate in all the circumstances.*

To assist in my examination I have been provided with the following material:

1. letter from Hon Nuttall to the Parliamentary Crime and Misconduct Committee dated 16 February 2006;
2. statement of Hon Nuttall in the Legislative Assembly on 16 February 2006;
3. opinion of Mr A J H Morris QC dated 8 February 2006;
4. Crime and Misconduct Commission report of its investigation into allegations concerning the Honourable Gordon Nuttall MP from December 2005 including Appendix 5 which contained the following—
  - joint opinion of Messrs J A Logan SC and S J Gageler SC dated 12 August 2005;
  - letter from the Clerk of Parliament to Mr H Fraser QC dated 29 August 2005;
  - opinion of Mr H Fraser QC dated 9 September 2005;
  - joint opinion of Messrs R W Gotterson QC and M T O'Sullivan dated 27 September 2005;
  - supplementary opinion of Mr H Fraser QC dated 6 October 2005; and
  - supplementary opinion of Messrs J A Logan SC and S J Gageler SC dated 17 October 2005.
5. memorandum from Mr R Atkinson, Commissioner of Police, tabled 9 December 2005; and
6. letter from Mr R Needham, Chairperson, Crime and Misconduct Commission, dated 2 March 2006.

## RESULTS OF EXAMINATION

### The CMC's investigation

Shortly after the referral of the investigation from the Queensland Police Service, the CMC sought the advice of Senior Counsel as to the ramifications of parliamentary privilege upon its ability to conduct an investigation and report its findings. Specifically the question for consideration and the answer given was as follows:-

*The question for advice, and what, in our opinion is the answer to it are as follows:*

*Question: Does the investigation or prosecution of a Member of the Queensland Parliament for an alleged breach of s.57 of the Criminal Code breach the law with respect to parliamentary privilege?*

*Answer:*

- (a) As to a prosecution, if the Queensland Parliament, by resolution made in accordance with s.47 of the Parliament of Queensland Act 2001 directs the Attorney-General to prosecute that member for that alleged offence, "No"; and;*
- (b) As to investigation by the CMC, "No, but the law with respect to parliamentary privilege would prevent the coercive questioning by the CMC of Mr Nuttall in respect of the evidence that he gave."<sup>2</sup>*

On 25 August 2005, the CMC Chairperson advised the Minister for Justice and Attorney-General, the Speaker of the Legislative Assembly of Queensland and the Chair of the Members' Ethics and Parliamentary Privileges Committee that the CMC had commenced an investigation into certain allegations made by the Leader of the Opposition. The stated purpose of the investigation was to ascertain whether or not there was sufficient evidence to support a charge against Hon Nuttall under section 57 of the Criminal Code. The letter proposed that *"if the CMC determines that there is sufficient evidence a report will be forwarded to the Attorney-General to enable (her) to ascertain the will of Parliament, whether the matter should be dealt with as a contempt of Parliament or whether to resolve to direct (her) to prosecute under the Code provision."*<sup>3</sup>

By letter dated 29 August 2005, Mr Laurie, the Clerk of the Parliament, sought the advice of Mr Fraser QC in relation to these issues. That letter, together with a copy of the opinion of Mr Fraser QC of 9 September 2005, was provided to the CMC on 26 September 2005. Briefly, that opinion confirmed the jurisdiction of the CMC to carry out the investigation proposed but advised that, although the questioning of Hon Nuttall before the Committee was probably "an examination" as required to constitute an offence against section 57 of the Criminal Code, the questioning was not "relevant" as required by the same section of the Criminal Code.

The opinion went on to express the view that it was inappropriate to provide any report to the Attorney-General and that if the circumstances revealed a case to answer under section 57 of the Criminal Code, the matter should be referred to the Director of Public Prosecutions.

<sup>2</sup> Joint opinion of Logan SC and Gageler SC, 12.08.05, paragraph 2.

<sup>3</sup> Joint opinion of Gotterson QC and O'Sullivan, 27.09.05, page 1.

On 27 September 2005, Hon Nuttall's legal representatives forwarded the joint opinion of Messrs Gotterson QC and O'Sullivan to the CMC. That opinion advised that the CMC was prevented by parliamentary privilege from investigating the allegations and, in any event, the questioning was not "relevant" as required to make out an offence pursuant to section 57 of the Criminal Code.

In light of the opinion of Mr Fraser QC and the joint opinion of Messrs Gotterson QC and O'Sullivan, the CMC sought a supplementary joint opinion from Messrs Logan SC and Gageler SC. Those gentlemen were provided with the other advices where contrary views had been expressed.

The questions in respect of which the advice was sought were as follows:-

*Question (1): Were the questions the answering of which has been alleged to give rise to the commission of an offence by Mr Nuttall against s.57 of the Criminal Code "lawful and relevant" within the meaning of that section?*

*Answer: Yes.*

*Question (2): Having regard to s.47 of the Parliament of Queensland Act, would it be appropriate for the CMC to refer its report directly to the Director of Public Prosecutions (DPP) or should the report be directed in the first instance to the Attorney-General for consequential consideration by Parliament?*

*Answer: To the Attorney, for consideration by Parliament.<sup>4</sup>*

That supplementary joint opinion was then supplied by the CMC to Hon Nuttall's legal advisers who were told that the CMC had adopted the conclusions expressed therein.<sup>5</sup>

Hon Nuttall's legal advisers wrote to the CMC providing comments on the CMC's proposals. Significantly, the response from the solicitors agreed that the Attorney-General was the appropriate recipient of the CMC's report as opposed to the Director of Public Prosecutions.

On 7 December 2005, the report of the CMC was tabled by the Attorney-General in Parliament in the circumstances described above.

On 9 December 2006, after hearing the statement and apology of Hon Nuttall to the House, Parliament determined that Hon Nuttall's conduct amounted to contempt of the Assembly and would be dealt with as such. His resignation as Minister and member of the Executive Council and his apology to Parliament was accepted as the appropriate penalty in accordance with section 39 of the *Parliament of Queensland Act 2001*.

### **The concerns raised by Hon Nuttall and Mr Morris QC**

The advice of Mr Morris QC was obtained on 8 February 2006 and tabled by Hon Nuttall in Parliament on 16 February 2006 when Hon Nuttall made his current complaint about the conduct of the CMC. Essentially, the concerns raised by Hon Nuttall both in his letter to the Parliamentary Crime and Misconduct Committee and in his statement to the Legislative Assembly on 16 February 2006 refer to the contents of the advice provided by Mr Morris QC.

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<sup>4</sup> Supplementary joint opinion of Logan SC and Gageler SC, 17.10.05, page 3.

<sup>5</sup> Letter R Needham (Chairperson CMC) to PCMC 02.03.06, page 2.

Hon Nuttall summarised his position as follows:-

*I am not only a Member of Parliament but also a citizen of this State who is entitled to the principles of natural justice. I ask for no favours but to be treated equally. The fact is that the High Court of Australia has ruled that the CMC's predecessor must comply strictly with the principles of natural justice whenever it produces a report which may affect a citizen's standing or reputation. It follows that the CMC should have done the same.*

*The CMC – that is, the corruption watchdog – has at the very least,*

- 1. produced, a report which was fundamentally legally misconceived;*
- 2. defied and ignored a decision of the High Court;*
- 3. abused its powers given to it under the Crime and Misconduct Act 2001; and*
- 4. at worst, been corrupt within its own organisation by manipulating the law to derive an outcome to justify its investigation and subsequent report.<sup>6</sup>*

He then went on to refer to and quote paragraphs 75-77 of the advice. Those paragraphs contain the following:-

- 75 *As I have said, the CMC's approach was a disgrace. To trash the reputation of a Member of Parliament and Minister of the Crown by such a process – quite regardless of his political allegiances, or any views regarding the rights and wrongs of his conduct on a particular occasion – was nothing short of scandalous.*

#### CONCLUSIONS

- 76 *For the reasons outlined above, I am of the clear opinion that:*

76.1 *The proceedings of the Committee on 8 July 2005 did not constitute an "examination" within the meaning of section 57 of the Criminal Code;*

76.2 *The questions asked of Mr Nuttall in the course of those proceedings were not "relevant" within the meaning of section 57 of the Criminal Code; and*

76.3 *For those reasons, it is impossible – as a matter of law – that anything said by Mr Nuttall on that occasion could constitute a breach of section 57 of the Criminal Code."*

77 *From the Report, it appears that the only basis on which the CMC accepted the complaint against Mr Nuttall, and assumed jurisdiction to investigate the allegations against him, was the proposition that his conduct might have involved a contravention of section 57 of the Criminal Code. No other basis for the CMC's jurisdiction to entertain the complaint or investigate Mr Nuttall's conduct has been suggested, or is apparent. It follows that, absent a legally sustainable case that Mr Nuttall had contravened section 57 of the Criminal Code, the CMC:*

77.1 *Had no jurisdiction to entertain the complaint;*

77.2 *Had no jurisdiction to conduct the investigation;*

77.3 *Ought not to have considered the substance of the allegations against Mr Nuttall; and*

77.4 *Ought not to have published the Report.<sup>7</sup>*

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<sup>6</sup> Hansard – 16.02.06, page 190.

<sup>7</sup> Opinion Morris QC, 08.02.06, paragraphs 75-77.

I turn then to a consideration of the specific complaints made by Hon Nuttall. As mentioned above, the gravamen of Hon Nuttall's complaints come from the contents of the opinion of Mr Morris QC.

The first complaint seems to be that the CMC was required to set out in detail in its report the reasons why it preferred and acted on the joint opinion of Messrs Logan SC and Gageler SC rather than other opinions containing some contrary views. It is said by Mr Morris QC that the CMC's failure to do so is a breach of the rules of natural justice. It is useful to set out the terms of the advice in this respect:

*In any case affecting the individual's standing and reputation, where it is clear that conflicting views of the law are (at least) tenable, the CMC indisputably owes a duty to explain any process of reasoning which will (or may) produce a result which is adverse to the individual concerned. Fourteen years ago, in the leading case of Ainsworth v Criminal Justice Commission (Queensland), the High Court of Australia held that the CMC's predecessor must comply strictly with the principles of natural justice whenever it produces a report which may affect a citizen's standing or reputation. It is repugnant to the most basic principles of natural justice for the CMC to issue a report, intended for public consumption, which says (in effect): "We know that there are arguments both ways. If we accept one line of argument, the complaint must be dismissed. But we have rejected that line of argument, and adopted a different line of argument which allows us to uphold the complaint. We have good reasons for accepting this line of argument rather than the other, but we won't tell you what they are. Just take our word for it."*<sup>8</sup>

Mr Morris QC refers to the High Court's decision in *Ainsworth v Criminal Justice Commission*.<sup>9</sup> What *Ainsworth* undoubtedly makes clear is that the predecessor of the CMC, namely the CJC, was required to comply with the rules of procedural fairness (natural justice) when preparing its report in that case. That arose because the CJC had embarked upon a research project at the request of the Parliamentary Committee with respect to the introduction of poker machines into Queensland. The background in that case illustrating the way in which the rules of procedural fairness had been breached is helpfully set out in the report as follows:-

*On 1 June 1990, the Commission's report, entitled Report on Gaming Machine Concerns and Regulations, was delivered to the persons specified in section 2.18(1)(a), (b) and (c) of the Act. It dealt with matters of general concern and also with particular poker machine suppliers and manufacturers, including the appellants. It ascribed certain conduct to the appellants, dealt with that conduct in highly critical terms and recommended that "the Ainsworth group of companies not be permitted to participate in the gaming machine industry in Queensland".*

*So far as it concerns the activities of the appellants, the Commission's report was largely based on the reports of other public bodies and authorities. It is not clear what, if any, steps were taken to check their accuracy. In any event, no inquiry was made of the appellants: they were not informed of the Commission's interest in them or of its intention to report with respect to them. More particularly, they were neither made aware of the matters which were eventually put against them in the report nor given an opportunity to answer them. And, of course, they had no opportunity to be heard in opposition to the recommendation that "the Ainsworth group of companies" not be permitted to participate in the gaming machine industry in Queensland.*<sup>10</sup>

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<sup>8</sup> Opinion of Morris QC, 08.02.06, paragraph 25.

<sup>9</sup> (1991-1992) 175 CLR 564.

<sup>10</sup> *Ainsworth v Criminal Justice Commission* (1991-1992) 175 CLR 564 at 571 per Mason CJ, Dawson, Toohey and Gaudron JJ.

It is difficult in my view to see that the principles set out in *Ainsworth* can be translated to a requirement that here the CMC was obliged to express reasons for preferring one advice over another.

After commenting on the effect of the CJC report in that case, the court remarked:

*It has long been accepted that reputation is an interest attracting the protection of the rules of natural justice. Thus, over a century ago, Jessel M R said in Fisher v Keane:*

*According to the ordinary rules by which justice should be administered by committees of clubs, or by any other body of persons who decide upon the conduct of others, [they ought not] to blast a man's reputation forever – perhaps to ruin his prospects for life, without giving him an opportunity of either defending or palliating his conduct.*

*And, as recently as 1990, Brennan J said in Annetts that:*

*Personal reputation has now been established as an interest which should not be damaged by an official finding after a statutory inquiry unless the person whose reputation is likely to be affected has had a full and fair opportunity to show why the finding should not be made.*

*The same is true of business or commercial reputation. And it matters not that, instead of an express finding, there is, as here, an adverse recommendation based on the reports of other bodies or authorities. That being so, the appellants were entitled to procedural fairness.*<sup>11</sup>

Essentially, the court accepted that what had occurred was that the appellant's reputation had been blackened in circumstances in which the CJC should have given, but did not give, them an opportunity to put their side of the matter.<sup>12</sup>

Accepting for the purposes of this analysis that the rules of procedural fairness apply to the report of the CMC in the instant case, it is not immediately apparent to me that the CMC has in any way failed to comply with those requirements.

Prior to the furnishing of the report to the Attorney-General, the CMC gave Hon Nuttall an opportunity of being interviewed in respect of the matters being investigated. Under the heading "*The Minister's Explanation*" the report states:

*On 24 October 2005 the CMC wrote to Minister Nuttall's legal representatives seeking to interview the Minister.*

*A reply dated 27 October 2005 drew attention to the transcript of an interview between Minister Nuttall and radio journalist Steve Austin that had been broadcast on ABC radio 612 on the morning of Monday 11 July, and enclosed notes said to have been used by the Minister during the media conference conducted on Saturday 9 July.*

*The reply concluded:*

*Lastly, our client desires the CMC investigation be brought to a speedy conclusion. We see no purpose to be served by his volunteering for an interview and thereby prolonging the investigation.*<sup>13</sup>

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<sup>11</sup> *Ainsworth v Criminal Justice Commission* (1991-1992) 175 CLR 564 at 578 per Mason C J, Dawson, Toohey and Gaudron JJ.

<sup>12</sup> *Ainsworth v Criminal Justice Commission* (1991-1992) 175 CLR 564 at 579 per Mason C J, Dawson, Toohey and Gaudron JJ.

<sup>13</sup> Allegations concerning the Honourable Gordon Nuttall MP; Report of a CMC investigation, page 16.



The issues were well defined and the evidence available in respect of them was generally publicly known. The critical issue was whether any response given by Hon Nuttall to the committee was “*knowingly false*”.

In any event, the CMC’s report simply expressed the view that prosecution proceedings should be considered and, for that purpose, for the reasons already referred to and consistently with the legal advice it had obtained, gave the report to the Attorney-General. There were no findings as such contained in the report and the question as to whether the report should or would be made public and if so, in what form, were issues entirely outside the control of the CMC.

Significantly, as mentioned earlier, Hon Nuttall’s legal advisers were given a copy of the legal advice of Messrs Logan SC and Gageler SC of 17 October 2005 and told that the CMC had adopted the conclusions therein. Hon Nuttall was thereby provided with an opportunity to make any submissions to the CMC concerning those issues, an opportunity he apparently availed himself of when his solicitors wrote to the CMC before the report was handed over to the Attorney-General.

The remaining concerns are those matters of law that are expressed in the conclusions in the opinion of Mr Morris QC at paragraphs 76 and 77. In summary, these concerns are matters in respect of which the CMC took detailed legal advice to satisfy itself as to the appropriate course of action. The opinions the CMC obtained from Messrs Logan SC and Gageler SC were obtained in good faith and, specifically in respect of the supplementary joint opinion of 17 October 2005, to deal with the questions that arose by virtue of opinions expressed by others during the course of the investigation. I found no evidence here that the conduct of the CMC was borne out of, nor influenced by, any improper motive.

In the circumstances described above, it cannot be suggested that the exercise the CMC engaged in was inappropriate.

As Mr Needham points out,<sup>14</sup> there was a range of differing views expressed in the legal opinions obtained by the various parties over the life of this particular investigation.

On the issue of whether the CMC had the necessary jurisdiction to entertain the matter at all, Mr Fraser QC<sup>15</sup> agreed with Messrs Logan SC and Gageler SC that it had. On the other hand, Messrs Gotterson QC and O’Sullivan were equally emphatically of the view that the CMC did not have jurisdiction to entertain the investigation at all because of the operation of parliamentary privilege.<sup>16</sup>

Concerning the issue of whether the questioning of Hon Nuttall was “*lawful and relevant*” in order to establish that element of the offence pursuant to section 57 of the Criminal Code, Mr Fraser QC agreed with Messrs Gotterson QC and O’Sullivan that it was not “*relevant*”.<sup>17</sup>

As to whether the questioning of Hon Nuttall was in the course of “*an examination*” as required by that element of section 57 of the Criminal Code, Mr Fraser QC advised that it was.<sup>18</sup>

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<sup>14</sup> Letter R Needham (Chairperson CMC) to PCMC, 02.03.06, page 3.

<sup>15</sup> Opinion of Fraser QC, 09.09.05, pages 10-12.

<sup>16</sup> Joint opinion of Gotterson QC and O’Sullivan, 27.09.05, pages 13-15.

<sup>17</sup> Opinion of Fraser QC, 09.09.05, pages 21-22. Joint opinion of Gotterson QC and O’Sullivan, 27.09.05, pages 16-22.

<sup>18</sup> Opinion of Fraser QC, 09.09.05, pages 19-20.

As Mr Morris QC advised:-

*The report deals with a number of difficult legal questions, involving the principles of Parliamentary Privilege, and the operation of those principles in the light of various statutory enactments. I would be the first to concede that the answers to those questions are neither simple nor easy, and – as I have said – the same questions have already attracted different conclusions from different barristers, including barristers of considerable eminence.*<sup>19</sup>

That the issues arising in respect of this investigation were complex is readily confirmed by the fact that the CMC, the Clerk of Parliament (on behalf of the Speaker) and Hon Nuttall himself sought advice from senior counsel. The issues, the subject of the various advices, were such that it is not surprising that differing views were expressed. It is every client's prerogative to accept or reject the legal advice obtained. It is also self-evidently open for a client to prefer one advice over another or others.

Furthermore, although Mr Morris QC suggests to the contrary,<sup>20</sup> the CMC did in fact provide an explanation for the course it adopted in preferring one opinion over and above others.

In its report under the heading “*Legal Opinions*” at page 2, the CMC set out the fact that a number of legal opinions had been produced during the course of the investigation and referred specifically to the questions asked of, and the answers given by, the joint advices of Messrs Logan SC and Gageler SC. It then referred to the other advices that had been produced during the course of the investigation and to the fact that all opinions were contained in the report at appendix 5. It was therefore, and still is, possible for any interested party to access appendix 5 of the report and critically examine all aspects of all advices obtained during the course of this investigation.

Under the heading “*Issues and findings open on the evidence*” at page 41 of the CMC report there is further reference to the advices of Messrs Logan SC and Gageler SC and the broad basis upon which the CMC accepted and adopted those advices. This section of the report goes on to make reference, by way of further analysis, to statements appearing in the Ministerial Portfolio Statement for the Minister of Health which was tendered to the Estimates Committee on the day of the hearings, namely 8 July 2005. This section of the report also makes reference to the advice that the CMC accepted, as being contrary to opinions expressed by Messrs Gotterson QC and O’Sullivan and Mr Fraser QC. Again, bearing in mind that those advices are attached to the report in appendix 5, the reference to the advices enables anyone so minded to go to them and ascertain the validity in the arguments advanced by the CMC in these sections of its report.

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<sup>19</sup> Opinion of Morris QC, 08.02.06, paragraph 13.

<sup>20</sup> Opinion of Morris QC, 08.02.06, paragraphs 22, 23 and 74.

## **CONCLUSION**

In summary I advise that I have examined the report of the CMC's investigation of Allegations concerning the Honourable Gordon Nuttall MP. In so doing I have had regard to the concerns raised by Hon Nuttall in his letter to the Parliamentary Crime and Misconduct Committee and in his statement in the Legislative Assembly on 16 February 2006 and the concerns raised in the opinion of Mr A J H Morris QC dated 8 February 2006. I have had regard to the CMC's response to these concerns by letter dated 2 March 2006. I am able to report to the Committee that, in my view, the actions of the CMC were appropriate in all the circumstances.

## **APPENDIX B**

**PCMC LETTER TO CMC DATED 1 MARCH 2006**

**CMC LETTER TO PCMC DATED 2 MARCH 2006**



Parliamentary  
Crime and Misconduct Committee

PARLIAMENTARY  
CRIME AND MISCONDUCT COMMITTEE  
Parliament House  
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Brisbane Qld 4000  
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[www.parliament.qld.gov.au/pcmc](http://www.parliament.qld.gov.au/pcmc)

Ref: S 102

1 March 2006

**FAXED**  
13/6

Mr Robert Needham  
Chairperson  
Crime and Misconduct Commission  
PO Box 3123  
BRISBANE QLD 4001

Dear Mr Needham

**Crime and Misconduct Commission's report of its investigation into Hon Gordon Nuttall MP**

We enclose copies of the following material:

- statement by Hon Nuttall in the Legislative Assembly on 16 February 2006;
- Hon Nuttall's letter of that date to the Committee; and
- opinion of Mr A J H Morris QC dated 8 February 2006;

In the material, a number of issues are raised regarding the Commission's report of its investigation into allegations against Hon Nuttall.

The Committee has formed no view on the matters raised. To assist the Committee in deciding what further action it should take, if any, we ask that the Commission provide a response to the issues raised in the material.

The Committee wishes to consider the matter further at its meeting on 8 March 2006 and accordingly asks for an urgent response.

Thank you for your assistance.

Yours sincerely

[Original Signed]

**Geoff Wilson MP**  
Chairman

Enc.

C R I

+61733606059 MISCONDUCT COMMISSION

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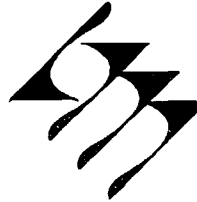
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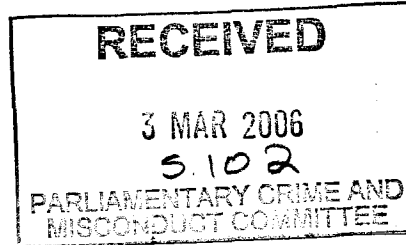
www.cmc.qld.gov.au



QUEENSLAND

Our Reference: MI-05-02322 RMN / vag

2 March 2006



Mr G Wilson MP  
Chairman  
Parliamentary Crime and Misconduct Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Wilson

**RE: CRIME AND MISCONDUCT COMMISSION'S REPORT OF ITS  
INVESTIGATION INTO HON GORDON NUTTALL MP**

I refer to your letter of 1 March 2006 requesting a response to the issues raised in the following material:

- Statement by Hon Nuttall in the Legislative Assembly on 16 February 2006;
- Hon Nuttall's letter of that date to the Parliamentary Committee; and
- Opinion of Mr A J H Morris QC dated 8 February 2006.

As Hon Nuttall's statement in the Legislative Assembly and his letter both rely upon the opinion of Mr Morris, it appears to me that it is to the issues raised in that opinion that I should direct my response.

In the opinion, Mr Morris addresses two main issues.

First, he gives a particularly florid description of how the Crime and Misconduct Commission's (CMC) report is a disgrace through a failure to provide natural justice. Secondly, he addresses what he describes as the 'central issue', namely whether the Minister's answers to the questions put to him by Mr Copeland MP at the Estimates Committee Meeting could, as a matter of law, ever constitute a contravention of section 57 of the Criminal Code.

**FAILURE TO PROVIDE NATURAL JUSTICE**

Mr Morris' point on this issue is that the CMC failed to explain why it relied upon the opinions of Messrs Logan SC and Gageler SC instead of the separate opinions of Mr Fraser SC and Mr Gotterson QC.

There are a number of reasons why there is no validity in Mr Morris' point:

1. The concept that the principles of natural justice are applicable to an issue of law is a novel one. Mr Morris cites no authority to support his proposition; the only authority he cites – Ainsworth –v- Criminal Justice Commission – certainly does not support it.

2. Although procedural fairness does not strictly arise with respect to legal issues, Mr Nuttall's legal advisers were, throughout the investigation, apprised of the legal advice being received by the CMC and given every opportunity to make any submission to the contrary.

Following the receipt by the CMC of the first opinion from Messrs Logan and Gageler, I wrote to Hon Nuttall's solicitors advising them of the effect of that opinion. It was partly in response to that advice that Mr Gotterson's opinion was supplied to the CMC on behalf of Hon Nuttall.

Following the receipt of that opinion, and that of Mr Fraser (received from the Speaker, a copy of which was also supplied by the Speaker to the Attorney-General), the CMC, to address the issue raised in those opinions, sought a further advice from Messrs Logan and Gageler. A copy of the respective advices from Mr Gotterson and Mr Fraser were supplied to Messrs Logan and Gageler.

Messrs Logan and Gageler's further advice, when received, was then supplied to Hon Nuttall's solicitors and they were advised that the Commission had adopted the conclusions expressed therein. Subsequent comments on that advice were made by those solicitors to the CMC by letter.

3. Part of Mr Morris' claim under this issue was that the CMC 'issue(d) a report, intended for public consumption'.

It is true that the CMC envisaged that its report could become public, through being tabled in Parliament, if the Attorney-General were to act upon the same view of the law as held by the CMC.

However, Mr Morris simplistically ignores the realities of what occurred in this unusual situation.

As the advices were received, and well before the CMC's investigation report was finalised, the Attorney-General was supplied with copies of both of the opinions given to the CMC by Messrs Logan and Gageler.

The CMC's report on its investigation was not issued directly to the public, but was forwarded to the Attorney-General, in accordance with the legal opinions accepted by the CMC.

It was then a matter for the Attorney-General as to what action she took upon that report. I understand that, as one would have anticipated, the Attorney-General took her own legal advice upon the matter. It was presumably in accordance with that advice that the CMC's report was subsequently tabled in the Legislative Assembly and thereby made public.

In ignoring this factual situation and instead choosing to make his own comparison on the basis of the relative seniorities of the various advisers, Mr Morris ignores totally the legal advice that the Attorney-General presumably relied upon.

The CMC was, of course, aware when it sent its report to the Attorney-General that she would obtain legal advice, presumably from the Solicitor-General. In those circumstances there was no need for the CMC to give any form of dissertation of the reasons why it accepted and acted upon the advices of Messrs Logan and Gageler as compared to the advices, in some points contradictory between them, from Messrs Fraser and Gotterson.

4. Finally, Mr Morris' extravagantly expressed claims that the CMC provided no explanation of why it accepted the advices of Messrs Logan and Gageler instead of those of Messrs Fraser and Gotterson are not correct.

Out of the various advices that I have referred to above, there were three issues that were in dispute between the various Counsel:

- a. Whether the questions directed at Hon Nuttall at the Estimates Committee Meeting were 'lawful and relevant' within the meaning of section 57 of the Criminal Code. On this issue Messrs Gotterson and Fraser separately opined that the questions were not lawful and relevant while Messrs Logan and Gageler opined that they were.
- b. Whether parliamentary privilege precluded the jurisdiction of the CMC to investigate the allegations made against Hon Nuttall. The only opinion suggesting the CMC did not have jurisdiction was that by Mr Gotterson. Mr Fraser and Messrs Logan and Gageler all were of the opinion that the CMC had the requisite jurisdiction.
- c. Whether the CMC should direct its investigation report to the Attorney-General for taking to Parliament or to the Director of Public Prosecutions. On this issue Mr Fraser opined that the report should be referred to the Director of Public Prosecutions. Mr Gotterson did not address this issue but Hon Nuttall's solicitors, in their letter commenting on Messrs Logan and Gageler's second opinion, concurred that their opinion that the report must be sent to the Attorney-General was the correct approach.

As can be seen from this, in two out of three of the issues either Mr Gotterson or Mr Fraser agreed with the opinion expressed by Messrs Logan and Gageler. That appears to mean that the only issue that Mr Morris could have been concerned about as between the opinions, is the issue of whether the questioning was 'lawful and relevant'.

Contrary to Mr Morris' assertion in his opinion, the reasoning of the CMC for preferring the opinion of Messrs Logan and Gageler was set out in the body of the CMC's investigation report at pages 41 and 42 of that report.

#### **CENTRAL ISSUE**

When addressing his 'central issue' of whether the questions put to Hon Nuttall could, as a matter of law, ever constitute a contravention of section 57 of the Criminal Code, Mr Morris addressed two aspects of the interpretation of section 57 which he said were highly significant for present purposes:

- a. First, what is meant by 'examination before the Legislative Assembly, or before a Committee of the Legislative Assembly'? and
- b. When is a question 'lawful and relevant'?

#### **Examination**

Mr Morris devotes 22 paragraphs of his opinion over ten pages to setting out his reasons for expressing the view that the questions addressed by Mr Stewart Copeland MP to Hon Nuttall at the Estimates Committee Hearing did not constitute an examination and why Messrs Logan and Gageler were wrong to have concluded that they did. He failed however, to advise the reader that Mr Fraser expressed the same opinion as Messrs Logan and Gageler that the questioning of Hon Nuttall did in fact constitute an 'examination' within the meaning of that term in section 57. He also failed to note that this issue was never raised as a point of contention by Mr Gotterson in his opinion or by Hon Nuttall's solicitors in their comments on the second Logan/Gageler opinion.



**Lawful and Relevant Question**

On this issue, at least, Mr Morris' opinion coincides with that expressed by Messrs Fraser and Gotterson and contrary to that expressed by Messrs Logan and Gageler.

As indicated above, some further statements as to why the CMC preferred the opinion of Messrs Logan and Gageler were set out at pages 41 and 42 of the CMC investigation report.

This legal issue was vital to the question of whether Hon Nuttall's answers could, as a matter of law, constitute a contravention of section 57 of the Criminal Code.

If the advice of the Solicitor-General had been in accordance with the opinion expressed by Mr Fraser on this point then one assumes that opinion would have been made known publicly and the matter would have gone no further.

The point is, the CMC expressed an opinion; it was only an opinion. It was ultimately the decision of the Attorney-General, upon advice from the Solicitor-General, that determined whether advice should be sought from the Legislative Assembly under section 47 of the *Parliament of Queensland Act*.

In summary, to look at the conclusions expressed by Mr Morris in his paragraphs 77.1 to 77.4, the CMC did have jurisdiction to entertain the complaint and to conduct the investigation and to consider the substance of the allegations against Hon Nuttall (as agreed by Mr Fraser SC) and acted correctly in publishing the report to the Attorney-General.

I do not consider there are any other matters within Mr Morris' opinion upon which I need to comment. However, if the Committee seeks a response to any further matter, please do not hesitate to contact me.

Yours sincerely

[Original Signed]

**ROBERT NEEDHAM**  
Chairperson