




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

**CRIME AND MISCONDUCT COMMISSION (ADMINISTRATIVE NEGLIGENCE
RECTIFICATION) AMENDMENT BILL**

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (2.10 am), in reply: I thank all members for their contribution. I place on record that the government is reluctant to deal with this legislation tonight. We have been put into this corner by the inadequacy of response from the administration of the CMC, particularly the leadership of the CMC. As the honourable chairman of the PCMC would know, I have taken this reluctant step—a necessary step—to protect either the identity of informants or, as I said in the explanatory speech, other issues of importance, particularly the safety and wellbeing of some of those people. I do want to address for the record a few of the things that have happened since I updated the House earlier this evening.

I tabled correspondence that I had received from the CMC chair at 5.30 this afternoon. I then tabled correspondence that I had sent back—and I read it into *Hansard*—in response to the chairman's letter. I received a response prior to the 10 pm deadline last night by which time I had requested the CMC get back to me. I think it is only fair that I now read that response. This response also shows a couple of things of importance that I ought to bring to the attention of the House. This letter is dated 7 March 2013 and it was received earlier this evening, just prior to 10 pm. It states—

Dear Attorney-General

I refer to your letter of earlier this evening. The deadline you have set prevents me from answering every issue you raise in your letter. I am sure you will accept that the safety and privacy of the individuals whose affairs are referred to in the material under discussion and which may have become public is the priority in the present circumstances.

You are aware that the Parliamentary Crime and Misconduct Committee has sought from you legislation of the sort I drew to your attention in my letter of earlier this evening. The Parliamentary Crime and Misconduct Committee is my oversight body, and I defer to its judgement that legislation was necessary. I also agree with it. In any event, we have preliminary advice as I referred to in my previous letter about the prospects of an injunction. Absent that, there would appear to be no avenues open to resolve the issue otherwise.

I am aware that you declined to introduce the legislation proposed without a letter from me that set out in relatively short order a number of things. I provided that letter in the terms that I understood was requested of me. I was not informed that you required a draft or any preliminary description of such legislation. Indeed I have had no contact from you about the matter at all.

In an endeavour to address the priority issue which I have outlined above, I agreed to your request for my letter. My letter was expressed in contingent terms because you were the one who requested it, as I understood matters, and so I was unaware of what you then proposed.

Earlier this evening, and after my letter was sent, your staff and the staff of the Department of Justice, as well as the Parliamentary draftsman, engaged with me in preparing legislation of the sort I have referred to. When I arrived at the Parliamentary draftsman's office, it was well under way and close to complete. While in the middle of that process, staff of the Department of Justice acting apparently on instructions indicated that the preparation was to occur without any assistance from the CMC. I am at a loss to understand why, in light of your letter. I have not seen a final draft of the work being prepared in the Parliamentary draftsman's office, but at the point I was required to leave, the matter was well advanced and it seems satisfactorily so, subject to perusal of the final draft. I am in no position independently to prepare legislation within the time frame required by you. It would be irresponsible of me, however, not to examine the final draft of the Bill presently under preparation.

You make assertions about when the CMC became aware of the problem; given the deadline, now is not the place to engage in debate on that point.

I request that you table this letter this evening and have it read into Hansard. A copy will be provided to the members of the PCMC.

I table a copy of this letter.

Tabled paper: Letter, dated 7 March 2013, to the Attorney-General and Minister for Justice, Hon. Jarrod Bleijie, from the chair of the Crime and Misconduct Committee, Mr Ross Martin, regarding a request for urgent legislation in relation to released Fitzgerald inquiry documents [2217].

Let me set the record straight. The chairman says in his first paragraph ‘the deadline you have set me’. I would not have had to set a deadline had the government not been forced into a position by the CMC chair with respect to an ability or a legislative amendment to fix the problem created by the CMC in the first place. It was not government, it was not the State Archivist, it was not the opposition, it was not the Katter party, it was not anyone in this House; it was the CMC and the administration of the CMC that was at fault here. So I really get offended when we are then blamed because we have set a deadline for a response. It would have been wrong for the government to just sign up and come into this place without any real discussion and without challenging the CMC as to the purpose, who we were trying to protect and what documents we were trying to protect. That is what we sought from the CMC. If we are to be asked to conduct this extraordinary debate tonight and have members sit here till after two o’clock in the morning on a Friday, then the least we could have had from the CMC was a proper explanation of why they wanted to do it and why they wanted parliament to fix the administrative mess that the CMC created.

It also says in his letter that ‘I am aware that you declined to introduce the legislation proposed without a letter from me’. The honourable member for Gladstone has tabled correspondence between the PCMC and me that I received yesterday and that I responded to earlier this morning. In that correspondence I made it abundantly clear that, if the CMC wants parliament or the government’s assistance or, for that matter, my assistance in drafting legislation to fix this mess, then the CMC chairman owes it to the people of Queensland to stand in front of a television camera, explain the stuff-up, explain what went wrong, take full responsibility for the actions of the CMC as its chairman and to tell us what he wants government to do about it. A whole day passed and I know that the PCMC held meetings today with various witnesses, and I volunteered my own time during the commercial arbitration bill debate to avail myself to the committee for probing. The issue is that none of us in this House created this issue.

When the chairman of the PCMC tabled the correspondence, the correspondence that I wrote back to the CMC clearly said that ‘we are reluctant to do it but we will engage in discussion on the condition that the CMC chairman go out there and publicly explain’. Then this afternoon the CMC chairman said to me, ‘You have declined to introduce the legislation proposed without a letter from me.’ No, I wanted a public statement. I wanted the CMC chair not to send me a letter but to stand in front of a camera and explain to the people of Queensland what went so horribly wrong with this situation. But at the end because of time I said to the PCMC chair whose committee was interrogating people at the time, that a letter will suffice as long as a full explanation is given as to why the CMC chairman wants us to engage in this debate and go down this path. Then the chairman said, ‘I was not informed that you required a draft of any preliminary description of such legislation.’

I never requested the CMC chair to draft the legislation. I never requested the CMC to partake in the role of the Office of Parliamentary Counsel and assist in drafting legislation. That is not the CMC’s role. I wanted the CMC chair to tell us what he wanted and then we would attend to the drafting during the normal process—that is, the Office of Parliamentary Counsel would attend to the drafting of the bill. All I wanted was either a public statement to tell us what he wanted or a letter. Members would know that the letter I tabled earlier was completely unsatisfactory and insufficient of information to even make me form the view and to advise my colleagues the ministers that we ought do this tonight.

As I said, we are reluctantly doing this because people who accessed these documents did so lawfully. They did so lawfully and that is why we do it reluctantly, because they do have information that they were able to access, albeit in administrative error or oversight, unsatisfactory as it may be from the CMC. They obtained the information lawfully and so as a government we believe that they are entitled to the documentation. That is why we make it abundantly clear that this legislation will in no way give anyone any power to seize any documents back or request any documents back from these individuals who have these documents in their possession. The CMC chair then goes on in his letter—

I am in no position independently to prepare legislation within the time frame required by you.

I was not asking for a time frame to prepare legislation; we were the ones being asked to prepare legislation. The parliamentarians—the legislators—were the ones asked to be here at all

hours of the morning to pass this legislation. I really think the CMC chair has just misinterpreted the whole issue. I did not want him to draft legislation. I did not want him to assist in the drafting of legislation. I wanted him to tell us what he wanted. If he had told us earlier in the day what he wanted and why he wanted it and why he wanted us to take this course of action, then no doubt we would have been in a position to respond earlier than we have. So I am not going to cop any criticism from the CMC chair now or in the future or tomorrow that says that the government delayed its reaction to this, because I think the documentation that the PCMC chair tabled tonight clearly shows that we have gone out of our way to assist the CMC to fix the mess created by the CMC in the first place.

I want to deal with some of the issues raised in the debate. The CMC's job, as has been indicated tonight, is to protect the sensitive documents from particular disclosure. I think that all honourable members understand that the issue now that the documentation has been able to be accessed for a number of months means that we have to, through this legislation, offer a level of protection to the people. We still do not know what level of protection this is trying to afford to people because we still do not know who has got what and who saw what. It has not been made public in terms of who reviewed this documentation, and this will be a process and we are not going to get into that debate. We will have that a little later. This will all come out in the wash eventually. What we are doing now is fixing the immediate problem, which of course is the corrective legislation.

The public, as I said earlier today, should have absolute faith in the Crime and Misconduct Commission and I submit that I think that faith has been tested in the last 48 hours with this issue. I think the public genuinely can be concerned about the administration and operation of the CMC, and I take particular issue with the member for Gaven's contribution tonight when he said that it is the Attorney-General's responsibility to restore integrity in the CMC. It is not my responsibility to restore integrity in the CMC; it is the CMC's responsibility to restore integrity.

Dr DOUGLAS: I rise to a point of order. Check the *Hansard*. I did not say that.

Madam SPEAKER: Please take your seat. That is not a point of order.

Mr BLEIJIE: I think that it is timely that we consider these issues—the unfortunate issues—that have arisen in the last 48 hours. As we proceed into the closure of the Callinan inquiry into the CMC, nothing could be more timely than this issue. As I was asked in the briefing afforded to the opposition leader, nothing will change with that inquiry and it will proceed as planned. As I indicated to the member, as far as I know everything will be on track for 14 March. But if the Hon. Ian Callinan comes to me in light of the issues of late and wants a little more time to add an addendum to his report, then I will positively look upon that. It is completely separate to what we are doing and I think that he ought to be given the opportunity to fulfil his report in the time frame that he has. I also thank the member for Gladstone for tabling those documents. Members will recall that some 12 hours ago I was in this place talking about the PCMC and the CMC and the frustration I have had over the last 12 months getting documents tabled, and I do thank the member for Gladstone for taking that on board and tabling documents so the public can be fully abreast of all of the issues that we are dealing with in this debate.

As I said categorically, these measures do not confer any seizure powers for documentation that has been out there in the public domain or in the private domain of individuals who have seen these documents. As I indicated in my explanatory speech, if there have been situations where people have accessed these documents and they have printed them already, then the penalties applicable in this legislation are not intended to apply if they lawfully obtained the documentation and may have printed them without knowing the issue at hand. So it is the government's clear intention through this bill that the penalty provisions will apply from commencement—that is, 8 March 2013, today. So the penalty provisions will apply to documentation that is reproduced from commencement date and not if people have lawfully obtained the documents that have somehow been printed, and we are not sure if there are. We are not sure. There is a lot of information in the public domain at the moment. We are not sure or able to ascertain directly whether there has been that issue, but I just put on record that if it does become an issue in the future I am making the intention plain that it is not the intention to go after people who may have lawfully obtained the documents but reproduced them prior to today.

The Treasurer talked about responsibility. I believe this government is one of the most open and accountable governments in this country. This week we had the release of diaries. We have had an abundance of RTI request applications. This government is the first government in Australia to release diaries, and the member for Bundamba can shake her head. If she can make an interjection and tell me right now what other Australian jurisdiction—Premier, Chief Minister or Prime Minister—

tables their diaries and opens their office to the world at large, make the interjection and tell me that I am wrong. I thought so. Silence is bliss! I thought so. Member for Bundamba—

Mr Nicholls: When's she going to release her diary?

Mr BLEIJIE: I take the interjection from the Treasurer. She shakes her head about us releasing our diaries but at the same time never released her diary. She is a shadow minister now.

Mrs Miller interjected.

Mr BLEIJIE: Yes, laugh about it. We know the registers they kept and the archives. We do not know if they have even been kept. So the member for Bundamba can say a lot about this, but the point is this: this government is the most open and accountable government in this country. I called on the Prime Minister today to follow this government's lead and release her diaries, and I raised this issue as a matter of relevance because in this democracy that we live in where we talk about ministerial responsibility we also need to talk about senior public officials and independent statutory officers having and taking responsibility for actions in their departments or offices. The Treasurer talked about that tonight and we have had ministers in this government in this term take responsibility for their actions and we have seen the consequences of those actions with those decisions that were made. I implore the CMC chairman, who has responsibility for the CMC and the administration of the CMC, to seriously consider and accept the consequences of the administration of the CMC and the events of the last 48 hours.

That is his duty. That is his role. Just like it is with ministerial accountability, so too comes accountability in public office, particularly the one that Queenslanders should look up to of having the most integrity and accountability. I question that, on the day we debate the report about a CMC officer going to be terminated but resigning, we have now had this event over the past 48 hours where sensitive information has been released for months with a 'Fix it'—that was what the order was—and no follow-up. Certainly, there is a responsibility there in the CMC chair and he should accept full responsibility for this unacceptable oversight, no-one else. The CMC chair ought to accept full responsibility for this unacceptable oversight. We know that there are these certain consequences that flow from having that responsibility. If the chairman accepts that responsibility then he should also accept the consequences that would ordinarily follow.

As I said, we have had to act. We have been asked to act. We are acting reluctantly on this issue. But the government puts first the safety of the people who may be at risk. We are going in blind, really, because we still really do not have any idea of the types of documentation. I understand that the PCMC will attempt to get to the bottom of this, and I thank the PCMC chair for the work today. I know that it has been a challenging day with hours and hours that we have spent on this issue with letters going backwards and forward. But I say again to the members of the House that this could have been resolved a lot easier had the chairman of the CMC cooperated more fully with us and with me. It is clearly seen by the correspondence that the CMC chair sent that there were blockages there and an attempting to blame me for the issue that he is trying to get us to fix. It does not show a spirit of cooperation. The CMC chair did not ring me to brief me—to say, 'We would like you to do this, Attorney,' or 'These are the consequences. These are the issues.' In fact, the first I heard about this issue was probably a little later than the PCMC became involved and that was when I read the front page of the *Australian* newspaper a couple of days ago. Yet the CMC has known about this for months. It was only ascertained when the CMC figured out the unacceptable oversight. They figured it out and then a journalist went to access documents that they had been accessing for a while and were refused, because they reclassified it so that the documents could not be provided. They asked, 'Why are the documents not available?' 'The CMC has not authorised release of the documents.' 'I have been accessing these documents for some time.' That is when the issue came to light. It was a journalist who brought these issues to light. It was not in the spirit of the CMC being open and accountable to the people of Queensland; it was because, quite frankly, they were caught out by journalists. That is why we are reluctant to go into this position tonight—because those people, including the journalists who have had access to these documents, did so with the full force of the law because of an administrative oversight of the CMC. No-one else is to blame in this matter.

Can I also say that I am really concerned—highly concerned—about this issue of the shredding of documents in the report that the chair of the PCMC gave today. We can only report as to what the PCMC chair has updated the House on, but I do not think enough attention has been paid to that issue. Today, we have been so focused on trying to assist the CMC as best we can and getting this bill in tonight that I think we have really forgotten the other issue. I know and I hope there will come a

time when we will have a separate debate, because I think there potentially is systemic issues with the CMC with respect to these issues. I know that the Callinan inquiry, and the fulsome report that it is going to release next week, will address some of these other issues that it has uncovered during this inquiry. But I think we should pay more attention at a later date to the shredding of these documents and how, in fact, that happened, because I think that is totally unacceptable. It does not give the people of Queensland confidence in the system that we should uphold the most: the CMC, the top crime-fighting corruption watchdog in this state.

People, Queenslanders, government, opposition, crossbenchers should have total confidence in the CMC. I believe that that confidence has been compromised with the actions of the CMC in the last couple of days. I will be frank. I am not happy with the responses that the CMC gave me today in the letters. I am not happy that the CMC chair treated this House, treated this government, with contempt in terms of 'I'll tell you what I want you to know and nothing more' when we were the ones being asked to address the issues created by the CMC. So I take offence to those particular issues. If we had an open dialogue from the outset and had all of this confirmed in writing we would have had this matter settled a long time ago. All that was required was the CMC chair to get up, tell the Queensland public what the issue was, take full responsibility for this as the administration manager, being the CMC chair, and take full responsibility and, of course, then accept the consequences that come with that great responsibility. I have no doubt that being the chair of such a body has a high level of responsibility and a high level of risk in terms of what the CMC is engaged in, but I think the performance of late with the CMC chair in terms of communicating with me particularly and the letters that I have read into *Hansard* tonight show the arrogant attitude and the contempt that the CMC chair held this government in with respect to trying to sort out this issue. We were a willing and able participant on this journey to fix this issue, but in the correspondence that was sent you can clearly see that there was a smack of arrogance in that correspondence and then a clear misunderstanding of what the issue was all about in the latest piece of correspondence, where somehow it was my fault because I did not allow him and he did not have the time to draft the legislation. It was never the understanding that he, as CMC chair, would be drafting the legislation. We have processes in place. We have the Office of the Parliamentary Counsel, we have departments. On that note, can I thank the Office of the Parliamentary Counsel for going over time tonight. Can I also thank the officers of the government and the opposition who have been reviewing the bill, my staff and departmental staff who are still at the State Law Building to the end of this debate. I think an enormous amount of resources have been spent today and tonight in trying to assist the CMC.

In conclusion, can I say this: the CMC has an important function. Queenslanders need to be able to have confidence in the administration of the duties and functions of the CMC. Ross Martin, the chair of the CMC, must take and accept responsibility for the actions of the CMC particularly—not just in the past 48 hours, but the months that have preceded, the months that sensitive documents have been available—and responsibility for not checking up after he said 'Fix it' to a staff member. That should ring alarm bells for members of this House in terms of the administration of that body.

So as we go forward tonight, I say to the people who have this documentation that the government will not go after them for having those documents that they lawfully obtained. We understand their frustration in that they are now being silenced essentially for 60 days, but to please understand that the reason we are doing it is that the government cannot be convinced that the documents that are out there are not in the public interest to protect and that is why we have to do it. There is a question mark over the documentation and that is why we have to do what we are doing tonight, because we cannot be satisfied and we cannot have on our conscience, if something did happen, that this government, this parliament, did not do all we could to protect.

Events will unfold in the next 48 hours as investigations proceed with respect to this issue and, ultimately, to find out what went wrong, how it went wrong and, ultimately, who will take responsibility and accept responsibility for this complete administrative nightmare that this parliament should have not been dealing with tonight, but we are.

This provision of allowing essentially the 60-day sunset clause is a temporary solution to stop the information being reproduced now, but at the end of the day we will have to ascertain during that 60-day period what went wrong, how it went wrong and who is going to take responsibility for it. That ultimate question rests with the chairman of the CMC.