



ETHICS COMMITTEE

Report No. 133

Matter of privilege referred by the Speaker on 28 November 2012 relating to an alleged reflection on the Chair

Introduction and background

1. The Ethics Committee (the committee) is a statutory committee of the Queensland Parliament established under section 102 of the *Parliament of Queensland Act 2001* (the POQA or the Act). The current committee was appointed by resolution of the Legislative Assembly on 17 May 2012.
2. The committee's area of responsibility includes dealing with complaints about the ethical conduct of particular members and dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons.¹ The committee investigates and reports on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.
3. The matter in this report concerns an allegation that the member for Bundamba, Mrs Jo-Ann Miller MP reflected on the Chair in a statement made in the House on 28 November 2012.
4. The Speaker referred the matter to the committee from the floor of the House as set out below. The Speaker also wrote to the committee on 28 November 2012 referring the matter.

The incident leading to the referral

5. The allegation against the member for Bundamba relates to a statement made in the House on 28 November 2012 during Question Time.
6. On 28 November 2012, during Question Time the following exchange occurred between Mrs Miller and Madam Speaker:²

Mrs MILLER: My question is to the Premier. After this week's extraordinary events—

Government members interjected.

Madam SPEAKER: Order!

Mrs MILLER: if you cannot govern yourselves—and clearly you can't—

Madam SPEAKER: Order! Take your seat. I will not have interjections while a member is asking a question, and when they are not asking questions I expect order in the House. I ask the member to start again.

¹ S.104B *Parliament of Queensland Act 2001*.

² Queensland Parliament, Record of Proceedings (Hansard), 28 November 2012 at 2859-2860.

Mrs MILLER: Thank you very much, Madam Speaker. My question is to the Premier. After this week's extraordinary events, if you cannot govern yourselves—and clearly you can't—how can you govern Queensland?

Mr STEVENS: I rise to a point of order, Madam Speaker. Using the word 'you' is not permissible in the House.

Madam SPEAKER: Correct. Member for Bundamba, the reason why you do not use the word 'you'—as previous Speakers have ruled—is that you are addressing the chair when you say that, so unless you are asking me a question you do not ask it in that way. I will ask you to take your seat. You have had enough of a chance to put that question again.

Mrs MILLER: Madam Speaker, I rise to a point of order.

Madam SPEAKER: What is your point of order, member for Bundamba?

Mrs MILLER: Madam Speaker, I have been vilified by you in this parliament for the last six months. [Emphasis added].

Government members interjected.

Madam SPEAKER: Order! Take your seat. I already have the member on a warning under 253A for interjections across the chamber. I now ask the member to leave the chamber for an hour.

Whereupon the honourable member for Bundamba withdrew from the chamber at 3.22pm.

7. At the end of Question Time, Madam Speaker made the following statement referring the matter to the committee.³

Madam SPEAKER: Honourable members, after considering the matter, I have decided that the member for Bundamba has reflected on the chair and I am referring the member to the Ethics Committee.

8. Upon returning to the House at 4.24pm, Mrs Miller apologised by stating:⁴

Mrs MILLER: I rise on a matter of privilege suddenly arising. I wish to unreservedly apologise to Madam Speaker.

9. In correspondence to the committee dated 28 November 2012, Madam Speaker noted that the member later apologised in the House however Madam Speaker considered 'the matter still sufficient to be referred to the Ethics Committee, as an allegation of contempt in accordance with Standing Order 266(23)...'.

The committee's processes

10. The committee has established procedures for dealing with privileges references, which ensure procedural fairness and natural justice is afforded to all parties. These procedures are set out in Chapters 44 and 45 of the Standing Orders. The committee is also bound by the *Instructions to committees regarding witnesses* contained in Schedule 3 of the Standing Orders.
11. On 29 November 2012, the member for Bundamba advised the committee in accordance with Standing Order 272(1) of her intention to stand down from the committee for consideration of this matter.
12. On 12 December 2012, the Speaker advised the committee in accordance with Standing Order 272(2), that the member for Mackay, Mr Tim Mulherin MP would replace the member for Bundamba during consideration of this matter.
13. The committee invited the parties to provide further information before determining whether or not to investigate the alleged contempt. The committee received a submission from the Speaker on

³ Queensland Parliament, Record of Proceedings (Hansard), 28 November 2012 at 2861.

⁴ Queensland Parliament, Record of Proceedings (Hansard), 28 November 2012 at 2871.

19 December 2012 (**Appendix A**) and from the member for Bundamba on 31 January 2013 (**Appendix B**).

14. On 14 February 2013, the committee found that it had sufficient material it and resolved to investigate the matter and hold a private hearing to hear from Madam Speaker and the member for Bundamba.
15. On 1 March 2013, the committee received a further submission from Madam Speaker in lieu of an appearance before the committee at the private hearing (**Appendix C**).
16. On 18 April 2013, the committee held a private hearing and heard from the member for Bundamba.
17. During the hearing, the member for Bundamba presented a comprehensive submission in relation to the matter.
18. Following the hearing, the committee resolved that the committee was satisfied that the member for Bundamba had been provided and had taken the opportunity during the private hearing to speak to the alleged contempt and to the issue of penalty.
19. Subsequent to the hearing, the committee wrote to the member for Bundamba to advise that it had enough information before it to determine the matter.

Definition of contempt

20. Section 37 of the POQA defines the meaning of 'contempt' of the Assembly as follows:
 - (1) "Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.
 - (2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—
 - (a) **the free exercise by the Assembly or a committee of its authority or functions** [Emphasis added]; or
 - (b) the free performance by a member of the member's duties as a member.

Nature of the contempt of reflecting on the Chair

21. It is a recognised principle of parliamentary law in Queensland and many other jurisdictions based on the Westminster System that the character or actions of the Chair may not be criticised by any member except on a substantive motion. The principle is based on respect for the institution of Parliament—the Chair being the embodiment of the power, authority and integrity of the Parliament.
22. Erskine May provides advice regarding reflections on the character of the Speaker and states that 'reflections on the character of the Speaker may be punished as breaches of privilege. His action cannot be criticised incidentally in debate or upon any proceeding except a substantive motion'.⁵
23. This principle is also reflected in Standing Order 115(d) which provides that questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged by substantive motion and Standing Order 250 which provides that dissent from a ruling of the Speaker should be by way of a motion on notice.⁶

⁵ Erskine May 23rd Edition, page 220.

⁶ Rules for questions; and dissent from rulings of Speaker.

24. David McGee, the former Clerk of the New Zealand House of Representatives in his book *Parliamentary Practice in New Zealand* states:⁷

Speeches and writings reflecting upon the character or conduct of individual members in their parliamentary roles have been punished as contempts.

...

Some of the most serious reflections on members that can be made concern those against the character of the Speaker or any other presiding officer – in particular, accusations that presiding officers have shown partiality in discharging their duties. Reporting on a question of privilege concerning a reflection on the Speaker, the Privileges Committee has said, “[The] Speaker is in a special position. Being the embodiment of Parliament, reflections upon [the Speaker’s] character or conduct directly attack the very institution of Parliament itself, and have been dealt with accordingly here and in England”.

25. Further to this, the Queensland Standing Orders specifically recognises and codifies this principle in 266(23) which provides that an example of contempt includes ‘except by substantive motion of censure, commenting or reflecting on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general.’

Previous Ethics Committee consideration of reflections on the Chair

26. In Queensland, predecessor Ethics Committees have considered allegations of reflections of the Chair. Firstly, in the Select Committee of Privilege’s Report in 1990 and subsequently in Report Nos. 54, 71, 73 and most recently in Report No. 90.
27. In 1990, the Select Committee of Privileges dealt with a matter of a media release prepared by the then Leader of the Opposition which brought into question the impartiality of the Speaker. Mr Cooper stated that the Speaker was ‘got at’ and ‘forced into a backflip’. The committee found that the media release ‘directly attacks the impartiality of the Speaker. Such comments in the form of a media release are highly injurious to the standing and authority of the Speaker and in direct contravention of the rule forbidding reflections on the impartiality of the Speaker.’⁸
28. The committee made a finding of contempt and left the question of penalty to the House. The House decided the member would be suspended for the remainder of the sitting day.⁹
29. Report No. 54 related to improper reflections by a member about the impartiality of the Speaker by the member for Warrego. This report reflected on the Select Committee’s report and drew attention to the seriousness of improper reflections on the Speaker, emphasising—
- ... that improper reflections on the Speaker inside or outside the House may be treated by the House as a serious contempt and a breach of the parliament’s privileges.*¹⁰
30. The committee’s primary focus in Report No. 54 was on the issues of apologies and retractions rather than the reflection itself. The Standing Orders were amended on the recommendation of the committee to govern the form of apologies in the House.
31. Report No. 71 dealt with improper reflections on the Chair in newspaper reports and television recordings which suggested that the Member for Callide and nine other members had commented on the actions of the Speaker. Members involved in the matter stated that a reflection on the Chair was not listed as a contempt, or were unaware that it was inappropriate to reflect on the Speaker and not their intention.

⁷ McGee, D, *Parliamentary Practice in New Zealand*, Third Edition, Dunmore Publishing Ltd, Wellington, 2005.

⁸ Select Committee of Privileges, *Matter referred by the Legislative Assembly on 7 June 1990*, Queensland Legislative Assembly, Brisbane, Tabled 31 July 1990, at 16.

⁹ *Ibid*, at 18.

¹⁰ Members’ Ethics and Parliamentary Privileges Committee, Report No. 54, *Matter of privilege referred by the Speaker on 31 July 2002 relating to improper reflections by a member about the impartiality of the Speaker*, para 3.3.

32. The comments attributed to members in the media in this matter were not able to be substantiated as reflections of the Chair, as the context in which they were made was unclear [the statements were attributed to members in the print media and in short television clips].
33. The committee accepted the members' assurances that the member's comments did not constitute a reflection on the Chair; and found no contempt. The committee considered that if it was possible to conclude that the members intended to reflect on the Speaker, then it would be open for the committee to find a contempt.¹¹
34. The committee stated, '... it is a basic principle of parliamentary privilege that the character and actions of the Speaker may not be criticised except on a substantive motion.' The committee also noted the '... lack of knowledge amongst members in relation to the serious nature of reflections on the Speaker.'
35. The committee issued an information notice in an effort to remind all Members of the significance of this issue. Standing Orders were also amended to include reflecting on the Chair as an example of contempt.¹²
36. In Report No. 73 the committee concluded that the then Leader of the Opposition, Mr Lawrence Springborg's statement, 'This is not Peter Beattie's parliament. This is the people's parliament', was not commenting directly on the actions of the Speaker. The committee found no *prima facie* case and dismissed the matter in accordance with Standing Order 270.¹³
37. Most recently, Report No. 90 related to statements made by the Member for Nicklin both inside and outside of the House. The committee found that the Member for Nicklin intended to reflect on the character of the Speaker and made a finding of contempt. The committee found the pre-meditated nature of the member's statements placed the contempt at the higher end of the scale for reflecting on the character and actions of the Chair. The committee recommended that the member unreservedly apologise to the House and the Speaker; and was suspended from the precincts of the House for 21 days.¹⁴

Analysis

38. The issues that the committee considered in relation to this allegation of contempt were—
 - did the Member make the comment attributed to her?
 - did the statement amount to a reflection on the Chair?
 - did the statement constitute an improper interference with the free exercise by the Assembly of its functions or authority?

Did the Member make the comment attributed to her?

39. The member made the comments in the House on 28 November 2012 as recorded by Hansard and are therefore attributed to her.¹⁵
40. In her submission to the committee, Mrs Miller stated, 'it is without contention that I made the comments in the House during Question Time on 28 November 2012, during a question to the Premier. I had initially been warned by Madam Speaker pursuant to Standing Order 253A.'

¹¹ Members' Ethics and Parliamentary Privileges Committee, Report No. 71, *Matter of privilege referred by the Speaker on 9 November 2005 relating to an alleged threat against a member and alleged reflections on the Chair*, at 12.

¹² *Ibid*, at 13.

¹³ Members' Ethics and Parliamentary Privileges Committee, Report No. 73, *Matter of privilege referred by the Speaker on 16 February 2006 relating to alleged reflections on the Speaker*, at 3.

¹⁴ Members' Ethics and Parliamentary Privileges Committee, Report No. 90, *Matter of privilege referred by the Deputy Speaker on 28 February 2008 relating to alleged reflections on the Speaker*, at 9-10.

¹⁵ Queensland Parliament, Record of Proceedings (Hansard), 28 November 2012 at 2859.

41. Mrs Miller also confirmed this position in her oral submission to the committee on 18 April 2013 and stated that the 'Hansard speaks for itself.'¹⁶
42. The committee finds that this element has been established.

Did the statement amount to a reflection on the Chair?

43. The committee considers that the member's statement that, 'I have been vilified by you in this parliament for the last six months' is a clear reflection on the Chair which carries an implication that the Speaker had shown partiality in discharging her duties.
44. The member for Bundamba conceded in her written submission to the committee that her statement was 'intemperate' and 'that those statements reflected on the Chair.'
45. The member also confirmed her position on this element during the private hearing and stated, 'I concede that my outburst as a result of the ruling was intemperate and may be construed as bringing the position of Speaker into disrepute.'
46. The committee finds that this element has been established.

Did the statement constitute an improper interference with the free exercise by the Assembly of its authority or functions?

47. Standing Order 266(23) provides that an example of contempt includes 'except by substantive motion of censure, commenting or reflecting on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general.'
48. This principle of parliamentary law is also reflected in Standing Order 115(d) which provides that questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged by substantive motion and Standing Order 250 which provides that dissent from a ruling of the Speaker should be by way of a motion on notice.¹⁷
49. The effect of these Standing Orders is that the Legislative Assembly has prescribed that for its proper functioning, any reflection on the decisions or actions of the Chair must be by way of substantive motion.
50. In correspondence to the committee, the Speaker stated, '...if a Member disagrees with a Speaker's ruling, they have redress under the Standing Order 250. If the Member for Bundamba feels so aggrieved by my rulings, this opportunity is available to her as it is to other Members.'
51. The member for Bundamba stated in her written submission to the committee that, '... in relation to the third element, I submit that the statements do not constitute an improper interference with the free exercise by the Assembly of it[s] authority or functions.' 'I therefore invite the committee to find that I have not committed the contempt of reflecting on the Chair.' However, the member did not provide any evidence to support her submission that her statement did not constitute an improper interference.
52. The committee considered that an argument could be made that the member for Bundamba's comments were brief and dealt with quickly by the Speaker by way of Standing Order 253A (suspension from the House for 1 hour). However, the committee was of the view that such an argument only goes to show that an interference with the House's function was brief, not that there wasn't interference at all. The committee believed the brief nature of the interference should be given weight in considering the issue of what an appropriate penalty might be, but not the issue of whether a contempt has been committed.

¹⁶ Ethics Committee, *In-camera hearing transcript*, 18 April 2013, at 3.

¹⁷ Rules for questions; and dissent from rulings of Speaker.

53. The committee finds that by reflecting on the Speaker outside of the process set down by the House by its very nature amounts to an improper interference with the free exercise of the Assembly's functions.
54. Furthermore, the committee considered that by questioning the partiality of the Speaker outside of the processes prescribed by the House amounts to an improper interference with the House's authority.
55. The Speaker further stated that, 'I would also reaffirm that there are sound reasons why the Standing Orders require respect for the Chair's rulings. This is not for the self-aggrandisement of Speakers but for the good order of the House. Without this, the House will dissolve into disorder and Members would not be able to have the right for their voices to be heard within the agreed rules of debate.'
56. As outlined above, David McGee has stated that '[The] Speaker is in a special position. Being the embodiment of Parliament, reflections upon [the Speaker's] character or conduct directly attack the very institution of Parliament itself, and have been dealt with accordingly here and in England'.¹⁸
57. The committee were of the view that the comment of the member for Bundamba clearly reflected on the Speaker's character and conduct which in effect challenges the Assembly's authority in an improper manner.
58. The member for Bundamba further stated in her oral submission to the committee that, '...my actions can be seen more as an intemperate response to a set of extraordinary circumstances rather than a deliberate and purposeful attack on the chair.'¹⁹
59. Again, the committee found that the arguments towards intention and circumstances surrounding the making of the statement did not go towards this element. These arguments were however, relevant to the committee's consideration of penalty.
60. The committee finds that, by not seeking to make the statement by way of substantive motion in accordance with the requirements of the Standing Orders and Westminster tradition, the member for Bundamba has improperly interfered with the free exercise of the Assembly of its functions and its authority.
61. Accordingly, the committee finds that this element has been established.

Conclusion

62. Based on the information before the committee, the committee finds that the member for Bundamba made a statement in the House on 28 November 2012 which amounted to a reflection on the Chair.
63. The committee strongly supports the views of its predecessor committees that any attack upon the authority of the Speaker is an attack upon the authority of the House. As noted above, it is a basic principle of parliamentary privilege that the character or actions of the Speaker may not be criticised except on a substantive motion. The Standing Orders provide a 'right of appeal' to the House from a decision of the Speaker by way of dissent to a ruling of the Chair. On debate of a motion of dissent, only the ruling may be criticised, not the character of the Chair.
64. Specifically, by not seeking to make the statement by way of substantive motion in accordance with the requirements of the Standing Orders, the member for Bundamba has improperly interfered with the free exercise of the Assembly of its authority.
65. Accordingly, the committee unanimously recommends that the House find the member for Bundamba guilty of contempt.

¹⁸ New Zealand House of Representatives, Report of the Privileges Committee, *Question of privilege relating to a reflection on a member in his capacity as a member of the House*, February 2007 at 5.

¹⁹ Ethics Committee, *In-camera hearing transcript*, 18 April 2013, at 3.

Penalty

66. Standing Order 270(5) of the Standing Orders sets out that the committee must, with its report, recommend the action that should be taken.
67. The committee considered the full range of penalty options available for a contempt of parliament from an apology through to a maximum fine of \$2,000 and the various recommendations of its predecessor committees in relation to findings of contempt.
68. In her appearance before the committee, the member for Bundamba provided a comprehensive list of matters relating to reflections on the Chair in other jurisdictions. The member submitted that in a large number of these matters particularly those in the House of Representatives, no further action was taken where a member unreservedly apologised for their actions.
69. The committee noted that the House of Representatives unlike Queensland, does not have a Standing Order listing reflections on the Chair as a contempt, and the practice in that jurisdiction is to deal with such matters as a matter of order rather than a referral to the ethics committee.
70. The committee took into account the following factors outlined in the member for Bundamba's written and oral submissions:
 - the member was suspended from the Chamber for a period of 1 hour for her conduct in the House, with no objection;
 - the member unreservedly apologised to Madam Speaker in the House at the earliest opportunity;
 - the member also privately apologised to Madam Speaker;
 - that the comments were not premeditated; and
 - that the member's conduct is at the lower end of the scale.
71. The Code of Ethical Standards states that the public's confidence in the institution of Parliament is essential. Specifically, 'members are to strive at all times to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and avoid any action which may diminish its standing, authority or dignity.'²⁰
72. During the committee's private hearing, the member for Bundamba stated that, 'I appreciate the role of the committee in determining what action they should take in respect of the matters they adjudicate on should not only take into account the need to address the particular conduct complained of, but must also send a message to other members of this honourable House that respect for the chair is an important tenet of representative democracy.'²¹
73. The Ethics Committee has an important function in ensuring that high standards are maintained by all members and these standards should be considered when determining any penalty.
74. The committee is cognisant that there is a well-established principle in the general law²² in relation to bodies which have an obligation to protect professional standards that a sanction imposed is for the purpose of maintaining the standards rather than imposing a 'punishment' in the traditional sense.
75. The committee also considered the precedent for a recommendation that a member of the ethics committee be discharged from the committee after being found guilty of contempt.
76. The previous matter concerned the disorderly conduct by members of parliament within the parliamentary precinct.²³ The committee found that the former member for Tablelands and former

²⁰ Members' Ethics and Parliamentary Privileges Committee (2004), *Code of Ethical Standards*, at 3.

²¹ Ethics Committee, *In-camera hearing transcript*, 18 April 2013.

²² *Karriaper v Wijesinha* (1968) AC 717.

²³ Members' Ethics and Parliamentary Privileges Committee, Report No. 41: *Report on a matter of privilege – matter concerning the disorderly conduct by members of Parliament within the parliamentary precinct*, tabled 31 May 2000.

member for Barambah committed a contempt of the Parliament by engaging in disorderly and disrespectful conduct in the precincts of the Parliament while it was in session and behaving in a manner not befitting members of Parliament (by pouring milk on the steps of Parliament House in protest).

77. In this case, the committee unanimously recommended that both members be suspended from the precincts for 28 days.
78. The former member for Tablelands was also a member of the Members' Ethics and Parliamentary Privileges Committee. The committee unanimously recommended that the member for Tablelands be discharged from the committee. The House agreed to the committee's recommendations on 1 June 2000.²⁴
79. Having taken into account all of the material before it including the mitigating factors listed above, the committee finds the member's contempt to be at the lower end of the scale, and in the circumstances did not warrant a recommendation for suspension from the Assembly.
80. However, as the Ethics Committee sits in judgement of allegations against its peers relating to their conduct in the House, the committee was of the view that should the House accept its recommendation that the member for Bundamba be found guilty of contempt, that it would be appropriate that the member be suspended from the membership of the ethics committee for a period of time.
81. Accordingly, the committee unanimously recommends that the House suspend the member for Bundamba from the Ethics Committee for a period of three (3) months from the date the committee's recommendation is considered by the House.

²⁴ Queensland Parliament, Record of Proceedings (Hansard), 1 June 2000 at 1521.

Conclusion 1

Based on the information before the committee, the committee finds that the member for Bundamba made a statement in the House on 28 November 2012 which amounted to a reflection on the Chair.

Conclusion 2

The committee strongly supports the views of its predecessor committees that any attack upon the authority of the Speaker is an attack upon the authority of the House. The committee noted it is a basic principle of parliamentary privilege that the character or actions of the Speaker may not be criticised except on a substantive motion. The Standing Orders provide a 'right of appeal' to the House from a decision of the Speaker by way of dissent to a ruling of the Chair. On debate of a motion of dissent, only the ruling may be criticised, not the character of the Chair.

Conclusion 3

Specifically, by not seeking to make the statement by way of substantive motion in accordance with the requirements of the Standing Orders, the member for Bundamba has improperly interfered with the free exercise of the Assembly of its authority.

Conclusion 4

The committee unanimously recommends that the House find the member for Bundamba guilty of contempt.

Recommendation 1

The committee unanimously recommends that the House suspend the member for Bundamba from the Ethics Committee for a period of three (3) months from the date the committee's recommendation is considered by the House.

A handwritten signature in black ink, appearing to read 'Peter Dowling', written in a cursive style.

Peter Dowling MP
Chair

May 2013

Membership — 54th Parliament

Mr Peter Dowling MP, Chair
Member for Redlands

Mr Ian Kaye MP
Member for Greenslopes

Mr Tim Mulherin MP²⁵
Member for Mackay

Mr Michael Pucci MP²⁶
Member for Logan

Mr Curtis Pitt MP²⁷
Member for Mulgrave

Ms Jackie Trad MP
Member for South Brisbane

Mr Peter Wellington MP
Member for Nicklin

Secretariat

Mr Michael Ries, *Research Director*

Ms Erin Pasley, *Principal Research Officer*

Ms Andrea Musch, *Executive Secretary*

Contact

Telephone: 07 3406 7586

Facsimile: 07 3406 7691

E-mail: ethics@parliament.qld.gov.au

Internet: www.parliament.qld.gov.au/ethics

²⁵ On 12 December 2012, the Speaker advised that the member for Mackay would replace the member for Bundamba during consideration of this matter.

²⁶ From 12 February 2013.

²⁷ On 14 February 2013, the Leader of the Opposition appointed the member for Mulgrave to replace the member for South Brisbane for the duration of the meeting held on 14 February 2013, in accordance with standing Order 202.



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19 DEC 2012

ETHICS COMMITTEE

Ref: 01006_Dowling MP_P_121218

18 December 2012

Mr Peter Dowling MP
Chair
Ethics Committee
Parliament House
Alice Street
BRISBANE QLD 4000

Dear Mr Dowling

Thank you for the opportunity to provide more information regarding my complaint regarding the Member for Bundamba and her reflecting on the chair.

The incident involving the Member for Bundamba, Ms Jo-Ann Miller occurred in the Legislative Assembly on 28 November 2012 in response to my ruling requesting her to take her seat.

The transcript from Hansard is as follows:

Mrs MILLER: My question is to the Premier. After this week's extraordinary events—
Government members interjected.

Madam SPEAKER: Order!

Mrs MILLER: if you cannot govern yourselves—and clearly you can't—

Madam SPEAKER: Order! Take your seat. I will not have interjections while a member is asking a question, and when they are not asking questions I expect order in the House. I ask the member to start again.

Mrs MILLER: Thank you very much, Madam Speaker. My question is to the Premier. After this week's extraordinary events, if you cannot govern yourselves—and clearly you can't—how can you govern Queensland?

Mr STEVENS: I rise to a point of order, Madam Speaker. Using the word 'you' is not permissible in the House.

Madam SPEAKER: Correct. Member for Bundamba, the reason you do not use the word 'you'— as previous Speakers have ruled—is that you are addressing the chair when you say that, so unless you are asking me a question you do not ask it in that way. I will ask you to take your seat. You have had enough of a chance to put that question again.

Mrs MILLER: Madam Speaker, I rise to a point of order.

Madam SPEAKER: What is your point of order, member for Bundamba?

Mrs MILLER: Madam Speaker, I have been vilified by you in this parliament for the last six months.
Government members interjected.

Madam SPEAKER: Order! Take your seat. I already have the member on a warning under 253A for interjections across the chamber. I now ask the member to leave the chamber for an hour.

Whereupon the honourable member for Bundamba withdrew from the chamber at 3.22 pm.

(Page 2859-60 of Hansard)

Parliament House
George St Brisbane Queensland 4000 Australia

Phone + 61 7 3406 7374

Fax + 61 7 3406 7308

Email speaker@parliament.qld.gov.au

Web www.parliament.qld.gov.au

At the time, my immediate priority was to restore order in the House.

Thus the reason why I used one of the least stringent of the Standing Orders, ordering the Member to withdraw from the Chamber for an hour under Standing Order 253A.

I believe order was restored with the Member's removal and we proceeded with Question Time.

At the end of Question Time, I advised the House I had further considered the seriousness of the Member's behaviour and the need for an appropriate response. This was why I decided to refer the matter to the Ethics Committee.

Speaker's Ruling, Referral to Ethics Committee

Madam SPEAKER: Honourable members, after considering the matter, I have decided that the member for Bundamba has reflected on the chair and I am referring the member to the Ethics Committee.

(Page 2861 of Hansard)

I submit to you that the hour-long suspension from the Chamber was not a sufficient penalty to address the gravity of the Member's misconduct.

I also do not consider the Member's behaviour has been mitigated by her private apology to me in my office later that day.

I would also reaffirm that there are sound reasons why the Standing Orders require respect for the Chair's rulings. This is not for the self-aggrandisement of Speakers but for the good order of the House.

Without this, the House will dissolve into disorder and Members would not be able to have the right for their voices to be heard within the agreed rules of debate.

I would therefore urge the Committee to consider precedents set for such breaches of Standing Orders and award an appropriate penalty.

I also remind Committee Members that if a Member disagrees with a Speaker's ruling, they have redress under the Standing Order 250. If the Member for Bundamba feels so aggrieved by my rulings, this opportunity is available to her as it is to other Members.

I thank you for your consideration of this matter.

Yours Sincerely



HON FIONA SIMPSON MP
Speaker of the Legislative Assembly

JO-ANN MILLER MP

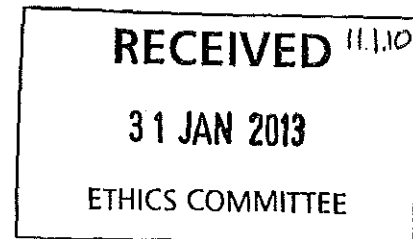
SHADOW MINISTER FOR HEALTH, NATURAL RESOURCES AND MINES, AND HOUSING

MEMBER FOR BUNDAMBA



Your Ref: 11.1.10

Mr Peter Dowling MP
 Chairperson - Ethics Committee
 Parliament House
 George Street
 BRISBANE QLD 4000



Dear Mr Dowling

Thank you for your letter dated 29 November 2012 regarding correspondence received from the Honorable Fiona Simpson MP, Speaker of the Legislative Assembly, regarding an alleged contempt of reflecting on the Chair made by me during Question Time in the Legislative Assembly on 28 November 2012.

Madam Speaker has referred the alleged matter to the Ethics Committee ("Committee") for examination and report to the House in accordance with Standing Order 270.

The allegation made by Madam Speaker is that I reflected on the Chair during Question Time on 28 November 2012, which she alleges constitutes contempt in accordance with Standing Order 266(23). As your correspondence indicates, there are three elements to be resolved where it alleged that a member has committed the contempt of reflecting on the Chair:

1. Did the Member make the comments attributed to her?
2. Do these statements amount to a reflection on the Chair?
3. Do the statements constitute an improper interference with the free exercise by the Assembly of its authority or functions?

It is without contention that I made the comments in the House during Question Time on 28 November 2012, during a question to the Premier. I had initially been warned by Madam Speaker pursuant to Standing Order 253A. This is recorded at page 2850 of the Official Record of Proceedings.

Subsequently, an exchange took place between Madam Speaker and me. This exchange was quoted by Madam Speaker in her letter to you of 29 November 2012. However, for completeness I will include the entire question and resulting comments and interjections:

Mrs MILLER: My question is to the Premier. After this week's extraordinary events—
Government members interjected.

Madam SPEAKER: Order!

Mrs MILLER: if you cannot govern yourselves—and clearly you can't—

Madam SPEAKER: Order! Take your seat. I will not have interjections while a member is asking a question, and when they are not asking questions I expect order in the House. I ask the member to start again.

Mrs MILLER: Thank you very much, Madam Speaker. My question is to the Premier. After this week's extraordinary events, if you cannot govern yourselves—and clearly you can't—how can you govern Queensland?

Mr STEVENS: I rise to a point of order, Madam Speaker. Using the word 'you' is not permissible in the House.

Madam SPEAKER: Correct. Member for Bundamba, the reason you do not use the word 'you'— as previous Speakers have ruled—is that you are addressing the chair when you say that, so unless you are asking me a question you do not ask it in that way. I will ask you to take your seat. You have had enough of a chance to put that question again.

Mrs MILLER: Madam Speaker, I rise to a point of order.

Madam SPEAKER: What is your point of order, member for Bundamba?

Mrs MILLER: Madam Speaker, I have been vilified by you in this parliament for the last six months.

Government members interjected.

Madam SPEAKER: Order! Take your seat. I already have the member on a warning under 253A for interjections across the chamber. I now ask the member to leave the chamber for an hour.

Whereupon the honourable member for Bundamba withdrew from the chamber at 3.22 pm.

The exchange that took place is recorded on page 2859 and 2860 of Hansard. This transcript shows that I asked a question of the Premier and was interrupted by members of the Government. Madam Speaker issued a warning to Government members about interjecting when a member is asking a question, and I was invited to start my question again. The Leader of the House raised an objection to my question, and Madam Speaker explained why my question was out of order. Madam Speaker then said that I had had enough of a chance to put my question again, and ruled my question out of order. As the transcript also shows, after my comments, which I concede were intemperate, I was asked by Madam Speaker to leave the chamber for a period amounting to one hour. I ask the Committee to please consider those comments in light of the exchange which had taken place.

At approximately 4.24pm on the same day, I returned to the House and rose on a matter of privilege, which can be found on page 2871 of Hansard. In recognition of the intemperate nature of my comments, and the fact that they may have been construed as bringing the position of the Speaker into disrepute, I made the following statement: *"I rise on a matter of privilege suddenly arising. I wish to unreservedly apologise to Madam Speaker"*.

Whilst my initial comments may have been a reflection on the Chair, I believe that my apology at the first available opportunity shows that my comments were by no means premeditated and were stated during a heated Question Time, where I was being interrupted constantly by members of the Government during the delivery of my question. I regret my initial comments and as soon as my suspension from the Chamber was lifted, I took steps to apologise without qualification to the Chair.

I would now like to refer the Committee to several previous rulings relating to alleged reflections on the Chair, which may help guide the Committee's deliberations.

I refer to Report 71 of the Members' Ethics and Parliamentary Privileges Committee, in relation to a Matter of Privilege referred by the Speaker on 9 November 2005 Relating to an Alleged Threat Against a Member and Alleged Reflections on the Chair, where it was alleged by the then Speaker the Honourable Tony McGrady MP, that the Member for Callide had reflected on the Chair by stating "That's an absolute disgrace" (page 3 of the report) and saying prior to the Speaker leaving the chair, "you are a disgrace" at least five times (page 4 of the report).

The Member's comments were then further reported widely in the media, but at no point did the Member for Callide rise in the House and unreservedly apologise. After careful consideration of the relevant standing orders, learned writings on the subject and the submissions made by members, the committee found that no contempt had been established in relation to comments attributed to or made by the Member for Callide and others in the newspaper reports and television recordings referred to the committee.

I refer also to Report No. 90 of the Members' Ethics and Parliamentary Privileges Committee in relation to a Matter of Privilege Referred by the Deputy Speaker on 28 February 2008 Relating to Alleged Reflections on the Speaker. The matter concerned numerous statements made by the

Member for Nicklin, both in the media and in the House, about the then Speaker, the Honourable Mike Reynolds AM MP.

In that case, the committee unanimously found the Member for Nicklin was guilty of a contempt for reflecting on the actions and character of the Speaker. However, as the Committee discussed in paragraph 44 at page 9 of the Report, the committee found that the statements in question were at the higher end of the scale for reflecting on the character and actions of the Chair.

The Committee found a number of facts existed in that case to justify a severe penalty being imposed. These included, inter alia:

- The role of the Office of the Speaker is the cornerstone of Parliament and respect for the Speaker's role is essential for the power, authority and integrity of Parliament. The Member for Nicklin's written and oral submissions indicate a lack of respect for the role of the Office of the Speaker and has diminished the respect due to the institution of Parliament.
- In his oral submission (and after viewing the Channel Two news footage from 8 February 2008), the Member for Nicklin admits to making the comments attributed to him by journalist Matt Wordsworth. The member therefore acknowledged that 'he is aware that it is an offence for a politician to criticise the Speaker but that he doesn't care'.
- By the Member for Nicklin's own admission he deliberately made these statements with the knowledge that they may amount to contempt for reflecting on the Speaker.
- The member's statements were not spur of the moment but were repeated over a period of time, both inside and outside the House, receiving wide media coverage.
- The member has used the committee's invitation to present a written and oral submission as an opportunity to further reflect upon the character and actions of the Speaker.
- The Member for Nicklin does not resile from his comments, has not shown respect for the role of the Office of the Speaker, has not shown remorse for his actions, has not apologised unreservedly to the House or the Speaker and did not move a motion of censure.

None of these factors apply in this instance, therefore this report of the Committee is clearly distinguishable from the case presently being considered by the Committee.

. further key difference between the current allegations put before me and the situation outlined in Report 71 is that I, unlike the member for Callide in that case, corrected the record at the first available opportunity and apologised unreservedly for my comment. In spite of a lack of apology, the Committee in that case found that no case of contempt had been established against the member for Callide.

As stated previously, there are three elements to be resolved where it alleged that a member has committed the contempt of reflecting on the Chair. I concede that the first two elements have been established, in that I admit to having made the statements alleged, and that those statements reflected on the Chair. However, in relation to the third element, I submit that the statements do not constitute an improper interference with the free exercise by the Assembly of its authority or functions.

My comments were made in the context of a heated question time, in a parliamentary week which can only be described as extraordinary. The atmosphere in the Chamber was particularly argumentative, and Madam Speaker had only recently warned Government members about the extent of their interjections. I apologised at the first available opportunity when I returned to the Chamber after I had been suspended. This can be contrasted with the actions of the Member for

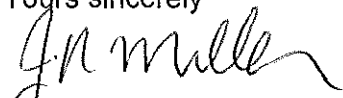
Nicklin and the member for Callide in the Committee's consideration of their matters in reports 90 and 71 respectively.

They can also be contrasted with the Member for Nicklin's comments in that I did not make a series of protracted comments both inside and outside the House. Further, I have not used the opportunity to make a further submission to further reflect on the Chair or to indicate a lack of respect for the role of the Office of the Speaker and thereby diminish the respect due to the institution of Parliament. In addition my comments were made on the spur of the moment, and were not premeditated or planned as in the case of a prepared statement or media release.

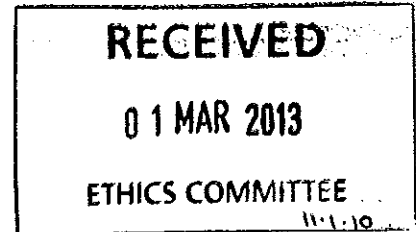
As previously stated the comments made to Madam Speaker were made on the spur of the moment in a heated Question Time situation, which I promptly retracted with an unreserved apology at the first available opportunity. It is therefore my contention that the third element necessary to be resolved where it alleged that a member has committed the contempt of reflecting on the Chair has not been established in this case. I therefore invite the Committee to find that I have not committed the contempt of reflecting on the Chair.

I thank the Committee for the opportunity to respond to the allegations made by Madam Speaker in her letter of 29 November 2012. Should the Committee believe that I can assist any further in their deliberations in respect of this matter, please do not hesitate to contact me. I am very willing to provide whatever assistance I can to assist the Committee in its deliberations.

Yours sincerely



Jo-Ann Miller MP
Member for Bundamba



Ref: 01284_Dowling MP_P_130219

28 February 2013

Mr Peter Dowling MP
Chair of the Ethics Committee
Parliament House
George St
BRISBANE QLD 4000

Dear Mr Dowling

I refer to your letter 14 February 2013. I am unable to attend the private hearing at which consideration will be given to an allegation of reflecting on the Chair lodged against the Member for Bundamba, thus I provide this written response which I trust will be considered in addition to the previous correspondence I have provided about this matter.

Having read the response from the Member for Bundamba, I note that the Member appears to be seeking to justify her behaviour and defending her actions rather than taking responsibility. In this context, an apology is invalidated if it is not accompanied with contrition or recognition that such behaviour can be controlled.

The Member's reflection against the Speaker was a reference not only in regard to the incident at hand but also as to how the Speaker allegedly treated the Member over a period of six months.

This adds weight that it was a serious and deliberate reflection on the Chair.

As previously advised, the nature of the Member's offence would have warranted a far longer suspension from the house. My priority in that moment as Speaker was to restore good order which was achieved by the Member's removal for one hour under Standing Order 253A. This measure, however, did not provide an appropriate penalty for the Member's behaviour.

While I could have named the Member and sought a motion for her expulsion from the House for a longer period, in this instance I decided to refer the matter to the bipartisan Ethics Committee to consider an appropriate penalty.

Yours sincerely



HON FIONA SIMPSON MP
Speaker of the Legislative Assembly

Parliament House
George St Brisbane Queensland 4000 Australia

Phone + 61 7 3406 7374
Fax + 61 7 3406 7308
Email speaker@parliament.qld.gov.au
Web www.parliament.qld.gov.au