AUSTRALASIAN STUDY OF PARLIAMENT GROUP
(Queensland Chapter)

Beyond these walls— Is Parliamentary Privilege confined to the Chamber

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Ms MALONE: Members of parliament, and members and friends of the Australasian Study of Parliament Group, it is my pleasure to welcome you here this evening to our discussion of parliamentary privilege. It is pleasing to note your interest in this matter of importance to the parliament and to the public perception of the parliament. I extend a special welcome this evening to Kevin Rozzoli, who is the National President of the Australasian Study of Parliament Group and is a former member and Speaker of the Legislative Assembly of New South Wales. As a member of 30 years and Speaker, and now as an academic researcher, Kevin has given some attention to the topic before us. His participation this evening will undoubtedly add to the breadth and depth of our discussion.

We have received a number of apologies from members of parliament and from some of the executive members of the ASPG this evening. Bill Hewitt, former MLA and active member of the executive of the ASPG, has asked that I register his apology for not attending. Bill played a prominent role in the selection of the topic for this evening and deeply regrets that this clashes with a commitment to address another forum.

For the benefit of those who have not joined us before, I shall give a brief overview of the nature and purpose of the ASPG. The ASPG, Queensland chapter, was established in May 1993 as a non-partisan body to encourage and stimulate research, writing and teaching about parliamentary institutions in Australia in order to generate a better understanding of their functions and of our democratic system of governance. The Queensland chapter holds three seminars each year on topical issues relating to parliament in Queensland and in Australia. Past topics have included 'Thirty years as a political reporter' by Peter Charlton; 'The role of the Speaker', with two past Queensland Speakers; 'An Australasian examination of movement towards a modern committee system' 12 months ago by Kevin Rozzoli from New South Wales; and, most recently, an invigorating discussion on the roles and processes of appointing governors and governors-general.

Tonight we will address the topic of parliamentary privilege—a topic that is familiar to everyone but which holds some complexities and uncertainties. We have three formal speakers and the informal presence of Kevin Rozzoli, who will be able to comment on some of the similarities and differences in the consideration and treatment of the issues by the Queensland and New South Wales parliaments. Each of the four presenters has addressed this topic previously at a national conference of the ASPG and all were received well by their peers on this occasion.

The title of this evening's forum is 'Beyond these walls—Is parliamentary privilege confined to the chamber?' This is intended to indicate that parliamentary privilege is commonly understood as it applies to the protection afforded to members speaking in sessions of the parliament—that is, within the confines of the walls of the chamber. This aspect is clearly understood. The complexities and uncertainties lie, however, in its application to parliamentary business that sits outside the chamber. It is to these aspects that our speakers will turn their attention tonight.

This evening's presentations will address the extent to which constituents' communications with their members are or may be included within the scope of privilege, the possibility of extending parliamentary privilege to protect constituents' communications with their members from the current accessibility allowed by the freedom of information legislation and issues relating to the scope of parliamentary proceedings protected by privilege.

The first speaker this evening is Julie Attwood, member for Mount Ommaney since 1998 and chair of the Members' Ethics and Parliamentary Privileges Committee since May 2001. The committee chaired by Julie is currently examining the issues surrounding communications to members, members' representations to government and information provided to members, and is soon to report. As Julie must leave to attend another engagement shortly after her address, she has arranged for Meg Hoban, research director of the committee, to stand in for her in the question time that will follow the main addresses this evening. We are grateful to Julie and to Meg for their participation. Ladies and gentlemen, please welcome Julie Attwood to speak about parliamentary privilege and members' sources of information.

Mrs ATTWOOD: Thank you, Noni. Good evening. Tonight I will be talking about some of the issues that affect members of the community and their communications with MPs. I will also provide a brief overview of our committee's privileges inquiry. The Members' Ethics and Parliamentary Privileges Committee is in the process of finalising its inquiry into communications to members, members' representations to government and information provided to members. In fact, our report is due to be tabled this week. The committee's inquiry has focused primarily on clarifying the status of and protection afforded to communications that arguably fall outside the statutory definition of proceedings in the Assembly.

As the report has not yet been tabled, I cannot comment yet on our recommendations. However, I will touch on some of the key issues of our inquiry—firstly, constituency communications and parliamentary privilege. Members of the community, including constituents, generally contact MPs for advice or assistance as a last resort and often only after much soul-searching. These constituents are generally driven by a genuine desire to correct some public wrongdoing or to rectify some private wrong or some grievance. MPs may raise their matters in parliament, where their statements cannot be questioned or impeached by any court or tribunal, including in defamation proceedings should the information contain anything defamatory.

MPs, of course, have absolute immunity for what they say in parliament under the protection of parliamentary privilege. Parliamentary privilege is a powerful and essential immunity which protects the integrity of the proceedings in parliament, including debates in the chamber, committee proceedings, parliamentary investigations and reports prepared at the direction of the parliament or parliamentary committees. In short, parliamentary privilege ensures that MPs can raise any matter in parliament without fear of legal proceedings being taken against them for doing so.

Whilst raising matters on behalf of constituents publicly, in the full glare of the parliamentary chamber, may provide MPs with absolute protection, this may not always be the most ethical manner in which to deal with disclosures by constituents. At times it may be more appropriate—that is, it may be less harmful to the reputations of the people involved—to deal with the matter officially with ministers, departments and relevant agencies outside the parliament. While statements in parliament are absolutely immune from legal proceedings, the protection afforded constituents is less clear. Constituents must generally rely on qualified protection under the defamation law. This qualified protection can be negated by evidence of malice on the part of the constituent—that is, the person publishing the matter to the MP.

Our committee's concern is that qualified protection may not be sufficient in two respects. Firstly, it does not preserve the confidentiality of constituents. Secondly, it may be inadequate to ensure that constituents are protected against defamation proceedings arising from their communications with MPs. In fact, that qualified protection depends on the defamatory publication being made without malice and it can present a real issue for some constituents. People providing sensitive information to MPs are not generally impartial bystanders to the events that they disclose. They often have personal knowledge of or involvement in that particular matter. For example, a former employee of a company who discloses some serious wrongdoing on the part of their former employer may have left the company under a cloud. They may well be a disgruntled former employee.

In these circumstances, the discloser may not be immune from defamation proceedings under the current qualified protection because it would not be difficult for the company to show evidence of malice on the part of the former employee. There have been instances where constituents have provided information to MPs and those constituents have subsequently had defamation proceedings taken against them by a third party for statements they made about the third party. Many people with whom our committee discussed these issues believe that constituents should not have to face the risk of legal proceedings against them for communicating in the public interest with MPs.

Our committee is concerned that a fear of legal proceedings has the potential to significantly impede the free flow of information to members of parliament. Members of the community who provide information to MPs also face the potential of loss of their confidentiality. Preserving the confidentiality of their constituents, both in parliamentary proceedings and outside the chamber, with ministers, departments and agencies is an important concern for MPs. There are a number of valid social, economic and professional reasons why a constituent might wish to preserve their confidentiality—for example, to avoid financial hardship, a person's disclosure could affect their employment; for personal reasons, their disclosure could affect their relationships with family members; and to avoid unnecessary or unintentional publicity, they could be concerned about social ostracism or even fear of physical threats.

The committee's issues paper referred to a 1995 Queensland case that involved a letter to the Premier of the day written by a woman—a pensioner—who sought assistance and whose letter apparently also included a complaint about the conduct towards her by a public servant. The matter related to the resumption of the woman's home for a new bypassed road project. The public servant to whom the letter was forwarded by the then Premier's Department responded to the woman's statements by suing her for over $10,000. Ultimately, the matter was resolved through mediation. However, the constituent suffered serious trauma as a result of a loss of her confidentiality and the threat of crippling legal costs that would be necessary to defend herself and the possibility of having to pay damages.

One key issue that came out of our inquiry is that members of parliament are generally very

careful about the confidentiality of their constituents' communications. However, members of the community—ordinary constituents—do not have sufficient knowledge or understanding of parliamentary privilege or about the limitations of protection available to them under parliamentary privilege or legislation. Constituents widely believe that anything they communicate to MPs remains confidential and is exempt from access by third parties.

During our committee's inquiry we surveyed all members of the Assembly about the key questions raised in our issues paper. We found that a number of members have had experiences where constituents potentially risked legal proceedings as a result of the information they provided to the MP. I believe that few people would disagree that constituents should have a fundamental right to raise their concerns with MPs and that they should be able to do so without their actions representing a potential defamation risk. Many of the matters that MPs deal with are relatively low-level matters but many are not. Some matters, such as allegations of child abuse, are very serious matters which are of concern to the community. In these instances, MPs face the dilemma of whether to deal with the matter outside the parliamentary chamber and outside the protection of parliamentary privilege or to raise the matter publicly in parliament.

As a member of the privileges and ethics committee since 1998, I have also been involved in considering issues relating to MPs' communications which do not fall into the category of a proceeding in parliament or a disclosure officially recognised under the Whistleblowers Protection Act. Both parliamentary privilege and the whistleblowers legislation are limited in the protection they provide to constituents. I addressed some of these limitations in a paper that I presented to the ASPG in Melbourne last October.

I will move on to look briefly at the current privileges inquiry. The underlying focus of our inquiry is safeguarding the confidentiality of constituents and their communications with MPs. A key issue that we looked at was the extent to which current legislation and parliamentary law and practice protects constituency communications. We looked very carefully at the adequacy of these protections and examined the nature of perceived shortcomings. We also examined how best to resolve these shortcomings.

Constituency communications and disclosures by members of the community are part of the day-to-day parliamentary duties of an MP, but it is apparent from our inquiry that there are significant gaps in protection that currently support members in their parliamentary duties outside the chamber. During our inquiry we examined a wide range of options to rectify those gaps. These alternatives included extending parliamentary privilege, possible new protections at law, possible changes to standing orders and the adoption of codes of conduct relating to the use of information.

The committee also looked at the scope of protection. It was stressed throughout the committee's inquiry that, whether protections are based in statute or some other measure, there must be adequate safeguards against potential for their abuse. The committee was conscious at all times that any misuse of protections has the potential to cause serious harm to the reputations of individuals, organisations, companies or institutions. What also became clear during our inquiry was that there appears to be some reluctance about legislating in the area of constituency communications and in the area of disclosures to MPs in the public interest about wrongdoings.

In conclusion, it is clear that shortcomings do exist with the current protection afforded to communication between constituents and MPs. I believe that the parliament has an obligation to clarify these matters in the most unambiguous way possible. Our committee's priority now is to table our recommendations to the Assembly. Our recommendations will be aimed at ensuring that constituents are able to confidently seek the assistance of their elected representatives. They will also be aimed at ensuring that members of the Assembly are able to perform their parliamentary duties outside the parliamentary chamber on behalf of their constituents in the most ethical way possible.

Ms MALONE: Thank you very much, Julie, for elucidating on that topic and for bringing us that much closer to the current thinking and state of play on these issues that have been before us as issues papers for a couple of years now.

Joan Sheldon will speak to us next on issues related to the issues that Julie has just addressed. Joan is the member for Caloundra and has been a member of the Queensland parliament since 1990, and is currently shadow minister for tourism and shadow minister for the arts. Joan has held a range of portfolios as a government minister and shadow minister. She is currently serving on the Members' Ethics and Parliamentary Privileges Committee and so has been examining the issues that have just been before us. She is also a current member of the executive of the Queensland chapter of the Australasian Study of Parliament Group.

Joan's address tonight will deal with the concern that, in Queensland, correspondence

between parliamentarians and their constituents may be accessible under freedom of information legislation if it is held in departmental records as a result of representations to a minister. Joan will canvass some possible remedies, including the extension of parliamentary privilege to cover constituency communication. The topic to which she will speak is parliamentary privilege—a remedy for the freedom of information dilemma.

Mrs SHELDON: Thank you, Noni. It is nice to see more people here. I only wish we had a wider audience more often because these are issues that we are discussing tonight and which our committee has been looking at that really do affect a wide range of people—not just members of parliament but also, as has been elucidated by Julie, constituents.

We have been concentrating in our inquiry very much on constituents' rights, not necessarily on the rights of members of parliament. We have gone into this fairly extensively. Some of you would have been at a public round table discussion we had on these issues and where it was generally thought we should go. We asked to be part of our conference well-known academics on ethics and on these questions and members of the legal profession who had shown a particular interest in parliamentary privilege and the parts that were and were not covered, and it was open to the public. I found that most informative, and I think the committee looked at a lot of the information that came from that to see what the basis of our recommendations would be. Our recommendations to the parliament are imminent. So if you are interested in this you will be able to see once it is tabled very shortly what should happen in relation to this.

I want to look in particular at the matter of FOI because this is an area on which we have had problems. Certainly parliamentary privilege confers protection against defamation proceedings, amongst other things. Currently there is some uncertainty as to the precise status of constituency communications in relation to parliamentary privilege. Parliamentary privilege does not necessarily protect the confidentiality of a document; it protects the document from use in particular proceedings.

The most common dilemma regarding FOI arises where a constituent raises an issue with the member, the member writes to the relevant minister, the correspondence—and may I add now emails with attachments—may eventually form part of the records. Well, they invariably do; if you write to a minister, that is then recorded and quite often then sent to the department for comment on. This is where problems arise. We have seen that some of these documents have been released under FOI.

In Queensland, the Freedom of Information Act, which was passed in 1992, provides citizens with a right of access to documents of an agency or official documents of a minister, and the FOI Act specifically exempts the Legislative Assembly, MPs and parliamentary committees from the application of the act. Therefore, where a constituent's communication is held in an MP's office it is exempt from public access under FOI. That is fine; we clearly understand that. The problem has arisen where these documents have gone into departments, no doubt for briefings, back to the minister and in a couple of cases released when they should not have been into supposedly the proceeding about which the member will be contacted and asked if they will agree with. On both cases they were not contacted and problems arose as a result.

In an MP's office, all documentation, all phone calls, all notes taken and all emails sent, are covered by privilege. The attachments are the problem. There is currently an anomaly in the FOI Act. As I have said, this anomaly is attachments to documents. Quite often you might think why were they sent. Quite often a constituent, particularly if it is something of a very particular nature, will come to you—I always ask for representation in writing; I think a lot of members do—with sometimes quite a detailed and fairly lengthy document. In practice it is easier if they agree—and it must be if they agree—to attach this document with a letter to the minister in precis form setting out the problems. But there are all the details. Otherwise you are just transcribing all the details again into a letter from you. Your letter plus the attachments then go off.

I know that quite often in the correspondence unit within a minister's office the minister will not see what comes in. Everybody thinks that they do, but in the run of things they couldn't possibly. When I was in government my office received 720 articles of mail a week. That went on for quite some time. I wore a number of hats. But that is huge and I had to set up a real correspondence pool to deal with this. Matters would go out to the various departments—be they Treasury, Arts, Women's Affairs—and then information would come back. As the minister, you would then get the information—quite often, the suggestion of a letter that will be sent that you have to go through in your briefing paper. But copies are invariably kept by departments. I know Treasury copied everything and other departments most probably did too, and these documents are kept and archived, it would seem, forever. This is the round robin of documentation that goes on that I think a lot of people do not realise occurs.

The object of the FOI Act was to make government more accountable, and no-one would disagree with that. I know we have had in this state lots of questions asking: is government really

accountable—by various things that happen, particularly like taking documents to cabinet. This is not trying to suppress documentation; it is looking after the information that a member has sent to a minister on behalf of a constituent.

It has led, as I mentioned, to serious breaches of constituents' confidentiality about sensitive and personal matters. In two situations that I am aware of, the person involved became aware of it when it was printed in the media. Legal action such as defamation proceedings have been commenced by third parties against constituents and against the member for the correspondence that was entered into.

It can also impede parliamentary process and MPs in the performance of their parliamentary duties because you will think twice—and I know members are—about what they are going to send on. That often means that the constituent is not adequately being represented. The other side to this coin is when the constituent sees something that has become public or is in the media; they do not then want to or feel they have the protection of seeing their member of parliament. If you ask most people they would think the protection they would get there would be the same as client to lawyer or client to doctor. When this is broken I think that breaks the confidentiality of the constituent coming to a member of parliament. Quite often a member of a parliament is the last port of call for a constituent who has had a problem. They have gone through all the government agencies, they have done all these things and they come to the member to see if you, as their political representative, can help them with this particular problem. So it is important they come in confidence and they feel free to do so.

One incidence of FOI being released that I am prepared to speak about occurred in April 2001. A department—they said accidentally—provided an FOI applicant with access to confidential documents. These documents were protected under legal professional privilege. The person accessing the documents took notes while pursuing the confidential files and the person concerned originally sought access to the documents under FOI to use in court proceedings. That happened in one of our newspapers here. So they are the sorts of things I am speaking of.

Our committee has been looking at this situation. From speaking to various parliaments around the nation I know that they are aware of the problem, but it is fair to say we are in the forerun of doing anything about it, and they have been very interested to see what we are going to do. May I add: so is the House of Commons. I went there and spoke about this when I was in London. Particularly now I think with parliament being accessed directly on the Internet, with the prolific use of emails and attachments, it has become a different world, as you all know. I was listening to the radio today and this woman said that two-thirds of her day is taken up by reading emails and getting rid of what she does not want, which is most of it.

If you look at a member of parliament's office, it is a fascinating situation. One of my staff spends half her morning going through emails to see what she will print out and will not print out, too, with viruses and the like. From my position on the committee, it has been a very interesting period of time. We have worked very hard on the issue. As I mentioned to you, we wanted to go outside members of parliament, and that is why we got external people to come and speak with us and give their points of view. They have been most helpful and a lot of that we took on board. It was also very good in a relationship between the parliament and academics and members of the legal profession—the sorts of people who are interested in these issues—to let them realise that as members of parliament we were concerned and we were doing something about it.

It would be very tempting to tell you exactly what we are going to recommend to the parliament, but I cannot do that. But I can say 'watch this space'. Watch it quite closely.

However, I can say that during its inquiry the committee examined a number of alternatives which have the potential to preserve the confidentiality of constituency correspondence. These alternatives that were examined included extending parliamentary privilege to include members' constituency communications.

In the absence of appropriate protection under the FOI Act for members' constituency communications, there is a strong argument for extending parliamentary privilege to cover constituency communications. This, however, would be a complex solution, and may provide a level of protection far beyond that necessary to address the FOI issue.

It would also be difficult to determine where the boundaries to parliamentary privilege should be drawn. A wide definition of the term 'constituency' would be required as it is not uncommon for members to act on behalf of people living outside the geographical borders of their electorate, particularly in the case of Shadow Ministers.

Also examined was enacting a specific exemption provision for constituency communications.

This is one measure that the MEPPC recommended to the LCARC during that committee's review of freedom of information in Queensland.

In conclusion I'd like to say that throughout its inquiry, the committee has been conscious that a balance needs to be struck between the right to confidentiality for constituents in their communications with MPs and the right of access to government information for members of the community. It is arguable however, that Members' constituency communications do not fall into the category of 'government information'.

The committee found that there was significant support for preserving constituents' confidentiality and that Members of Parliament are in the best position to make determinations concerning the appropriate public disclosure of their constituency communications on a case by case basis.

Regarding this, I believe that the potential exists for more damage to be caused to constituents through the disclosure to third parties of their confidential constituency correspondence than would be caused by the inability of third parties to obtain access under FOI to constituents' correspondence.

Thank you.

Ms Malone: Thank you very much Joan. We appreciate you discussing the impending report and look forward to reading it to see what the Committee will recommend.

I'd now like to introduce the Clerk of the Queensland Parliament, Mr Neil Laurie, who will speak tonight for us about Parliamentary privilege and judicial review of decisions, investigations or reports.

Mr Laurie: Thank you Nonie and everyone here

The operation of a modern Parliament and the further development of committee systems, together with the growth in the use of royal commissions, "Independent" statutory commissions and commissioners raise many issues relating to parliamentary privilege. In particular, when and in what circumstances the proceedings (decisions, investigations or reports) of these bodies become "proceedings in Parliament" and, therefore, immune from judicial review.

Tonight, I'll explore this issue by reference to some court decisions, mainly in the last decade, both in the UK and in Queensland where it has been critical to determine what is a "parliamentary proceeding" in the context of attempts to challenge decisions, investigations or reports of parliamentary committees, commissions and commissioners. The factual and legal circumstances of each case will be compared and contrasted and general principles identified.

Queensland had quite a few interesting decisions on parliamentary privilege in the late 1990s and the early 2000s. I intend to go through some of those as well as some of the UK cases to demonstrate where the limits are on parliamentary privilege and how they can apply and obstruct—more obtuse ways than what we would originally think of as covered by parliamentary privilege.

We all know that when a member gives a speech in the House they are covered by parliamentary privilege, but how far does that extend beyond the walls of parliament, particularly when you are dealing with bodies that are not necessarily traditionally parliamentary in nature?

The first case I wanted to talk about was The Queen v. the Criminal Justice Commission, ex parte Ainsworth. For those of you who study a little bit of Queensland history, this case was essentially in 1990 and involved a report produced by the Criminal Justice Commission as to whether or not certain persons should have poker machine licences in Queensland. I think it is fair enough to say at this point that we are talking essentially about the Criminal Justice Commission, which is not a parliamentary body; it is accountable to parliament through a parliamentary committee but it is not actually part of the parliamentary arm of government, if you like. It does not necessarily sit in the executive arm of government because of some of its independence mechanisms, but I suppose when one considers it as part of a system of government it would fit more comfortably within the executive than it would within the parliamentary sphere—that is for certain. The report of the commission was provided to the government of the day and it was eventually tabled by the government in the parliament.

The persons who had been the subject of adverse comment in the report sought judicial relief and orders that the report had been compiled in breach of the rules of natural justice—that is, they had not been given an opportunity to even comment on the report.

What caught my attention by this case and has always fascinated me is that the Full Court of the Supreme Court of Queensland refused relief. One of the grounds upon which they refused relief was that the report had been tabled in parliament. They were not necessarily looking at the

compilation of the report; they were looking at the compilation and the tabling of the report in parliament.

One of the comments from the judgment was—

The constitutional distribution of power in a democracy proceeds on the footing of mutual respect by legislature and judiciary for the integrity of their respective functions.

We'—
that is the courts—

should be overstepping the proper limits of our responsibilities by a wide margin if we were to order a writ of certiorari—

which was the relief claimed—

to issue to being up a record that now forms part of the proceedings of Parliament.

The initial relief claimed for by the people in this case was for a writ of certiorari which essentially would have required the court to direct to the Clerk of the Parliament a summons to render up the report and all its copies for destruction.

So the courts were really saying, 'We are not going to exercise some sort of jurisdiction over the parliament, telling them to bring us their records so we can destroy them.'

This case went on appeal to the High Court and there was a change, I suppose, in the strategy of the plaintiffs, or the applicants, to change the relief being sought. What they sought was declaratory relief that in reporting adversely against the appellants the CJC had failed to fulfil the requirements of procedural fairness. The High Court upheld the appeal and provided the declaratory relief claimed.

I have always found it a completely unsatisfactory element of the High Court's decision that it never really broached the issue of parliamentary privilege. It was raised in argument, but the court did not really deal with that in its judgment.

My view has always been that by declaring that the report was compiled in breach of the rules of procedural fairness, the court must have been still questioning or impeaching a report that had been tabled in the parliament, so were therefore questioning a proceeding in parliament. But the High Court never really explained, or adequately explained, its decision in this respect.

I then go over to an English case which is the Parliamentary Commissioner for Standards, ex parte Al Fayed, who owns Harrods and a number of other places and who has been involved in a number of issues in England. In that case we had a Parliamentary Commissioner for Standards who had been established by resolution of the House of Commons. The commissioner himself had no coercive powers but was able to investigate and report to a parliamentary committee about matters affecting standards and members.

I will not go into the factual background except to say that Al Fayed was actually a complainant—that is, a person who had made a complaint against a member of parliament—and the parliamentary commissioner refused to actually take the course of action that was being urged by Mr Al Fayed. So Mr Al Fayed went to court to force the commissioner to undertake a particular course of action with his investigations.

The court refused relief on the basis that the commissioner dealt with the internal proceedings in parliament—that is, the conduct of members—and were not matters administrative in nature—that is, it was not something to do with the executive government administering government—and therefore it would be inappropriate to grant relief. The court noted that the commissioner was, in effect, almost like an extension of the parliamentary committee.

Another English case that was very close in time to this was R v. Parliamentary Commissioner for Administration, ex parte Dyer. This case involved a complainant, once again, seeking judicial review of a decision by the UK Ombudsman. The UK Parliamentary Commissioner for Administrative Investigations—that is, the Ombudsman—is established under an act of parliament but provides in that act that the UK commissioner is an officer of parliament. No doubt heartened by the idea that they were part of the parliamentary process because they were described as an officer of the parliament, the Ombudsman put up an argument that because he was a parliamentary officer his decisions could not actually be questioned by the court—only parliament could question the Ombudsman's decisions.

The court rejected the Ombudsman's argument and the court noted that many bodies are answerable to both parliament and the courts, but nothing within the act would take the Ombudsman outside judicial review. Effectively, the Ombudsman was discharging a statutory duty, and even though he was described as an officer of parliament, there was nothing in that act that would take him outside the jurisdiction of the courts. In making this decision they very much focused on the role that

he was undertaking—the conducting of investigation of administration. Once again, it is this idea or concept of administration.

A 1960s UK case, which is also elusive, is Dingle v. Associated Newspapers Ltd and Ors. In that case, an attempt was made by a person to review a report of a parliamentary select committee based on procedural defects in the committee's report. Here was someone trying to challenge a committee's report to parliament.

The relief was refused and the court gave a clear indication that procedural defects in parliamentary proceedings were a matter for the parliament, not the courts. The courts could not question parliamentary proceedings, only the parliament itself could.

All of these cases are leading us to a point, and that is a series of cases in Queensland which arose and which deal with these issues of the courts being able to interfere or the courts being able to grant relief in parliamentary proceedings. In Corrigan and the Parliamentary Criminal Justice Commission, the Parliamentary Criminal Justice Committee, which is created by statute and whose role then was to monitor and review the Criminal Justice Commission, a complainant had made a complaint to the committee and the committee made a decision in respect of the complaint. The complainant did not like the decision and sought judicial review by the court of the parliamentary committee's decision, and the court refused relief, recognising that what a committee of the parliament did was not a matter for the courts to be questioning.

There were, however, some comments made in the judgment in this matter that did leave an unsatisfactory flavour, in my mind at least, and that was that the judge in making these decisions looked at the role of the parliamentary committee. The parliamentary committee did a number of things. It monitored and reviewed the CJC. It also participated in who were actually the members of the CJC, that is, who became chairmen and commissioners of the CJC. So it had a range of functions apart from monitoring and reviewing.

The judge in the case tried to actually, I suppose, create a petition. It said that the committee actually discharged administrative functions as well as parliamentary functions. It said, for example, a committee dealing with appointments of people was an administrative function, whereas reviewing complaints by somebody was actually a parliamentary function. So although we had a very good result, I feel, for the parliamentary proceedings, the basis of it was not on the fact that this was a parliamentary committee performing a parliamentary function but that you were able to have a committee performing administrative functions as well. That left the door open unsatisfactorily for a later decision to say that a parliamentary committee was doing something administratively.

Only a short time later there was another case called the CJC and Another v. Dick, the CJC and Others. You will notice there are a lot of 'CJCs' and 'CMCs' within these Queensland decisions. In this case we had the parliamentary commissioner, which is the Parliamentary Criminal Justice Commissioner, now called the Parliamentary Crime and Misconduct Commissioner. Essentially, the commissioner is appointed by statute. One of their functions is to conduct investigations on behalf of the committee. So the committee might receive a complaint against the CJC, or the CMC as it is now, and the committee will refer investigations that it sees fit to the commissioner to investigate and report back to the committee. The commissioner does not report directly to the parliament, it reports to the committee. We had yet another one of these cases where a complainant was seeking judicial review of an investigation and report of a commissioner to the committee. Once again, the relief was refused.

There was a certificate from the chairman of the committee in that instance that the report was prepared and made under the authority of the committee. I would submit to you that, given our Parliament of Queensland Act, which would have then been the Parliamentary Papers Act, and the provision that talks about acts done under the authority of the committee, that was pretty influential in stopping the matter in its tracks. Because here we had clear evidence that what was being done by the commissioner was actually being done at the behest or at the authority of the committee. The commissioner is established as a separate statutory entity, but it was still doing something on behalf of the committee.

The next case I want to talk about was a little earlier, which was the CJC and Nationwide News Limited. That was an interesting case whereby essentially what we were talking about there was the commission's provision to the committee of regular monthly reports of its operations. One of those, unfortunately, made its way into a newspaper. The CJC was seeking some orders against the newspaper to prevent further publication of the material contained within the report. One argument that was put to the court was that relief should be sought because the report—it was a report compiled for the committee—was actually a proceeding of parliament and therefore the court should not give any relief in respect of it. But the court actually held that the report, although it was a proceeding of parliament, could not be impeached or questioned, but by granting the relief sought, that is, an order

to the newspaper not to release it, the court was not impeaching or questioning but rather was actually upholding parliamentary privilege to some extent. So the importance for this whole point was not the actual relief in this instance but rather that the court had clearly recognised that the report prepared by the commission was actually a proceeding in parliament itself.

I suppose that is a bit of a hotchpotch of cases that are all related, because they look at this issue. It is related to the topic because there are plenty of other bodies associated with parliament and people who report to parliament and sometimes it is very important to work out what is a proceeding in parliament and where the line can be drawn, and I suppose the extent to which parliamentary privilege not only applies to parliament itself—the Legislative Assembly, its committees and its members—but other bodies that may have some relationship with parliament. So it is important in that respect.

Given the topic generally speaking tonight, I just wanted to touch on another issue, parliamentary privilege. No matter in what vein you are talking about, there is alway some confusion about what it actually means when a report is immune because it is actually part of the proceedings of parliament. The topic I wanted to touch on generally, however, was the issue of re-publication. A member may speak in the House, a *Hansard* might be taken of that speech and a member may table documents in the House. The Parliament of Queensland Act sets out fairly clearly that the matters that are tabled are actually privileged, the speech is obviously privileged. But there are a few points to be made, and that is that whilst there is absolute privilege on those sorts of things—and there are some extended privileges given under the Parliament of Queensland Act—there will be certain things that will not be caught by that absolute privilege and will have to rely instead on qualified privilege.

What I am talking about here is predominantly re-publication of parliamentary documents or tablings or things of that nature. If somebody publishes a document that a member tables in parliament before it is actually tabled in parliament, that publication that occurred beforehand obviously may not get the same protection. Similarly, if somebody actually goes outside the House and publishes a document there may not be the same protection as occurs to that document inside the House when it is published. There will not be absolute privilege or may not be absolute privilege; it may actually be only a qualified privilege.

This issue of re-publication or publication has been particularly acute and there have been a number of cases in Australia where members will say something in the chamber and go outside and the doorstop interview will occur. Members will say something like, ‘Look, I don’t want to speak to you. I have said my piece in the House. I refer you to what I have said in the House,’ or they will use words like, ‘I stand behind what I have said in the House. I have got nothing further to add.’ And there have been cases which have held that effectively by adopting you are almost republishing what you said in the House, and that re-publication does not have the same level of protection as what has actually been said in the House. There are all sorts of forensic problems for anybody who tries to sue on the basis of that. But as a simple rule, I always advise members that they don’t say anything outside the House that they are somewhat concerned about.

Finally, I would like to touch on one thing that goes back to what Julie and Joan were speaking about earlier, and that is that I think some of these issues have to be looked at in an ethical dimension. We have to recognise that there is a purpose for parliamentary privilege and then we have to realise that by not sometimes extending privilege or not revisiting the privilege we are not actually assisting ethical behaviour. To say that members can currently get up in the House and say anything is an overstatement. There are some obvious restrictions on them. But they can get up and have a fair bit of liberty to say things in the House about some of the most heinous things and say things that damage reputations but they are legally protected, because our system allows them to be protected when they are in the chamber saying things like that. Our system probably currently fails us a little bit by not allowing members to do more in terms of correspondence—particularly with members, in my view. I think if the same level of protection applied to members in corresponding with ministers—and I say ministers rather than departments, perhaps—then we would in a way encourage more ethical behaviour, because members would be not fearful about raising matters in correspondence and having to feel like they have to raise those matters in the House instead. I think that when we are revisiting or looking at things to do with parliamentary privilege, the ethical implications of what we do should be looked at. I think that everyone takes a very dim view of members who say and do things that damage people’s reputations in the House. Sometimes they do so not necessarily with the best research in the world. I do think that the number of occasions on which it occurs is actually dramatically overstated. I could probably count on one hand the number of instances that I have personally seen of it actually occurring in a bad way. I think that our current system almost forces them sometimes into a situation where they have to ask questions or make statements in the House that would be better done in correspondence.

I think that if we want a better ethics regime in our House and better conduct by our parliamentarians, we have to equip them properly in order to deal with those sorts of issues that come to them and to ask questions in a more appropriate forum. That is where I will conclude.

Ms MALONE: Thank you very much, Neil, for taking us beyond the narrower issues that we were going to be discussing tonight into the historical context and into the broader understandings and applications of parliamentary privilege. When Neil was struggling to describe the popular understanding of parliamentary privilege the term came into my mind—a term that I had read when I was preparing for tonight—'an abominable instrument of repression'. That seems to sum up the perception that some people have of the unfettered right to speak by parliamentarians.

I also noted that Neil's opinion that the word 'privilege' is most unfortunate is shared fairly widely, but that the summing-up to date has been that it would be very difficult to break the historical thread of several hundred years of understanding of that term to use what seems really far more rational and logical terms.

We have had a fairly well rounded discussion so far this evening, but we have had a particularly Queensland-centric view, even though we have looked at other sources. I would like to invite Kevin Rozzoli to come and speak off the cuff of his observations about the discussion that we have had so far this evening. Before Kevin speaks, I would like to reiterate the introduction I gave earlier, that Kevin is a veteran of the New South Wales Legislative Assembly. In that 30 years he has served he has had an extraordinary interest in the issues surrounding parliamentary process and has published many, many papers over that time. He is very well placed to give us a considered view of his observations of parliamentary privilege from his perspective as a New South Wales parliamentarian.

Mrs SHELDON: Madam Chair, I actually have to be somewhere else at half past seven. If anyone wants to ask me a question as a politician, now is the time.

Ms MALONE: If anybody would like to take up Joan's offer, I inform people that the discussion tonight is being recorded by *Hansard*. So would you kindly indicate that you do wish to ask a question and we will take the microphone to you. Would you mind stating your name before you ask a question.

I am sure the questions will come, Joan.

Questioner: (Inaudible).

Mrs SHELDON: Very briefly, I think Neil covered it very much from a legal point of view and from the point of view of his position as the Clerk. Politicians tend to look at it as practising politicians and the problems that arise for them and their constituents. I thought Neil made a very valid point in that more and more, with the intrusion of a lot of things on the question of confidentiality, members are using this place as a forum which could well be used for the purpose of corresponding with ministers. I say 'ministers', because frankly members of parliament are supposed to correspond with the minister and then that goes to the department. But remember also, particularly if you have been a member for a while, that you get to know your regional network of departments—and this is very much so if you are in a regional seat—and you can often get a lot quicker action by just contacting that department direct. This has become quite an issue of the correspondence that comes between you and them. Sometimes your electorate secretary will do this; sometimes a fax is sent or an email is sent and information comes back. So it really is quite a complex issue but one that does need to be covered.

I have had some concerns in that it has been said to me, 'If you've got any concerns about anything, take it into the House.' It is not all that easy to bring an issue up in the House, believe it or not. You have to wait your turn. Also, if you look at the procedures of the day, there are very few opportunities where you can raise any issue. If it is a debate on a bill and your issue has nothing to do with that debate, then the chair will pull you up—or should—and say that it is irrelevant to the bill under discussion. So there are very few times in a day when a politician can raise an issue that they need to have covered by parliamentary privilege.

So this is an issue for members of parliament in carrying out their duties. It is becoming more an issue for members of the public. Possibly it is not an issue unless you are involved, and then it becomes very much an issue. So that is why we have as a committee concentrated on it. We began this when Neil was our head of committees but also appointed to our committee, and Meg has carried on that. So we have had the benefit of the legal mind there, which I think is very important for us as well. In terms of what we do, if we are looking to amend legislation we have to make sure that we are doing that consistently and within the proper legal framework.

I would just like to say thankyou for coming tonight and showing your interest. I am delighted that none of you has any questions because you fully and totally understand what has been said and

no doubt agree with it all. Thank you very much.

Mr ROZZOLI: I am the brief debrief, so I will try to stick to that. Thankyou for the opportunity to say a few words. One thing I would like to say as a bit of salutary message: when we talk about defamation, just remember that the person who is claiming to be defamed has rights as well. If you fetter too much the right of a person to call someone who has defamed or allegedly defamed them to account, then you are actually inhibiting a major human right. So you must always take that into account.

Just a brief comment on the New South Wales perspective. We have an interesting situation because we have two houses down there. We have an upper house that has a Privileges Committee, privileges rules and regulations and gets involved in all sorts of privileges matters. The Legislative Assembly has no formal privileges apparatus whatsoever. We just run around the common law of privilege. The council has been going for 180 years and the Legislative Assembly almost 150 years. In the history of the Legislative Assembly we have never had a serious question of privilege ever raised in the parliament, and that is probably because we are just such good parliamentarians. In fact—and I will be controversial here—the absence of prescribed parliamentary privileges is probably a good discipline on members to abide by the traditional concept of parliamentary privilege.

All that parliamentary privilege should do, in my opinion, is protect the proceedings of parliament as documented. Remember—and Neil touched on this—when you go outside the parliament and repeat what you said in the parliament, it is not privileged. What is privileged is the *Hansard* record. Sometimes of course Hansard staff, with their accustomed brilliance, will subtly rephrase something and say to the member, 'Look, I think this is what you really said,' and the member says, 'Yes, I think that is really what I said,' because it is important that we have a reference point for what is privileged and what is not privileged. There is qualified privilege through the republication of that *Hansard* record by newspapers, but it is important in republishing that it is placed in the correct context. You just cannot extract a few lines out of *Hansard* and republish them and expect to get even qualified privilege if in fact it distorts the context in which those words were said, perhaps the qualifying statement going before or after. So one always has to be very careful in these regards. I think the constraint that is on members of parliament in this regard is very important and very pertinent.

With regard to communications with members of parliament that do not actually reach that stage of parliamentary proceedings, I think the restrictions are quite proper. I would not like to see—this is perhaps contrary to what your committee is going to bring down; I get the feeling from tonight—an extension to protect any more than they are currently protected the communication with members of parliament before they get into parliamentary proceedings. In 30 years in parliament I never had any difficulty. I never forwarded original documentation to ministers. I always rephrased it. I always went to that painstaking effort of regurgitating the essence of the complaint. I would say to a constituent, 'I cannot take this matter forward as you have presented to me, because quite frankly what you're saying is defamatory. I will not do that. I will take forward this particular comment in this particular manner and if you're happy for me to do that I'll do it. If you're not, go somewhere else because I believe what you're saying is questionable.' In almost every case constituents said, 'That's okay. I'll leave it up to you. You're the expert and I appreciate the protection you're giving me.' So I think that the cautionary influences of knowing that if you are unreasonable or injudicious you can be brought to account for it I think is right and proper.

We have had two cases in New South Wales. The first was one where a member who went outside and said in a doorstop interview what she said inside and she was sued, and quite rightly so. We had another case of someone who actually put what they were going to say in a press release and distributed it to the press gallery prior to saying it in parliament, and they were quite rightly sued as well. It is the presenting in parliament that should be protected. It is a very powerful privilege that we are given as members of parliament. It is not there to be abused. I do not think that there are too many cases even of very injudicious things said in parliament that in fact caused great harm to the people concerned, even though they may have felt very offended at the time. So I really feel that it is much more important to leave that unfettered right there than it is to in any way qualify the current rules. I have been given the wind up there, so I will hand back to Noni. There may be some questions that you wish to ask the other speakers or myself.

Ms MALONE: Thank you, Kevin, for fostering interest in the debate and just giving us that slightly different perspective and giving us your own frank opinion. I would now like to open it to people to ask questions to Kevin, to Neil, or to Meg on behalf of Joan and Julie. Does anybody have a question?

Mr MALONE: Thanks. Tim Malone is my name and I am an interested member of the public. I

heard one of the speakers this evening assert or suggest that parliamentarians should be able to enjoy the same level of protection in terms of privilege as confidential communication I might have with my legal adviser or with my medico. In agreeing with the last speaker it seems that I am pretty confident that the way my medico and my lawyer preserve that information as they do not send a photocopy of it off to the minister for the department to comment on. In fact, the best way—this is turning into a speech; apologies—to preserve a secret is not to tell anybody. Would the Clerk care to comment on the need to protect?

Mr LAURIE: I think that you have a point. In defence of the statement or the point that was trying to be made—when a constituent goes to a member, that person knows that the member is going to raise these issues with the minister, for example, but I am not too sure if they appreciate that it may well be publicised much more wider than that—in fact, to the department itself and maybe to the officers involved.

This is one that is very difficult for me to comment on because I think it is more in the realm of a member having to actually deal with constituents and correspond with ministers. I am not a member and so I do not know what the practicalities of it are. But Mr Sullivan, who is a member of parliament, has indicated that he is more than willing to answer that question, and I am more than willing to hand it over to him on that point.

Mr TERRY SULLIVAN: Thanks, Neil. Kevin, you might in your 30 years have found that it worked well. I would suggest that in 30 years the practices of what happens in an electorate office have changed dramatically. The correspondence of our members even 20 years ago was such that members coming down from Townsville would read the letters on the train down, write them down here and then when they go back three months later drop back those letters. The turnaround time with a small number of constituent inquiries where your wife basically takes the phone calls at home and you respond to your constituents are well and truly gone. Ken Vaughan from Nudgee, the predecessor to Neil Roberts, was talking about how his wife would take the messages and they would get a few letters out here and there. Now with two full-time staffers, the number of phone calls, the number of letters, the number of petitions and the number of emails you get is just enormous. We are an increasingly litigious society and people are increasingly demanding their rights. We have a situation where issues need to be raised and we do not, quite frankly, in the parliament have the time to raise constituent issues. Joan is perfectly right. The timetable in the parliament is very narrow, yet people feel that they need to raise an issue. Parliament has been called coward's castle, and I would suggest that for a small number of people—parliamentarians—on a very limited number of occasions it has been a coward's castle. But to me the real cowards are those who hide behind defamation laws—where in fact the actions that people do to hurt others, the actions they have taken against others, cannot be raised by the person who is hurt because of the laws of defamation. There is a remedy. The courts are the remedy. But none of the constituents have the $15,000, $20,000, $30,000 or $80,000 to go to that remedy. The only remedy they have is to drop into your office, make a phone call, write you a letter or send an email and say, 'I believe that I've got this difficulty. My neighbour has done this or this firm has done that or someone has treated me adversely,' and the member is obliged to act on behalf of the constituent. There is absolutely no way in the world with the volume of work that comes through my office I could raise even one-tenth of the issues that are sensitive in the parliament—absolutely no way—and you multiply that by 89, because the ministers get these letters too.

So I just cannot see how we cannot but extend privilege to correspondence because of the complexity of issues. There are experts in each department who know the technicalities. There is no way in the world any minister can know the technicalities of all legislation and regulations within his or her department. If we are going to serve people properly, we have to extend privilege in my way of thinking. You also then have to have a way of recourse, because we have a set of constituents which you can call by whatever name you want. Some call them 'crazies'. If you see 'WOW!' behind a message in my office, you know that you have just had someone who has come in and you just go, 'Wow!' But even the wows and the crazies have to be attended to, the same way as any doctor or lawyer or teacher will take any person—any client—who comes to them, and you have to assess how you are going to deal with them. There has to be a remedy for people who maliciously or falsely or, because of their state of mind or health, make adverse statements against another. But that again is where you become a filtering system. But life is much more complex now and it is much more litigious, and people expect a lot more of parliamentarians. I think things have to change to accommodate them.

Ms MALONE: Thank you, Terry. Would anyone else like to ask a question at this point?

Questioner: I am an interested member of the public. First of all, I would just like to say with what Kevin said, sure, I think that is fine. But we have to remember that there is an upper house in

New South Wales. There is only one House in Queensland, and I think that always does make a bit of a difference with respect to having, for instance, various overviews on things. In the idea of what you just said about extending confidentiality towards correspondence, I do think that there is a bit of a perception that there is already too much confidentiality in Queensland being employed under the banner of 'everything is confidential anyhow'. It is very hard to get any kind of information for members of the public. FOI tends to get expensive. I think when you come down to the idea of privilege in parliament, I had this idea that it was there for the member to raise it on behalf of a constituent. Very much with what Kevin was saying, who actually is the constituent? Is it the little member in the electoral area or is it, for instance, the big business that can then come behind that and use that as just another way of going into that situation where increasingly the individual is feeling much more powerless? I think they are! I do not know if I would in fact endorse or even think that confidentiality be slapped again on another very mainstream of communication through correspondence. I would just like somebody to comment on that.

Mr ROZZOLI: With regard to this matter, one thing a member of parliament has to differentiate is between the issue and the personality. I found that with most issues, if there was a genuine issue at stake, you could take the personality out and take the possibility of defamation out. If it is so personal that it needs to be an accusation person to person, then I do not know that a member of parliament is the right person to prosecute that particular case. There are other avenues much better suited to that. I realise—and the point was made—that not everyone has the money to go to court, but we are an increasingly litigious society and many of the matters that go to court would be far better off if they stayed out of the courts than if they went into the courts.

There are people who are much too precious in some instances about their personal feelings. Quite often if you do not take offence at things it goes away and there is much less publicity to it and much less concern and much less damage to the people concerned than if you actually make an issue from it. So one of the things I would like to see much more of—and we tried to do it in our parliament—was in fact to instruct members of parliament on what the law of defamation really was so they could avoid the pitfalls of defamation in their work.

Ms MALONE: Thank you, Kevin. We are running short of time. We have time for two more questions. There is one here and then a reserved question.

Questioner: I have just a comment. I would certainly have grave concerns about extending the absolute privilege that has been discussed here tonight. To me it is a bit akin to using a sledgehammer to crack a nut. The worry that I have is that it is really by its nature unfettered in relation to acting in a reasonable way. Perhaps the more appropriate remedy in relation to some of the concerns raised here tonight—and actually one of Joan's colleagues mentioned it—is maybe defamation law reform as opposed to actually extending an absolute privilege which by its very nature is unfettered in relation to the conduct of the people concerned. So I would certainly be very gravely concerned about extending absolute privilege in that way. I quite liked some of the comments that Kevin made here earlier tonight which really do imply some personal responsibility in relation to communication that one receives from constituents.

I think it is very important that people in public life, parliamentarians in particular, act in a very responsible way. There could be some danger in suggesting that it might be a privilege attaching to parliamentarians. It is a bit like the way people talk about legal professional privilege. People make the mistake when they hear that term to think that it is a privilege attached to lawyers where in fact it is actually a privilege attaching to clients. So there is a lot of misunderstanding when people start talking about privilege. I think it is pretty important to realise where these privileges are meant to rest—not resting with protecting lawyers, not resting with protecting parliamentarians but really looking at issues which involve noticing people's rights and acting in a responsible way.

Mr LAURIE: Can I say first off that I actually agree with you in one respect, and that is that defamation law reform is probably something that would remedy a lot of the issues that are the subject of discussion tonight. One of the difficulties caused by our current defamation laws is the effect that malice has on the qualified defences. Just to explain: if it can be demonstrated that somebody has malice, even though they acted otherwise in good faith or in truth, then some of the qualified defences are actually not available, as I understand it. So I think that defamation law reform is actually something that should be addressed on a wider scope, and I agree with you. I think that the absence of dealing with that has probably led to some of these issues as well.

Just going back to the issue of confidentiality, I just wanted to take you through a bit of a step process in my mind as to how to deal with this issue of members and the likelihood of extending privilege to their communication with ministers per se. It often occurs to me—and I am not a member of parliament—that members sometimes must be placed in very difficult situations where they are

given information about which they are not actually sure of the veracity of it, but if they do nothing with the information they are also caught in a bind of later on with having done nothing with it. In Queensland's history in particular there were some members who made some statements and asked some questions in the House in the 1980s who were roundly criticised for doing so. In a little less than 10 years, many of the things that they had said and the questions that they had asked were actually found to have some basis.

As I said, I am not a member of parliament but it occurs to me that if I was in the situation of a member of parliament and I received information that suggested significant maladministration or corruption—and the more serious it is, the more serious issues it then raises—what do you do with it? If you go into the House and ask questions or make statements and say, 'This is what I've been told,' and you are not necessarily sure of it, then you run the risk of being pilloried for raising it and you run the risk of being called foul probably for even raising it in the House. What other course of action is open to you? You can make some more inquiries, but there is a limit to how many inquiries that you can make.

One of the things that occurs to me is that if I were a member of parliament I would like to be in the situation that if I received information that was serious you could actually feel the ability to be able to raise it with a minister in such a way that you will get an answer to your question hopefully but will give you a better basis of knowing what to do with the thing—that is, to write to the minister responsible for the area in which the maladministration or corruption is alleged to have occurred to ask them fully and frankly what has occurred and to hopefully get an answer but to do that on a basis where you know that what you are writing to the minister is actually absolutely privileged and you are absolutely protected for. Is that not better from society's point of view that members, when they receive information, make inquiries of a minister in some protected way rather than bowling into the House and simply repeating allegations that they have been given? I just put it up there. What do you do? Kevin, with your years of experience as a member of parliament, what did you actually do when you received serious allegations of maladministration, corruption or something of that nature? These days there are other bodies around that assist, and maybe such things did not happen in New South Wales.

Mr ROZZOLI: Very briefly, the easiest example I can give is that from time to time I used to receive allegations of child sexual abuse. My process was always to report that matter to the police special investigation teams as quickly as I could after the constituent came into the office. I would drop everything because I just felt that no-one was going to accuse me in any shape or form of delaying the process. I always used to say to my constituents, 'I am not an investigator. I have no investigatory capacity. I have no experience in it. I have no authority to investigate. I am a conduit.' In those cases of very serious allegations I would take it straight to the police and leave it up to them or take it straight to ICAC or straight to the Ombudsman who were empowered under state legislation to investigate and then it was over to them. That is the way I handled most of those things.

Assoc. Prof. REYNOLDS: Neil, we always thought the Fitzgerald inquiry should be renamed the Kev Hooper memorial inquiry.

Mr TIMPERLEY: This is actually on behalf of Bill Hewitt, who had two questions to ask in particular regarding the tabling of the Anglican Church inquiry report into the then Governor-General and his conduct whilst a senior member of the church. This question is particularly to Neil. The two issues that Bill would like an explanation of are what are the implications of the precedent of the Premier's tabling of the Anglican Church inquiry report in the House and to what extent is this document and any utterance contained within it subject to privilege?

Mr LAURIE: I think that can be dealt with quite simply. The Premier tabled the report in the House. The Premier then sought leave of the House to move a motion without notice which was given by the House. The Premier then moved a motion that the House authorise the publication of the document. Under the Parliament of Queensland Act, if those steps are followed, then it is absolutely privileged. So any utterances in the report are absolutely privileged. I think a further part of that motion was to enable the Clerk to publish that report via the Internet, which is also covered by the act. So the result of it all is that whatever is said in that report and published in that report is actually covered by absolute privilege.

The other part of the question was implications. The implications for it, in my view, are simply that the House has determined the matter should be published. The House deals with things on a case-by-case basis as to when it should be published. The House has, via standing orders and via legislation, established procedures for automatic tabling and publication of a whole range of things—the mundane sorts of things such as annual reports et cetera and the less mundane and more exciting things like the Criminal Justice Commission's reports, the reports of the Ombudsman or the reports of

the Auditor-General. So there are processes for tabling a whole range of reports.

The House in this instance has approved a motion for the tabling of a particular document. So the implications for that are simply that the House could do that again in the future or it could not do it in the future. There are no implications per se as I see it.

Ms MALONE: I now call on Paul Reynolds, reader in politics at the University of Queensland and former chair of the Australasian Study of Parliament Group, to move a vote of thanks to Julie and Joan in absentia and Neil and Kevin.

Assoc. Prof. REYNOLDS: I am in this unique position because I have to thank two speakers who have had to go to other things—called to higher duties—and also thank Neil and Kevin for their contributions. Neil gave an extremely competent and detailed paper when we had the annual conference of ASPG here in 2000. In fact, I edited the papers and of all the papers I had to deal with Neil's was the one that got no red or blue or even green ink on it. I was totally intimidated, and lawyers do not normally intimidate me—well, not the ones I teach anyway.

It is always wonderful to welcome Kevin, who was up here a little while ago. He was not very well at the time, but he was great the way he pitched in and supports us. Some of us have had the privilege of discussing matters with him. He is about to publish a major work on parliament and parliamentary procedures, and we are thrilled that that is in the pipeline and hope that that comes to fruition, although dealing with publishers can be a very fraught issue, I can tell you that.

I would also like to take the trouble to pay tribute to Joan Sheldon. Joan, as you know, is retiring as the member for Caloundra. She was first elected as the member for Landsborough in a by-election when the subject of my biography, Mike Ahern, retired in 1990. She will have served in parliament for going on 14 years by the time of the next state election. But I want to draw attention to Joan for another reason. As Noni said, she serves on the ASPG executive committee at the moment, but this is in fact her second term on the committee. She has not served continuously. She served a term and then she did not, and now she is back again. She has been a great supporter of ours over the years and she has very much contributed to our bipartisan reputation within the parliament. I want to thank Joan very sincerely for her enthusiastic support for us over the years and for her readiness to get in there and do some work and roll her sleeves up when that has been necessary also.

I would like to thank Julie Attwood, Joan Sheldon, Neil Laurie and Kevin Rozzoli and also thank all of you for coming and supporting us. This is not the sexiest topic in the world and we are not really as a chapter in the business of raising 'in the streets they talk of little else' type topics. On the other hand, this is the kind of topic which is going to reverberate for quite some time to come, and I am sure the journalists in the gallery and so on will see to that. Again, I hope by our being the chapter raising an issue, getting it up and running, giving it a few legs and seeing how it goes, we have started a debate or can contribute to the ongoing debate. I am sure if there is sufficient interest out there in voter land we will be revisiting this issue as a chapter and as a community. What happens between now and the next six months with the next state election is anybody's guess since there was a certain issue at the women's prison last week.

Ms MALONE: Thank you all for participating. I endorse everything that Paul said. Please join with me in acclamation for the speakers. Thank you very much for being present this evening. I invite you all to join us now for refreshments in the Belle Vue Room.

The meeting adjourned.