



## ETHICS COMMITTEE

## REPORT NO. 189

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 12 OCTOBER 2018  
RELATING TO AN ALLEGED CONTEMPT OF PARLIAMENT BY THE PREMIER AND  
MINISTER FOR TRADE****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). The current committee was appointed by resolution of the Legislative Assembly on 15 February 2018.
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.<sup>1</sup> The committee investigates and reports on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.
3. This report concerns an allegation that the Premier and Minister for Trade (the Premier) committed a contempt of Parliament through statements and actions leading up to, and in execution of, the decision to withdraw additional staff resources from Katter's Australian Party (KAP).
4. On 1 April 2015, following the Queensland state election, the Premier wrote to the Member for Traeger as the leader of KAP in the Legislative Assembly, indicating her government's intent to provide staffing beyond the allocation provided for by the Speaker (as detailed in the Members Remuneration Handbook for KAP members) in recognition of 'the need for proper resourcing for independent and cross bench members in minority governments'.
5. On 14 April 2015, the Premier wrote to the Clerk confirming the additional resources to be provided to the members of KAP.
6. On 14 August 2018, Senator Fraser Anning made a speech in the Australian Senate, relating to his stance on immigration. The speech was the subject of some public controversy.
7. On 21 August 2018, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs (Minister for Multicultural Affairs) gave notice that he intended to move a Motion in the House in support of various historical facts and principles related to Australia's immigration policies and cultural values.<sup>2</sup>

<sup>1</sup> *Parliament of Queensland Act 2001*, s 104B.

<sup>2</sup> Queensland Parliament, Record of Proceedings, 21 August 2018, p 1845.

8. On 22 August 2018, the Member for Warrego asked a Question Without Notice to the Premier during Question Time in the Legislative Assembly. The following exchange took place:

***Katter's Australian Party, Staffing***

***Ms LEAHY:*** My question is to the Premier. I table the Speaker's advice to estimates that, by approval of the Premier, the Katter's Australian Party receives five extra taxpayer funded staff beyond its entitlement.

*Tabled paper: Extract from the Economics and Governance Committee estimates hearing transcript on 24 July 2018 [1170].*

*In light of the hateful and disgraceful comments by the Katter party's Fraser Anning which the Queensland Katter party members have sought to legitimise and defend, will the Premier stand up against this hate speech and tear up Labor's special deal with the Katter party?*

***Ms PALASZCZUK:*** Let me say at the outset that I completely disapprove of Senator Anning's comments. I said that very publicly. I condemn it. I would like to see those opposite condemn it as well.

*Mrs Frecklington: I did.*

***Ms PALASZCZUK:*** In fact, they have a great opportunity, when we debate the government motion—

*Mrs Frecklington interjected.*

***Ms PALASZCZUK:*** Good. Good on you: you finally said something. That is great to see.

***Mr SPEAKER:*** Order! Premier, please direct your comments through the chair.

***Ms PALASZCZUK:*** What I have said very clearly is that I would like to see members of the Katter party here in this parliament get up and say exactly the same thing. Yes, I can say that I will be reviewing that arrangement as well.<sup>3</sup>

9. On 22 August 2018, the Premier was quoted in a Courier-Mail article as making the following comments:

*I will be reviewing those resources unless I hear from Robbie Katter, who is the leader of the state parliamentary party.*

*I want to hear from the state Katter parliamentary party whether or not they agree with what Senator Anning said.*

*I think it's disgusting, it is outrageous, it is extreme and I am waiting to hear their comments.<sup>4</sup>*

10. In another Courier-Mail article the Premier was quoted as stating:

*"I have condemned those comments," Ms Palaszczuk said. "I would like to see members of the Katter Party get up and say the same thing as well.*

*"I think it's disgusting, it is outrageous, it is extreme and I am waiting to hear their comments. I will be reviewing that (staff) arrangement as well."<sup>5</sup>*

11. On 23 August 2018, the Premier wrote to the Member for Traeger. In this letter, the Premier confirmed that the staffing arrangements for KAP would be reviewed. The letter also requested the views of the state parliamentary KAP on Senator Anning's comments by close of business the next day, Friday 24 August 2018. The Member for Traeger responded on 24 August 2018.
12. On 23 August 2018, from 3.02pm, the House debated the Minister for Multicultural Affairs' Motion (the Motion). Both the Premier and the Member for Traeger contributed to the debate. The Premier did not repeat her call for the KAP members to denounce Senator Anning's comments, but did note her family's experiences with Nazi Germany; and the Member for Traeger (whose contribution immediately followed that of the Premier) did not disapprove or condemn Senator Anning's speech.<sup>6</sup>

<sup>3</sup> Queensland Parliament, Record of Proceedings, 22 August 2018, p 1954.

<sup>4</sup> Courier Mail, 'Premier threatens to review KAP Arrangement after Fraser Anning Speech', 22 August 2018.

<sup>5</sup> Courier Mail, 'Call out Anning or lose staff', 22 August 2018, p 3.

<sup>6</sup> Queensland Parliament, Record of Proceedings, 23 August 2018, pp 2012-2104.

13. In his response the Member for Traeger supported the right of Senator Anning to express his views, expressed the state KAP's policy on immigration, and provided examples of support to cultural, ethnic and religious minorities in Australia. He also stated:

*I believe the Senator is entitled to express his opinion, and that opinion, despite opposing your own and that of your party, was not morally indefensible. For the Opposition to suggest that resources should be removed on the basis of a disagreement over values is completely contrary to the principles of our parliamentary system and will only serve to diminish diversity and representation of rural Queenslanders.*

14. On 2 September 2018, the Premier made the following comments at the ALP Queensland State Conference:

*We have the right to free speech in our parliaments but that free speech is not free of consequence. So because his party will not denounce Senator Fraser Anning, I denounce his party. I am withdrawing the additional staff I granted to the Katter's Australia Party because it tolerates the intolerable and it defends the indefensible. And Senator Fraser Anning's statements are indefensible.*

15. On 2 September 2018, the Premier issued an official media release that reiterated the comments made at the ALP Queensland State Conference:

*Yes, we have the right to free speech in our parliaments but that free speech is not free of consequence nor is it free of responsibility.*

*So, because his party will not denounce him, I denounce his party and I will withdraw the additional staff granted to the Katter's Australian Party.<sup>7</sup>*

16. On 5 September 2018, the Member for Traeger wrote to Mr Speaker raising a matter of privilege concerning the conduct of the Premier in withdrawing staff resources from KAP members, and requesting that Mr Speaker refer the matter to the Ethics Committee. Specifically, the Member for Traeger alleged that the Premier's conduct amounted to contempt under Standing Order 266(9) and Standing Order 266(17).

#### **CCC complaint and outcome**

17. On 3 September 2018, the Member for Traeger wrote to the Crime and Corruption Commission (CCC) requesting an investigation into the conduct of the Premier in relation to her decision to remove staffing resources from KAP members.

18. In his correspondence to the CCC, the Member for Traeger requested the CCC investigate whether the Premier had breached:

- the Criminal Code offences of bribery of a Member of Parliament (section 60); interfering with a political right (section 78); and extortion (section 415); or
- Parliamentary privilege conferred on state KAP members or Senate privilege conferred on Senator Fraser Anning.

19. On 27 September 2018, the CCC issued a media release noting it had completed its assessment of the complaint.

20. The media release noted that in reaching a conclusion, *the CCC has considered the relevant records of parliamentary proceedings (Hansard), associated media statements and media reports and also correspondence between the Premier and Mr Robbie Katter MP.<sup>8</sup>*

<sup>7</sup> Premier and Minister for Trade, media statement, 'Premier condemns KAP comments with action', 2 September 2018.

<sup>8</sup> CCC, media release, 'CCC finalises assessment of complaint by Mr Robbie Katter MP', 27 September 2018, available at <http://www.ccc.qld.gov.au/news-and-media/ccc-media-releases/ccc-finalises-assessment-of-complaint-by-mr-robbie-katter-mp-27-september-2018>

21. The media release advised that, on the basis of the information available to it, there would be no reasonable prospect of a successful prosecution of the Premier and that the Legislative Assembly was the appropriate entity to deal with the complaint:

*In considering whether an investigation should be commenced, and/or a prosecution launched, the CCC has had regard to the guidelines issued by the Office of the Director of Public Prosecutions which refer to the requirement for there to be not only a prima facie case but a reasonable prospect of a successful prosecution. Given the above considerations, the CCC has concluded that there would be no reasonable prospect of a successful prosecution.*

*Therefore, having regard to the principles for performing the CCC's corruption functions, the CCC is of the view that Parliament is the appropriate entity to decide the propriety of its own proceedings. Unless the Parliament resolves otherwise, the CCC does not consider that there is any prospect of a successful prosecution. Accordingly, the complaint against the Premier is appropriate for the Parliament to deal with.<sup>9</sup>*

22. Later on 27 September 2018 the CCC Chairperson, Mr Alan MacSporran, held a press conference about the CCC's decision.
23. As Mr Speaker in his reference to the committee noted, there are a number of extraordinary aspects to the CCC's media release and the press conference.
24. The CCC's release states that it considers the Legislative Assembly is the appropriate entity to deal with the complaint. The CCC's press release states that 'the information available, if proved, may involve an offence against s. 60 of the Criminal Code regarding the answer given by the Premier to a Question without Notice by the Member for Warrego on 22 August 2018.' At the press conference, Mr MacSporran in relation to the s. 60 offence states that the matter 'technically satisfies the elements of the offence such that there is what we call as lawyers a prima facie case.'
25. As the matter was dealt with by media release and press conference, there is no report detailing the information (evidence) available to the CCC nor detailing the analysis of relevant facts (evidence) against the elements of each offence. There was no explanation as to why the CCC believes the Legislative Assembly is the appropriate entity to deal with the matter, when it believes that there is no reasonable prospect of a successful prosecution for an offence.
26. As Mr Speaker noted, the effect of the CCC's media release and the Chair's press conference have, without detailed explanation of evidence or analysis, declared a 'technical' breach of the law whilst at the same time creating a public expectation that this matter will be dealt with by the Legislative Assembly as a contempt.
27. In this committee's view the CCC's handling of this matter was problematic. It was not fair to the Premier to essentially declare there was prima facie evidence of commission of a crime, but that a prosecutorial discretion would be exercised not to proceed. The CCC also created an expectation that a contempt had been committed, when that was a matter for this committee to examine and ultimately a matter for the Legislative Assembly to determine. There was no correspondence or report to the Speaker, who it appears was simply to act on the press release in the public domain.
28. In this committee's view there are aspects of the CCC's dealing with this matter that require further consideration, including:
- the method of assessment,
  - the use of prosecutorial discretion, and
  - the method of public reporting (via press release and press conference, not report).
29. However, the committee believes that these issues are best pursued by the Parliamentary Crime and Corruption Committee, the CCC's oversight committee.

<sup>9</sup> CCC, media release, 'CCC finalises assessment of complaint by Mr Robbie Katter MP', 27 September 2018.

30. The committee recommends the Parliamentary Crime and Corruption Committee consider pursuing the matters raised above with the Crime and Corruption Commission.

**The referral**

31. On 28 September 2018, the Member for Traeger wrote again to Mr Speaker alleging that the Premier's conduct constituted contempt under alternative subsections of Standing Order 266 and some of the examples listed in section 37 of the POQA.

32. The Member for Traeger identified three potential examples of contempt listed in the note to section 37 of the POQA as set out below:

2. *Attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee*

3. *Sending a threat to a member because of the Member's performance of his or her parliamentary duties*

...

5. *The offering of a bribe to or attempting to bribe a member*

33. In his letters of 5 September and 28 September 2018, the Member for Traeger identified a total of four examples of contempt in the subsections of Standing Order 266. The relevant parts of Standing Order 266 state as follows:

**Examples of contempt**

*Without limiting the power of the House, it may treat as a contempt any of the following:*

...

*(8) offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or a committee*

*(9) assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty;*

*(10) obstructing or molesting a member or an officer of the House in the discharge of the member's or the officer's duty; ... and*

*(17) assaulting, threatening or intimidating a member on account of the member's conduct in the House or a committee.*

34. The Speaker considered the alleged contempts and concluded that the matter should be referred to the Ethics Committee for investigation, citing the following examples of contempts:

- Threats or intimidation or disadvantaging a member – SO 266(9), (17) or POQA section 37 example 3;
- Molestation of a member – SO 266 (10);
- Compulsion by menace – POQA section 37 example 2; and
- The Contempt of Improper Influence – POQA section 37.<sup>10</sup>

**Definition of contempt**

35. Section 37(2) 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—*

<sup>10</sup> Speaker's Ruling – Referral to Ethics Committee, Katter Party Resources, 12 October 2018.

- (a) the free exercise by the Assembly or a committee of its authority or functions; or
- (b) the free performance by a member of the member's duties as a member.

36. The examples of contempt given in the POQA and in Standing Orders provide guidance to Members, Committees and the House as to what constitutes a contempt and are largely based on precedents in Queensland and other jurisdictions, particularly the House of Commons. As the examples are often based on earlier precedents, the elements of each contempt are also generally determinable although notwithstanding those elements, the conditions (or threshold) set out in section 37(2) must also be considered.<sup>11</sup>
37. So, in effect all contempts must satisfy the conditions (or threshold) set out in section 37(2).
38. Importantly it should be noted that conduct that meets the provisions of section 37 of POQA will constitute a contempt even though not included in the examples. In effect section 37 is the general provision. The examples in section 37 and SO 266 give guidance as to conduct that has been held to be contempt in the past, but are not exhaustive. The importance of section 37 is that an exhaustive list of contempts is neither possible nor indeed desirable as the Assembly must have the free and unfettered ability to protect its own proceedings and rule on the behaviour of members, officers and others in their dealings in and with the Assembly.

### ***Standard of proof***

39. The standard of proof in determining a contempt is the balance of probabilities. This is a lower standard than the 'reasonable doubt' standard required for criminal matters. However, a very high order of proof on the balance of probabilities is required to find a contempt, consistent with the test applied in relation to misconduct charges at common law. In the leading High Court authority in the area, *Briginshaw v. Briginshaw* (1938) 60 CLR 336, Latham CJ at 343-344 stated: 'The standard of proof required by a cautious and responsible tribunal will naturally vary in accordance with the seriousness and importance of the issue'.

### ***The committee's proceedings***

40. The committee has established proceedings 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 Standing Orders. The committee is also bound by instructions regarding witnesses, at Schedule 3 to Standing Orders.
41. On determining to proceed with the inquiry into this referral, the committee wrote to the Premier and the Member for Traeger inviting submissions which addressed the elements to be established in considering each of the alleged contempts.
42. Both parties responded and the committee found it had sufficient information to deliberate on the allegations.
43. The committee assessed the instances of the Premier's conduct in the matter, including the conduct referred by the Speaker, namely:
- the response to the Question Without Notice on 22 August 2018,
  - the statements quoted in the media on 22 August 2018,
  - the correspondence to the Member for Traeger on 23 August 2018,
  - the speech at the ALP Queensland State Conference on 2 September 2018, and
  - the media release on 2 September 2018,

<sup>11</sup> See for example, committee report no.186, Matter of Privilege referred by the Speaker on 15 November 2018 relating to an alleged contempt of Parliament, available at <https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2019/5619T893.pdf>.

against the elements to be established in regard to each of the four alleged examples of contempt; and compliance with section 37(2)(b) of the POQA. That is, did the conduct amount to, or was it intended or likely to amount to, an improper interference with the free performance by a member of the member's duties as a member.

**Alleged contempt 1– Threatening, intimidating or disadvantaging a member (SO 266(9) and (17), and POQA section 37 example 3).**

44. In the Privileges Committee Report on a *Matter of Privilege – Alleged intimidation of a Member* in 1993, the then committee noted that merely attempting to intimidate or threaten is of itself not necessarily a breach of privilege, that the threat or intimidation will only be contempt if it constitutes an improper means to influence members in their parliamentary conduct.<sup>12</sup> For example, it can be perfectly proper, indeed fundamental to representative democracy, for a person to attempt to persuade a member of parliament to take a particular position on a matter. As McGee states in *Parliamentary Practice in New Zealand*:

*There is no contempt in respect of attempts to influence members, even by bringing pressure to bear on them (such as to withdraw support from them at the next election), unless there is a threat to do something which is improper in itself or which is of such an extraordinary or exaggerated nature that it goes beyond an attempt to influence the members and becomes an attempt to intimidate.*<sup>13</sup>

45. It is noted that the 1993 Privileges Committee was operating prior to section 37(2) of the POQA, but that the last element in the 1993 matter (improper) is now essentially captured by the provision.

46. In order to satisfy the alleged contempt 1, it needs to be established that:

- the Premier's conduct amounted to a threat, intimidation or disadvantage to KAP members; and
- that
  - the threat, intimidation or disadvantage was on account of their conduct in the House (SO 266(17)); or
  - the threat or intimidation was to a member acting in the discharge of the member's duties (SO266(9)); or
  - the threat was because of the member's performance of his or her parliamentary duties, (POQA section 37(example 3)); and
- that the Premier's conduct amounted to, or was intended or likely to amount to, an improper interference with the free performance of KAP members' duties as members.

*Did the Premier's conduct amount to a threat, intimidation or disadvantage to KAP members?*

47. The Macquarie Dictionary defines a 'threat' as:

*a declaration of an intention or determination to inflict punishment, pain or loss on someone in retaliation for, or conditionally upon, some action or course; menace.*

48. The Macquarie Dictionary defines 'disadvantage' as:

*absence or deprivation of advantage; any unfavourable circumstance or condition.*

49. The Macquarie Dictionary defines 'advantage' as:

*any state, circumstance, opportunity or means specially favourable to success, interest, or any desired end.*

<sup>12</sup> Legislative Assembly of Queensland, Privileges Committee, 'Report on Alleged Criminal Contempt by the Chairman of the Criminal Justice Commission', 25 November 1994, at 2.16.

<sup>13</sup> David McGee, *Parliamentary Practice in New Zealand*, Third edition, 2005, p 652.

50. In his complaint, the Member for Traeger argues that the totality of the Premier's comments and actions, both inside and outside the House, clearly make a link between the threat (to remove resources) and an action in the House by KAP members (i.e. a statement that would satisfy the Premier by disapproving, condemning or denouncing the maiden speech of Senator Anning).
51. The Member for Traeger states that given the Premier's reference to the Motion in her response to the Question Without Notice on 22 August 2018, he believes it is reasonable to conclude that the Premier's threat to review resources, and her ultimate decision to remove them, would be impacted by the conduct of KAP members in relation to debate and vote on the Motion (that is, their conduct in the House).
52. In response, the Premier states that her conduct did not amount to a threat or intimidation. The Premier states that she 'legitimately sought clarification from the KAP members regarding their position with respect to Senator Anning's speech'.
53. In regard to whether the KAP members were disadvantaged by her conduct, the Premier notes:
 

*...the resources withdrawn from the KAP members were additional to their entitlements under the Members' Remuneration Handbook (Handbook). The resources were granted in 2015 in recognition of the need for proper resourcing for independent and cross-bench members of Parliament in minority governments. The allocation and withdrawal of additional resources is a matter entirely within my discretion. The KAP members were therefore not disadvantaged in any relevant sense. The KAP members still receive their full entitlements under the Handbook, including seven Electoral Officers.*
54. The committee acknowledges that the Premier has a right to review the resourcing arrangements and remove the additional resources granted to the KAP, and that to do so was perfectly lawful. Of concern is that the Premier's declaration of her intention to review (and later her decision to withdraw) the resources was expressly tied to the KAP members taking a particular course of action (i.e. denouncing Senator Anning's speech that had occurred in another place).
55. After reviewing the evidence, the committee considered that the Premier's response to the Question Without Notice on 22 August 2018, coupled with the Premier's reported media statements and her letter of 23 August 2018, did amount to a threat in that it was a declaration of an intent to take a particular course of action (a review of the resourcing arrangements) unless someone took a particular course of action (the state KAP members denounced Senator Anning's speech).

Was it on account of the members' conduct in the House or while acting in the discharge of their duties?

56. However, to satisfy the second element of the contempt, the threat would need to be on account of the members' conduct in the House (SO 266(17), and/or to be a threat made to a member acting in the discharge of the member's duties (SO 266(9)). The committee notes that these entail a narrower assessment than consideration of the 'free performance of the members' duties as members' as set out in section 37(2) of the POQA, which is part of the third element to be assessed.
57. As to whether the threat to disadvantage was made to KAP members 'acting in the discharge of the member's duties', there is evidence that the KAP members were present in the House, and thus 'in the act' of discharging their duties as members of parliament at the time the response to the Question Without Notice was made. If it is accepted that the response constituted a threat, this element of this example (SO266 (9)) may be satisfied. However there is no evidence before the committee subsequent to the response to the Question Without Notice to suggest that the KAP members were 'in the act' of discharging their duties as members at any of the other relevant points in the course of events. This is an important distinction. It contrasts with the notion in the contempt of improper influence (see below), where clearly an impact on the future performance of members' duties is contemplated.
58. As to whether the threat to disadvantage related to the KAP members' conduct in the House, the Premier states that she merely sought a denunciation of Senator Anning's comments, whether in the Assembly or elsewhere, and that the timing and method of any statement about Senator Anning's comments was solely a matter for members of the KAP. The Premier notes that her correspondence to the Member for



Traeger requested that he advise her of the position of the state KAP by close of business on a non-parliamentary sitting day, which means there was no necessary link between the denunciation sought and the conduct in the Assembly.

59. In regard to the response to the Question Without Notice on Wednesday 22 August 2018, the committee notes the Premier's argument that she did not specify where the KAP members should denounce Senator Anning's statement. The Premier stated:

*What I have said very clearly is that I would like to see members of the Katter party here in this parliament get up and say exactly the same thing. Yes, I can say that I will be reviewing that arrangement as well.'*

60. In her submission to the committee, the Premier states:

*..in my response to the Question Without Notice, my reference to "...members of the Katter party here in this Parliament..." was not asking for them to respond in the house. Rather, I was distinguishing between those KAP members in the Queensland Parliament, as opposed to other KAP MPs such as those serving in the Federal Parliament.<sup>14</sup>*

61. The Premier also states that:

*My answer sought to answer the two legs of the question separately. A more formal response may have provided an opportunity for clearer delineation between the two legs of the question and the relevant responses; however, I believe the Record of Proceedings has accurately reflected my intention to provide responses to both legs separately.*

62. One reading of the exchange between the Member for Warrego and the Premier, in light of the Premier's subsequent repeated direct linking of the resourcing review and withdrawal to the KAP's position on Senator Anning's comments outside the House, is that the Premier was, in her response to the Question Without Notice, pressuring the KAP members to 'do the same thing' as she had just suggested the Opposition could do: that is, condemn Senator Anning's statements when a government motion relating to Australian immigration policy was debated the next day (notice for which had been given on Tuesday 21 August, the previous day).

63. The Premier's submission is that her reference to 'here in this Parliament' was drawing a distinction between the KAP members in the Queensland Parliament and the KAP members in the Australian Parliament, and was not suggesting that the KAP members were required to do anything 'here in this Parliament'.

64. Given the two possible findings, in the context of the standard of proof required, the fact that in the debate in the House the Premier did not ask the KAP members to make the statement she sought, tips the balance of probabilities away from finding that the Premier called for the KAP members to make a statement in the House.

65. In considering the Premier's argument, the committee had regard to the following:

- The Premier first called for 'members of the state Katter party to come out and condemn those comments' two days after Senator Anning's speech was made on 14 August 2018, in an interview with ABC television news.<sup>15</sup> In that footage, the Deputy Leader of the Opposition said that 'I think Robbie Katter should come out and give his view on this, and denounce those comments immediately'. The Premier was then shown stating 'I would also like to see the members of the state Katter party come out and condemn those comments'. To 'come out' and make a statement is not necessarily a call for a statement to be made in the House.
- During the debate on the Motion which commenced at 3.02pm the next day (23 August 2018), the Premier, one of the twelve members who spoke in the debate, spoke immediately before the

<sup>14</sup> Premier's supplementary submission to the ethics committee, p 3.

<sup>15</sup> ABC news broadcast, 16 August 2018.

Member for Traeger. In her contribution to the debate, the Premier did not make any reference to the resourcing or call on the KAP members to condemn Senator Anning. This was despite the Member for Glass House, a member of the Opposition who spoke before the Premier, calling on the Premier again to do so.<sup>16</sup> The committee notes that the Member for Warrego, as the last speaker in the debate on the Motion, repeated the call she had made in her Question Without Notice the previous day for the Premier to ‘stand up against this hate speech and tear up Labor’s special deal with the Katter party’, stating:

*It is repulsive that Annastacia Palaszczuk rewards the Katter party with five staff. It is time for the Premier to end this arrangement today – not to review it, to end this arrangement today.*

66. Turning to whether the response to the Question Without Notice clearly linked the question of ongoing resourcing to the KAP members’ denouncement of Senator Anning (whether in the House or not) the committee notes the Premier’s submission that there were two legs of the question and that her response about reviewing the resources was a separate response from the question about standing up against hate speech. It is clear from the record of proceedings that the reference to reviewing the KAP resources was made in a separate sentence. The committee is not satisfied, on the balance of probabilities, that there was a consequential relationship between the first and second sentences of the Premier’s response.
67. The Premier’s calls for the KAP members to condemn Senator Anning’s statements made subsequent to question time on 22 August 2018 did expressly or reasonably link the provision of ongoing additional resourcing to KAP compliance with that direction. These are the statements:
- made to media on Wednesday 22 August 2018 reported as having been made ‘that afternoon’;
  - made on Thursday 23 August 2018 in writing to the KAP members;
  - made on Sunday 2 September 2018 at the ALP state conference; and
  - made on Sunday 2 September 2018 in issuing a press release and writing again to the Member for Traeger as the Queensland KAP leader to advise of the decision to withdraw the resources.
68. However, in none of these instances did the Premier expressly call for the KAP members to make any statement in the House. On the basis that there is insufficient evidence that the threat was made on account of the members’ conduct in the House, the committee finds on the balance of probabilities the second element is not satisfied and this alleged contempt unproven.

## **Alleged contempt 2 – Molestation of a member (SO 266(10))**

69. There are three elements to be established in regard to this contempt:
- i. Was there conduct by the Premier that amounted to molestation of KAP members. That is, was there correspondence, telephone calls, or other communication that amounted to:
    - (a) conduct which was hostile, insulting or abusive;
    - (b) conduct which was injurious or threatened to injure the member either physically or financially; and
    - (c) conduct which interfered annoyingly in that it was not instantaneous but was, or threatened to be, continuing or repetitive in nature.
  - ii. Was it on account of or related directly to the involvement of KAP members in the proceedings of Parliament?
  - ii. If so, did the Premier’s conduct amount to, or was it intended or likely to amount to, an improper interference with the free performance of KAP members’ duties as members?

<sup>16</sup> Queensland Parliament, Record of Proceedings, 23 August 2018, pp 2099-2109.

Was there conduct that amounted to molesting KAP members in the discharge of their duties as members?

70. The Macquarie Dictionary defines 'molest' as to interfere with annoyingly or injuriously.

71. A 1994 Privileges Committee report noted that:

*The kinds of molestation which have been considered a contempt tend to take two forms. Its more direct form is by way of a physical assault, insulting or abusive language, or a menacing or threatened physical obstruction of a member in his/her free passage to or from or within the precincts of the Parliament...*

*In its more indirect sense, molestation may take the form of correspondence or telephone calls, insulting Members character for their conduct in the House, threatening adverse consequences such as a legal action or pecuniary loss, or inciting another to molest the Member on account of the conduct of the Member in that capacity.*

*It can be noted from the cited cases that in addition to a direct physical assault which would of itself potentially constitute a criminal offence, the nature of conduct which amounts to a contempt of molestation must relate directly to the involvement of a Member in the proceedings of Parliament and involve one or more of the following elements:<sup>17</sup>*

*(i) conduct which is hostile, insulting or abusive;*

*(ii) conduct which is of itself injurious or threatens to injure the Member either physically or financially; and*

*(iii) conduct which interferes annoyingly in that it is not instantaneous but is, or threatens to be, continuing or repetitive in nature.<sup>18</sup>*

72. The Member for Traeger submits that the sequence of events of the matter would lead a reasonable person to feel threatened or intimidated by the actions of the Premier.<sup>19</sup>

73. With regard to the three features which may constitute a contempt of molestation, the committee notes that the conduct of the Premier was not hostile, insulting or abusive within the ordinary definitions of those terms. Nor was it of itself injurious. It was also not continuing or repetitive conduct. However, consideration was given to whether it might be a threat to injure the Member financially.

74. Erskine May's Parliamentary Practice, from which the 1994 Privileges Committee drew, notes that proposing to visit a pecuniary loss on a member on account of conduct in Parliament may amount to molestation.<sup>20</sup>

75. A pecuniary loss is a loss of money. The Macquarie Dictionary defines pecuniary as: *consisting of or given or exacted in money*. Parliamentary staffing resources in excess of those provided for in the Members Handbook or Opposition Handbook are not provided as a financial entitlement. Such staff are engaged by the Parliamentary Service, as Parliamentary Service employees.

76. The Premier states that the additional staff were not provided to, or withdrawn from, the KAP members as a personal benefit or loss.

77. The Premier also notes the KAP members continue to have access to seven electorate officers between them to assist them to fulfil their duties as members.

<sup>17</sup> Note these are 'features' of one element, rather than the full elements which must be established for the contempt of molestation to be made out. See paragraph 69 above.

<sup>18</sup> Privileges Committee, *Report on Alleged Contempt by the Chairman of the Crime and Corruption Commission*, 25 November 1994, available at <https://www.parliament.qld.gov.au/documents/TableOffice/TabledPapers/1994/4794T5644.pdf>

<sup>19</sup> Member for Traeger, submission to ethics committee, p 3.

<sup>20</sup> Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament (online)*, chapter 15, available at <https://erskinemay.parliament.uk/section/5005/molestation-reflections-and-intimidation/?highlight=pecuniary%20loss>.

78. The committee finds that the conduct subject of the complaint does not satisfy the first element identified by the committee in 1994 and that the element is not made out. This alleged contempt is thus not addressed any further.

**Alleged contempt 3 – Compulsion by menace (POQA section 37 example 2)**

79. Erskine May notes the resolution of the House of Commons on 12 April 1733 that:

*The assaulting, insulting, or menacing any member of this House, in his coming to or going from the House, or on account of his behaviour in parliament, is a high infringement of the privilege of this House, outrageous and a most dangerous violation of the rights of parliament and a high crime and misbehaviour.<sup>21</sup>*

80. This contempt is reflected in example 2 in section 37 of the POQA which provides that an example of a contempt is:

*attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee’.*

81. Section 37 more broadly provides that to be a contempt, conduct must amount to, or be intended to or likely to amount, to an improper interference with the free exercise by a member of the member’s duties as a member.

82. Consequently there are two elements to be established in regard to this contempt:

- i. the Premier attempted to compel KAP members by menace to take a particular position in relation to a proposition or matter pending, or expected to be brought before the Assembly, and
- ii. that attempt amounted to, or was intended to or likely to amount to, an improper interference with the free performance of the KAP members’ duties as members.

*Did the Premier attempt to compel KAP members by menace to take a particular position in relation to a proposition or matter pending, or expected to be brought before the Assembly?*

83. The Macquarie Dictionary defines ‘menace’ as:

*to utter or direct a threat against.*

84. In her submission, the Premier stated that she understood the words ‘force, insult or menace’ to be directed to physical force or insulting words. She notes that she did not use physical force or insulting words against the KAP members.

85. To the extent that the word ‘menace’ embraces non-physical threats, the Premier reiterated her response to the alleged contravention of SO 266(9) and (17), which is that she legitimately sought clarification from the KAP members regarding their position with respect to Senator Anning’s speech.

86. In any event, consistent with the committee’s finding on the first alleged contempt, the committee has found that the Premier’s call for the KAP members to denounce Senator Anning’s speech was not a call for them to do so in the course of debate on the Motion listed on the notice paper for the next day.

87. There is insufficient evidence for this contempt to be made out.

**Alleged contempt 4 – Contempt of Improper Influence**

88. Section 37 of the POQA defines contempt of Parliament (see paragraph 35 above). Both section 37 of the POQA and SO 266 provide examples of contempts, although any conduct which falls within the section 37 definition can be held by the Assembly to be a contempt.

<sup>21</sup> 22 Com. J. 115; and see generally Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (online), chapter 15, available at <https://erskinemay.parliament.uk/section/5005/molestation-reflections-and-intimidation/?highlight=menacing>.

89. As noted by earlier Privileges Committees, Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* sets out the principle that:

*Generally speaking any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.<sup>22</sup>*

90. Further, Erskine May advises that 'Attempts by improper means to influence Members in their Parliamentary conduct may be considered contempts' (the contempt of Improper Influence). And:

*Conduct not amounting to a direct attempt improperly to influence Members in the discharge of their duties but having a tendency to impair their independence in the future performance of their duty may be treated as a contempt.<sup>23</sup>*

91. A former committee considering this contempt in 1993, and another in 1994, noted however that a 'tendency to impair' the independence of a member does not give rise to a contempt if that tendency is merely coincidental to, or an unwitting or unintended consequence of, the conduct complained of.<sup>24</sup>

92. Based on the former committees' considerations, the committee considered the following elements need to be established in regard to this contempt:

- i. Was there an attempt by the Premier to influence KAP members in the free performance of their duties as members?
- ii. Was the influence improper, or was it of such an extraordinary nature that members must be protected if they are to discharge their duties independently?

*Was there an attempt by the Premier to influence KAP members in the free performance of their duties as members?*

93. In granting the additional resources in 2015, the Premier advised the KAP that they were being given in recognition of 'the need for proper resourcing for independent and cross bench members in minority governments'. The Premier, repeatedly, insisted that the resources would be, and then were being, removed as a direct consequence of the failure of the Queensland KAP leader to take a position with which the Premier agreed. In withdrawing those resources, the Premier gave no alternate reference to the basis on which the resources allocated would not continue.
94. It is clear to the committee that in directly linking the KAP's additional resourcing to the Queensland KAP making a statement of position that the Premier wished them to make, the Premier intended to influence the KAP members. However, this element also requires that the influence was in relation to the free performance of their duties as members. Therefore, there must be consideration of what are 'members' duties as members'. This concept is broader than the notion of 'conduct in the House' which was an element of the first alleged contempt considered in this report.
95. The conduct amounting to improper influence must be directed at affecting the member 'in the future performance of their duties'. 'Future performance' refers to the member's stated or proposed stance or conduct with respect to a particular issue, or the member's vote on a particular issue before the House or its various committees.

<sup>22</sup> Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament (online)*, chapter 15, paragraph 15.16, available at <https://erskinemay.parliament.uk/section/5007/improper-influence/>

<sup>23</sup> Ibid.

<sup>24</sup> Privileges Committee, *Report on a matter of privilege – alleged intimidation of a Member*, 12 November 1993, available at <https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1993/4793T3489.pdf> and Privileges Committee, *Report on Alleged Contempt by the Chairman of the Crime and Corruption Commission*, 25 November 1994, available at <https://www.parliament.qld.gov.au/documents/TabledOffice/TabledPapers/1994/4794T5644.pdf>

96. The committee also found that there appears to be no precedent which precludes 'future performance' from also referring to the general conduct of members in the discharge of their duties or responsibilities in proceedings of the Parliament.<sup>25</sup>
97. Parliamentary privilege involves the right of Parliament to govern its own affairs. Thus, in determining whether a breach of privilege has occurred it is necessary to ensure that the conduct subject to complaint falls within the scope of the affairs, or proceedings, of Parliament. The phrase 'the member's duty as a member' in section 37 reflects this principle.
98. Proceedings of parliament include 'all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the Assembly or a committee'.<sup>26</sup> The purpose of this privilege is to uphold the principle that 'a member of Parliament should be able to speak in Parliament with impunity and without any fear of the consequences'.<sup>27</sup>
99. Whether words and actions are 'for the purposes of, or incidental to, transacting business of the Assembly' will depend on the circumstances. For example, generally correspondence between a member and a Minister will not attract the protection of parliamentary privilege. However if the correspondence related to a proceeding in the House, it could well attract privilege.<sup>28</sup>
100. For guidance as to how to assess whether the KAP members' duties as members were interfered with, the committee turned firstly to Erskine May, who notes that privilege applies in relation to obstruction of 'Members in the discharge of their responsibilities to the House or in their participation in its proceedings'.<sup>29</sup>
101. Erskine May goes on to point out that not all responsibilities assumed by members fall within this definition and offers as an example, that correspondence with constituents or official bodies, and providing information sought by members on matters of public concern, will very often, depending on the circumstances of the case, fall outside the scope of 'proceedings in parliament'.<sup>30</sup>
102. In Report No. 74 of the Ethics Committee in 2006, the committee noted advice from the Clerk of the Parliament that section 37 of the POQA does not appear to limit a contempt to conduct concerning 'parliamentary proceedings' per se. The Clerk stressed that it must be shown that the conduct amounts to, or is intended or likely to amount to, an improper interference with the free performance by a member of the member's duties as a member.
103. In relation to the allegation in that matter, one of electoral bribery, the Clerk advised—
- In Queensland a contempt of bribery must be shown to be intended or likely to amount, to an improper interference with the free performance by a member of the member's duties as a member. I submit that a Member's duties may include duties generally associated with a Member, but outside the "proceedings" of the House.*<sup>31</sup>
104. In a broad sense, the duties of Members of Parliament include legislating in parliament, representing their electorate in parliament, and in most cases, representing a political party. The closest precedent from the Queensland Parliament relating to an alleged improper interference is described in Report No. 110 of the Ethics Committee. That committee considered the question of what was 'improper' conduct, in the

<sup>25</sup> Ibid.

<sup>26</sup> *Parliament of Queensland Act 2001*, s 9(1).

<sup>27</sup> *Sankey v Whitlam* (1978) 142 CLR 1 at 35.

<sup>28</sup> Harry Evans, *Odger's Australian Senate Practice (online)*, Chapter 2, available at [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/Odgers\\_Australian\\_Senate\\_Practice/Chapter\\_02](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Odgers_Australian_Senate_Practice/Chapter_02)

<sup>29</sup> Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament (online)*, chapter 15, available at <https://erskinemay.parliament.uk/section/5003/obstructing-members-of-either-house-in-the-discharge-of-their-duty/>

<sup>30</sup> Ibid.

<sup>31</sup> Members' Ethics and Parliamentary Privileges Committee, Report No. 74, Matter of Privilege by the Legislative Assembly on 24 November 2005 Relating to Allegations of Electoral Bribery, available at <https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2006/5106T6096.pdf>

context of the then Leader of the Opposition nominating that an opposition member be discharged from a committee, allegedly as a disciplinary action against that member for internal party matters.<sup>32</sup>

105. There are two relevant questions here, each taking a slightly different perspective on how 'a member's duties as a member' may have been influenced in this matter.
106. The first question is whether if the KAP made a statement as to the Queensland party's position on Senator Anning's speech, outside of the House, the statement would be in the course of, or incidental to, transacting business of the Assembly or a committee.
107. The second question is whether, as the resources were provided to support the KAP undertaking their duties as members, the withdrawal of those resources constituted an *ipso facto* interference with their duties as members.
108. Clearly, contributing to debate in the House is a proceeding in the Assembly (it is also, more narrowly, 'conduct in the House'). Thus, if the Premier had said that she wanted the KAP members 'here in this Parliament' to 'do the same thing' as she had just stated that the Opposition members should do – that is, to denounce Senator Anning's comments in the debate on the Motion, or face negative consequences; and if this was 'improper interference', then that improper interference would also have been within the free performance of the 'members' duties as members'. But the committee has found that the Premier did not ask the KAP members to make a statement in the House (see consideration of first elements of previous alleged contempts).
109. With regard to the Premier outside of the House continuing to call for the KAP to denounce Senator Anning's comments, and from that point on, unequivocally linking their doing so to their resourcing, the committee notes the Premier's correspondence to the Member for Traeger dated 23 August 2018. This correspondence sought advice as to the KAP policy position by Friday 24 August 2018 (which was not a sitting day). The Premier submits that this is evidence she was not expressly asking for a statement in the House, because there was no opportunity for a statement in the House before the deadline. Thus, she submits, it was not an interference with the members' duties as members.
110. On a broader view, though, the KAP making a statement as to their position 'whether in the House or elsewhere', would unavoidably influence their fulfilment of their duties as members. The Premier herself contemplates this in her submission where she notes the KAP members continue to have access to seven electorate officers between them to assist in fulfilment of their duties as members and submits that the resources withdrawn were not those to which they were entitled in order to fulfil their roles as Members of the House, but in addition to them. The Premier states that 'With all these resources, KAP MPs are freely able to exercise their duties as Members of the Legislative Assembly both inside and outside the House'.<sup>33</sup>
111. The committee notes that the resources in question are allocated at the discretion of the Premier from the Parliamentary Service budget; and are distinct from resources provided to individual members by their party, payment provided to individual members as determined by the Independent Remuneration Tribunal, or electorate allowances. The additional funds were to support the parliamentary party to operate in parliament. The staff were employed by the Parliamentary Service and at least three of them were based at the parliamentary precinct, presumably to assist with parliamentary activities.
112. The resources allocated to a party benefit the Parliament in that parliamentary parties operating cohesively and effectively enables a parliament to function more effectively.<sup>34</sup>

<sup>32</sup> Integrity, Ethics and Parliamentary Privileges Committee, Report No. 110, Matter of Privilege Referred by the Speaker on 11 June 2010 Relating to the Discharge of a Member from a Parliamentary Committee, available at <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2010/5310T2940.pdf>

<sup>33</sup> Premier's submission to the ethics committee, p 3.

<sup>34</sup> Yvonne Murphy, 'Who gets what, when and how: the politics of resource allocation to parliamentary parties'. In Gauja, A and Sawyer, M, *Party Rules? Dilemmas of political party regulation in Australia* (2016) ANU Press, Canberra, p 109, available at <http://press-files.anu.edu.au/downloads/press/n2109/pdf/ch04.pdf>.

113. As to whether it was intended to influence them in their duties as members, we note that Members of Parliament are elected by the people with the expectation that they are free to express their views in the House without interference. The KAP members making a statement that met the Premier's requirements, when such a statement did not reflect their position, would have put them in a position of being dishonest, and breaching the public's trust that they would be able to freely represent the platforms on which they were elected.
114. Given the Premier's stated rationale for the provision of these resources in 2015, and the lack of any advice that the rationale no longer applied (in fact the KAP is still the majority party on the cross bench, and provides three of the seven cross-bench members), it follows that the removal of resources had the capacity to interfere with the KAP member's duties as Members of Parliament.
115. The committee finds that this element is met.

Was the influence improper?

116. Unless conduct amounts to an 'improper interference' as defined in section 37(2) of the POQA, there can be no contempt. The Speaker noted in his ruling that the term improper 'implies that there is some element of public mischief, corruption or breach of public trust'. The Speaker stated:

*There are a wide range of activities that have long been regarded as a normal part of the political process and not amounting to 'improper' conduct and thus not a contempt. For example, there are many examples of undertakings given or promises made on policy and resources during negotiations on the formation of government. The normality and public nature of these promises mitigates against them being viewed as improper.*

*Attempts to influence members or political parties are common place. Influence is a normal part of the political process. A contempt only arises where a line is crossed. Where the conduct or behaviour reaches the threshold of being improper.*

117. As already noted earlier, McGee in Parliamentary Practice in New Zealand notes that not all interference is improper:

*A distinction must be drawn however, between members or outside persons properly seeking to influence other members, and attempts to influence members' actions which are intimidatory and may be held to contempt. All members, when they speak in debate, try to influence their fellow members; so do all lobbyists when they are advancing their interests. Such conduct is perfectly proper. There is no contempt in respect of attempts to influence members, even by bringing pressure to bear on them (such as to withdraw support from them at the next election), unless there is a threat to do something which is improper in itself or which is of such an extraordinary or exaggerated nature that it goes beyond an attempt to influence the members and becomes an attempt to intimidate.<sup>35</sup>*

118. The Macquarie Dictionary defines 'extraordinary' as:

*beyond what is ordinary; out of the regular or established order; and 'exaggerated' as unduly magnified, abnormally increased or enlarged.*

119. For guidance as to whether any of the Premier's conduct constituted an 'improper interference', the committee turned to Report 110 for guidance.

120. In that matter, the committee established a test based firstly on the Butterworth's Legal Dictionary definition of 'improper':

*Behaviour which in all the circumstances of a case is an inappropriate or incorrect way of discharging duties, obligations and responsibilities. Conduct may be improper regardless of whether it is conscious or unconscious. Improper conduct is a breach of the standards of behavior which would be expected of*

<sup>35</sup> David McGee, *Parliamentary Practice in New Zealand*, Third edition, 2005, p 652.



*a person by reasonable people with knowledge of that person's duties, powers and authority and the circumstances of the case.*

121. The committee noted judicial commentary that 'the term 'improper' is not a term of art, but simply refers to conduct which is inconsistent with the proper discharge of the person's duties, obligations, and responsibilities'.<sup>36</sup>
122. As to assessing the duties, obligations and responsibilities and associated standards of behavior to be expected of the Premier in this matter, the committee turned to the *Members Code of Ethical Standards*, noting that members are elected to act in the public interest and to make decisions solely in terms of the public interest (page 5):
- The public's confidence in the institution of Parliament is essential. 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.*
123. In Report no. 110, the committee found that there was no contempt made out. The committee's reasons included that there was no direct evidence to indicate the Leader of the Opposition's actions in removing the Member for Beaudesert from his position on the committee, failed to strengthen the public trust or confidence in the integrity of the parliamentary process or that the actions were in some way contrary to the public interest.<sup>37</sup>
124. In the matter before us now, the committee has had regard to the same considerations; and sought submissions from the Premier and the Member for Traeger on those matters.
125. In his response to the committee of 8 November 2018, the Member for Traeger argues that the Premier's threat to review resources, and her ultimate decision to remove them, would be impacted by the conduct of KAP members in relation to the upcoming debate and vote on the Motion. The Member for Traeger argues that the Motion having been already on the notice paper at that point indicates the Premier's intention was to improperly interfere with the conduct of KAP members in that debate. (Although the committee notes that the Premier was still asking for a statement from KAP members after that debate.)
126. The Member for Traeger further argues that the statement made by the Premier on 2 September 2018, advising of the removal of the staffing resources, highlights that it was always the Premier's intention to withdraw the staff if the KAP did not denounce Senator Anning's speech. He further argues that given the Premier gave no other indication of what would have been an acceptable course of action for the KAP members to take to satisfy her request and keep the staff, it can only be reasonably assumed that the Premier's desire to have the KAP members stand up in the House and denounce Fraser Anning, was the only satisfactory course of action. The Member for Traeger claims that as a result, the Premier was clearly using the resources, and the threat of their removal, to interfere with the free execution of a member's duties.
127. In her response to the Speaker, the Premier argues that any pressure which might be thought to have been borne was entirely legitimate and that she merely sought a denunciation of Senator Anning's comments, whether in the Assembly or elsewhere and so, it was not an interference on account of the members' conduct in the House. Nor was it, the Premier argues, an interference with the execution of the members' duties.
128. The Premier submits that this also demonstrates there was no impact on public trust and confidence in the institution of Parliament. The Premier notes that the discretion she exercised is documented and in the public domain; and has been exercised by previous Premiers in respect of cross-bench members. This

<sup>36</sup> *Willers v R (1995) 125 FLR 22 at 225; Corporations Law (repealed) s 229; Southern Resources Ltd v Residues Treatment & Trading Co Ltd (1990) 56 SASR 455.*

<sup>37</sup> Integrity, Ethics and Parliamentary Privileges Committee, Report No. 110, Matter of Privilege Referred by the Speaker on 11 June 2010 Relating to the Discharge of a Member from a Parliamentary Committee, available at <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2010/5310T2940.pdf>

transparency, the Premier argues, significantly diminishes any possibility that it could be considered improper or interference with a member's duties.

129. In her response to the committee, the Premier notes that as to the element of impropriety, the committee's letter has drawn attention to the Queensland Parliament's Code of Ethical Standards, and in particular maintenance of the integrity of Parliament and the primacy of the public interest.

130. In relation to the Integrity of Parliament, the Premier states:

*My actions did not impact negatively on the public's trust and confidence in the integrity of Parliament, and in particular in the public's trust that debate in the Parliament is free and robust. As I set out in my letter to the Speaker on page 5, I sought a denunciation of Senator Anning's comments, whether in the Legislative Assembly or elsewhere. The timing and method of any statement about Senator Anning's comments was solely a matter for members of the KAP. My subsequent correspondence to the Member for Traeger, requested that he advise me of the position of the State Parliamentary Party of KAP, by close of business on a non-parliamentary sitting day. There was clearly no necessary link between the denunciation sought and conduct in the Assembly. That being so, the public's trust and confidence in the free and robust conduct of members in the Assembly cannot have been undermined.*

*As to the specific obligation regarding the integrity of Parliament, set out in the Code of Standards:*

- *at all times I upheld the law and did not breach any law;*
- *at all times I conducted myself in the House in accordance with the rules of debate and the rules relating to the order and conduct of members;*
- *I did not state anything in the House that was incorrect or misleading;*
- *I did not name at-risk children or breach the sub judice rule; and*
- *I did not commit a contempt of the Assembly for the reasons outlined in my letter to the Speaker and this letter.*

*For these reasons, my actions did not impact negatively on the public's trust and confidence in the integrity of the Parliament.*

131. In relation to the Public Interest element, the Premier states:

*At all times I acted in the public interest and made decisions solely in terms of the public interest. In a pluralistic society such as Queensland, there is an obvious public interest in condemning hate speech, and in bringing legitimate pressure to bear on others to also condemn hate speech. I repeat, there was no necessary link between seeking a denunciation and that denunciation taking place in the Assembly. I note also that the public interest obligations set out in the Code of Standards are directed to ensuring transparency and public scrutiny. All of my conduct the subject of this referral took place openly and in public.*

*Further, I have not breached any of the specific obligations regarding the primacy of the public interest which are set out in the Code of Standards.*

132. The committee has considered whether there was an element of public mischief, corruption or breach of public trust in any of the conduct under consideration.

133. The Premier makes the argument that calling for the KAP members to condemn Senator Anning's comments, and using whatever pressure was available in doing so, was in the public interest, rather than any public mischief.

134. 'Corruption' suggests a perversion of integrity, and dishonesty.<sup>38</sup> As argued in the Premier's submission, all of the conduct subject of this referral took place openly and in public.

<sup>38</sup> Macquarie Dictionary, Fourth Edition.

135. However, the broader principle is that of public trust. Members of Parliament are elected by the people with the expectation that they are free to express their views in the House and elsewhere without interference. This is the very purpose of parliamentary privilege and the law of contempt. The KAP members making a statement that met the Premier's requirements, when such a statement did not reflect their position, would have put them in a position of being dishonest, and breaching the public's trust that they would represent the views on which they were elected, without fear of the consequences.
136. Arguably, the Premier in making a threat to disadvantage the KAP members on a basis that while lawful was an attempt to interfere with their freedom of expression, was a breach of public trust. A reasonable person would consider that if the KAP members made the statement requested by the Premier, they would be unable to speak or act at any point going forward in a manner that was contrary to that statement without the threat of resource withdrawal. Thus they would not be able to freely fulfil their duties as members.
137. There is also the issue of public trust around the actual resources provided. The public should legitimately expect that resources are provided and withdrawn to cross-bench members on the basis of the need to properly fulfill their responsibilities, not because of their position taken on particular issues, no matter what that issues relate to.
138. On that basis, the threat to withdraw resources unless the KAP members made a statement which met with the Premier's approval, was also inappropriate and incorrect. As to whether it was inconsistent with the proper discharge of the person's duties, obligations, and responsibilities, it would seem to flow from it being inappropriate and incorrect, that it was an improper exercise of a discretionary power.
139. The committee finds that this element is satisfied.

#### Conclusion

140. **The committee finds that the actions of the Premier in:**

- **threatening to withdraw parliamentary resources from KAP members unless they made a statement to the Premier's satisfaction condemning Senator Anning's speech in the Senate, and**
- **withdrawing parliamentary resources from KAP members on the basis that they failed to make a statement to the Premier's satisfaction condemning Senator Anning's speech in the Senate, amounted to an improper interference with the free performance by the KAP members of their duties as members and constitutes a contempt of the Parliament.**

141. **The committee emphasises that it was lawful for the Premier to review and alter the additional resources provided to KAP members. The Premier was perfectly entitled to denounce Senator Anning's statement in another place. The Premier was perfectly entitled to call upon the State KAP members to denounce Senator Anning's statement and criticise them if they failed to denounce the statement. Where the Premier fell into error was to link the review of the KAP's additional resources, and the ultimate withdrawal of those resources, with the call to denounce Senator Anning's statement.**

#### Mitigating factors / other considerations

142. However, in making this finding, the committee notes a number of potential mitigating factors:

- (a) The committee acknowledges that although the Premier intended her actions, she did not intend to commit a wrongdoing. The committee is cognisant that the Premier believed that her actions in calling out 'hate speech' and putting what she believed to be legitimate pressure on others to also condemn hate speech, was in the public interest.<sup>39</sup> But the Premier is a senior, long serving member and arguably, should have realised the consequences of her actions.
- (b) The Premier's conduct occurred openly, in public, and did not contain any element of corruption.

<sup>39</sup> Premier's submission to the ethics committee, p 3.

- (c) Both the Opposition and Government Members of the Queensland Legislative Assembly, including the Deputy Leader and reportedly the Leader of the Opposition on 22 August 2018, condemned the Senator's comments, and called for the additional resources granted to KAP to be removed.<sup>40</sup> It is not unreasonable to think that the Premier might assume she had the support of the House in her actions, which may have impacted on the extent of her considerations as to propriety. However, the Premier is in an especially powerful office and should be expected to discharge that office with due regard for power of that office and the rights of members. In the committee's view, this matter emphasises that all members should be reminded that the means by which they attempt to influence each other in the performance of their duties as members must be proper, especially those members in positions of some power.
- (d) The committee notes that the Premier's initial response to the Question Without Notice on Wednesday 22 August 2018 was unprepared, made in the heat of question time in an 'off the cuff' situation. Such remarks, in a context of contempt of parliament, have been taken to be in a lesser category than remarks that are planned. The difficulty is that the Premier's initial response was followed by more prepared actions and statements.
- (e) The committee acknowledges the depth of feeling that the Premier may have felt about Senator Anning's comments, particularly given the circumstances outlined by the Premier in her contribution to the debate on the Motion on Thursday 23 August 2018.<sup>41</sup> It is a mitigating factor that this depth of feeling may have led the Premier to continue on the track she had commenced in her response to the question posed by the Member for Warrego, with less restraint than may have otherwise occurred.

#### Recommendation

143. Given the mitigating factors explained above, the committee recommends the following –

- **The Premier should take it upon herself as soon as practicable to apologise to the House (on the floor of the House) for her actions in improperly seeking to influence KAP members; and**
- **After such apology is tendered, and if the House believes the apology tendered is adequate, the House should resolve that:**
  - i. **the House finds the Premier in contempt for her actions in improperly influencing the KAP members, such actions including:**
    - (a) **the Premier's response to the Question Without Notice on 22 August 2018;**
    - (b) **the statements quoted in the media on 22 August 2018;**
    - (c) **the correspondence to the Member for Traeger on 23 August 2018;**
    - (d) **the speech at the ALP Queensland State Conference on 2 September 2018; and**
    - (e) **the media release on 2 September 2018,**
  - ii. **the House determines under section 38 (Decisions on contempt) of the Parliament of Queensland Act 2001 that the Premier's conduct be now dealt with by this House as a contempt; and**
  - iii. **the House accepts the Premier's apology made today to the House as adequate and the appropriate and final penalty in accordance with section 39—Assembly's power to deal with contempt—of the Parliament of Queensland Act 2001.**

<sup>40</sup> Courier Mail, 'Premier threatens to review KAP arrangement after Fraser Anning speech', 22 August 2019: *Opposition Leader Deb Frecklington said the special staffing arrangement with the state KAP team should be torn up immediately. "Under Labor's special deal, Katter's Australian Party get five extra staff members costing taxpayers over \$500,000 a year to push their hateful and divisive agenda," she said. "The LNP condemns Fraser Anning's speech and we would immediately tear up Labor's special deal with the Katter's Australian Party.*

<sup>41</sup> Queensland Parliament, Record of Proceedings, 23 August 2018, pp 2012-2103.

**Parliamentary resources**

144. It is clear to the committee that the lack of regulation and scrutiny afforded by the discretionary way that additional parliamentary resources are provided to the cross-bench is problematic. The discretionary nature of the decision making process and the lack of scrutiny has potential to undermine public trust in the Parliament.
145. The committee advocates that decisions about parliamentary resourcing for cross-bench Members be supported by an agreed framework for the application of that discretionary power, including guidelines which take into account factors such as parliamentary responsibilities resulting from the composition of a parliament; and principles of equal representation and equal ability to participate in the democratic processes of parliament.
146. The committee believes the appropriate body to consider this further is the Committee of the Legislative Assembly (CLA). The CLA has representation from the government, the opposition and the cross-bench; and its terms of reference with regard to the practices and procedures of the Legislative Assembly implicitly include matters (such as resourcing parliamentary participation) which go to ensuring a cohesive, effective parliament.
147. The committee recommends that the Committee of the Legislative Assembly consider developing a framework and guidelines to support decisions about resourcing for the cross-bench.

## Conclusion

The committee finds that the actions of the Premier in:

- threatening to withdraw parliamentary resources from KAP members unless they made a statement to the Premier's satisfaction condemning Senator Anning's speech in the Senate, and
- withdrawing parliamentary resources from KAP members on the basis that they failed to make a statement to the Premier's satisfaction condemning Senator Anning's speech in the Senate,

amounted to an improper interference with the free performance by the KAP members of the members' duties as members.

## Recommendation 1

Given the mitigating factors explained above, the committee recommends the following –

- a. The Premier should take it upon herself as soon as practicable to apologise to the House (on the floor of the House) for her actions in improperly seeking to influence KAP members; and
- b. After such apology is tendered, and if the House believes the apology tendered is adequate, the House should resolve that:
  - i. the House finds the Premier in contempt for her actions in improperly influencing the KAP members, such actions including:
    - (a) the Premier's response to the Question Without Notice on 22 August 2018;
    - (b) the statements quoted in the media on 22 August 2018;
    - (c) the correspondence to the Member for Traeger on 23 August 2018;
    - (d) the speech at the ALP Queensland State Conference on 2 September 2018; and
    - (e) the media release on 2 September 2018,
  - ii. the House determines under section 38 (Decisions on contempt) of the Parliament of Queensland Act 2001 that the Premier's conduct be now dealt with by this House as a contempt; and
  - iii. the House accepts the Premier's apology made today to the House as adequate and the appropriate and final penalty in accordance with section 39—Assembly's power to deal with contempt—of the Parliament of Queensland Act 2001.

## Recommendation 2

The committee recommends that the Parliamentary Crime and Corruption Committee consider pursuing matters regarding the assessment by the Crime and Corruption Committee of the referral of the Premier by the Member for Traeger, including the method of assessment; the use of prosecutorial discretion and the method of public reporting (via press release and press conference, not report).

## Recommendation 3

The committee recommends that the Committee of the Legislative Assembly consider developing guidelines for determining resourcing for the cross-bench.



Joe Kelly MP  
Chair

October 2019

**Membership — 56<sup>th</sup> Parliament**

Mr Joe Kelly MP, Chair  
*Member for Greenslopes*

Mr Tim Nicholls MP, Deputy Chair  
*Member for Clayfield*

Ms Nikki Boyd MP<sup>42</sup>  
*Member for Pine Rivers*

Mr John-Paul Langbroek MP<sup>43</sup>  
*Member for Surfers Paradise*

Mr Mark McArdle MP  
*Member for Caloundra*

Mrs Melissa McMahon MP<sup>44</sup>  
*Member for Macalister*

**Contact**

Telephone: 07 3553 6610

Facsimile: 07 3553 6614

E-mail: [ethics@parliament.qld.gov.au](mailto:ethics@parliament.qld.gov.au)

Internet: [www.parliament.qld.gov.au/ethics](http://www.parliament.qld.gov.au/ethics)

Subscribe: [www.parliament.qld.gov.au/subscribe](http://www.parliament.qld.gov.au/subscribe)

<sup>42</sup> The Member for Macalister, Mrs Melissa McMahon MP, was appointed to the committee under Standing Order 202 as a substitute member of the committee for Ms Nikki Boyd MP from 25 March 2019 to 6 September 2019.

<sup>43</sup> The Member for Surfers Paradise, Mr John-Paul Langbroek MP was appointed to the committee under Standing Order 202 as a substitute member of the committee for Mr Ray Stevens MP for the meeting on 19 September 2019.

<sup>44</sup> The Member for Macalister, Mrs Melissa McMahon MP, was appointed to the committee under Standing Order 202 as a substitute member of the committee for Ms Leanne Linard MP for the meeting on 19 September 2019.

LEGISLATIVE ASSEMBLY OF

*Quebec*





Premier of Queensland  
Minister for Trade

8 November 2018

Mr Joe Kelly MP  
Chair  
Ethics Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

1 William Street Brisbane  
PO Box 15185 City East  
Queensland 4002 Australia  
Telephone +61 7 3719 7000  
Email [ThePremier@premier.qld.gov.au](mailto:ThePremier@premier.qld.gov.au)  
Website [www.thepremier.qld.gov.au](http://www.thepremier.qld.gov.au)

Dear Mr Kelly

Thank you for your letter dated 1 November 2018 regarding a referral you have received from the Speaker containing material which alleges that I have committed a contempt of the House.

As I outlined in my response to the Speaker dated 10 October 2018 (**enclosed**), I express my firm view that an objective assessment of the claims made by the Member for Traeger clearly shows that they are without basis. In the pages of this response and my previous response to the Speaker, I have outlined in detail my rebuttal of the Member for Traeger's claims, with the clear conclusion that there is insufficient evidence to warrant the matter being investigated by the Ethics Committee.

In your letter, you note that the Speaker has identified four alleged contempts under the Standing Orders (SO) and the *Parliament of Queensland Act 2001* (POQA):

- Alleged contempt 1 – threats or intimidation or disadvantaging a member – SO266 (9), (17) or POQA s37 example 3
- Alleged contempt 2 – molestation of a member – SO266 (10)
- Alleged contempt 3 – compulsion by menace – POQA s37 example 2
- Alleged contempt 4 – contempt of improper influence.

### *Alleged contempt 1*

My response to the allegations of contempt of SO 266 (9) or (17) or POQA s37 example 3 are outlined in detail on pages 6–8 of my letter to the Speaker of 10 October 2018. I draw the committee's attention to the rulings and interpretations of *Erskine May*, *McGee* and previous Ethics Committees. These rulings and interpretations clearly show that neither of the two elements of this contempt that you have outlined have been proven in this case.

### *Alleged contempt 2*

My response to the allegations of contempt of SO266 (10) are outlined in detail on pages 8–9 of my letter to the Speaker of 10 October 2018. I draw the committee's attention to the rulings and interpretations of *Erskine May*, *McGee* and previous Ethics Committees. These rulings and interpretations clearly show that neither of the two elements of this contempt that you have outlined have been proven in this case.

### ***Alleged contempt 3***

My response to the allegations of contempt of POQA s37 example 2 are outlined in detail on page 9 of my letter to the Speaker of 10 October 2018. I draw the committee's attention to the rulings and interpretations of *Erskine May*, *McGee*, previous Ethics Committees and the *Journal of the House of Lords*. The words 'force, insult or menace' have been determined to have particular meaning and application in relation to parliamentary matters and they do not apply in this situation. These rulings and interpretations clearly show that neither of the two elements of this contempt that you have outlined have been proven in this case.

### ***Alleged contempt 4***

My response to the general allegation of "improper influence" is contained throughout my letter to the Speaker of 10 October 2018, particularly pages 4-6 and pages 7-8. I draw the committee's attention to the rulings, interpretations and precedents of *Erskine May*, previous Ethics Committees and the Federal Court regarding the question and application of "improper influence". These rulings and interpretations clearly show that neither of the two elements of this contempt that you have outlined have been proven in this case.

As to the element of impropriety, in respect of each alleged contempt, you have drawn my attention to the Queensland Parliament's Code of Ethical Standards, and in particular maintenance of the integrity of Parliament and the primacy of the public interest.

### ***Integrity of Parliament***

My actions did not impact negatively on the public's trust and confidence in the integrity of Parliament, and in particular in the public's trust that debate in the Parliament is free and robust. As I set out in my letter to the Speaker on page 5, I sought a denunciation of Senator Anning's comments, whether in the Legislative Assembly or elsewhere. The timing and method of any statement about Senator Anning's comments was solely a matter for members of the KAP. My subsequent correspondence to the Member for Traeger, requested that he advise me of the position of the State Parliamentary Party of Katter's Australia Party (KAP), by close of business on a non-parliamentary sitting day. There was clearly no necessary link between the denunciation sought and conduct in the Assembly. That being so, the public's trust and confidence in the free and robust conduct of members in the Assembly cannot have been undermined.

As to the specific obligations regarding the integrity of Parliament, set out in the Code of Standards:<sup>1</sup>

- at all times I upheld the law and did not breach any law;
- at all times I conducted myself in the House in accordance with the rules of debate and the rules relating to the order and conduct of members;
- I did not state anything in the House that was incorrect or misleading;
- I did not name at-risk children or breach the sub judice rule; and
- I did not commit a contempt of the Assembly for the reasons outlined in my letter to the Speaker and this letter.

---

<sup>1</sup> Legislative Assembly of Queensland, *Code of Ethical Standards* (June 2018) 5-6.

For these reasons, my actions did not impact negatively on the public's trust and confidence in the integrity of Parliament.

***Public interest***

At all times I acted in the public interest and made decisions solely in terms of the public interest. In a pluralistic society such as Queensland, there is an obvious public interest in condemning hate speech, and in bringing legitimate pressure to bear on others to also condemn hate speech. I repeat, there was no necessary link between seeking a denunciation and that denunciation taking place in the Assembly. I note also that the public interest obligations set out in the Code of Standards are directed to ensuring transparency and public scrutiny. All of my conduct the subject of this referral took place openly and in public.

Further, I have not breached any of the specific obligations regarding the primacy of the public interest which are set out in the Code of Standards.<sup>2</sup>

For these reasons my actions were in the public interest, and my conduct cannot be characterised as improper.

Further, as the committee is aware, this matter relates to the withdrawal of additional resources from KAP. It is worthwhile noting that the allocation and withdrawal of additional resources for cross-benchers is entirely within my discretion and is clearly outlined in section 2.5.2 of the Members' Remuneration Handbook. The fact that this is documented and in the public domain significantly diminishes any prospect that the exercising of this discretion can be considered improper or interference with a Member's duties. This discretion has been exercised by previous premiers to allocate additional resources to cross-benchers. It should also be noted that section 2.5.2 of the Handbook is headed "Additional resources provided to cross-bench MPs". All members of Parliament, including the KAP MPs are still entitled to all other entitlements listed in the Handbook for which they are eligible, including support from a total of seven Electoral Officers. With access to all these resources, KAP MPs are able to freely exercise their duties as members of the Legislative Assembly both inside and outside the House.

I also wish to make a general comment about the nature of the Member for Traeger's allegations. He has sought to construct an argument for political purposes by entwining comments made within and outside the House. On numerous occasions, he interprets comments in ways that are not supported by the evidence. In particular, he alleges that I required KAP members to denounce Senator Anning's comments in the Legislative Assembly and not elsewhere. That interpretation does not follow from my response to the Member for Warrego's Question without Notice on 22 August 2018, and it is inconsistent with the subsequent evidence. Further, in my response to the Question without Notice, my reference to "...members of the Katter party here in this Parliament..." was not asking for them to respond in the House. Rather, I was distinguishing between those KAP members in the Queensland Parliament, as opposed to other KAP MPs such as those serving in the Federal Parliament.

---

<sup>2</sup> Legislative Assembly of Queensland, *Code of Ethical Standards* (June 2018) 6-7.

The freedom of members to speak in the Assembly without undue interference must be balanced against the freedom of members to speak in the Assembly without the threat of frivolous and trivial legal action and allegations of contempt. Of course, where a contempt has been committed, Parliament upholds its privileges by dealing with the contempt. However, because the allegations of the Member for Traeger are without basis, the appropriate balance in this case weighs in favour of my freedom, as a member of Parliament, to speak in the Assembly frankly, robustly and without fear or favour. To entertain the Member for Traeger's allegations would be to encourage frivolous and trivial allegations of contempt whenever a member responds extemporaneously to a question or speaks on a matter in the House.

***Conclusion***

Thank you for the opportunity to provide information to the committee. Should you require any further information or any clarification of matters contained herein, please do not hesitate to contact me.

Yours sincerely



**ANNASTACIA PALASZCZUK MP  
PREMIER OF QUEENSLAND  
MINISTER FOR TRADE**

**Encl.**

DF Jackson QC

The Hon Curtis Pitt MP,  
Speaker of the Legislative Assembly,  
Parliament House,  
George Street,  
Brisbane.  
Queensland. 4000

Dear Speaker,

Re Correspondence from the Member for Traeger re the Premier.

I understand that the Premier has been asked to respond to contentions advanced by Mr Katter MP, Member for Traeger, concerning the withdrawal of assistance formerly provided to the Katter Australia Party members of the Legislative Assembly.

I have been asked to give consideration to the views set out in the Premier's letter to you of 10 October 2018 which respond to those contentions.

I have given consideration to those views, and in my opinion they are a correct reflection of the application of the laws applicable to the conduct which has been questioned by Mr Katter.

With compliments,

DF Jackson QC

10 October 2018

New Chambers  
Level 34/126 Phillip Street, Sydney NSW 2000  
Tel: (02) 9151 2009 Fax: (02) 9233 1850 DX: 187 Sydney  
Email: jacksonqc@newchambers.com.au



Premier of Queensland  
Minister for Trade

1 William Street Brisbane  
PO Box 15185 City East  
Queensland 4002 Australia  
Telephone +61 7 3719 7000  
Email [ThePremier@premier.qld.gov.au](mailto:ThePremier@premier.qld.gov.au)  
Website [www.thepremier.qld.gov.au](http://www.thepremier.qld.gov.au)

The Honourable Curtis Pitt MP  
Speaker of the Legislative Assembly  
Parliament House  
2A George Street  
BRISBANE QLD 4000

Dear Mr Speaker

Thank you for your letters dated 13 and 28 September 2018 regarding correspondence you have received from the Member for Traeger, Mr Robbie Katter MP, in which he alleges that I committed a contempt of the House.

From the outset, I wish to express my firm view that an objective assessment of the claims made by the Member for Traeger clearly shows that they are without basis. The following pages outline in detail my response to the allegations with a clear conclusion that there is insufficient evidence to warrant the matter being referred to the Ethics Committee.

Initially, the Member for Traeger suggested that my actions leading up to, and in execution of, the decision to withdraw additional staff resources from the Katter's Australian Party (KAP), met the definition of contempt under Standing Order 266, and specifically paragraphs (9) and (17) of that Standing Order. More recently, the Member for Traeger has expanded his allegations in reliance on comments recently made about my conduct by the Crime and Corruption Commission (CCC) on 27 September 2018.

In his complaints, the Member for Traeger has referred to my answer to a Question without Notice from the Member for Warrego on 22 August 2018, and to my letter to the Member for Traeger dated 23 August 2018.

The relevant Question without Notice, and my answer, were in the following terms:

**Ms LEAHY:** My question is to the Premier. I table the Speaker's advice to estimates that, by approval of the Premier, the Katter's Australian Party receives five extra taxpayer funded staff beyond its entitlement.

*Tabled paper:* Extract from the Economics and Governance Committee estimates hearing transcript on 24 July 2018 [1170].

In light of the hateful and disgraceful comments by the Katter party's Fraser Anning which the Queensland Katter party members have sought to legitimise and defend, will the Premier stand up against this hate speech and tear up Labor's special deal with the Katter party?

...

**Ms PALASZCZUK:** What I have said very clearly is that I would like to see members of the Katter party here in this parliament get up and say exactly the same thing. Yes, I can say that I will be reviewing that arrangement as well.

The question and the full response are recorded at page 1954 of the Official Record of Proceedings (Hansard).

On 23 August 2018, I wrote to the Member for Traeger. I noted that I had asked for the staffing arrangements for KAP Members of Parliament to be reviewed, and requested his views on the speech made by Senator Anning in the Federal Parliament on 14 August 2018. I asked him to respond by close of business on Friday, 24 August 2018. The Member for Traeger responded on that day.

Following my decision to remove additional staffing resources from KAP, announced on 2 September 2018, the Member for Traeger wrote to the CCC requesting it investigate my conduct and actions leading up to my decision.

On 27 September 2018, the CCC released a statement about the conclusions of its investigation. The Member for Traeger has referred to a number of comments made by the CCC in that statement which are, with respect, irrelevant to the ultimate conclusion. Importantly, the relevant comments made by the CCC set out in clear and unequivocal terms that my conduct, having occurred openly and publicly, did not expose me to any real prospect of successful prosecution for any offence, and that the CCC would be taking no further action in relation to this matter.

### **Allegations of Contempt**

In summary, the Member for Traeger alleges that my conduct constituted a threat to remove the additional staffing resources, unless KAP members made certain statements in the House. On that basis, the Member for Traeger asserts that my conduct indicates a breach of s 37(2) of the *Parliament of Queensland Act 2001* (POQ Act) which provides:

#### **37 Meaning of contempt of the Assembly**

- (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; or
  - (b) the free performance by a member of the member's duties as a member.



In particular, the Member for Traeger asserts that my conduct indicates a breach of examples 2, 3 and 5 to s 37 of the POQ Act as follows:

- 2 attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee
- 3 sending a threat to a member because of the member's performance of his or her parliamentary duties
- ...
- 5 the offering of a bribe to or attempting to bribe a member
- ...

In addition, the Member for Traeger asserts that I breached the following limbs of SO 266 of the Standing Orders:

- (8) offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or a committee;
- (9) assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty;
- (10) obstructing or molesting a member or an officer of the House in the discharge of the member's or the officer's duty;
- ...
- (17) assaulting, threatening or disadvantaging a member on account of the member's conduct in the House or a committee;
- ...

In your correspondence you have requested further information from me in relation to the allegation, specifically the suggestion by the complainant that my response to the Question without Notice, when viewed with subsequent actions, might amount to a threat to disadvantage KAP members on account of their action/conduct (or lack of action/conduct) in the House.

Further you have now provided me with an opportunity to address the Member for Traeger's additional allegations relating to the CCC's statements about the conclusion of its investigation into my conduct.



### Alleged breach of SO 266(8) and/or example 5 to s 37 of the POQ Act

In order to establish a breach of SO 266(8) or example 5 to s 37 of the POQ Act, the committee must be satisfied that:<sup>1</sup>

- a member was offered a benefit;
- that offer was intended to influence the member in the free performance of the member's duties as a member; and
- the offer was 'improper' in that it had some element of public mischief, corruption or breach of public trust.

According to *McGee's Parliamentary Practice in New Zealand*, 'given the seriousness of an allegation of bribery, the standard of proof needed to make it out is very high.'<sup>2</sup>

There must be some nexus to the member's duties as a member or to conduct in Parliament. According to *McGee's*, 'It is a contempt to offer, or attempt to offer, a bribe to a member as an inducement to act in a certain way in the House or a committee'.<sup>3</sup> Likewise, *Erskine May's Parliamentary Practice* states:<sup>4</sup>

The acceptance by a Member of either House of a bribe to influence him in his conduct as a Member, or of any fee, compensation or reward in connection with the promotion of or opposition to any bill, resolution, matter or thing submitted or intended to be submitted to either House, or to a committee, is a contempt.

Equivalent passages from previous editions of *McGee's* and *Erskine May's* have been quoted with approval by the Ethics Committee and its predecessors.<sup>5</sup>

<sup>1</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 74: Matter of Privilege Referred by the Legislative Assembly on 24 November 2005 Relating to Allegations of Electoral Bribery* (2006) 6-7 [37]; Ethics Committee, Queensland Parliament, *Report No 153: Matter of Privilege Referred by the Speaker on 23 April 2014 Relating to an Alleged Attempt to Improperly Influence the Conduct of a Member* (2014) 3 [16]; Ethics Committee, Queensland Parliament, *Report No 155: Matter of Privilege Referred by the Speaker on 20 May 2014 Relating to an Alleged Inducement Offered to a Member and Associated Matters* (2015) 5 [34].

<sup>2</sup> Mary Harris and David Wilson (eds), *McGee's Parliamentary Practice in New Zealand* (Oratoris, 4<sup>th</sup> ed, 2017) 767.

<sup>3</sup> Mary Harris and David Wilson (eds), *McGee's Parliamentary Practice in New Zealand* (Oratoris, 4<sup>th</sup> ed, 2017) 768.

<sup>4</sup> Malcolm Jack (ed), *Erskine May's Parliamentary Practice* (LexisNexis Butterworths, 24<sup>th</sup> ed, 2011) 254.

<sup>5</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 74: Matter of Privilege Referred by the Legislative Assembly on 24 November 2005 Relating to Allegations of Electoral Bribery* (2006) 4-5 [22]-[23]; Ethics Committee, Queensland Parliament, *Report No 155: Matter of Privilege Referred by the Speaker on 20 May 2014 Relating to an Alleged Inducement Offered to a Member and Associated Matters* (2015) 4-5 [29]-[30].

The Clerk of the Parliament has previously advised that contempt may extend to conduct outside of the Assembly, provided that it relates to the member's duties as a member.<sup>6</sup> There must nonetheless be contempt of the Assembly. Thus, for example, a member's duties as a Minister are clearly not included.<sup>7</sup>

In the present matter, there was no offer made with the intention of influencing the KAP members' conduct in the Assembly. Further, the Member for Traeger has failed to provide any evidence to the contrary.

In his letter to you dated 5 September 2018, the Member for Traeger alleges that my response to the Question without Notice 'clearly created an expectation that the Premier would only be satisfied with a condemnation of Fraser Anning through explicit action in the House.' This assertion is not supported by the Record of Proceedings or my subsequent actions.

In my answer to the Question without Notice, I said that I would have liked to see members of the KAP get up and denounce Senator Anning. However, nothing in the answer I gave could be construed as anything more than a statement of my opinion about the importance of condemning what Senator Anning said. Nor did my answer suggest that I would 'only be satisfied' with such statements if they were made in the House. I merely sought a denunciation of Senator Anning's comments, whether in the Assembly or elsewhere.<sup>8</sup> The timing and method of any statement about Senator Anning's comments was solely a matter for members of the KAP.

My subsequent conduct is consistent with this. I wrote to the Member for Traeger on 23 August 2018, requesting that he advise me of the position of the State Parliamentary Party of KAP, by close of business on Friday 24 August 2018. My letter clearly anticipated a response outside of Parliament. The 24<sup>th</sup> of August 2018 was not a sitting day, so there was no possibility that I was seeking to influence them in any matter before the House. In that context, my comments and actions are clearly incapable of bearing the meaning which the Member for Traeger seeks to give them.

Nor did I seek to influence the KAP members in the exercise of their duties as members of the Legislative Assembly outside of the Assembly. In 1993, an alleged request made by the Chairperson of the Criminal Justice Commission to a member of Parliament for an apology was found not to have been designed to influence the member in the discharge of his duties. Likewise, a request to the KAP members to denounce Senator Anning's comments outside the

<sup>6</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 74: Matter of Privilege Referred by the Legislative Assembly on 24 November 2005 Relating to Allegations of Electoral Bribery* (2006) 5 [26].

<sup>7</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 78: Matter of Privilege Referred by the Speaker on 16 February 2006 Relating to Matters of Privilege Arising from the Crime and Misconduct Commission's Report into the Honourable Gordon Nuttall MP* (2006) 6-7 [34].

<sup>8</sup> See similarly, Privileges Committee, Queensland Parliament, *Report on A Matter of Privilege – Alleged Intimidation of a Member* (1993) 16-17 [4.48]-[4.57]. Cf Ethics Committee, Queensland Parliament, *Report No 142: Matter of privilege referred by the Speaker on 31 October 2012 relating to an alleged intimidation of a member by a legal firm* (2014) 3-4 [19].

Assembly would not be designed to influence them in the discharge of their duties as members.<sup>9</sup>

Furthermore, there is no impropriety in the sense of some sort of public mischief, corruption or breach of public trust. The additional staff were not provided as a personal benefit to the KAP members.<sup>10</sup> The arrangement for additional staff was a gratuity or privilege which was always liable to be modified or extinguished.<sup>11</sup> There is no element of public mischief, corruption or breach of public trust in simply removing a gratuity or privilege.

I assert that none of the elements required to establish a breach of SO 266(8) or example 5 to s 37 of the POQ Act have been satisfied.

#### **Alleged breach of SO 266(9), (17) and/or example 3 to s 37 of the POQ Act**

Standing Order 266(9) concerns assaults, threats and intimidation. Standing Order 266(17) concerns assaults, threats or disadvantaging a member. There has been no suggestion in any of the material provided by the Member for Traeger that I assaulted anyone. Example 3 to s 37 of the POQ Act concerns the sending of threats.

In order to establish a breach of SO 266(9) or (17), or example 3 to s 37 of the POQ Act, the committee must be satisfied that:<sup>12</sup>

- there was conduct that can be classified as threatening or intimidating to a member on account of their conduct in the House, or there is conduct that otherwise disadvantaged a member on account of their conduct in the House;
- that conduct amounted to improper interference with the member's duties as a member; and
- that conduct was intended or likely to amount to an improper interference with the free performance of the member's duties as a member.

The former Privileges Committee noted that 'merely attempting to intimidate or threaten is of itself not necessarily a breach of privilege.'<sup>13</sup> The threat or intimidation will only be contempt if it constitutes 'improper means to influence Members in their parliamentary conduct.'<sup>14</sup>

<sup>9</sup> Privileges Committee, Queensland Parliament, *Report on A Matter of Privilege – Alleged Intimidation of a Member* (1993) 12 [4.26].

<sup>10</sup> As with financial support for election campaigns. See Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 74: Matter of Privilege Referred by the Legislative Assembly on 24 November 2005 Relating to Allegations of Electoral Bribery* (2006) 7 [42].

<sup>11</sup> See similarly, albeit in a different context, *Cunningham v Commonwealth* (2016) 259 CLR 536, 558 [55] (French CJ, Kiefel and Bell JJ).

<sup>12</sup> Ethics Committee, Queensland Parliament, *Report No 142: Matter of privilege referred by the Speaker on 31 October 2012 relating to an alleged intimidation of a member by a legal firm* (2014) 3 [18].

<sup>13</sup> Privileges Committee, Queensland Parliament, *Report on A Matter of Privilege – Alleged Intimidation of a Member* (1993) 7 [3.6].

<sup>14</sup> Malcolm Jack (ed), *Erskine May's Parliamentary Practice* (LexisNexis Butterworths, 24<sup>th</sup> ed, 2011) 265.

According to *Erskine May's*,<sup>15</sup>

Conduct not amounting to a direct attempt improperly to influence Members in the discharge of their duties but having a tendency to impair their independence in the future performance of their duty may be treated as a contempt.

However, the Ethics Committee and its predecessors has noted that a 'tendency to impair' independence 'does not give rise to a contempt if that tendency is merely coincidental to, or an unwitting or unintended consequence of the conduct complained of.'<sup>16</sup> It must therefore be 'precisely what the person accused of contempt intended by their conduct.'<sup>17</sup>

Not all interference is improper. For example, it is proper to urge, but not threaten, a witness to correct evidence which is false.<sup>18</sup> The distinction between proper and improper interference is captured by the following passage from *McGee's*, which has been quoted by the Ethics Committee and its predecessors on a number of occasions:<sup>19</sup>

There is no contempt in respect of attempts to influence members, even by bringing pressure to bear on them (such as to withdraw support at the next election), unless there is a threat to do something which is improper in itself or which is of such an extraordinary or exaggerated nature that it goes beyond an attempt to influence the member and becomes an attempt to intimidate.

In the present case, my conduct did not amount to a threat or intimidation. I legitimately sought clarification from the KAP members regarding their position with respect to Senator Anning's speech. My conduct in the House and in sending the letter to the Member for Traeger was not improper in itself, nor was it extraordinary or exaggerated. Accordingly, my conduct cannot be classified as threatening or intimidating.

As to whether the KAP members were disadvantaged by my conduct, the resources withdrawn from the KAP members were additional to their entitlements under the Members'

<sup>15</sup> Malcolm Jack (ed), *Erskine May's Parliamentary Practice* (LexisNexis Butterworths, 24<sup>th</sup> ed, 2011) 265.

<sup>16</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 78: Matter of Privilege Referred by the Speaker on 16 February 2006 Relating to Matters of Privilege Arising from the Crime and Misconduct Commission's Report into the Honourable Gordon Nuttall MP* (2006) 5 [24].

<sup>17</sup> Privileges Committee, Queensland Parliament, *Report on A Matter of Privilege – Alleged Intimidation of a Member* (1993) 7 [3.8].

<sup>18</sup> Members' Ethics and Parliamentary Privileges Committee, *Report No 10: Report on a Matter of Privilege: Alleged Contempt by the Criminal Justice Commission – Matter Referred to the Committee on 3 December 1996* (1996) 18.

<sup>19</sup> David McGee, *Parliamentary Practice in New Zealand* (3<sup>rd</sup> ed, 2005), quoted in Ethics Committee, Queensland Parliament, *Report No 167: Matters of Privilege Referred by the Speaker on 17 March 2016 relating to an alleged threatening and disadvantaging of a member and on 21 April 2016 relating to an alleged intimidation and threatening of a member and an alleged deliberate misleading of the House* (2016) 7 [34]; Privileges Committee, Queensland Parliament, *Report on A Matter of Privilege – Alleged Intimidation of a Member* (1993) 7 [3.9]. See also the equivalent passage in the most recent edition: Mary Harris and David Wilson (eds), *McGee's Parliamentary Practice in New Zealand* (Oratoris, 4<sup>th</sup> ed, 2017) 73.

Remuneration Handbook (Handbook). The resources were granted in 2015 in recognition of the need for proper resourcing for independent and cross-bench members of Parliament in minority governments.<sup>20</sup> The allocation and withdrawal of additional resources is a matter entirely within my discretion. The KAP members were therefore not disadvantaged in any relevant sense. The KAP members still receive their full entitlements under the Handbook, including seven Electoral Officers.

I did not improperly interfere with the KAP members' performance of their duties as members of the House. Any pressure which might be thought to have been borne was entirely legitimate. I merely sought a denunciation of Senator Anning's comments, whether in the Assembly or elsewhere.

Therefore, none of the elements to establish a breach of SO 266(9) or (17), or example 3 to s 37 of the POQ Act have been satisfied.

#### **Alleged breach of SO 266(10)**

In order to establish a breach of SO 266(10), the committee must be satisfied that:<sup>21</sup>

- there was conduct that amounted to obstructing or molesting a member in the discharge of their duties as a member; and
- that conduct amounted to, or was intended to or likely to amount to, an improper interference with the free performance of the member's duties as a member.

For there to be 'molestation' of a member,<sup>22</sup>

there needs to be an act or omission which is related to the member's conduct in performing his or her position as a member and which caused or could have caused the member to have fear or apprehension in the discharge of his or her duties.

While 'proposing to visit a pecuniary loss on [a member] on account of conduct in Parliament' may amount to molestation,<sup>23</sup> the additional staff were not provided to, or withdrawn from, the KAP members as a personal benefit or loss. Moreover, there is no evidence that my conduct caused the KAP members fear or apprehension in exercising their duties as members. Also, as

<sup>20</sup> See my Letter to the Member for Traeger dated 1 April 2015 (attached).

<sup>21</sup> Ethics Committee, Queensland Parliament, *Report No 167: Matters of Privilege Referred by the Speaker on 17 March 2016 relating to an alleged threatening and disadvantaging of a member and on 21 April 2016 relating to an alleged intimidation and threatening of a member and an alleged deliberate misleading of the House* (2016) 10 [49].

<sup>22</sup> Members' Ethics and Parliamentary Privileges Committee, Queensland Parliament, *Report No 78: Matter of Privilege Referred by the Speaker on 16 February 2006 Relating to Matters of Privilege Arising from the Crime and Misconduct Commission's Report into the Honourable Gordon Nuttall MP* (2006) 5 [23].

<sup>23</sup> Malcolm Jack (ed), *Erskine May's Parliamentary Practice* (LexisNexis Butterworths, 24<sup>th</sup> ed, 2011) 262-263, citing *House of Commons Journal* (1898) vol 152, 381 (26-27 July 1898).

mentioned previously, the KAP members have access to a collective total of seven Electorate Officers to assist them with discharging their duties.

In any event, for the reasons given above, I did not improperly interfere with the free performance of the KAP members' duties as members and the elements to establish a breach of SO 266(10) have not been satisfied.

### **Alleged breach of example 2 to s 37 of the POQ Act**

In order to establish a breach of example 2 to s 37 of the POQ Act, the committee must be satisfied that:

- I attempted to compel the KAP members by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee; and
- that attempt amounted to, or was intended to or likely to amount to, an improper interference with the free performance of the KAP members' duties as members.

I understand the words, 'force, insult or menace' to be directed to physical force or insulting words. The 1765 House of Lords resolution from which those words are derived was made in response to a mob assembled at the doors of the House.<sup>24</sup> I did not use physical force or insulting words against the KAP members. To the extent that 'menacing' embraces non-physical threats, I adopt my response above to the alleged contravention of SO 266(9) and (17).

In any event, I did not improperly interfere with the free performance of the KAP members' duties as members and the elements to establish a breach of example 2 of s 37 of the POQ Act have not been satisfied.

### **Section 60 of the Criminal Code**

In his letter to you of 28 September 2018, the Member for Traeger referred also to what he described as the 'strong suggestion' by the CCC that I had been in breach of s 60 of the Criminal Code in my statement in response to the Question without Notice on 22 August 2018 and in my subsequent withdrawal of additional staffing for KAP.

---

<sup>24</sup> *Journals of the House of Lords (1765)* vol 31, 209. See also Malcolm Jack (ed), *Erskine May's Parliamentary Practice* (LexisNexis Butterworths, 24<sup>th</sup> ed, 2011) 262.

Section 60 of the Criminal Code provides relevantly that:

**60 Bribery of member of Parliament**

(1) Any person who—

- (a) in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or
- (b) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;

is guilty of a crime...

The Member for Traeger's comment of a 'strong suggestion' was made notwithstanding that the CCC found specifically, and stated in its media statement of 28 September 2018, that a proceeding against me for a breach of s 60 would have 'no reasonable prospect of a successful prosecution'. Further, as the CCC's Chairperson Mr Alan MacSporran QC also said on that day:

For the reasons that we have articulated in the press release and that I have emphasised just now, we are firmly of the view that any proposed prosecution of the Premier for this conduct would never have any reasonable grounds or prospects of success.

And it is not surprising that the CCC – an independent body – arrived at those conclusions.

A starting point in any consideration of this aspect must be the nature of the power I was exercising. That power is conferred pursuant to section 2.5.2 of the Handbook, which makes it clear that I have a very broad power to decide whether to allocate additional resources to a cross-bench Member. The broad ambit of that power is indicated by the words 'may allocate' and 'should the Premier wish to allocate' in that provision. The words 'wish to allocate' recognise that the wish may change from time to time. And, as noted earlier, may involve bringing the allocation to an end. It is illogical to assert that a Premier's refusal to continue additional funding rendered a Premier potentially liable to prosecution under s 60.

A consideration of s 60(1) itself leads to a similar conclusion. It is very difficult to regard its provisions as actually applicable to circumstances such as this where an issue which was raised in Parliament concerned a Party's attitudes to issues not then before the House.

The terms of s 60(1)(a) require that there be a 'vote, opinion, judgment, or action' which is on a question or matter arising in the Assembly or a committee thereof. There was no such

question or matter. Similarly the other provision of s 60, namely s 60(1)(b), also requires relevantly 'any such question or matter'. Again that requirement is not satisfied.

Might I also ask you to note that the parliamentary business on which the Assembly was engaged when I gave my answer on 22 August 2018 was Questions without Notice. No other parliamentary business such as a motion or debate was then under consideration. The Question without Notice was asked in two parts. The first part was:

will the Premier stand up against this hate speech

and the second part was:

and tear up Labor's special deal with the Katter party?

I responded to the first part by saying:

Let me say at the outset that I completely disapprove of Senator Anning's comments. I said that very publicly. I condemn it. I would like to see those opposite condemn it as well.

and:

*What I have said very clearly is that I would like to see members of the Katter party here in this parliament get up and say exactly the same thing.*

I responded to the second part of the question by saying:

Yes, I can say that I will be reviewing that arrangement as well.

It should also be noted that at no time during this response did any member seek the call in the Chamber to take offence to any matters raised or to highlight any possible breach of the Standing Orders, matter of privilege or point of order. Further, another four sitting days took place (23 August; 4-6 September) before the Member for Traeger's initial letter, which was received in your office on 8 September 2018. This passage of time allowed ample opportunity for any member to raise any perception of a breach of the Standing Orders. I also note that the CCC points out in its media statement, 'the CCC does not consider that s 60 is intended to apply to statements made openly during parliamentary proceedings...'.  
  
As I have already set out earlier in this letter, I did – out of Parliament – conduct a review of the additional resources available to KAP under section 2.5.2 of the Handbook. My decision regarding the resources was made independently and in accordance with the provisions of the Handbook.

I mention above that my answer was in response to a Question without Notice. Without seeking to provide any 'excuse', it is well recognised by authoritative guides such as *McGee's*



that responses to such questions are often provided 'off the cuff' in the hurly-burly of Question Time. Such responses by their nature do not possess the formality of responses to Questions on Notice. My answer sought to answer the two legs of the question separately. A more formal response may have provided an opportunity for clearer delineation between the two legs of the question and the relevant responses; however, I believe the Record of Proceedings has accurately reflected my intention to provide responses to both legs separately.

### **Conclusion**

As I stated at the outset of this response, I believe that the claims made by the Member for Traeger are without basis. He has made very serious allegations regarding my conduct. However, analysis of these allegations show that they rely on unsubstantiated assertions and assumptions. The various allegations require specific elements of the definition of contempt of Parliament to be established. He has failed to establish these elements on all the matters before you.

In light of this information, I ask you to conclude that the elements of a contempt of Parliament and s 60 of the Criminal Code have not been made out, and the matter does not warrant referral to the Ethics Committee.

Thank you for the opportunity to respond to these allegations. My comments are based on advice received from Mr David Jackson AM QC, and the Crown Solicitor (apart from s 60 of the Criminal Code). Should you require any further information or any clarification of matters contained herein, please do not hesitate to contact me.

Yours sincerely



**ANNASTACIA PALASZCZUK MP  
PREMIER OF QUEENSLAND  
MINISTER FOR TRADE**



**Annastacia Palaszczuk**  
**Premier of Queensland**

1 April 2015

Mr Robble Katter MP  
PO Box 1968,  
MOUNT ISA QLD 4825  
[mount.isa@parliament.qld.gov.au]

Dear Mr Katter *Robble*

I refer to your correspondence dated 20<sup>th</sup> February 2015 and 10<sup>th</sup> March 2015 and your recent discussions with the Honourable Curtis Pitt MP.

I am pleased to advise Mr Pitt would be my nominee to be your central point of contact with the Labor Government. As Treasurer, Mr Pitt carries the appropriate level of authority to act as my delegate, and would conduct regular meetings with you during the 55th Parliament to address status of implementation of matters of concern to Katter's Australia Party (KAP).

The Palaszczuk Ministry is proceeding to govern our great state in a sure and steady manner. It is my firm view that Labor is the only party that can offer stability in government for the term of the 55th Parliament.

Labor was the only party to go to the 2015 election with a fully costed suite of policies - including our plans to pay down debt, stimulate economic growth and restore frontline services - without selling our income-producing assets.

Our opposition to the Liberal National Party's plan to sell assets worth \$37 billion - such as the Mount Isa-Townsville rail line and the Port of Townsville - is consistent with the KAP's views on retaining government-owned corporations in public hands.

Other Labor policies highlight our commitment to jobs, training, economic growth, restoring frontline services, and industry and regional development. Labor is also the only party that can offer an alternative to the arrogance of the former LNP Government.

As Labor acknowledged to the Member for Nicklin, the need for proper resourcing for independent and cross-bench members of Parliament in minority governments is recognised. With regard to extra electorate and policy resources for KAP members, Labor would provide an extra electorate officer and a policy officer for each KAP member, and an extra policy adviser for the Parliamentary Leader of the KAP, Mr Katter MP.

This would constitute additional staffing for KAP of five staff, which is equivalent to the provision made by the Beattie Labor Government for the only other non-coalition political party represented in the Parliament after the 1998 Queensland general election resulted in a hung Parliament.

The Premier's Office will ensure that cross-berich members can access key briefings from the public service as required on policy issues or proposed legislation. In terms of day to day matters and briefing support on legislation, senior policy advisors will be available to brief KAP members.

Labor also acknowledges the challenges faced by members of Parliament representing large electorates. Therefore, Labor will seek a review of travel allowances for MPs from Band 3 electorates by the Queensland Independent Remuneration Tribunal.

The Treasurer will be in contact with you to progress the specific policy issues that have been the subject of ongoing discussion between the KAP and the Government.

I look forward to working with you constructively for the next three years.

Yours sincerely



**ANNASTACIA PALASZCZUK MP  
LEADER OF THE PARLIAMENTARY LABOR PARTY**

LEGISLATIVE ASSEMBLY OF

*Queensland*



Premier of Queensland  
Minister for Trade

Your ref: A474771

Mr Joe Kelly MP  
Chair  
Ethics Committee  
Parliament House  
George Street  
Brisbane. Qld. 4000

**PRIVATE &  
CONFIDENTIAL**

1 William Street Brisbane  
PO Box 15185 City East  
Queensland 4002 Australia  
Telephone +61 7 3719 7000  
Email [ThePremier@premiers.qld.gov.au](mailto:ThePremier@premiers.qld.gov.au)  
Website [www.thepremier.qld.gov.au](http://www.thepremier.qld.gov.au)

Dear Mr Kelly

Thank you for your letter dated 5 September 2019 and for the opportunity to provide a submission in respect of the appropriate penalty to be recommended to the House.

I note the Committee's conclusions about contempt of Parliament. At the outset I wish to say that I apologise and take responsibility, to the Parliament, for the actions I took which led to those findings.

I would ask the Committee to take into account that:

- my motivation was not to undermine any parliamentary processes; rather, it was to denounce comments made by former Senator Anning about the 'final solution' – comments which I described at the time as 'abhorrent and counter to the most basic human rights, including equality and freedom from discrimination';
- I will take whatever steps are necessary and possible to transfer the decision-making in respect of staffing for crossbench members of Parliament to an entity independent of the government of the day such as the Queensland Independent Remuneration Tribunal;
- my conduct did not involve any element of dishonesty;
- I was unaware at the time that my actions could constitute a contempt of Parliament; and
- I will apologise to the House at the earliest available opportunity following the tendering of the committee's report.

With respect to the question of an appropriate penalty, it is significant that my conduct did not involve any element of dishonesty or fraud.

In much more serious cases, which did involve dishonesty or fraud, the Committee has:

- recommended no further action be taken where a sincere apology was tendered to the House (Select Committee of Privileges, Report No 22);
- forwarded copies of the Committee's report to a number of entities, without taking any further action (Members' Ethics and Parliamentary Privileges Committee, Report No 40).

Further, in cases where the member was unaware that their actions constituted a contempt, the Committee has recommended that no action be taken (Members' Ethics and Parliamentary Privileges Committee, Report No 31).

In all of the circumstances including my foreshadowed apology, I submit that a finding of contempt by the Committee is itself a sufficient penalty, and that the Committee should recommend to the House that no further action be taken.

I again thank the Committee for the opportunity to make this submission. Please do not hesitate to contact me should you require any further assistance in relation to this matter.

Yours sincerely,



**Hon Anastacia Palaszczuk MP  
PREMIER AND  
MINISTER FOR TRADE**



8 November, 2018

**Mr Joe Kelly MP**

Chair, Parliamentary Ethics Committee

By email: [Ethics@parliament.qld.gov.au](mailto:Ethics@parliament.qld.gov.au)

Dear Mr Kelly,

**Re: Information regarding the referral of the Premier for contempt of Parliament**

Thank you for your letter dated 1 November 2018 and the opportunity to provide a supplementary submission to the Ethics Committee (the committee) to specifically address elements of the contempt referred by the speaker.

In addition to responding to the elements of contempt, I would like to acknowledge the unique nature of the circumstance and the seriousness with which I consider this matter.

The office of the Premier is perhaps the most important in the State, particularly given the powers and immunities the office affords the person who holds it.

Throughout this entire affair I have a strong sense that the public's expectation of the conduct of the person who holds the office of Premier is far higher than for other Members of Parliament. Because of this, there is an equally high level of public interest in the committee's deliberations and decision.

The following sections outline additional information relevant to the committee's deliberations.

**Chain of events and relevant conduct**

The information provided to me, enclosed in your letter of 1 November, gives details of the Premier's version of relevant events in an undated letter from the Premier to the Speaker sometime between the 28<sup>th</sup> of September and 10<sup>th</sup> of October.

I would like to draw the committee's attention to a number of omissions of fact by the Premier relevant to the specific instances of contempt outlined by the speaker.

I find it disappointing that the Premier had sought to omit these facts in her representations to the Speaker as I believe they are material and relevant in relation to the instances of contempt in question.

For ease of comparison I have included these facts in the following table with reference to their source and the elements of contempt in question.



Relevant fact	Element of contempt
<p>In relation to the Premier's response to the Question Without Notice by the Member for Warrego on 22 August 2018, the Premier omits a key phrase in her letter to the Speaker (<i>p. 1 of 12</i>) which clearly linked three important elements of this case,</p> <ol style="list-style-type: none"> <li>1. The review of KAP staff resources; with</li> <li>2. The KAP State Parliamentary Member's response to Fraser Anning's speech; and</li> <li>3. Debate of a Motion in the House.</li> </ol> <p>In addition to the statements the Premier includes in her letter, she also said, in response to the Member for Warrego's Question...</p> <p><b>Ms PALASZCZUK:</b> "In fact, they have a great opportunity, when we debate the government motion—" <sup>1</sup></p> <p>The motion referred to is a motion for debate on immigration<sup>2</sup> put forward by Hon Stirling Hinchliffe on 21 August, the day prior to the Member for Warrego's question.</p> <p>Based on the Premier's reference to this relevant motion, it is reasonable to conclude, that the Premier's threat to review resources, and her ultimate decision to remove them, would be impacted by the conduct of KAP Members in relation to debate and vote on this motion.</p> <p>Further, comments made during the debate of the motion on the evening of the 23<sup>rd</sup> of August make it clear that the motion was designed targeted at KAP members and their response to Senator Anning's speech and the Premier's demands. In the Premier's speech to the motion<sup>3</sup> she explicitly mentions "Katters" and "Fraser Anning" and the substance of the contentious matters that were in the public arena at the time.</p> <p>Many other members also made similar references, reinforcing the Government's apparent strategy to target</p>	<p>Clearly debate and vote on a motion is considered to be the "duty" of a Member. Under s37(2)(a) of the POQA, conduct may only be considered contempt if it amounts to interference with "free performance by a member of the member's duties as a member".</p> <p>Additionally, s266 explicitly limits contempt to circumstances where a member is inhibited in performing their duty or their conduct in the House. s266 clauses (9), (10) and (17) are relevant to this claim.</p> <p>Further, each of the sub-issues outlined in your letter which contain tests for determining the instances of contempt ask whether relevant conduct relates to member's "duties" and/or "conduct in the House".</p> <p>Given the Premier's reference to the motion for debate, I believe it is reasonable to link the Premier's threats in relation to resourcing arrangements with debate of a motion in the House.</p>

<sup>1</sup> Hansard, Queensland Parliament, p. 1954, 22 August 2018.

<sup>2</sup> Hansard, Queensland Parliament, p. 1845, 21 August 2018.

<sup>3</sup> Hansard, Queensland Parliament, p. 2103, 23 August 2018





<p>KAP members rather than debate the substance of the motion itself.</p>	
<p>In the Premier's letter to the Speaker (p. 11 of 12) the Premier states "Might I also ask you to note that the parliamentary business on which the Assembly was engaged when I gave my answer on 22 August 2018 was Questions Without Notice. No other parliamentary business such as a motion or debate was then under consideration."</p> <p>The above statement by the Premier is false. At the time of the Member for Warrego's question, and the Premier's response, the motion regarding immigration but forward by Minister Hinchliffe was on the notice paper<sup>4</sup> and the Premier explicitly referred to this motion in her response to the Member for Warrego's question.</p> <p>The relevance of this motion to questions of contempt are related to establishing a link between the KAP Member's response to requests from the Premier relating to their position on Fraser Anning's speech and this motion. The Premier's response to the member for Warrego's question, as outlined in the previous section, clearly create this link.</p>	<p>As described above, there is a clear link between the threat to review, and the subsequent removal of resources, and the motion for debate in the House. Further, the fact that the Premier claims that there was no other relevant business under consideration at the time when clearly there was a relevant motion, which the Premier explicitly referred to in the House as a "great opportunity" I believe to be misleading.</p> <p>This further reinforces the relevance of s266 clauses (9), (10) and (17) and s37(2)(a) of the POQA.</p>

Further to the facts omitted, as outlined above, I believe the sequence and duration of events provides insight into the Premier's intention, and the expectations of a reasonable person regarding the Premier's intentions at the time the events played out.

This is relevant to the instances of contempt in so far as the events would lead a reasonable person to feel threatened or intimidated by them.

The relevant events are as follows,

Date	Event
21 August 2018	Hon Stirling Hinchliffe moves a motion for debate relating to immigration.
22 August 2018	Media reports quoting the Premier stating that she will review the staffing arrangements.  "I will be reviewing those resources unless I hear from Robbie Katter, who is the leader of the state parliamentary party" <sup>5</sup>

<sup>4</sup> Notice Paper For Wednesday, 22 August 2018, Legislative Assembly of Queensland, p. 5, 22 August 2018.

<sup>5</sup> Premier threatens to review KAP arrangement after Fraser Anning speech, Courier Mail, August 22 2018.



	<p>The Premier's comments, taken with the language used in the article, could reasonably be interpreted as containing a threat to remove resources if a particular course of action was not fulfilled.</p>
23 August 2018	<p>A letter from the Premier is received by Robbie Katter. In the letter, the Premier requests the views of the KAP state members and notes that the staffing arrangements are being reviewed.</p> <p>Nowhere in this letter does the Premier explain what the possible outcomes of a review may be, nor what criteria will be used to inform a particular course of action.</p> <p>Given the nature of the public discourse around the issue at the time and the Premier's comments in the house and in media articles, it could reasonably be inferred that an outcome of the "review" was the prospect of losing the staff. Particularly in light of the review seemingly coming in response to the Member for Warrego's request that the staffing arrangements be terminated.</p> <p>As has been acknowledged by the Premier, Robbie Katter responded with the position of the State KAP as requested in the letter.</p>
2 September 2018	<p>The Premier issued a formal statement stating her decision to remove KAP staff resources. In the Premier's statement she said<sup>6</sup>,</p> <p>"So, because his party will not denounce him, I denounce his party and I withdraw the additional staff I granted to the Katter's Australian Party."</p> <p>Clearly this statement highlights that it was always the Premier's intent to withdraw the staff if the KAP did not denounce Senator Anning's speech. Given that the Premier gave no other indication of what would have been an acceptable course of action for the KAP members to take to satisfy her request and keep the staff, it can only be reasonably assumed that the Premier's desire to have the KAP Members stand up in the House and denounce Fraser Anning during debate of the Government's motion on the 23<sup>rd</sup> of August, was the only satisfactory course of action. Because of this the Premier was clearly using the resources, and the threat of their removal, to interfere with the free execution of a Member's duties.</p>

<sup>6</sup> <http://statements.qld.gov.au/Statement/2018/9/2/premier-condemns-kap-comments-with-action>



**Robbie Katter MP**  
Member for Traeger

PO Box 1968  
Mount Isa QLD 4825

Mount Isa  
74 Camooweal Street  
P: 07 4730 1100

I trust this information is useful in the committee's deliberations.

I have also provided the Committee Secretary with a full recording of the Press Conference with Mr Alan MacSporran QC in which he states clearly that the Premier has "technically" broken the law (at approximately 13m 20s of the recording).

I believe it is in the Public's interests that the Premier's actions are scrutinised independently and transparently to maintain the Public's trust and confidence in the integrity of the Parliament.

Should you require additional information I would be very happy to provide anything further required by the committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Robbie Katter".

**Robbie Katter**  
Member for Traeger

LEGISLATIVE ASSEMBLY OF

*Queensland*

## EXTRACT OF MINUTES –

### MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT OF PARLIAMENT BY THE PREMIER AND MINISTER FOR TRADE



## Ethics Committee

Meeting No. 10A

Thursday 1 November 2018, 1:03PM

Committee Room 1, Parliamentary Annexe, Brisbane

### Present

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Nikki Boyd MP  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Mr Ray Stevens MP

### Apologies

Nil

### In attendance

Ms Bernice Watson, Committee Secretary  
Ms Ciara Furlong, Assistant Committee Secretary

### Inquiry 6 – Premier referred by the Speaker on 12 October 2018

Discussion ensued.

### Resolved

That the committee continue to investigate the matter, and agreed to send the letters to the Premier, Mr Katter and the CCC as provided.

Moved: Mr Kelly Seconded: Mr Stevens

## EXTRACT OF MINUTES –

### MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT OF PARLIAMENT BY THE PREMIER AND MINISTER FOR TRADE



## Ethics Committee

Meeting No. 11A

Thursday 8 November 2018, 12:02PM

Via Teleconference

<b>Present</b>	Mr Joe Kelly MP, Chair Mr Tim Nicholls MP, Deputy Chair Mr Don Brown MP (SO 202) Ms Nikki Boyd MP Mr Mark McArdle MP
<b>Apologies</b>	Ms Leanne Linard MP Mr Ray Stevens MP
<b>In attendance</b>	Ms Bernice Watson, Committee Secretary Ms Ciara Furlong, Assistant Committee Secretary

### **Inquiry 6 – Premier referred by the Speaker on 12 October 2018**

The Chair advised that the committee had received a request from the Premier's office, for the Premier's submission deadline to be extended until close of business, Monday 12 November due to the Premier being out of the country on a trade mission.

Discussion ensued.

### Resolved

That the committee agree to extend the Premier's submission deadline until close of business, Monday 15 November.

Moved: Mr Kelly Seconded: Mr Nicholls

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 12A

Thursday 15 November 2018, 1:05PM

Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Nikki Boyd MP  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Mr Ray Stevens MP

**Apologies**

Nil

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Ciara Furlong, Assistant Committee Secretary

**Inquiry 6 – Premier referred by the Speaker on 12 October 2018**Discussion ensued.

Mr Nicholls left the room at 1:07pm.

Discussion ensued.

Mr Nicholls re-entered the room at 1:09pm.

**Resolved**

That the committee agree to write to the Clerk, seeking his advice on the matter, with the exact questions to be agreed between the Chair and Deputy Chair.

Moved: Mr Kelly

Seconded: Mr Nicholls



**EXTRACT OF MINUTES –**

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE**



**Ethics Committee**

Meeting No. 15A

Thursday, 14 February 2019, 1:12PM

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Nikki Boyd MP  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Mr Ray Stevens MP

**Apologies** Nil

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Ciara Furlong, Assistant Committee Secretary

**Inquiry 6 – Matter of privilege referred by the Speaker on 12 October 2018 (Premier)**

Discussion ensued.

The committee agreed that the Chair and Deputy Chair, with the Committee Secretary, meet at a mutually convenient time to narrow down key decision points and return to the committee with advice as soon as possible.



**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 17A

Thursday, 28 March 2019, 1:00PM

Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Ms Melissa McMahon MP  
Mr Ray Stevens MP

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**

Discussion ensued.

The committee requested that the secretariat prepare a further briefing paper to support discussion at the committee's next meeting.



**EXTRACT OF MINUTES –**

**MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE**



**Ethics Committee**

Meeting No. 19A

Friday, 26 April 2019, 10:03AM

Room 5.30, Parliamentary Annexe

**Present** Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Mr John-Paul Langbroek MP (substitute for Mr Mark McArdle MP under SO 202)  
Ms Leanne Linard MP  
Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 272)  
Mr Ray Stevens MP

**Apologies** Mr Mark McArdle MP

**In attendance** Ms Bernice Watson, Committee Secretary  
Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**

Resolved

That the committee chair write to the Member for Traeger in regard to whether the matter has been referred to the Director of Public Prosecutions and to seek context to the legal advice provided to the committee by the Member.

Moved: Mr Kelly    Seconded: Mr Nicholls

Discussion ensued.

The committee requested that the Clerk brief the committee at its next meeting.

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 20A

Thursday, 2 May 2019, 1:05PM

Committee Room 1, Parliamentary Annexe

<b>Present</b>	Mr Joe Kelly MP, Chair Mr Tim Nicholls MP, Deputy Chair Ms Leanne Linard MP Mr Mark McArdle MP Ms Melissa McMahan MP (substitute for Ms Nikki Boyd MP under SO 272) Mr Ray Stevens MP
<b>Apologies</b>	Nil
<b>In attendance</b>	Ms Bernice Watson, Committee Secretary Ms Natasha Mitchenson, Assistant Committee Secretary

***Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)*****Noted**

That the Member for Traeger has referred the matter to the Director of Public Prosecutions as per his correspondence dated 1 May 2019.

**Resolved**

That the committee chair write to the Director of Public Prosecutions in regard to any potential interference between the committee's inquiry and the referral of the matter to the Director of Public Prosecutions by the Member for Traeger.

Moved: Mr Kelly    Seconded: Mr Stevens

*The meeting was suspended at 1.12pm and recommenced at 1.27pm.*

The Clerk joined the meeting to brief the committee as per the committee's request.

Discussion ensued.

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 21

Thursday, 16 May 2019, 1:08PM

Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair

Mr Tim Nicholls MP, Deputy Chair

Mr John-Paul Langbroek MP (substitute for Mr Mark McArdle MP under SO 202)

Ms Leanne Linard MP

Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 202)

Mr Ray Stevens MP

**Apologies**

Mr Mark McArdle MP

Ms Nikki Boyd MP

**In attendance**

Ms Bernice Watson, Committee Secretary

Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**Discussion ensued.

The committee requested that the secretariat seek a transcript of the relevant parts of the Premier's speech from the Queensland Labor State Conference to assist with its deliberations for this inquiry.

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 22

Friday, 7 June 2019, 9:00AM

Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Mr Mark McArdle MP  
Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 202)  
Mr Linus Power MP (substitute for Ms Leanne Linard MP under SO 202)  
Mr Ray Stevens MP

**Apologies**

Ms Nikki Boyd MP  
Ms Leanne Linard MP

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**Discussion ensued.

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 23

Thursday, 13 June 2019, 1:08PM

Committee Room 1, Parliamentary Annexe

<b>Present</b>	Mr Joe Kelly MP, Chair Mr Tim Nicholls MP, Deputy Chair Ms Leanne Linard MP Mr Mark McArdle MP Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 202) Mr Ray Stevens MP
<b>Apologies</b>	Ms Nikki Boyd MP
<b>In attendance</b>	Mr Neil Laurie, Clerk of the Parliament Ms Bernice Watson, Committee Secretary Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**

The Clerk responded to questions posed by committee members regarding elements of the alleged contempts.

Discussion ensued.

The Clerk departed at 1:48PM.

**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 24

Thursday, 22 August 2019, 1:05PM

Committee Room 1, Parliamentary Annexe

<b>Present</b>	Mr Joe Kelly MP, Chair Mr Tim Nicholls MP, Deputy Chair Ms Leanne Linard MP Mr Mark McArdle MP Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 202) Mr Ray Stevens MP
<b>Apologies</b>	Ms Nikki Boyd MP
<b>In attendance</b>	Ms Bernice Watson, Committee Secretary Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**Discussion ensued.

The committee agreed that committee members would discuss the draft discussion report at the next committee meeting and that members had the opportunity beforehand to provide their comments through the Chair and Deputy Chair.



## EXTRACT OF MINUTES –

### MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT OF PARLIAMENT BY THE PREMIER AND MINISTER FOR TRADE



## Ethics Committee

Meeting No. 25

Thursday, 5 September 2019, 1:20PM

The Ville, Coral Sea Room 1  
Townsville

<b>Present</b>	Mr Joe Kelly MP, Chair Mr Tim Nicholls MP, Deputy Chair Ms Leanne Linard MP Mr Mark McArdle MP Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 202) Mr Ray Stevens MP
<b>Apologies</b>	Ms Nikki Boyd MP
<b>In attendance</b>	Mr Neil Laurie, Clerk of the Parliament Ms Bernice Watson, Committee Secretary <i>(by teleconference)</i> Ms Natasha Mitchenson, Assistant Committee Secretary <i>(by teleconference)</i>

#### **Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**

Discussion ensued.

Meeting adjourned by Chair at 1.38 pm.

Meeting resumed at 1.42 pm.

Discussion ensued.

#### **Draft Discussion Report**

The committee agreed to insert the word 'arguably' after the word 'and' and before the word 'should' in the final line of paragraph 139(a) of the Discussion Draft Report.

Resolved that the committee adopts the finding contained in the Discussion Draft Report.

Moved: Mr Kelly      Seconded: Mr Nicholls

#### **Correspondence to Premier regarding penalty**

The committee agreed to delete the phrase 'is minded to make a preliminary finding' and replace with the words 'has concluded' in the first line of the second paragraph of the draft correspondence.

The committee agreed to insert the following sentence after the words 'Thursday 12 September 2019':

*You are reminded that this matter is strictly confidential in accordance with Standing Order 211B and that you may only disclose this matter to your legal advisors.*

Resolved that the Chair and Deputy Chair are to approve the correspondence, once amended, and that it be sent to the Premier on behalf of the committee.



**EXTRACT OF MINUTES –****MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON  
12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT  
OF PARLIAMENT BY THE PREMIER AND MINISTER FOR  
TRADE****Ethics Committee**

Meeting No. 26

Thursday, 12 September 2019, 11:03AM

*By teleconference***Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Leanne Linard MP  
Ms Nikki Boyd MP  
Mr Ray Stevens MP

**Apologies**

Mr Mark McArdle

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Natasha Mitchenson, Assistant Committee Secretary

**Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)****Consideration of the Premier's request for an extension of time to make a submission as to penalty**Discussion ensued.**Resolved**

That the committee grant the Premier an extension of time to close of business Monday 16 September 2019 to provide a final submission as to penalty.

Moved: Mr Kelly

Seconded: Mr Nicholls

## EXTRACT OF MINUTES –

### MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 12 OCTOBER 2018 RELATING TO AN ALLEGED CONTEMPT OF PARLIAMENT BY THE PREMIER AND MINISTER FOR TRADE



## Ethics Committee

Meeting No. 27

Thursday, 19 September 2019, 1:06pm

Committee Room 1, Parliamentary Annexe

- Present**
- Mr Joe Kelly MP, Chair
  - Mr Tim Nicholls MP, Deputy Chair
  - Ms Nikki Boyd MP
  - Mr John-Paul Langbroek MP (substitute for Mr Ray Stevens MP under SO 202)
  - Mr Mark McArdle MP
  - Ms Melissa McMahon MP (substitute for Ms Leanne Linard MP under SO 202)
- Apologies**
- Ms Leanne Linard MP
  - Mr Ray Stevens MP
- In attendance**
- Ms Bernice Watson, Committee Secretary
  - Ms Natasha Mitchenson, Assistant Committee Secretary

### **Inquiry 6: Matter of Privilege referred by the Speaker on 12 October 2018 (Premier)**

#### Resolved

That the committee adopts the report and authorises its tabling.

Moved: Mr Kelly      Seconded: Mr Nicholls

Extracts certified correct on 17 October 2019

A handwritten signature in black ink that reads "Joe Kelly".

Joe Kelly MP  
Chair