

**MATTER OF PRIVILEGE, PUBLIC ACCOUNTS COMMITTEE**

*Information Divulged, Motion*

**MR D.F. BARRON-SULLIVAN** (Mitchell - Deputy Leader of the Opposition) [12.04 pm]: I rise to deal with a matter of privilege in accordance with Standing Order No 109. Yesterday in the early afternoon I received a phone call from Roger Martin, a journalist with *The Australian* newspaper. Mr Martin telephoned me in my capacity as the convener of the Country Alliance organisation and had some questions to ask me about the activities of that organisation. In particular, I was advised that the Chairman of the Public Accounts Committee, the member for Ballajura, had told that journalist that the committee would be investigating certain matters to do with the Country Alliance. Interestingly, the chairman of that committee also indicated that the parliamentary Public Accounts Committee had received a letter from some people in Kalgoorlie complaining about matters pertaining to the Country Alliance, that the committee had decided to investigate the matter and that I would have been sent a letter from the committee asking for certain information.

In the first instance I answered the questions in an open and accountable way because, as convener of the Country Alliance, I can say that our organisation has nothing to hide. We are a loose-knit organisation that has been set up with a particular purpose in mind and we are happy to be fully accountable for the activities and finances of the organisation. I therefore indicated to the journalist that I would be happy to give a full and open disclosure of all the activities, accounts and finances of the Country Alliance when the court action involving the Government's so-called one vote, one value legislation is resolved. I indicated that we had had contact with -

*Points of Order*

Mr J.C. KOBELKE: Standing Order No 109 does not indicate a time limit for debate on a matter of privilege or how it will be raised. The member has been speaking for some time and his introduction has not suggested what might be the matter of privilege. If he had given an indication of what he suspects might be the matter of privilege, we might feel that the explanation he has given is totally appropriate. However, it would be useful to know that there is a matter of privilege.

Mr R.F. JOHNSON: This relates to a serious motion that will be put before the House. A matter of privilege concerning a contempt of this House is one of the most serious matters that can occur in this Chamber. The Deputy Leader of the Opposition is outlining the events that led to what the Opposition believes is a contempt of the House and a breach of privilege and he has been speaking for only two minutes. I ask you, Mr Speaker, to allow him to put the case to this Chamber on why we believe there has been a contempt of the House and a serious breach of privilege.

The SPEAKER: For a matter of privilege to be raised under Standing Order No 109, the substance of the complaint must be made out in a relatively precise and quick time. I am sure the Deputy Leader of the Opposition knows that. It is imperative that the House knows the matter of privilege he is putting. However, some time should be given to the Deputy Leader of the Opposition to make whatever case he proposes to make.

*Debate Resumed*

Mr D.F. BARRON-SULLIVAN: It is very important that I give a small amount of background so that I can explain the nature of the potential breach of privilege or contempt of Parliament.

When the court action is resolved, the Country Alliance will in due course provide an open and accountable report of all its activities, finances and so on. We have been in contact with both the federal and state electoral commissioners, we have sought good taxation advice and we have a trust account that is being run in a very proper manner to ensure total accountability of these community funds. However, the matter raised with me is not concerned so much with the Country Alliance; it is more concerned with why the Chairman of the Public Accounts Committee spoke to a journalist about the activities of the committee. My immediate thought was that there had been an open hearing of the committee or a resolution of the committee to handle inquiries about the Country Alliance in a public way. Obviously, as the convener of the Country Alliance, I was interested to find out what that open hearing had discussed or what that resolution related to. I therefore contacted the clerk of the Public Accounts Committee. I was advised that there had been no open hearings recently and no resolution relevant to my inquiry. She was able to say that she would be writing me a letter in my capacity as coordinator of the Country Alliance and sought my advice on where to send the letter. However, she could not tell me what would be in the letter and so on. I deduced from that that it was highly probable that the matters raised by the Chairman of the Public Accounts Committee might have stemmed from a deliberative meeting of that committee. Members will see that under Standing Order No 270, deliberations of these committees are to be conducted in closed session. Further standing orders, particularly Standing Order No 271, prevent any member of a committee from disclosing the nature of any such deliberations unless particular courses of action have been

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taken; in particular, if the matter was dealt with in an open hearing or if a specific resolution to that effect was passed by the committee.

The point I am raising is that if those actions were not taken, we could be confronted with a situation of very serious abuse of the parliamentary process. We could be faced with, at the least, a breach of privilege and, at the most, possibly a contempt of this Parliament. As members would know, these things cannot be taken lightly. If such a matter were deemed to be a serious contempt of the Parliament, the Criminal Code might even apply. I point out that under section 55 of chapter VIII of the Criminal Code, an imprisonment penalty of two years or a fine of \$8 000 could be applicable.

Several members interjected.

Mr D.F. BARRON-SULLIVAN: I am demonstrating to members the severity of a serious contempt of Parliament, and why it is so important that we find out whether this is such a contempt or whether this constitutes a breach of parliamentary procedure. To determine whether that is the case, one also needs to consider -

*Points of Order*

Mr A.D. McRAE: I am relatively new to this House, so this is a new process.

Mr M.J. Birney interjected.

Mr A.D. McRAE: The member for Kalgoorlie really is beyond the pale sometimes.

The SPEAKER: Order!

Mr A.D. McRAE: I am seeking your guidance, Mr Speaker. I am trying to understand whether we are dealing with a matter of privilege under Standing Order No 109, which relates specifically to the rights of the member for Mitchell as a member of this Chamber, or whether he is concerned about the operations of a committee under Standing Orders Nos 270 or 271. Some of the substance of his argument seems more related to the actions of the committee, which I would have thought was a separate matter that should be raised in this Chamber.

The SPEAKER: I understand it is a matter of privilege raised under Standing Order No 109 that refers to a breach of the rules of committee on privacy.

Mr J.C. KOBELKE: Standing Order No 109 says that a member may at any time raise a matter of privilege. That is a very serious matter, and it is not open for a member to get up and give a general history of the world and say there may have been something wrong if this or that happened. We need the member to make a clear assertion that he believes there has been a breach of privilege. I suggested earlier that the member needed to get to the point very quickly and then lay out supporting evidence for his charge that there has been a breach of privilege. As yet, the member has not even suggested that there has been a breach of privilege. The member needs to put on the record what is the breach of privilege.

Mr R.F. JOHNSON: It is a good attempt by the Leader of the House to try to defuse the situation, but it is not the case. He said that the Deputy Leader of the Opposition has not yet put a case for breach of privilege. He has been speaking for about three minutes or so outlining why he believes the breach of privilege has occurred.

Mr J.C. Kobelke: He has not made the claim.

Mr R.F. JOHNSON: He has. He has said that he believes the chairman of that committee has breached privilege by talking to the media about an item discussed behind closed doors in that committee. That is a breach of privilege. It is very serious and if the Leader of the House is patient, the truth will come out.

The SPEAKER: What the Leader of the House has indicated is true: the member for Mitchell needs to take that further step. The member has suggested a breach of privilege. However, we do not need a suggestion; there has to be a clear statement that in his mind there is a breach privilege, not a suggestion of it.

*Debate Resumed*

Mr D.F. BARRON-SULLIVAN: I was progressing through this in a logical sequence, but I will jump two steps to illustrate to members that it is my intention, in accordance with paragraph (3) of Standing Order No 109, to move a motion as provided for in that standing order. I draw members' attention to that paragraph, which reads -

If the Speaker considers that there is some substance in the matter and it has been raised at the earliest opportunity, give priority to a motion without notice.

I am trying to explain to the Speaker my points that relate to this matter of privilege.

Mr J.C. Kobelke: You have not made a claim for breach of privilege.

Mr D.F. BARRON-SULLIVAN: It is about to happen.

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The second point is that I have done this at the earliest possible opportunity. That will give the Speaker the opportunity to decide whether a motion, which I am about to present to the Chamber, should be dealt with forthwith without notice. It is a bit difficult for the Speaker to deliberate on the matter if he has not heard the whole story. The point I am getting to is very simple. It appears from the information that I have been provided with, that the Chairman of the Public Accounts Committee may have released information to the media that may have been attended to -

Several members interjected.

The SPEAKER: Order! This is a very serious issue and interchange between members in the Chamber will not be tolerated in such an important debate.

Mr D.F. BARRON-SULLIVAN: The whole intent of this exercise is to determine whether, as it seems from the facts presented to me, the member for Ballajura has committed a breach of privilege or contempt of Parliament. It appears this matter was dealt with in a deliberative hearing of his committee and that he went to the media and disclosed the activities of that committee - activities that were carried out behind closed doors - and, in doing so, he may have contravened the standing orders of this Parliament and the practices adopted by Parliaments throughout the western world. This is a very serious matter.

The second key point is that from time to time, there are allegations or speculation that members of committees have leaked information to the media. Throughout the history of Parliaments, it has been shown that it is very difficult to determine which member leaked information, if information was leaked. The point is that in *The Australian* newspaper today, the chairman of the committee is reported as providing this information directly to that newspaper. Mr Speaker and members do not have to take only my word that a journalist told me this on the telephone yesterday; it is in black and white in a newspaper today. It is a crucial matter for this Parliament to determine whether the facts as I have outlined them demonstrate that the member for Ballajura has committed a very serious breach of this Parliament. It is my understanding, on the information presented to me, that there is at least a breach of the Parliament and perhaps a contempt of the Parliament. With that in mind, it is my intention to read out a motion. However, before I do so, I will broaden the motion very slightly.

Mr J.C. Kobelke: What is the breach?

Mr D.F. BARRON-SULLIVAN: It is a breach of standing orders relating to the deliberations of a parliamentary committee, of which the member for Ballajura is the chairman, that were carried out behind closed doors, and the chairman has gone to the media and released that information in contravention of the parliamentary processes and, specifically, of standing orders.

Mr J.C. Kobelke: Which standing orders?

Mr D.F. BARRON-SULLIVAN: I read them out earlier on.

Mr J.C. Kobelke: Which standing order has been breached?

Mr D.F. BARRON-SULLIVAN: Standing Orders Nos 270 and 271, which I read out earlier. I have broadened my motion slightly because I received a telephone call today from another journalist from the *South Western Times* in my home town of Bunbury. That journalist indicated that he had been provided with information yesterday about the activities of the parliamentary committee to which I have referred. The member for Bunbury is a member of that committee. It is beholden on this Parliament to also determine whether that member may have been involved in any way in the disclosure of information on the activities of that committee and whether that member may also have contravened Standing Orders Nos 270 and 271. I move, without notice, in accordance with Standing Order No 109(3) -

That the Procedure and Privileges Committee investigate, consider and report to the House by Wednesday, 25 September 2002 -

- (a) whether the Chairman of the Public Accounts Committee and the member for Bunbury committed a breach of privilege or contempt of Parliament by releasing information to the media regarding an inquiry by the Public Accounts Committee into funding of the Country Alliance; and
- (b) what penalty ought to be imposed in respect of any such breach or contempt.

The importance of taking this action, in accordance with Standing Order No 109(3), is very simple. I could ask that the Speaker determine the matter, but debating a motion gives both those members the opportunity to go on the record in this Chamber and explain whether they went to the media with information provided in a deliberative meeting of that committee. That may be the end of this matter. The chairman, the member for Ballajura, may stand and give a plausible explanation that demonstrates that his actions were fully in accordance with accepted parliamentary procedures, and specifically the standing orders of this Chamber. Alternatively, he

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may not. I argue that doing it this way will assist you, Mr Speaker, to determine whether to send this matter to the Procedure and Privileges Committee. If it was not done in accordance with the relevant procedures of this Chamber's standing orders, it smacks of political manipulation of the parliamentary process in the grossest possible way. It smacks of a total lack of accountability by any member who may have participated in such actions. Frankly, it smacks of political foul play.

One must ask why the chairman of a committee would go to the media when, as I found out afterwards, the letter to which he was referring had not even been written? As the convenor of the Country Alliance, I had not received the letter. I understand from the Clerks that the letter has not even been sent. They needed to know who to send it to and what my address is. Chances are the letter had not even been drafted, but the chairman of the committee picked up the telephone and spoke to someone at a national newspaper to reveal what that committee is looking into. He may as well have released a complete press statement.

The SPEAKER: The Deputy Leader of the Opposition has outlined his case on this matter of privilege. Standing Order No 109 does not allow for a debate to take place once the case has been put to the Speaker. I have decided that I will take some 20 minutes to consider the matter, and then come back and determine the action to be taken on this privilege issue raised by the Deputy Leader of the Opposition. I will appoint a relief Speaker now.

*Point of Order*

Mr M.G. HOUSE: I suggest that under those circumstances, the House adjourn until the ringing of the bells.

The SPEAKER: I thank the member for his suggestion. The matters before the House for the next 20-odd minutes are substantially procedural, including petitions, papers, notices of motion and ministerial statements. There is no great need for the Speaker to be present for those events.

Debate thus adjourned. [Continued on page 1178.]