

Privileges Committee

Statements made by Mr David Shoebridge

Ordered to be printed 23 November 2011

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Council. Privileges Committee.

Statements made by Mr David Shoebridge / Legislative Council, Privileges Committee. [Sydney, N.S.W.] : the Committee, 2011. – viii, [16] p. ; 30 cm. (Report no. 57, November 2011 / Privileges Committee)

"Ordered to be printed 23 November 2011"

Chair: The Hon Trevor Khan MLC.

ISBN 9781920788384

1. Shoebridge, David.
2. New South Wales. Parliament. Legislative Council—Privileges and immunities.
3. New South Wales. Parliament. Legislative Council—Rules and practice.
4. Legislators—New South Wales—Privileges and immunities.
 - I. Title
 - II. Khan, Trevor.
 - III. Series: New South Wales. Parliament. Legislative Council. Privileges Committee. Report ; no. 57

328.944 (DDC22)

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Terms of reference

1. That the statements made by Mr David Shoebridge on Thursday 15 September 2011 concerning the Commissioner of Police, Mr Andrew Scipione, be referred to the Privileges Committee for inquiry and report.
2. That the Committee investigate and report on:
 - (a) whether the conduct of Mr Shoebridge in relation to this matter constitutes an abuse of privilege; and
 - (b) what, if any, sanctions should be enforced in relation to his conduct in this matter.

These terms of reference were referred to the Committee by the House on 12 October 2011.

Committee membership

The Hon Trevor Khan MLC	The Nationals	Chair
The Hon Amanda Fazio MLC	Australian Labor Party	Deputy Chair
The Hon John Ajaka MLC	Liberal Party	
The Hon Jenny Gardiner MLC	The Nationals	
The Hon Matthew Mason-Cox MLC	Liberal Party	
Revd the Hon Fred Nile MLC	Christian Democratic Party	
The Hon Peter Primrose MLC	Australian Labor Party	

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Chair's foreword

This inquiry arose out of statements made by Mr David Shoebridge during the course of proceedings in the Legislative Council on 15 September 2011 concerning the past actions of the Commissioner of Police, Mr Andrew Scipione APM, in allegedly seeking to prevent the public release of information about a serial predator in a Sydney park out of concern that it would reflect poorly on police.

Subsequently, on 12 October 2011, on a motion of the Leader of the Government in the Legislative Council, the House referred terms of reference to the Committee to inquire into and report on whether the conduct of Mr Shoebridge in relation to this matter constituted an abuse of privilege, namely the privilege of freedom of speech.

There have been two previous cases in the Council where the House has referred the actions of its members in respect of statements made under parliamentary privilege to a committee for inquiry and report. Of note, in 1999, the House referred to this Committee an inquiry into statements made by Mr Gallacher and Mr Hannaford. The terms of reference required the Committee to consider whether the members' conduct in making certain statements in the House constituted an abuse of privilege.

In its report, the Privileges Committee noted that the House has not identified and adopted appropriate principles to be applied in relation to the exercise of members' freedom of speech. In those circumstances, the Committee concluded that 'any finding of abuse of privilege under present circumstances could be perceived as an unwarranted restriction on members' freedom of speech'.

The Committee has been guided by this precedent in this report. In the present circumstances, given the paramount importance of preserving the privilege of freedom of speech of members, and noting that the House has not adopted guidelines on what constitutes abuse of the privilege of freedom of speech, the Committee believes that it would be unreasonable to adjudge Mr Shoebridge guilty of an abuse of the privilege of freedom of speech.

Two other issues raised during the inquiry were the purported actions of Mr Shoebridge in raising his allegations with the media in advance of his statement in the House, and the subsequent purported distribution of Mr Shoebridge's statement by the media using social networking mediums. The Committee notes that any such communications fall under the law of defamation and have no protection under parliamentary privilege.

I would like to thank the members of the Committee for their contribution to this inquiry as well as the Committee secretariat for their valuable support.

The Hon Trevor Khan MLC

Chair

Summary of findings and recommendations

Finding 1

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The Committee finds that the statements of Mr David Shoebridge in the House on 15 September 2011 concerning the actions of the Commissioner of Police, Mr Andrew Scipione APM, do not constitute an abuse of the privilege of freedom of speech, noting that no guidelines on the exercise of the privilege of freedom of speech have been adopted by the House.

Recommendation 1

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That the Commissioner of Police be informed of his right of reply with respect to the statements made by Mr Shoebridge in the House on 15 September 2011 and 12 October 2011.

Chapter 1 Introduction

Background to the inquiry

Statements by Mr Shoebridge in the House on 15 September 2011

- 1.1 On 15 September 2011, during the course of proceedings in the Legislative Council, Mr David Shoebridge made a number of statements concerning the actions of the Commissioner of Police, Mr Andrew Scipione APM, in allegedly seeking to prevent the public release of information about a serial predator in a Sydney park out of concern that it would reflect poorly on police. The allegations were purportedly made by former Assistant Police Commissioner Mr Mark Goodwin under oath in District Court proceedings in May 2011.¹
- 1.2 The full *Hansard* text of the statements made by Mr Shoebridge is reproduced in Appendix 1.

Referral of the inquiry

- 1.3 On 12 October 2011, the Leader of the Government in the Legislative Council, the Hon Michael Gallacher, moved a motion in the House to refer the statements made by Mr Shoebridge on 15 September 2011 to this Committee for inquiry and report as to:
- Whether the conduct of Mr Shoebridge in relation to this matter constitutes an abuse of privilege; and
 - What, if any, sanctions should be enforced in relation to his conduct in this matter.
- 1.4 The motion was agreed to by the House.² The full text of the terms of reference for this inquiry are set out on page iv of this Report.

Conduct of the inquiry

- 1.5 The Committee held two deliberative meetings in the course of this inquiry. The minutes of these meetings are reproduced in Appendix 2.

¹ *LC Debates* (15/9/2011) 5750-5751.

² *LC Minutes* (12/10/2011) 478, 479-480.

Chapter 2 Parliamentary privilege: The immunity of freedom of speech

The immunity of freedom of speech

- 2.1 By far the most important privilege accorded to members of parliament is the immunity of freedom of speech in parliamentary proceedings.
- 2.2 Freedom of speech permits members to speak freely during proceedings in parliament or in a committee while enjoying complete immunity from legal action (including being sued or prosecuted) for any comments they may make.
- 2.3 Before 1971, freedom of speech in Parliament applied in New South Wales as a matter of inherent necessity under the common law. However, since 1 January 1971, it has been the statutory adoption of Article 9 of the *Bill of Rights 1689* under the *Imperial Acts Application Act 1969* that is the most important guarantee of the freedom of speech in Parliament. Article 9 declares:

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

- 2.4 The immunity of freedom of speech is wide in scope. Article 9 of the *Bill of Rights 1689* prevents a court from entertaining any civil suits or criminal charges against a member for things said in the course of any ‘proceedings in Parliament’. Equally, parliamentary proceedings (including *Hansard* and parliamentary committee reports) are immune from impeachment in the courts.
- 2.5 The immunity of freedom of speech is also absolute: it is not excluded by the presence of malice or of fraudulent purpose, as is the qualified privilege enjoyed by the media and others who report parliamentary proceedings.
- 2.6 The immunity of freedom of speech allows members to raise matters in the public interest and Parliament to debate those matters by granting members immunity against reprisals from powerful individuals, interest groups, companies and so on. In *Prebble v Television New Zealand Ltd*, Lord Browne-Wilkinson on the Judicial Committee of the Privy Council observed that the basic concept underlying Article 9 was:

... the need to ensure so far as possible that a member of the legislature and witnesses before committees of the House can speak freely without fear that what they say will later be held against them in the courts. The important public interest protected by such privilege is to ensure that the member or witness at the time he speaks is not inhibited from stating fully and freely what he has to say. If there were any exceptions which permitted his statements to be questioned subsequently, at the time when he speaks in Parliament he would not know whether or not there would subsequently be a challenge to what he is saying. Therefore he would not have the confidence the privilege is designed to protect.³

³ [1995] 1 AC 321 at 333-334.

- 2.7 The importance of freedom of speech has been described by Professor Enid Campbell in the following terms:

Freedom of speech and debate in parliament is one of the most cherished of all parliamentary privileges, without which parliaments probably would degenerate into polite but ineffectual debating societies. Freedom of speech and the associated powers of the Houses to determine their own order and subjects of debate, the English parliamentarians of the sixteenth and seventeenth century believed was the key to parliamentary supremacy - supremacy over the Crown and its ministers.⁴

- 2.8 The freedom of parliament to debate matters and pass resolutions freely on matters of its own choosing is thus a cornerstone of parliamentary democracy.

Limitations on the immunity of freedom of speech imposed by the House

- 2.9 While the protection of freedom of speech under Article 9 is absolute, the exercise of freedom of speech by members is subject to control by the House itself. There are three important constraints imposed by the House on the freedom of speech of members: the rules of debate, the *sub judice* convention and the restriction on offensive conduct.

The rules of debate

- 2.10 The most important limitation imposed by the House on the freedom of speech of its members are the rules of debate.
- 2.11 The Legislative Council has adopted in its standing orders various rules of debate. For example, members may not reflect on any resolution or vote of the House (SO 91(1)), refer to the Queen or the Governor disrespectfully (SO 91(2)), use unparliamentary (offensive) language (SO 91(3)) or make personal reflections on members or officers of either House (SO 91(3)).
- 2.12 Over the years, the rules of debate set out in the standing orders have been elucidated and augmented by various rulings of the President.

The *sub judice* convention

- 2.13 A second limitation on the freedom of speech of members is the *sub judice* convention, whereby the House generally does not discuss the substance of certain matters to be tried and decided in a court of law in order to prevent prejudicing those proceedings.
- 2.14 While the standing orders do not deal with the *sub judice* convention, there are a number of rulings of the President on the matter.⁵

⁴ Campbell, E, *Parliamentary Privilege in Australia*, MUP, Melbourne:1966, p. 28

⁵ See in particular Ruling: Johnson, *LC Debates* (16/5/1990) 3364-3369.

Offensive conduct

2.15 The Council has the power to discipline members who, by their conduct, offend the House. Such conduct may amount to contempt. In 1967, the House of Commons Select Committee on Parliamentary Privilege contemplated that:

... contempt may (and has been held to) include the conduct of a Member or Officer, whether within or outside the Chamber or the precincts, which is so improper or disorderly as to amount to an abuse of the Member's or Officer's position. An example of such misconduct would be gross abuse by a Member of his rights and immunities, for example by maliciously making under cover of the absolute privilege afforded by the *Bill of Rights* a gross defamatory attack upon a stranger or upon another Member of the House.⁶

2.16 There has been one case in which the Council has disciplined a member for offensive conduct in her use of the privilege of freedom of speech. In 1998, following the conduct of a Special Commission of Inquiry, the Council passed a resolution that the conduct of the Hon Franca Arena in making certain statements in the House fell below the standard the House is entitled to expect of a member and brought the House into disrepute. The House required that Mrs Arena submit an apology in respect of the statements, and that failing this, she be suspended from the service of the House.⁷ Subsequently the House agreed to accept a 'statement of regret' from Mrs Arena in place of the apology.⁸

2.17 There was also a case in the Legislative Assembly in 1916-1917 when that House expelled a member under then Assembly Standing Order 391 for 'conduct unworthy of a Member of Parliament and seriously reflecting upon the dignity of this House'.⁹

2.18 In both cases, the actions taken by the respective Houses followed findings by an external inquiry that the member's statements were unfounded.¹⁰

2.19 There have also been two previous cases in the Council where the House has referred the actions of its members in respect of statements made under parliamentary privilege to a committee for inquiry and report:

- In 1936, the Council established a select committee to inquire into and report on the truth or otherwise of charges made by the Hon John Martin in the House. Those charges included that the election to the House of another member, the Hon Edward Grayndler, was corrupt, and that Mr Grayndler was guilty of conspiracy in connection with his election to the Council.

The committee concluded that none of the imputations and assertions was supported by any evidence, and that it therefore had no alternative but to find the charges untrue.¹¹

⁶ Select Committee on Parliamentary Privilege, UK House of Commons, Report, December 1967, paragraph 60.

⁷ *LC Minutes* (1/7/1998) 631-635.

⁸ *LC Minutes* (16/9/1998) 693-695.

⁹ *LA Debates* (17/10/1917) 1785.

¹⁰ A Special Commission of Inquiry in the first case and a Royal Commission in the second case.

Subsequently, a motion was carried in the House, without debate, that the committee's report be adopted.¹² Despite this, however, the House appears to have taken no further action against Mr Martin in relation to his allegations.

- In 1999, the then Leader of the Opposition in the Council, the Hon Michael Gallacher, and another Opposition member, the Hon John Hannaford, made statements in the House concerning allegations of sexual harassment against the Lord Mayor of Sydney. The House agreed to a motion by the Leader of the Government in the Council referring the statements made by the two members to the Privileges Committee for inquiry and report. The terms of reference for the inquiry required the Committee to consider whether the members' conduct in making the statements constituted an abuse of privilege.

In its report, the Privileges Committee acknowledged that it would be open to the Committee to seek to identify appropriate principles to be applied in relation to the exercise of members' freedom of speech, but that it considered that the application of such principles retrospectively would not be appropriate. In those circumstances, the Committee concluded that 'any finding of abuse of privilege under present circumstances could be perceived as an unwarranted restriction on members' freedom of speech'.¹³

Guidelines covering the exercise of freedom of speech

2.20 The Council has not specified guidelines governing the exercise of the privilege of freedom of speech or identifying conduct which would constitute an abuse of the privilege of freedom of speech.

2.21 By contrast, on 25 February 1988, the Australian Senate adopted a resolution setting out the manner in which senators are to exercise their freedom of speech. Specifically the Senate resolved:

9. Exercise of Freedom of Speech

- (1) That the Senate considers that, in speaking in the Senate or in a committee, Senators should take the following matters into account:
 - (a) the need to exercise their valuable right of freedom of speech in a responsible manner;
 - (b) the damage that may be done by allegations made in Parliament to those who are the subject of such allegations and to the standing of Parliament;

¹¹ Report from the Select Committee on charges of corruption made by the Honorable J B Martin, MLC, in connection with the election of the Honorable Edward Grayndler to the Legislative Council, December 1936.

¹² *LC Minutes* (22/12/1936) 91.

¹³ Standing Committee on Parliamentary Privilege and Ethics, *Inquiry into statements made by Mr Gallacher and Mr Hannaford*, Report No 11, November 1999, p 15.

- (c) the limited opportunities for persons other than members of Parliament to respond to allegations made in Parliament;
 - (d) the need for Senators, while fearlessly performing their duties, to have regard to the rights of others; and
 - (e) the desirability of ensuring that statements reflecting adversely on persons are soundly based.
- (2) That the President, whenever the President considers that it is desirable to do so, may draw the attention of the Senate to the spirit and the letter of this resolution.

2.22 While the Council has not adopted similar guidelines governing the exercise of the privilege of freedom of speech, it is nevertheless understood that it is the responsibility of members to ensure that their privilege of freedom of speech is used responsibly and is not abused. A member should take steps before making a potentially damaging accusation against an individual in Parliament to ensure not only that evidence exists to support the accusation but that it comes from a reliable source. Members should also consider the basis, cogency and responsibility of statements they may make.

Chapter 3 The statements made by Mr Shoebridge

Did the statements made by Mr Shoebridge amount to offensive conduct?

- 3.1** As indicated, the Council has the power to discipline members who, by their use of the privilege of freedom of speech, offend the House. Such conduct may amount to contempt.
- 3.2** However, this power must be weighed against the paramount importance of preserving the freedom of speech of members. The Committee has in the past always been mindful of the importance of a member's freedom of speech, and has been very conscious of the very great danger to the public interest and the independence of Parliament should that freedom be unduly limited. For example, in its *Report on Inquiry into the Conduct of the Honourable Franca Arena MLC* in June 1998, the Committee observed:
- The importance of preserving freedom of speech in matters of political controversy requires that the House exercise as sparingly as possible its jurisdiction to sanction conduct by Members. This principle requires that the House impose sanctions only in cases of substantial interference with the performance of the functions of Parliament, and by confining its sanctions to those which are reasonably necessary for the protection of the House and its Members.¹⁴
- 3.3** The paramount importance of preserving the freedom of speech of members was acknowledged in the House in referring this matter to the Committee. For example, the Leader of the Government, in moving the motion for the matter to be referred to the Committee, observed:
- My principal concern is not the content of the statement made in the House but rather the manner in which it was made and the circumstances surrounding it.¹⁵
- 3.4** Equally, in speaking to the motion to refer this matter to the Committee, other members of the House also focused less on the content of the statements made by Mr Shoebridge than on the manner in which he purportedly raised the matter with the media and the manner in which it was reported on social networking sites. These issues are examined separately below.
- 3.5** The Committee also notes that in making his statements in the House, Mr Shoebridge advised the House that he was reporting evidence given by former Assistant Police Commissioner Mr Mark Goodwin under oath in the District Court. As such, the evidence was from sworn testimony given by an identified source before a court of law, which is arguably an appropriate foundation on which to bring matters to the attention of the House.
- 3.6** In addition, as indicated previously, the House has not adopted any guidelines as to the use of the privilege of freedom of speech, and has only ever taken action against a member (Mrs Arena) for statements made under privilege following the findings of an external investigation.

¹⁴ Privileges Committee, *Report on Inquiry into the Conduct of the Honourable Franca Arena MLC*, Report No. 6, June 1998, paragraph 6.2.3(3).

¹⁵ *LC Debates* (12/10/2011) 5980.

- 3.7 In such circumstances, the Committee believes that it would not be reasonable to find Mr Shoebridge guilty of an abuse of the privilege of freedom of speech without clearly stated and understood guidelines against which the member's statements in the House could be measured. Accordingly, the Committee finds as follows.

Finding 1

The Committee finds that the statements of Mr David Shoebridge in the House on 15 September 2011 concerning the actions of the Commissioner of Police, Mr Andrew Scipione APM, do not constitute an abuse of the privilege of freedom of speech, noting that no guidelines on the exercise of the privilege of freedom of speech have been adopted by the House.

Guidelines for the use of the immunity of freedom of speech?

- 3.8 While observing that the Council has not adopted any guidelines as to the use of the immunity of freedom of speech, whereas as indicated in Chapter 2 the Senate has, the Committee notes that it has twice previously made recommendations or finding in relation to this matter.
- 3.9 In 1996, the Committee recommended a draft code of conduct for members which included the following clause relating to the exercise of freedom of speech:
- 12 Freedom of speech**
- 12.1 Members should be mindful of the privileges conferred when speaking in the House and should seek to avoid causing undeserved harm to any individual who does not enjoy the same privileges.¹⁶
- 3.10 The Code of Conduct eventually adopted by the House does not address this issue.
- 3.11 Subsequently, in 1999, in its *Inquiry into statements made by Mr Gallacher and Mr Hannaford* cited above, the Committee observed 'the desirability of the House adopting guidelines which would encourage Members to raise matters in the House in a balanced and appropriate way and at the same time preserve the dignity and standing of the House.'¹⁷
- 3.12 The Committee notes these previous recommendations.

¹⁶ Standing Committee on Parliamentary Privilege and Ethics, Report on inquiry into the establishment of a draft code of conduct for Members, Report No. 3, October 1996, Appendix 1, p. 6

¹⁷ Standing Committee on Parliamentary Privilege and Ethics, *Report on inquiry into statements by Mr Gallacher and Mr Hannaford*, Report No 11, November 1999, p 18, paragraph 3.3.1

The purported actions of Mr Shoebridge in raising this matter with the media in advance

- 3.13** In debating this reference to the Committee, members in the House raised concerns that Mr Shoebridge purportedly informed members of the media of the content of his statements in advance of making them in the House.
- 3.14** The Committee has no evidence as to whether or not this occurred. It is clear, however, that members who raise matters with the media, regardless of whether they subsequently raise the same matters in the House, are not covered by parliamentary privilege in doing so. As such, members should exercise considerable care in their communications with the media. Ultimately, however, this is a matter for individual members rather than the House.
- 3.15** In turn, the media is clearly not covered by parliamentary privilege in its reporting of private communications from a member of Parliament outside of the House. Nor is the media covered by parliamentary privilege in its reporting of matters raised by a member in the House. An entirely separate defense of qualified privilege under the laws of defamation may be available to the media in its reporting of parliamentary proceedings.
- 3.16** Accordingly, the actions of Mr Shoebridge in purportedly raising this matter with the media in advance of enunciating it in the House may have exposed the member to an action for defamation, but his actions do not bear on the privileges of the House.

The purported distribution of Mr Shoebridge's statement by the media using social networking mediums

- 3.17** In debating this reference to the Committee, members in the House also expressed concern that after Mr Shoebridge purportedly informed the media in advance of the content of his statements, the media then purportedly used social media networks to disseminate that content, in advance of Mr Shoebridge actually speaking in the House.
- 3.18** The Committee has no evidence as to whether or not this occurred. Once again, however, it is clear that any communications via social networking mediums are not covered by parliamentary privilege and that the laws of defamation apply. Accordingly, the media should exercise appropriate caution in what is said on social networking mediums, whether anticipating statements about to be made in the House or not.
- 3.19** Once again, however, the purported use of social networking mediums by members of the media to disseminate information about forthcoming statements by Mr Shoebridge, while potentially raising issues of defamation, does not bear on the privileges of the House.

Commissioner Scipione's right of reply

- 3.20** The Committee notes that an appropriate mechanism exists under the right of reply procedures of the House for Commissioner Scipione to respond to the statements made by Mr Shoebridge. While the Committee's terms of reference refer only to those statements Mr Shoebridge made on 15 September 2011, the Committee also notes that Mr Shoebridge

further elaborated on those statements in the House on 12 October 2011 when debating the referral of this matter to the Committee.

- 3.21** The Committee considers that the use of the right of reply procedure would be appropriate in this case, should Commissioner Scipione choose to exercise it, and recommends as follows.

Recommendation 1

That the Commissioner of Police be informed of his right of reply with respect to the statements made by Mr Shoebridge in the House on 15 September 2011 and 12 October 2011.

Appendix 1 Extract from Hansard, 15 September 2011, containing statements made by Mr David Shoebridge

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Mr DAVID SHOEBRIDGE [3.37 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 140 outside the Order of Precedence relating to a reference to General Purpose Standing Committee No. 4 regarding government media strategies be called on forthwith.

This matter is urgent because there is nothing more essential than ensuring that our most senior police act first and foremost to protect the public and, indeed, not to protect their position or the position of politicians of the day. I am calling for an urgent parliamentary inquiry to review the actions of the now police commissioner in giving an order not to publicly release information about a serial predator in a Sydney park because he was concerned, as has been alleged on oath, that it would reflect poorly on the police who had not done enough in a bygone era. This matter is serious. In May of this year former assistant police commissioner Mark Goodwin said on oath in the District Court that the now police commissioner, Mr Scipione, put politics before safety in not telling the public that there was a possible serial predator in a Sydney park.

The Hon. Michael Gallacher: Point of order: Mr David Shoebridge is not speaking to urgency; he is starting to debate the substantive motion. As far as I am aware, he has not spoken to anyone in this House about this matter. With something as serious as the allegation he is now making, he should have had the decency to speak to members.

The PRESIDENT: Order! The only question before the Chair is whether standing and sessional orders should be suspended. The member will direct his remarks to that motion.

Mr DAVID SHOEBRIDGE: I note your ruling. This matter is urgent because former assistant commissioner Goodwin put his position under oath in District Court proceedings in May this year, and there has been no sworn response on oath by the commissioner.

The Hon. Amanda Fazio: Point of order: My point of order is the same as that of the Leader of the Government. Mr David Shoebridge must persuade the House why his matter is more urgent than other business on the *Notice Paper*.

The PRESIDENT: Order! I refer Mr David Shoebridge to my previous ruling.

Mr DAVID SHOEBRIDGE: Indeed, Mr President, it is urgent because there has been no response, and the commissioner had the opportunity to respond in May on oath but settled the case before he was required to be called as a witness to meet the allegations by former assistant commissioner Goodwin. That cannot be allowed to go on for one further day. Indeed former assistant commissioner Goodwin's evidence is backed up.

The Hon. Michael Gallacher: Point of order: Just because you include the word urgent does not mean you are speaking of urgency. We are now starting to go into evidence given by a former police officer, Mr Goodwin. This member really is stretching the whole concept of urgency.

The PRESIDENT: Order! I remind Mr David Shoebridge that the only motion before the House is that standing and sessional orders be suspended to allow a motion to be moved forthwith. His remarks should be directed to that motion only.

Mr DAVID SHOEBRIDGE: I accept your ruling, Mr President. The seriousness of these matters requires an urgent response and if the Government does not want to hear about the seriousness of the matters in order to respond to the urgency behind this motion that is a poor statement about any government of the day, because former assistant commissioner Goodwin's evidence was backed up—

The Hon. Michael Gallacher: Mr President, it is clear that this is going to work out as nothing more than a glute exercise for me—up and down and up and down. The member is referring to evidence, quite simply, and is now trying to bait the Government by saying that we do not want to hear this. The member is using the suspension debate to get his allegation out there—without any consultation—knowing he is using parliamentary privilege to make allegations. What he is attempting to do is a disgrace.

The Hon. Duncan Gay: On the point of order: I raise a slightly different issue. You have ruled at least four, perhaps five, times on this issue and the member is flouting your ruling.

The PRESIDENT: Order! Mr David Shoebridge will confine his remarks to the motion.

Mr DAVID SHOEBRIDGE: Mr President, the former assistant commissioner described the actions of Commissioner Scipione as totally inappropriate—self-serving and inappropriate.

The Hon. Michael Gallacher: Mr President, how many times?

[Time expired.]

Question—That the motion be agreed to—put and resolved in the negative.

Motion negatived.

Appendix 2 Minutes

Minutes No. 3

Wednesday 9 November 2011

Members' Lounge, Parliament House, Sydney, at 6.41 pm

1. Members present

Mr Khan (*Chair*)
Mr Ajaka
Miss Gardiner
Mr Mason-Cox
Revd Mr Nile
Mr Primrose

In attendance: David Blunt, Stephen Frappell.

2. Apologies

Ms Fazio (*Deputy Chair*)

3. ***

4. ***

5. Inquiry into statements made by Mr Shoebridge

The Chair tabled the terms of reference of the inquiry, as referred to the Committee by the House on 12 October 2011.

The Chair also tabled a copy of the statements made by Mr Shoebridge referred to in the terms of reference.

The Committee deliberated.

Resolved, on the motion of Revd Mr Nile: That the Committee secretariat prepare a discussion paper on the issues raised by the terms of reference for consideration by the Committee at its next meeting.

6. ***

7. Next meeting

Resolved, on the motion of Mr Ajaka: That the Committee meet on Tuesday, 22 November 2011 at 1.15 pm to consider the discussion paper prepared by the secretariat on the inquiry into statements made by Mr Shoebridge.

8. ***

9. Adjournment

The Committee adjourned at 6.53 pm until Tuesday, 22 November 2011 at 1.15 pm.

David Blunt

Clerk to the Committee

Minutes No. 4

Tuesday 22 November 2011

Members' Lounge, Parliament House, Sydney, at 1.15 pm

1. **Members present**

Mr Khan (*Chair*)

Ms Fazio (*Deputy Chair*)

Mr Ajaka

Miss Gardiner

Mr Mason-Cox

Revd Mr Nile

Mr Primrose

In attendance: David Blunt, Stephen Frappell.

2. **Confirmation of minutes of previous meeting**

Resolved, on the motion of Mr Ajaka: That minutes no. 3 be confirmed.

3. **Inquiry into statements made by Mr David Shoebridge**

In accordance with the Committee's resolution of 9 November 2011, a discussion paper on the issues raised by the terms of reference was distributed to members' offices on Friday, 11 November 2011.

The Committee deliberated.

Resolved, on the motion of Ms Gardiner: That the discussion paper be the report of the Committee with the following amendments:

- Paragraph 1.33 to be reworded into a recommendation
- Paragraph 1.38 to be reworded to note the previous recommendations of the Committee
- Paragraph 1.47 to be reworded into a recommendation.

Resolved, on the motion of Ms Gardiner: That the Secretariat be authorised to make any typographical and formatting corrections to the report.

Resolved, on the motion of Ms Fazio: That the Chair's Draft Report be circulated to members and that members have until 9.00 am on Wednesday, 23 November 2011 to notify the secretariat of any changes, whereafter the report is authorised to be tabled.

4. ***

5. ***

6. **Adjournment**

The Committee adjourned at 1.45 pm until Thursday, 24 November 2011 at 1.00 pm.

David Blunt

Clerk to the Committee