



**Crime and Corruption
Commission**

QUEENSLAND

CRIME AND CORRUPTION COMMISSION

MAKING ALLEGATIONS OF CORRUPT CONDUCTION PUBLIC: IS IT IN THE PUBLIC INTEREST?

TRANSCRIPT OF PUBLIC FORUM

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Mr Alan MacSporran QC
Mr Marshall Irwin
Mr Richard Bingham
Dr Rebecca Denning

CCC Chairperson and Panel Chair
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Speaker:

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- Mr MacSporran QC Thank you. Thank you, Professor SAMPFORD. Can you, for the record, just give us your full name and your – where you're based?
- Professor Sampford Professor Charles John Gordon SAMPFORD, at Griffith University.
- Mr MacSporran QC Thank you. We've read your submission and will offer you, as we have done to other submitters, an opportunity to make an opening statement to summarise your submissions and position.
- Professor Sampford Sure. I don't want to go through the submission I made in detail; probably the summarised best view is on page 1. I thought I might make a few points, especially having read a few of the other submissions – not by any means all of them. I just flew in from America this morning at 10.30, so I'm still getting used to the time zone and so forth. But it might be useful to say is there a problem, which I think the previous speaker wanted to talk about, and my clear view that there is, and when I came up to Queensland I thought it was tremendous all the – what I called an ethics regime; that's the various sets of institutions, the set of norms, rules, institutions which were promoting integrity and reducing corruption – absolutely tremendous thing, and, of course, the creation of the then, as it was, CJC, and I remember talking to the first Chairman of the CJC about this very matter. It was interesting that the opportunity of reporting complaints was actually an opportunity that the creation of the CJC had actually made.
- So is there a risk of making frivolous claims? I think there is a clear risk. Do you have to prove them? Often I think when it comes to governance it's not a question of proving that there is a problem, but there is a risk of a problem, especially risks of corruption generally. This is not so much the risk of corruption; the risks that the process for preventing corruption will itself be abused. And I think we've had a few anecdotal issues and, of course, where they are raised within an election campaign it's very hard to deal with them adequately, correctly and instantaneously. But my other argument is why there's a problem, partly through analogy. During the – and I come back to this. This is a very serious form of crime. I don't want to sort of set up a competition between traditional organised crime, corruption and terrorism – they're incommensurable evils – but it's very substantial and, of course, the whole point about

corruption is that it takes place without the – not in the presence of its victims, and that’s one of the reasons why it’s so difficult to track and to find.

And I draw analogy – the thing is that if in fact you were making an accusation that, “I think somebody is planning a terrorist act,” or, “I think this person is part of the mob,” or, “I think this person is engaging in corruption”, then actually going out and making that statement publicly does not strike me as the best way of dealing with that particular problem. And in fact if – you know, if there are limitations on the reporting of planned raids on the mob, or planned raids on terrorist cells, I think they’re actually quite sensible. And one of the questions is that is it sensible to have those – some restrictions on the reporting of the police going looking after – chasing these things? There are, of course, in other areas. There has been – according to Rupert Murdoch in an address to his – the staff of the News of the World that police paying – being paid for - information about their police activities is a very longstanding tradition. I don't know whether that’s true or not, but the thing is that – and all we have is anecdotal evidence – but I think that’s not the best way in which the investigations into serious crime should be gathered.

And this comes to the last thing is that – and I’ve put it in the paper – if you really think somebody is engaging in corruption, what’s the best way of dealing with it? Well, it’s fantastic we have a CCC. We didn't before; we do now. Go and tell them. If in fact you do make it public at the same time, then there’s a real chance that the people will actually flee, that they will destroy evidence, that they will intimidate witnesses, they will concoct stories that are consistent or else they’ll work out who the whistleblower is. So that if you are going to report alleged corruption, and report it publicly, then I wonder what is your goal? Is your goal to stop the corruption or is it something else? Is it actually a private interest? Your private interest in getting elected to that office or your private interest in damaging – or maybe just a private interest in having a big story to report on the front page of your newspaper. So I’m very suspicious, and it’s a matter of integrity, and it’s a question of what are they really doing.

So for me the thing is that I think it’s important that one prevents, that – well, it’s not a blanket ban – I’ll say that in a moment – it’s not a blanket ban on all of them,

because there is a public interest in reporting allegations of corruption, but the question is who decides and when is it revealed?

Now, there was one thing that was discussed here, and, of course, you can say well, maybe there's defamation. To some extent there's a problem, because you're accurately reporting the fact that a complaint was made and – whereas the thing is you're not entirely sure whether there might even be claims of privilege to this, but in any case the thing is that it's hard – defamation is difficult, and, here, you're reporting a fact that an allegation has been made.

Now, it's – I think that if one does actually require confidentiality, then I think there's some things that can be done with defamation law, and I've been suggesting that there should be – there can be a strict liability if it's false, that there should be room for exemplary damages and make it absolutely clear that there is – all privilege is waived. I mean, there should be privileges provided if you make the complaint privately, but all of those would be abandoned by making it publicly. And this comes to the matter you were discussing with the previous speaker about criminalising malicious and frivolous complaints. As you know, the thing is I actually – I strongly suggested to CALLINAN and ARONEY that they should require this confidentiality, with various exceptions, but I was very much against the idea of trying to criminalise the complaints, because I thought that would be a deterrent. People would be concerned at the time, of course, they were actually requiring you to make out the elements of an offence, which I thought was absolutely dotty, again because I was doing an analogy to Crime Watch.

Now, often the thing is that if there's – especially if there's corruption and things – there might be little bits of evidence, none of which by itself is sufficient, and they – and the point is that the police in Crime Watch and the CCC will often gather a case from lots of isolated elements. And the other thing – is it going to whether it's malicious or not – to some extent it, of course, has wasted the CCC's time, then you can deal with that in the same way as wasting police time, but you're cautious about that because actually you want – you want the public to report to you. They are, as every policeman knows, and I'm sure as every integrity agency – the public are the most important, so don't scare them – don't scare them

off. So to me it's confidentiality for the initial report rather than punishing somebody for malicious – because often the thing is, you know, just because it's malicious doesn't mean it's not true, and in a sense the thing is the CCC needs to know whether it's true.

The next thing I want to – I want to emphasise, when talking about openness and transparency and human rights, I don't think anybody who knows me would doubt my absolute commitment to those and the work they've done over many years, including being the first adviser to the Scrutiny of Legislation Committee, which does have the responsibility of trying to vet in advance rather than validate in retrospect the compliance with human rights. But of course with human rights the thing is that, as I point out, the human – human rights do have limitations in the parts and very specifically refer to reputation. When it comes – of course, it's not just a matter of reputation. If it's done before an election it is very hard for a court to make compensation for the fact that somebody hasn't been elected because of statements that have been made about them. I mean, it's a very difficult thing to do, and it's one of the issues of electoral law, and so once – it's very difficult to remedy it.

The other thing I want to emphasise is I'm not in favour of a blanket ban. As I say, the question is that the revelation is actually – is generally in the public interest, but the question is who decides and when, and I think firstly it should be the CCC. The CCC will often, just like the police will – sometimes they want to burrow away and find out as much as they can, and then they issue calls for public information, and, of course, the CCC can do that; it can also have its public hearings.

Now, if in fact a complainant thinks the CCC should be doing two more – there's two things. Firstly, there's the question of, you know – you know, they have – if you think that they should have made the complaint public, of course, they can ask the CCC to do it. You can complain to the Parliamentary Commissioner or the PCCC, and I'm totally in favour of the idea of actually – if in fact the CCC says no – and of course the – you know – then to be able to go to court and get a court order, and it's something – you'd build up your jurisprudence. I'm not, by the way, in favour of having just a defence, you know, that it's – that it's a defence if it's reasonable and justified, because that puts a lot of pressure on them. I think it's better to have specific ways in which it could

be authorised. You could have the Information Commissioner, but I'm not sure the Information Commissioner is really set up to do that, but so you clearly have – if you're – if you're agreed that the allegation hasn't been instantly made, then you've got a means for it.

But the other thing is that, say, if the CCC has not done a proper job, say if it is not, and it's – you know, anyone who has power can – power can be abused. Our process of bipartisan appointment is, of course, a really good protection against the abuse of powers of the CCC and the PCCC, but nonetheless the thing is that if it – there's another point at which – and I've said always from the beginning that I'm a bit wary of having instant reports of the complaints, but if people believe that the process has been – has not been followed properly then certainly there should be, and that's when whistleblowers and all that comes into effect, and I think that's appropriate, of course, and we do have methods at the PCCC and – but nonetheless I'm very happy with the idea that there can be aims of whistleblowers and so forth.

The next thing I want to say is that – the importance of the media in all of this, and the importance of journalism – good journalism and the protections that journalists provide. I think that that's a critical element. I've said separately, of course, is that one's got to be careful about starry-eyed images of what particular institutions are like rather than what they could be. I mean, some people have starry-eyed approaches to democratically elected Governments because they're elected by the people, and just leaving it to that you have Robespierre and you have the corruption of the 1980s and various things in between. Then, of course, there are anti-corruption bodies. Sometimes people are enormously impressed by anti-corruption bodies and often they have more legitimacy, as they do in Queensland, than the Governments themselves, but they can abuse their powers as well. And the media – the media do have a lot of power and the media can abuse their power as well.

One thing in the Joint Media submission is that – is how that “public discussion and debate are important elements in open transparency in accountable Government”, is very much of the issues, but I'm not sure that the media is particularly good in dealing with particular allegations against particular people. In fact, the thing is that in our own – in our own – in so many

jurisdictions – it's not unique to Queensland – it is not uncommon for a newspaper to report a trial, and, of course, the only thing that the people have to go is what's reported.

They're not there; they don't hear all the evidence, they don't see the look on the defendant's face, they don't know the various alternative sentences and judgment. I think they often do an extraordinarily bad job when it comes to individual complaints and individual trials. So I think that they're strong; it's important – we need to defend them. In fact, I'm someone who really defends and emphasises that professional journalists are very necessary – we have some very good journalists – but the journalism profession as a whole is far weaker than the profession which I'm a part – lawyers – and the profession – and the medical profession and engineers and so forth, because so often the decisions about publication are actually made by people who are not members of the profession and which their decisions are not going to be subject to professional discipline, as anything that I would do in a court, or a doctor or an engineer would.

And so I'm very much in favour of the development of the profession of journalism in Australia, but it has weaknesses, because it is a weak profession compared to others. And if it was stronger – I believe that a strong, independent profession would actually – should have all the benefits of the shield laws and more, but the media as it stands I don't think that they're always in a position to judge the public interest, and that's why I'm very happy for them to go to court, go to the CCC, but not to leave it just up to – up to the media.

The media are necessary. Democracy is necessary. Integrity agencies are necessary. We'd all like them to be better, but we shouldn't pretend that they are all ideal, because if in fact they were all ideal then we wouldn't need fourth arm – we wouldn't need integrity agencies and we wouldn't need the media. We need them all, but we shouldn't pretend that any of them are as perfect as one wished they were. So those are the basic points I would make – summarising some, going a bit further, ignoring a few others.

Mr MacSporran QC

Thank you, Professor.

- Technical Support Sorry, can I just interrupt? Can we just check those mikes, please?
- Professor Sampford Oh, yes, sorry, which – this one, I think I’m talking – oh, have I been – yeah, okay.
- Mr MacSporran QC Thank you, Professor. Can I just pick up a couple of points in what you’ve told us, and I thank you for your evidence on these points. You said one possible solution is an amendment to the defamation laws. Would it be the case, though, that you’d still have a difficulty with that in the sense that it would still be expensive and cause considerable delay before that remedy could be applied?
- Professor Sampford I agree. Actually I’m not suggesting that would be the only thing, but, in fact, like a lot of these things, I think often it’s good if you’ve got a civil law limb as well as a criminal law limb. The criminal law deterrent is itself extremely difficult, and there are very appropriate limitations and difficulties in securing convictions, and so I always like to see a mixture of, you know, ethical standard setting, legal regulation, institutional design, and so I’ve sort of emphasised more the changes in defamation law rather than just the – because often, you know, that will be a strong deterrent in some cases.
- Mr MacSporran QC Yes.
- Professor Sampford And, although it takes a long time, if you do things like strict liability and ending privilege and allowing exemplary damages then that’s a pretty good chilling effect on reporting and not waiting until the CCC makes up its mind. After, of course, it’s – after the CCC that’s fine; they can go in, they can criticise, they can argue – absolutely – but they can – and also they can pull it all together. The CCC has looked at different cases. The CCC itself, of course, does look at the problems as a whole, not just individual cases, and the media should be engaged in intense debate about that, and so that you get feedback and so forth, but it’s the – the initial – the initial reporting of it independent – against the wishes of the CCC; that’s the thing that I would seek to stop.
- Mr MacSporran QC Yes. I take your point that we shouldn't be seeking to criminalise the making of the complaint, because the complaints are the lifeblood of the material to be investigated, and we need those to come in, and a good example of that is the removal of our powers a few years ago to receive a complaint without a stat dec. The

requirement was made that the complainant had to sign up to a stat dec to verify the complaint. The good intention was to weed out minor, frivolous, baseless complaints and deter people, but the danger in that, of course, was that some people who had a genuine complaint to make and corruption to expose would be deterred from making it.

Professor Sampford

Yeah.

Mr MacSporran QC

So it's good to see that's been reversed this year and we have that power now back to receive information in any form, including just by word of mouth and so forth.

Professor Sampford

And, sorry, can I say, by the way, my – my point at that time was that it's not a requirement of Crime Watch.

Mr MacSporran QC

Yes.

Professor Sampford

And why should it be a requirement of this? To me that was – that was absurd, and I'm very glad that that change was made.

Mr MacSporran QC

Yes. Now, I think we'd all agree that there is a danger, perhaps it's hard to put it as remotely as theoretically, because I think it's more than that – it's anecdotally. Clearly there's a danger to reputations by the making of a false complaint, but if I could ask the next question which is, what is the harm to the public interest, in your view, in requiring a complaint to be assessed by the CCC, for instance, before it is made public, the idea being to establish whether it has some merit? If it doesn't, it never becomes public. If it has merit, it will become public in the ordinary course of the investigation. Is there any harm in the – to the public interest in that scenario that you can see?

Professor Sampford

Very rarely. It might be, of course, that the CCC, you know, will inevitably take some time, and this is an urgent matter and so forth. Although I'm – I wasn't close to either party at the time, and I try to avoid being close to either party, but I wasn't sure whether part of the intention in 2012 was that the CCC – CMC, sorry, at the time – wouldn't be able to report before the election, and as far as that's concerned the thing is that it makes it – you know, obviously there's enormous pressure on the CMC to come up with a conclusion, and to come up with the right conclusion is particularly difficult where – especially if, you know, there was a lot more evidence

that needed to be looked at, and so I think that that to me is – it's going to take time, and allow it the – of course it means that if there's a really – if there's a really serious issue and somebody really is corrupt, okay, they get elected and then they are disgraced and they lose office, but the thing is that if, on the other hand, you make an unjustified accusation and it's later proven to be false then the – it's very hard for a court to say, oh, no, we've got to change – change – change – change the election – change the election result. And for that reason it's a question of which mischief is more readily dealt with, and I think the mischief of actually the person – of the complaint not being made before the election at least if the person is actually serious – you know, engaged in serious corruption and given the network – given the bodies we have in this State, there's quite a good chance they'll be caught.

I mean, I remember when two Labor Ministers went to jail, there – it was on the Premier's accountability round table thing and – does this mean that all of a sudden, you know, we're more corrupt or does it mean the thing is that our means for finding corruption are actually that much better, and, of course, you don't want to just rely on the latter, but nonetheless the thing is that it's – I think that our processes are far from perfect, can always be improved, but I think that – you know, my own view at that time was that there are some people who thought that this was all just a nice gloss and they could keep on doing business as usual. I think the real thing is that people found that you can't do business as usual, and that was actually a bit of a triumph for our integrity system, and I think that it's a high – it is, and it certainly should be, a high risk activity to engage in corruption, and I think that probably there is probably pretty limited corruption at the State level. At the Local Government level, I mean, there's a lot of temptations, and some people give in to temptation.

Mr MacSporran QC

I think that it's correct to say, isn't it that any proposal to limit, even for a short time, the ability of the media or anyone else to publicise allegations of corrupt conduct depends very much on public confidence in an agency like this?

Professor Sampford

Mmm hmm.

Mr MacSporran QC

Without that public confidence and trust the system can't work in that way. People will be not comfortable coming

to us confidentially as opposed to airing it publicly to make sure something is done about it. Do you agree with that?

Professor Sampford

Yes. No, I agree, but actually one of those things is it's the requirement of bipartisan support for appointments that is enormously strong, and it can be gamed – it can be abused, that – and some people have said it has been at various times, but I think that's an important basis for confidence. And, of course, the other thing, as I say, is if, in fact, you do stuff up then there's plenty of time to debate it afterwards, because that becomes a systemic decision. Are the institutions appropriately structured, empowered, staffed and so forth? And that, of course, is an issue, not about an individual, but about the system, and, yes, they can jump in and have a barney about that, and it's very appropriate for the media, commentators, public intellectuals, ordinary people to have views about the effectiveness of the system.

I agree on the whole – I think it's the legitimacy of the – actually, the CJC, CMC and CCC, has been very very high, and I don't know the details of the work, but I've no reason to believe that that's not deserved, and as long as it continues on a bipartisan appointment basis I think there's a very good chance that it will continue, but, you know, certainly they should have every opp – and I'd make the distinction between there's the crime and the cover up. In a sense the thing is there's reporting of the crime, well, the thing is that the analogies to other forms of serious crime suggest to me you don't report that, but, of course, if, in fact, the CCC is not systematically doing it then it becomes the equivalent of a cover up and, of course, that's much worse and that's subject to even juicier stories, but then they've got to have some juice to run those stories on.

Mr MacSporran QC

Yes.

Mr Irwin

You've mentioned your submission to the Callinan/Aroney review, and you'd be aware of the recommendations that were made by that review, including Recommendation 8, which was a legislative provision which made it an offence in certain circumstances to disclose information about a complaint. Can you comment on that recommendation? Is it something that you would agree with or do you think it's too wide, too narrow, does it need some tweaking, is it a

good basis for consideration as to an appropriate provision to deal with non-disclosure of information?

Professor Sampford I'm going to have to apologise that I haven't read the text of the proposed amendment recently, and so I'd say it's broadly in that direction, but I haven't sort of gone into a drafting exercise – just looked at the principle – and I'm very, very happy to make a supplementary submission on exactly what wording it would do. The same as I – I imagine this is a matter of a discussion in principle. I'm very, very happy to give any – to give, you know, further submission on the actual drafting.

Mr Irwin Yes. Well, that option will be open to you. And are you aware of the ICAC legislation in South Australia, particularly Section 56, which is another version of a non-disclosure provision?

Professor Sampford I was made aware by your background paper.

Mr Irwin Right. Do you have any comments about that or is that something that you'd like to address in a supplementary submission?

Professor Sampford I would want to do that, because it's obviously – you know, when it comes to – I'd want to look at it carefully from the relevant rights and liberties of Queenslanders, which has to be considered by your drafters.

Mr Irwin You're probably aware from reading some of the other submissions that there are a number of arguments that are put to us in favour of not changing the current situation as it exists in Queensland and arguments in favour of publicising the fact that complaints are being made to the Crime and Corruption Commission, and I was going to give you an opportunity to comment on some of those. It has been suggested, as you may know, that by publicising the fact of a complaint raises public awareness of corruption in Queensland and that should continue to be allowed for that reason. Do you have any view about that?

Professor Sampford Well, actually – technically it says that – the argument, as far as I understand it – I've read it in a few submissions – is that the publicisation of complaints about corruption raises the awareness of the population of corruption in the State, and anybody who says that is suggesting that you make an allegation it means that there must be – you know, there must be corruption. So actually I think that

it's – if you make that assumption then you're actually conceding that the making of the allegation will mean that the public will think this person is corrupt, because, of course, it's not a reference to anybody else; it's a reference to this person.

Mr Irwin

Thereby prejudicing that person's reputation, in your view?

Professor Sampford

Yeah. And also it's not raising awareness, you see. I mean, it's actually a logical contradiction, in my view. You're making – you're raising awareness that allegations of corruption have been made. It may mean that there is a risk of corruption which has been identified, but even then it depends upon the nature of the complaint itself. So, no, and, in fact, I think there's a bit of confusion to that, and it's a worrying confusion if publicising complaints makes you think that the complaint is true then in that case that indicates a flaw in the way in which it's actually reported, and I think much better sort of to report those that have been found to be of some substance. The CCC is not going to be shy of talking about those cases of corruption that have been found. In their annual reports presumably – I haven't read one recently, but presumably it will say how many complaints there were and how many were investigated and so forth, and so you understand that.

But the other thing, by the way, on bringing awareness of corruption, I always think that we must look at the risk of corruption, because you do not act only when an evil has been proven to occur. I describe integrity institutions as being insurance against the abuse of power. If you create power then you create the risk that it will be abused. You actually create it so it be used for the community benefit, but in creating power you actually create the risk that it will be abused. This is just – this is inevitable, and if you don't think it's inevitable then you're a fool, but the thing is there are very few fools around this table or those who report go around this table. If there's a risk you have to deal with the risk; you don't have to prove that actually the risk has materialised.

I say it's a bit like taking insurance, but you can't – they don't – you don't take insurance after your house has burned down. In fact, if it's burnt down or if you know it's going to burn down - which you might have some problems with *uberrima fides* - so basically the thing is that if there's a risk you have to take insurance and

integrity measures, and that's what we need to discuss – what are the risks of corruption and what are the ways of dealing with it? Some people talked about the political donations and so forth. There are a lot of ways in which you can deal with that, which we won't go into here, but there's clearly a risk. There's clearly a risk in, you know, Government advertising; I've made this point before Senate committees. There is a risk and one acts when there is a risk, not when there's a proof.

Mr Irwin

It's also been suggested in some of the submissions, I'm sure you're aware, that by disclosing allegations of corrupt conduct that has the benefit of eliciting additional and related complaints or evidence, in other words more allegations surface, as a result more people are prepared to come forward and provide evidence to the CCC, and that that's a benefit. Do you have a view about that?

Professor Sampford

I think that can be a great benefit, but I'd leave it to the CCC to make that decision, just as I would with the police in making the decision of, you know, when they confidentially investigate and when they ask for more information, and when they – so, absolutely, but the question is who makes the decision, and on the whole I'd say CCC with complaints to the PCCC and the court and so forth. So they're the ones who are making the decisions. Other people have got a lot invested in it or may have an interest in it, a private interest in the outcome. I'd prefer to see the CCC making at least the initial decision, subject to challenge.

Mr Irwin

All right. So would it be your view that if there was some new offence in the CCC legislation preventing the disclosure of information about complaints, however that section is drafted, there should be an exception that allows the CCC to make a public disclosure of the complaint subject to certain criteria being satisfied?

Professor Sampford

Well, actually, the way I've said it is that it should be up to the CCC to make the decision just like it's up to the police.

Mr Irwin

Yes.

Professor Sampford

And I think that if the CCC starts abusing its powers, that's when the PCCC and the Parliamentary Commissioner come in and – which is fine, but basically I'd leave it up to the experts in that. I mean, the CCC wants to get scalps, wants to find people who are corrupt,

and so if there's no disinterest in actually making that – and in fact, of course, there are some arguments that you shouldn't have public hearings and that all of it should be confidential by the – by ICAC – and I've disagreed with that, but I think that it's an important power to give to a body, and that's why it must be given to a body that has appropriate integrity measures, but, yes, I'm very keen on that, and I'm against the idea that it should all be carried on *in camera* for exactly that reason. Because often – as we say, the thing is that often you won't know the full extent of the corruption or even whether somebody is corrupt; it's just suspicions and, you know, as in, you know, Neighbourhood Watch and so forth, it's suspicions that are reported and in which a case can sometimes be built up.

Mr Irwin

It's also been suggested to us that when suspicions are reported or allegations are reported prior to an investigation, through the media, for example, that the Queensland public is astute enough to be able to make the distinction so that reputational damage will not occur, or not be so severe, because the public will be able to filter out the fact that they're only allegations; they haven't been proven yet. Do you have a view about that?

Professor Sampford

Well, that's theoretically possible if it was reported. I return to the previous comment about awareness of allegations mean awareness of corruption. Anybody who says that I'm not going to – I'm not going to entrust them to make that distinction very carefully, and I'm not sure if it sells any newspapers.

Mr Irwin

All right. And one final matter. Again, you may have noticed from at least some of the submissions that a proposition is advanced that the disclosure of the fact that a complaint has been made makes the process of the investigation of those allegations by the CCC much more transparent so that the public, in viewing the transparency of the investigation, will have greater confidence in the CCC and that that publicity is necessary so that the public will have confidence that the CCC is acting appropriately in the way that it approaches investigations. Have you got a view about that?

Professor Sampford

I'm very dubious about it. I said before about the capacity of the media to sort of – to, you know, report particular cases and so forth, especially as there's going to be – you know, how far do they want to go? Every single piece of information that the CCC has has to be

public and made open so that people can make those decisions. The public doesn't have time to go through all the details. Just as I said, just like in a trial, you know, they may think this is a terrible verdict. It may or may not be, but the thing is it's made on, sometimes, selective descriptions of elements, but in any case which there are going to be alternative views and, you know, it's very hard for the public to make a decision about that particular corruption allegation.

I do want to say one thing, though, is that – and I was thinking about this when it comes to actually allegations of corruption, and, of course, as I say, often these won't be – it will be suspicions and so forth, things that – you know, suspicions from a number of different people which the CCC can build into a case, just as the police do. I think that there are some things, though, I mean, which aren't the straight out allegations of corruption, but reporting conflicts of interest. You know, reporting that so and so – this Minister has made a decision and that, you know, knowing that the donations have been received from that particular company.

Now, reporting donations, of course, I think, you know, I think that's the whole point of it, and so I think sometimes there will be potential conflicts of interest, questions and so forth which will be appropriately in the public domain. Because often, of course, one thing is there isn't – we don't know whether it's a matter of corruption or maladministration or somebody hasn't handled a conflict of interest properly or hasn't thought through, and that's one of the things that sometimes there's a matter that somebody will report to the CCC, but it's really a matter of maladministration that goes to the Ombudsman and vice versa. So I think that – you know, I'm not saying there's got to be a blanket refusal to allow any, but it's just when it comes to the allegation of corruption there's – so there's lots of other things they should report, and freely do so.

Mr Irwin

All right. Thank you for that.

Mr MacSporran QC

Thanks very much, Professor. You've covered a lot of the things very amply that I wanted to ask you about, but one quick question, if I might. You say that the central question is who makes the decision and when. There's also a central issue from my perspective about transparency and accountability, as you acknowledged, and, indeed, trust and confidence in the organisation that

makes the decision. I'm interested in any suggestion that you might have about ways to enhance that transparency and accountability and so on, in addition to what exists at the present time. Some of the things that might be considered in that context would be publication of criteria by which those decisions get made, or publication of reasons after the fact, those sorts of things. Is there anything else that occurs to you that might assist in terms of that openness and public confidence space?

Professor Sampford

To some extent, I think, like any investigatory agency, it's got to do a lot of its work *in camera*, you know, confidentially, in order to be successful. A lot of the public confidence is that when, in fact, the trial starts it's clear that – “Gee, the things – they went through this, they did that”. You've got to be careful about, sort of, you know, revealing means and so forth. That is a real issue, which, again, I think is something that the Parliamentary Committee should be interacting with the CCC about, just how much you report, but I think it's when somebody – a case comes to court and they see the methodical way in which the evidence has been presented then that is a good opportunity. But I think that the awareness of sort of what corruption is – and I think you do – you – we're always enormously supportive of the research function and tried to defend it at the time that the – that it was under attack, because I think that the, you know, research function, building on confidential information you have about particular investigations, some of the investigations that – suspicious, but you couldn't proceed and so forth. So I think that the research function, along with the investigatory function and the education function, is, I think, very important. And you've got to keep your profile in the public, although you can't do it sort of American style where sort of, you know, basically you've got to get scalps or else the thing is you're seen to be hopeless.

Ultimately, it's a bit like the Army. The Army is most effective if you never have to use it, you know, and so the CCC is most effective if nobody is every corrupt. Luckily there'll be people who make – who decide to become corrupt, so – but nonetheless it's sort of, I think, publicising what you do, how you do it, looking at – I think potentially looking at corruption risks – helping the – so encouraging the public to sort of report things – here are the risks – and getting them involved in sort of reporting, not actual corrupt behaviour, but some of the potential indicia of corruption, and it becomes even more

important that that become confidential, because somebody might have a perfectly good reason.

You ask somebody why he has a remarkable amount of wealth. I remember when I was with the World Bank Mission on governance to Indonesia in 1998, and we were introduced to [REDACTED] and the World Bank people explained to us that the house was worth 8 million dollars, which was around about 100 times more than his life-term salary as the public official that he'd been. Now, I think that we don't have anything as bad as that. I once said to a Governor-General who was in East Melbourne, and there was a magnificent mansion being sold up the hill, and I said, "You're one of the few heads of State in the Asia Pacific who couldn't afford that." So I think that we're actually – you know, we've – but I think that, you know, in all of that thing – explaining who you are, what you do, how the public can help is always a good thing, but I haven't studied it in detail so I can't give you a better explanation – answer – than that.

Oh, and the other is talk to the media, of course. You know, one thing that Fitzy was so good at is every Friday he'd have a chat and explain what was going on and so forth, and to some extent the thing is that, you know, give them your stories – obviously they're going to make their own, but, you know, obviously talk to them. Hopefully they are your greatest allies in raising awareness of corruption and awareness of what's being done about it and how the public can help.

Mr MacSporran QC

Thank you. I think you're alluding to, in part at least, our prevention function, which was, thankfully, returned to us this year, having been removed a couple of years ago. So it's a much more palatable outcome to prevent corruption – identify it and prevent it – rather than being on the back foot trying to investigate and lay charges. So I think we're about out of time, Professor, but thank you very much for your contribution; it's been most helpful and thank you, particularly, for coming along so soon after getting back into the country.

Professor Sampford

Been an absolute pleasure. Thank you so much.

Mr MacSporran QC

Thank you very much.

END OF SPEAKER