

*Standing Committee on Environment and Public Affairs — Forty-eighth Report —
“Overview of Petitions 16 May 2017 to 30 June 2018”*

Resumed from 22 November 2018.

Motion

Hon MATTHEW SWINBOURN: I move —

That the report be noted.

Hon NICK GOIRAN: I would like to make some remarks on the forty-eighth report of the Standing Committee on Environment and Public Affairs. The report before us provides an overview of petitions between 16 May 2017 and 30 June 2018. It was tabled in November last year. Interestingly, if members have had the opportunity to read this report, they will know that the committee made a decision that the petitions that it will refer to in this report are only the petitions that have been finalised during that period. In fact, I think the word that the committee uses is “concluded”. When the committee has decided to conclude its inquiries and finalise the petition, it rates a mention in this report; if not, it does not rate a mention in this report. That may well be a standing convention that this committee has adopted following on from previous iterations of the committee, so I make no complaints whatsoever about that. I am particularly interested in that at this time because members will see at page 2 that the committee states at paragraph 1.11 —

The Committee concluded its inquiries into 51 of the 74 petitions that were tabled in the Legislative Council during the reporting period.

That, of course, means 23 petitions were not concluded during the reporting period and therefore are not mentioned in this report. One of those was a petition that I tabled—petition 32—on 1 November 2017. Remember, Madam Deputy Chair, the period of time in question is from 16 May 2017 to 30 June 2018. During that window, I tabled petition 32 on 1 November 2017. That petition happened to be the largest petition tabled in the Legislative Council in the 2017 calendar year. It called for an inquiry into the systemic failures that led to at least 27 babies being born alive and left to die. That particular petition contained 7 243 signatures. I would like to spend a few moments letting members know what events took place with regard to that petition during the reporting period. Of course, I would not dare to go outside the reporting period. We will speak about matters outside the reporting period on another day, but during the window that has been provided for by this committee advising the house of its work during that time, it is useful for members to be aware that on 1 November 2017, I presented a petition containing 7 243 signatures and couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia recognise the world-class standard of care provided to premature babies delivered in Western Australia and express our concern that at least 26 Western Australians have been born alive and have not been provided the same treatment and care as other babies delivered at the same gestational age solely because their live birth was the outcome of an abortion. We are distressed to learn that the Ombudsman has stated he has no jurisdiction to investigate these child deaths and that there is a difference of opinion between the Department of Health and the Coroner on whether these deaths are reportable. Worse still we understand that the Department of Child Protection was not notified in any of these cases when self-evidently these children must be at the apex of those at-risk in our State.

Your petitioners therefore respectfully request the Legislative Council to establish an Inquiry (whether by a Standing or Select Committee) to investigate the systemic failures that:

- a) Allowed at least 26 Western Australians to be left to die;
- b) Took place without any agency either having jurisdictional investigation and oversight or acting upon their jurisdictional powers of investigation and oversight.

And your petitioners as in duty bound, will ever pray.

That petition was tabled on 1 November 2017 and contained 7 243 signatures. As is customary, that petition then went off to the committee. It is the ordinary custom and practice of that committee to then contact the—I was going to say chief petitioner but that is probably not exactly the right term —

Hon Stephen Dawson: The principal petitioner.

Hon NICK GOIRAN: Thank you, honourable member. The committee then contacts the principal petitioner asking for any submission that they might like to make and also the tabling member. I can confirm that that certainly was done in this instance because as the tabling member, I not only received such a request, but also responded to that request. But in the meantime and in that same window, I also asked a question on notice in this place about matters pertaining to that petition. I asked that question on 13 March 2018, which was still in the

window of the work that is being reported on by the committee. It was answered on 10 April 2018—also in that same window. The question that I asked was directed to the parliamentary secretary representing the Minister for Health and, for the benefit of *Hansard*, it was question on notice 651. My question states —

I refer to the cases of babies who show signs of life after an abortion procedure, and I ask:

- (a) what is the total number of these cases between July 1999 and December 2017;

The answer to that first part of the question was —

The answer to this question has been suppressed for patient confidentiality. Provision of this figure would reveal a number less than 5 for the number of cases in 2017 when compared with the answer to Question on Notice 5, part 2(a) (11 May 2017): “As at 19 May 2017, a total of 27 cases of abortion procedures resulting in the live birth of a child have been reported between July 1999 and December 2016.”

That was very interesting in and of itself because as is customary for the Department of Health, it has, I believe, an obsession with the suppression of information. Once again it has suppressed that information, but in answer to the question it reminded me and other members that in answer to another question not long before, it had reported to the house that there had been 27 cases. The reason I mention that is because the petition I refer to said that the citizens—the 7 243 signatories—were concerned that at least 26 Western Australians had been born alive and left to die. Of course, shortly afterwards it became apparent that there were 27 cases—or at least 27 cases because anything else after that was being suppressed by the Department of Health. By the time we get to the question on 13 March and the answer on 10 April, we know without a shadow of a doubt from the information from the Department of Health that at least 27 such Western Australian babies were left to die. During the same reporting window, on 9 April 2018 a letter was sent from the Minister for Health to the hardworking Chair of the Standing Committee on Environment and Public Affairs. My learned friend Hon Matthew Swinbourn was the recipient of this letter dated 9 April 2018 from the Minister for Health. This letter is extremely brief and I would like the opportunity to read it to members.

The DEPUTY CHAIR (Hon Adele Farina): Hon Nick Goiran.

Hon NICK GOIRAN: I would like the opportunity to read to members this letter, which is so brief that it will not take but a moment for me to read out. This is the response from the Minister for Health to a standing committee of the Parliament of Western Australia on a petition that contained 7 243 signatures of people concerned about at least 26 Western Australian babies left to die.

Whatever view members might have about this issue, we would think we would get a comprehensive response from the chief health governance officer in this state. I want to read the response from Hon Roger Cook, MLA, Deputy Premier; Minister for Health; Mental Health, dated 9 April 2018, in relation to the largest petition that was tabled in the Legislative Council in 2017. The response states —

Dear Mr Swinbourn

Thank you for your letter dated 21 March 2018 regarding Petition No. 32, submitted to the Legislative Council on induced premature births in Western Australia (WA) from Mr Dwight Allan Randall, President of the Coalition for the Defence of Human Life.

I appreciate the importance of this matter and that views on termination of pregnancy can be very strong.

In WA, there are strict governance processes in place for the management of abortions. The service is provided in accordance with the legal requirements set out in Section 334 of the *Health Act 1911 (WA)* and also in accordance with the guidelines for the provision of safe abortion for women provided by the World Health Organisation.

For this reason I will not be recommending a review on the process or an inquiry into individual cases.

Thank you for bringing this matter to my attention.

I found that letter on the Western Australian Parliament’s website. The Western Australian Parliament usefully has a website that has an allocation for standing committees, and, if we go to a bit of trouble, we can find this sort of information. The petition had over 7 000 signatures. I had been wondering what was happening with that petition and the submission I had put in, and I thought I will not bother the committee, because I can do my own research, so I looked on the website and found this letter. It has been brought to the attention of the chief health governance officer in our state and a minister of the Crown that at least 26 Western Australians had been left to die in Western Australian hospitals. I add that they were not just any Western Australians but helpless babies who were unable to speak for themselves and defend themselves. I was staggered that that was the response that had been given to the committee. I could not believe it. As I said earlier, people might have different views on a variety of issues. However, surely we should be given a comprehensive and cogent explanation about how the health system could allow 26 Western Australians to die—but, no, that is not the case. The response concluded, and I quote again —

For this reason I will not be recommending a review on the process or an inquiry into individual cases.

Thank goodness that, last year, the government eventually brought on the Coroners Amendment Bill. It was only because of the work done in the Committee of the Whole House that we finally got a resolution about whether the Department of Health should be required to report these deaths to the State Coroner. It was confirmed to me that because the Department of Health had not up until that time reported any of these deaths to the coroner, it was open to me to report those deaths to the coroner, which I duly did the next day. I add for the benefit of members who are particularly interested in this distressing matter that these deaths are still before the coroner for inquiry. I feel for the coroner in having to investigate this matter. However, thank goodness we have an independent coroner who can investigate these matters—when the most vulnerable Western Australians are left to die without medical treatment, and when the chief health governance officer has said he is not going to inquire into those deaths.

I was so appalled by that letter from the Minister for Health that I wrote a letter to the Chair of the Standing Committee on Environment and Public Affairs. Members will be unfamiliar with this letter, so I will quote it. The letter is dated 3 May 2018, and it states —

I refer to the abovementioned petition which I tabled on 1 November 2017.

I note that the Committee has published my submission dated 7 December 2017 and also that of the Principal Petitioner, Mr Randall, dated 8 December 2017. I thank the Committee for this.

I discovered today, upon perusing the Committee's webpage, that the Committee has also published a response from the Minister for Health dated 9 April 2018. I have conferred with the Principal Petitioner about this so-called response and he has authorised me to express our distress that this grave matter about the death of 27 Western Australian children which attracted the signatures of more than 7000 Western Australians has resulted in nothing more than five short paragraphs from the Minister.

We already know that "... there is no record of medical intervention or resuscitation in these cases". Zero medical treatment for 27 Western Australian children deserves a full inquiry not a tokenistic response from the Minister. Indeed it appears to me that the Minister has not understood the matter given his response is limited to "governance processes" and "legal requirements" for abortion.

I take this opportunity to emphasise to the committee that this petition is not about the governance processes or legal requirements for abortion in our State. Rather this petition is about:

1. the standard of care for premature babies in our State;
2. the fact that at least 27 premature babies did not receive the same level of care as is normally provided in our State;
3. the fact that the Department of Child Protection was never notified about these 27 Western Australian children at risk;
4. the fact that these 27 Western Australian babies were left to die;
5. the fact that none of these 27 deaths were reported by the Department of Health to the Coroner; and
6. the fact that the Ombudsman has said he has no jurisdiction to inquire into these child deaths.

Despite these circumstances the Minister's response to the Committee is that he "will not be recommending a review on the process or an inquiry into individual cases". This is precisely why an inquiry by this Committee is needed.

The Principal Petitioner and I urge the Committee to establish an inquiry into this grave matter and are willing to make ourselves available to attend before the Committee at short-notice to make further oral submissions about this matter.

We would be grateful if the Committee would agree to make this letter public as we both receive regular enquiries from those whom have signed the petition asking what contribution we have made to seeing this distressing matter addressed.

I am pleased to say that not only was that letter received by the Standing Committee on Environment and Public Affairs, but also it was acted upon. I would like to have the opportunity to recount what the committee did subsequent to receipt of that letter, but that will not be possible today, because it falls outside the reporting period, and the last thing I need on this important matter is a point of order from a member. Therefore, I will simply say that this matter will be continued, because I want to report to the chamber on some of the good work that has been done by the Standing Committee on Environment and Public Affairs. I also, as is my way, want to point out some

deficiencies and further things that could be done. I am concerned about where the committee will take this matter. It remains the case that as at 13 February 2019, there has been no change to the health governance processes in Western Australia, other than that the Department of Health now knows full well, because it is on the parliamentary record, that it must report these matters to the State Coroner. I therefore intend to continue to pursue this matter for some time yet.

Question put and passed.