

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Assembly's Message

Message from the Assembly received and read requesting concurrence in the following resolution -

- (1) That the Joint Standing Committee on the Anti-Corruption Commission be dissolved on presentation in the Legislative Assembly and the Legislative Council of its report on the hearing with the Anti-Corruption Commission on 29 March 2004.
- (2) In accordance with Legislative Assembly Standing Orders Nos 289 to 293 a Joint Standing Committee on the Corruption and Crime Commission, consisting of two members of the Assembly and two members of the Council, be appointed.
- (3) That the records of the Joint Standing Committee on the Anti-Corruption Commission be referred to the Joint Standing Committee on the Corruption and Crime Commission.

Committee

The Chairman of Committees (Hon George Cash) in the Chair.

Motion to Concur

Hon KIM CHANCE: I move -

That the Legislative Council concur with the establishment of a Joint Standing Committee on the Corruption and Crime Commission.

Hon GIZ WATSON: I rise to speak against concurrence with this motion. As it stands, the motion clearly precludes the Greens (WA) from participating in this committee. I put a large amount of time and energy into the matter when the Standing Committee on Legislation examined the establishment of the Corruption and Crime Commission. The discussions within the committee were very constructive and very consensus based in agreeing that the scrutinising of corruption and crime and the commission in particular was a task that should involve all political parties in the State. By having the committee consist of two members from the Legislative Assembly and two members from the Legislative Council, this motion clearly ensures that no committee position is allocated to the smaller parties in the State. That is a problem. On behalf of the Greens I want to lodge opposition to this motion that precludes the Greens from being involved in this important role of scrutinising the operation of the Corruption and Crime Commission. It is unfortunate and not in the spirit in which we have worked to date in making sure that all parties have a role in ensuring that the State is, as far as possible, adequately addressing corruption and crime. It is about time that the Parliament reflected its composition in committees in terms of other political parties. The Parliament of Western Australia is not made up of the Labor Party and the Liberal Party. It has not been like that for a considerable number of years. It also includes representatives from the Greens, One Nation and the National Party. It is unfortunate that this is happening in what has been, to date, a spirit of cooperation in taking this matter of corruption and crime in this State seriously. It is a matter into which I have put a considerable amount of thought and energy and I would have welcomed the opportunity to have an ongoing role on such a committee. That opportunity is not being offered to the Greens (WA). I will recommend that my colleagues oppose this motion, but not because I oppose the establishment of a committee per se. Obviously the Greens think it is an important component of oversighting the role of the new Corruption and Crime Commission, but the motion as it is worded ensures that there is no Greens involvement; indeed, I would assume that it ensures there is no National Party or One Nation involvement. I do not think that is the best type of committee for ensuring that scrutiny is applied with multi-party support. It is at odds with the spirit in which the establishment of the commission has been handled to date. I appreciate the fact that the Greens were consulted over the appointment of the commissioner. That was in the spirit of the discussions that were had in the Standing Committee on Legislation and recognised that the political parties of the State have a role to play. It is not a party political issue. Ensuring that corruption and crime is dealt with fairly and swiftly is not a matter that should be left to the major political parties of the day. I will therefore recommend to my colleagues that we oppose the motion.

Hon DERRICK TOMLINSON: Unfortunately, there is a misunderstanding demonstrated in Hon Giz Watson's presentation. We are not talking about the membership of the committee; we are talking about a message from the Assembly asking us to agree with the resolution that the committee be a joint committee. There is provision for two members of the Assembly and two members of the Council - a committee of four. Compare that with the current Joint Standing Committee on the Anti-Corruption Commission, which is a committee of eight comprising four members from each House. The convention has been to get an equal number of members from the government side and an equal number of members from the non-government side from both Houses, so the joint standing committee in the first term of government in which it operated had an Independent member from

the Assembly and a National Party member from the Council. In this current term of Parliament there is one Independent from the Assembly.

Hon Graham Giffard: Unless you are about to tell us something.

Hon DERRICK TOMLINSON: I understand the committee has already been abolished. In fact, I have just presented the report.

Hon Graham Giffard: I was referring to the Independent Liberal's status.

Hon DERRICK TOMLINSON: My understanding is that the Independent will remain an Independent in the next Parliament as well. I respect her right to do that.

When the joint standing committee prepared a recommendation to the Assembly, it deliberated on the question of whether the number of members should be four, six or eight. The opinion of the joint standing committee was that a committee of eight was too large and would become unmanageable, particularly when it was a joint House committee. Getting a quorum of five was always problematic because of the competing demands of members, the dissonance of the sitting times of the two Houses and so on. Therefore, the options were for four or six members. Most of the debate was about how to accommodate the different interests that are now represented in the form of the Government, official Opposition, Independents, Greens (WA), One Nation and, if ever it were to happen again - I pray it does not - the Democrats. That occupied a lot of time.

We had the understanding that the requirement was to find a balance of government and non-government members, until we looked closely at the Corruption and Crime Commission Act. Only one section in that Act indicates that there is a need for consensus between government and non-government members. That is the section relating to the committee having to approve the Government's recommendation for the appointment of the chairman of the CCC, the Parliamentary Inspector of the CCC and the acting chairman of the CCC. The section reads to the effect that it will require consensus between the member representing the governing party and the member or members representing the opposition parties, and the majority of the committee. That means a minimum requirement of one member from the governing party, one member from the opposition party and two members who can be from the Government, Opposition or another party, or be an Independent. Therefore, a committee of four accommodates the opportunities for Independents in the Assembly and Greens and One Nation members here. That is a decision for the parties and the House to agree upon.

We looked at the question of six members. It became much more difficult to get a situation in which there would be consensus between the Government and the opposition parties, because there would then be a Liberal member, a Labor member and so on. It would just become difficult. However, intelligent people can work these things out. We said to the Legislative Assembly Standing Committee on Procedure and Privileges that our recommendation was for four members but that the alternative was six members. We said that our preference was four but we would understand that six members would much more easily accommodate the interests of the diverse groups in the Parliament. The Assembly made its decision and decided upon four members. That does not preclude any party from being represented. The simple requirement is this: at least one member should be from the government party and one from the official Opposition. It does not even require that the governing party member come from the Assembly and the opposition member come from the Council. There could be two members of the governing party from the Assembly or there could be a government and opposition member from the Assembly, the members from this place being from other parties. There is the opportunity to accommodate the matters to which Hon Giz Watson referred, provided that there is always at least one government member and one opposition member on the committee.

We will be discussing membership at some other date, but the position we have reached is this: I understand that the decision has been made about who will be the government delegates from both the other House and this House. I hope that a decision will be made in the near future about the members from this House. The preferred position is this: that the Government and official Opposition be equally represented. Why is that the preferred position? It is because we have fewer than 16 sitting weeks left - I should be counting them. In that time the committee must establish its own procedures and its relationship with the Parliamentary Inspector of the Corruption and Crime Commission. The parliamentary inspector is appointed to assist the committee. We must also work out our relationships with the Corruption and Crime Commission itself. For the next six months our preoccupation will be on getting those procedures in place. Given the status of the CCC at the moment, I do not believe that the CCC will be in any position to vigorously pursue its functions in anticorruption and crime for some time yet, because it is still in the process of appointing its investigators. It has had a thousand matters referred to it already. It has a serious problem. It is working out its own procedures and staff. I have been requested to meet with the parliamentary inspector, or I was while I was chairman of the Joint Standing Committee on the Anti-Corruption Commission, because he wants some advice on his role and his relationship with the committee. Given that, our preference is for those members who were members of the joint standing committee to continue as members of this committee for the remainder of the term of this Parliament, simply

because they can bring to bear their knowledge on working through the procedures. I have seen the program of work that the research officers have prepared for the new committee. The committee will be kept busy simply dealing with procedures. For that reason I hope that we will accept the argument that four members of the previous committee comprise the new committee.

We need to bear in mind that after the election on 19 February 2005 there will be a new Government, of whatever complexion, a new Parliament and a new committee. There will still be the opportunity for there to be a minimum of one member of the Government and one member of the Opposition on that committee. It would not preclude the other parties. However, it is absolutely essential for the nature of the work of this committee for it to continue to work in a bipartisan, impartial manner, because if it cannot work in a bipartisan, impartial manner and instead takes partisan positions on issues that come before it from the Corruption and Crime Commission, it will fail as a parliamentary oversight of that very powerful commission. I argue for a balance. I argue for the composition of government and opposition members for the remainder of this Parliament. We are talking only of the spring session, which will be brief. I am sure that the Government will want to be out of here by the end of September to prepare itself for an election. I am sympathetic to the objections raised by Hon Giz Watson. They were discussed at length by the committee, as members might imagine. The Independent member from the Assembly was vocal and eloquent in representing that interest. However, in terms of a manageable, workable committee, the committee of four was the preferred position.

HON GIZ WATSON: I will add a few comments, because I do not wish to go on at length. It is interesting, because what is becoming apparent to me is that we have not been a party to any discussion on the composition of the committee.

Hon Derrick Tomlinson: That is because it is decided in the Assembly.

Hon GIZ WATSON: I understand that. That was not a criticism of Hon Derrick Tomlinson, but of the way in which the Parliament operates. On some level there is cooperation and a multi-party approach, but when it comes to certain aspects it all goes back to another level of negotiation, which is basically between the major parties. I am familiar with the Act, having been part of the committee inquiry into it, as was Hon Derrick Tomlinson. I am not arguing that this motion is at odds with the Act. Clearly, it is not, because there is only the one form of words in the Act that requires a bipartisan approach. I am suggesting that it is the spirit of the discussions and the whole process of establishing the commission to date that has been broken.

Hon Derrick Tomlinson: Establishing the committee or the commission?

Hon GIZ WATSON: There has been a bipartisan approach in establishing the commission, but when it comes down to this aspect, which is the establishment of the committee -

Hon Derrick Tomlinson: I do not think there was a bipartisan approach in establishing the commission, but there might have been with the committee. The commission is entirely the creation of the Government.

Hon GIZ WATSON: I agree. I am perhaps not choosing my words carefully enough. I am talking about the Standing Committee on Legislation's approach to the establishment of the commission, which was a good exercise and one that, by and large, had consensus. Although Hon Derrick Tomlinson is saying that establishing a committee of four does not automatically exclude one of the smaller parties, such as the Greens (WA), the reality is pretty clear; that is, the chances of a small party being represented on it are reduced by virtue of the number of positions available. We would certainly have supported the proposition of having a six-member committee. I agree that the committee does not want to get too big, but six seems to be a reasonable number. I wonder whether any consideration was given to it being a five-member committee. I do not quite understand why it had to be six or four.

I agree that there is an urgent need to establish the committee and for the committee to be able to start to do its job. I accept that this debate needs to happen relatively quickly. However, I also put on the record that we will revisit this issue, because I assume that this motion will be carried and that the select committee will be established as a four-person committee. We will certainly continue to press the case that we would like the opportunity to participate in a future committee, and that we would have appreciated being a party to the discussions prior to the proposition coming to us from the Legislative Assembly. As I have said, this is an issue in which openness, transparency and cooperation must be paramount criteria. I do not think that has been the case. I am not sure exactly what politics went into the process of deciding to go to a four-member committee. However, we hope there is not a continuation of this approach, because the Greens take very seriously the issues of accountability and corruption in the community, and we would like to play an ongoing role in ensuring that the State is well served by this new commission.

Hon GRAHAM GIFFARD: I support the message. I will not keep the Chamber for too long, because I concur with the substance of what Hon Derrick Tomlinson had to say when he set out very clearly the history of the composition of the committee and also, very importantly, the considerations that were paramount for the current

committee when it made its recommendations to the Legislative Assembly. It is true that four, six and eight were the obvious options for the committee and, indeed, the Assembly to consider. I think a membership of eight was thought to be unsustainable, probably because of the experience of most of the members of the committee and their acknowledgment of the point made by Hon Derrick Tomlinson about how difficult it is for a committee of that size to operate effectively. It really comes down to the question of whether members support a membership of four or a membership of six. I stress that I do not believe that it was in people's minds at all to preclude any particular individuals or members of a party from the composition of the committee. It really came down to what would be the most practical, sensible and least problematic number of members to enable the committee to function effectively, in light of the fact that it needs to have a balance between government and non-government members and also to have equal representation from each of the Houses. For that reason, no-one seriously entertained an odd number of members on the committee. I certainly do not believe an odd number would be appropriate.

With regard to the rhetorical question asked by Hon Giz Watson about exactly what politics went into the process, I believe it was the politics of trying to get the best and most practical outcome for the committee, given the parameters and dynamics of the Parliament. I do not believe the construction of the committee is designed to preclude members of the Greens, or, for that matter, members of any other party, or Independents. If we were to take the member's argument in reverse, we would need to form a committee of 10 or 12 to accommodate all the interests in this place if that was the overriding principle that we wanted to adopt.

Hon Norman Moore: You would need five Labor Party members just to cover each of the factions!

Hon GRAHAM GIFFARD: The member is probably getting down to too much information there!

Hon Jon Ford: Only five?

Hon Norman Moore: We have 15 at the moment!

Hon GRAHAM GIFFARD: We talk nowadays about fractions and factions. There are 13 of us in this Chamber. If we had the power to co-opt, we just might get there.

The point that needs to be made is that if we were to adopt the member's argument, we would have quite a substantial committee. We have tried to ensure an efficient, proper and adequate number, with equal representation from both sides of the Parliament, that will give the committee the best opportunity to operate as efficiently and as best it can. From my experience on the committee, a membership of four will prove to be a satisfactory number for the operations of the committee, so I support the message.

Hon NORMAN MOORE: The issue that is now before the Chamber demonstrates one of the difficulties that we face in this Parliament, in which a variety of different parties and interests are represented, particularly in this House. It is now becoming increasingly difficult to try to get a balance between both sides of the political spectrum in both Houses of the Parliament. There was a time when it was very simple to have a balance, because it was just them and us. However, as has been explained to us today, there is now a range of interests and parties, and Independents. That makes it a bit difficult to work out a structure for a committee such as this that will represent equally the interests on both sides of the political spectrum and the interests of both Houses. I think that this matter needs to be revisited, as Hon Giz Watson has said, after the next election. Obviously I am hoping that there will be no Greens after the next election, so that that will not be a problem, but I suspect - I will not use the phrase that crossed my mind - that will not be the case. I genuinely believe that a committee that will be looking at the activities of the Corruption and Crime Commission should, as far as is practicable at least, represent the consensus view of all of the members of Parliament, because we should have a collective tripartisan view, if there is such a word, on the way in which we deal with matters affecting the Corruption and Crime Commission. Its activities are extremely important, and it is important from the Parliament's point of view that the committee not be seen to be operating from different political perspectives in the work that it does, because it should be beyond political debate of that magnitude. As Hon Derrick Tomlinson has said, there is not a lot of time to go in this Parliament. When the Parliament resumes after the election, we should sit down and see whether it is possible, with this committee in particular, to get a membership that reflects the wide variety of viewpoints that exists in both Houses of the Parliament. I also acknowledge that committees of eight, 10 or 12 members are ridiculous and do not work. Four is probably a good number. A compromise may be six down the track. I take on board the comments of Hon Giz Watson. To the extent that I will have any say in this matter after the election, I think we will have another look at it to see whether we can achieve a better outcome.

Question put and passed; the Assembly's message agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.