

*Joint Standing Committee on the Corruption and Crime Commission — Seventh Report —
“Hearing with Robert Cock QC” — Motion*

Committee was interrupted after Hon Nick Goiran had moved the following motion —

That the report be noted.

Hon NICK GOIRAN: Before the break, I was drawing to the attention of members page 11 of the report and some of the comments made by Mr Cock, QC, and particularly his excellent analysis of the pros and cons of the Corruption and Crime Commission conducting public hearings. I will finish off where I left off. His comments continue —

The superficial approach of seeking to make it secret did not work as a protection. I think we have to look at other processes, and those may include some expedition of the criminal justice part of that delay. I point out that that is only probably not even half the delay. Even if you were to adopt the time lines that have been prevalent in New South Wales in recent years, which is about a six-month delay between charge and resolution, you still go through an eighteen-month to two-and-a-half-year delay in the investigation anyway, so you do not cure the problem; you may reduce it a little.

The committee appreciated the clarity of Mr Cock’s evidence and requested his permission to have the entire transcript of that closed hearing made public, which he gave. The purpose of the report was to make available to Parliament the entire transcript. In my remaining time, I might just expand on one of the matters that was discussed by Mr Cock—that is, the role played by the CCC in prosecuting criminal offences arising out of misconduct investigations conducted by the commission. As I mentioned earlier, in the history of the commission, there have been some concerns by some quarters about its alleged failure to secure convictions. In particular, on 4 October 2009 an article in *The Sunday Times* reported that the CCC had spent at least \$75.5 million to get just 41 people convicted. This and some other media reporting prompted the Corruption and Crime Commissioner, Hon Len Roberts-Smith, to hold a press conference on 6 October 2009 to debunk some of those misconceptions about the CCC and its functions. The commissioner made the point that securing convictions is of course not what the CCC is about. The CCC is effectively a standing royal commission whose prime function under the act is to maintain the integrity of the public sector and to reduce the incidence of misconduct in the public sector. When, however, investigations reveal possible criminal offences and there is sufficient evidence of offences having occurred or being committed, it is appropriate for charges to be laid, and the CCC will either do that or refer the matter to the commonwealth or state Director of Public Prosecutions for advice. The commissioner said at a public seminar on 19 August that, since its inception on 1 January 2004, the commission had charged 73 people with 670 criminal offences, with a conviction rate by person of 79 per cent, and that the state Director of Public Prosecutions had conducted 28 prosecutions arising out of CCC investigations resulting in 18 convictions, with a conviction rate by person of 64 per cent. With those comments, I certainly commend the report to the house.

Hon MATT BENSON-LIDHOLM: I want to make a few acknowledgements of and observations about the Joint Standing Committee on the Corruption and Crime Commission’s report into a hearing with Robert Cock, QC. Certainly, Hon Nick Goiran has presented, albeit in 10 minutes, a fairly comprehensive account of the report. It should be obvious to members who read the report that the hearing was part of the Joint Standing Committee on the Corruption and Crime Commission’s inquiry into how the Corruption and Crime Commission can best work together with the Western Australia Police to combat organised crime, and a number of other reasons were mentioned by Hon Nick Goiran, as chair of the committee. Subsequent, of course, to that, the report on organised crime was presented in September 2010. That, basically, underpinned, if members like, the reason for speaking to Robert Cock, QC, as he was Director of Public Prosecutions at that point in time.

I just have a few points to say about what Robert Cock was seeking to do during the hearing. I will quote from the committee’s report, which states —

During the hearing, Mr Cock gave a very clear presentation on the following matters of interest to the Committee, arising out of his experience as the DPP:

- (a) how he adjudged the priority of prosecuting charges initiated by the Corruption and Crime Commission (‘the Commission’) as against prosecuting other crimes;
- (b) he does not support a suggestion that there be a Special Prosecutor to solely prosecute charges initiated by the Commission;
- (c) the distinction between laying charges and prosecuting charges;
- (d) the ability of the Commission to lay charges;
- (e) the length of time from the laying of a charge to trial;
- (f) the pros and cons of public hearings; and

- (g) the process that is followed when the Commission recommends disciplinary proceedings be considered by a public authority.

Hon Nick Goiran has clarified a number of those. I do not wish to go over them, but I will mention a number of other observations that I think are also very important.

Very interestingly, page 9 of the seventh report quotes Mr Cock speaking about education and enforcement, and I think the point was made by Hon Nick Goiran that this particular function remains the predominant function, if members like, of the Corruption and Crime Commission. Mr Cock stated —

The CCC is there with not just an enforcement role, but also an educative role. An aspect of the enforcement role is, of course, the successful conduct of prosecutions of people who have been found to have acquitted themselves badly or perhaps criminally. That is obviously a function that is part of the role of the CCC. But it is not the predominant function, which is to ensure community confidence in the public sector generally and the police force in particular.

Those sorts of comments underpin the committee's organised crime report. Mr Cock referred to the resourcing issue and the current focus on corruption and misconduct as opposed to organised crime. He went on to say —

Whilst I do not profess to know much about the CCC's resources, I should say that additional resources at this stage without statutory change would not, I think, assist the CCC in living up to its name. It is not the Corruption and Crime Commission really at all ... The title is a complete misnomer. It is the public sector misconduct and corruption commission. That is what its present remit is under the statute. It has no authority to be involved in the investigation of crime or corruption or anything else unless it involves a public officer. Whilst there is a theory that a lot of organised crime and corruption in the general community may have a link to a public officer, unless that link has been established, the CCC cannot start to investigate it.

That is something that members can fully comprehend, but the problem for the Joint Standing Committee on the Corruption and Crime Commission, and, dare I say it, for the government, is getting that message out to the broader public. It certainly highlights the fact that the CCC, at this point in time, has no organised crime function.

Mr Cock made some interesting remarks regarding the nature of CCC inquiries, especially in relation to resources and agency referrals. He stated —

The CCC certainly refers and monitors many, many more disciplinary inquiries than it conducts itself. In excess of 95 per cent are actually managed by the agency or the employing authority. There is no doubt about that. The problem is that the two or three per cent that it does do are the ones that have the high profile.

The intent of that comment was to highlight the fact that resourcing of the CCC is a particularly significant issue. He went on to state, referring to the high-profile cases —

They are the ones where the time lines have dragged to ridiculously long periods of time ...

He considered that to be a very pressing issue. He further stated —

That is why it is a topical issue. Even though there are only a few—it may be only 20 or 30 perhaps—they are all prominent ones and they are all ones where we know the time lines were exceedingly long.

Most of the other comments I was going to make about the content of this report—as I seek to cope with my learned colleague next door, Hon Ed Dermer—have been mentioned by Hon Nick Goiran and do not require me to go any further. The hearing with Robert Cock, QC, enabled the joint standing committee to fairly closely investigate the views of the former Director of Public Prosecutions in a more general sort of a sense, but given that it was focused on the report on organised crime, it was particularly useful. Mr Cock's evidence, of course, as Hon Nick Goiran has mentioned, was very clear and relevant to the framing of our particular report; it was highly professional and reflected very much the prominent position that he has occupied in the Western Australian legal system.

I have to thank a few people. I acknowledge the work of Hon Nick Goiran as chairman of this committee, and the deputy chairman, the member for Perth, John Hyde. Apart from me, the only other member was the member for Swan Hills, Frank Alban, MLA. I also acknowledge the work of the committee staff—namely, the principal research officer, Scott Nalder, and the research officer, Michael Burton. They very much contributed to a very concise and to-the-point report that was most useful in the framing of the joint standing committee's report on organised crime.

Question put and passed.