

MEMBER FOR BALLAJURA

Corruption and Crime Commission Report - Personal Explanation

MR J.B. D'ORAZIO (Ballajura) [2.59 pm]: I want to make a personal explanation to members of the house, and I ask the Speaker to allow me to speak for longer than the usual amount of time.

[Leave granted.]

Mr J.B. D'ORAZIO: As members are aware, last year I was summoned to appear before the Corruption and Crime Commission in relation to a matter now referred to as the Minniti affair. The report into this affair was due to be tabled on Friday, 8 June. However, it was not tabled. I want to outline the events as they occurred.

I have made numerous requests about the tabling of this report, dating back to December 2006. In early January 2007, when certain people were charged with offences arising from this investigation, I made a direct request about the status of this report to Mr Silverstone, the chief executive officer of the CCC. I was informed that the draft report was ready and that the people who were adversely named had to be notified and had to be given natural justice under the act. I was told that this draft report would be finalised very shortly and that the report would be tabled at the end of January. I continually rang Mr Silverstone and asked him over the following weeks and months to inquire when the report would be tabled. He gave me various reasons why it had not been tabled. The final excuse was that he had to confer with the Director of Public Prosecutions about some matters. At no time did he indicate that I needed to respond to any of these matters.

I rang him again about two weeks ago to again inquire about the tabling of the report because I was going to Melbourne and I did not want it tabled while I was away. He gave me an undertaking that he would delay its tabling until I was back in Perth. On Tuesday, 5 June, I rang him to find out when it would be tabled. He informed me it that would be tabled on Friday, 8 June. I inquired whether I could have a copy of it so that I could respond when it was tabled. Mr Silverstone replied that I could not have a copy of it and that no-one could have a copy until Friday. Now we find that a copy was given to the Premier's office and to the Leader of the Opposition on the day before it was tabled in Parliament so that they could prepare a response. How outrageous is this? The person who was affected was denied access. However, my political rivals were able to have a copy. What happened to the separation of powers? What happened to procedural fairness? Do we call this official leaking?

On Thursday, 7 June, at approximately 5.30 pm, I received a phone call from Mr Silverstone from the CCC advising me that the report would be tabled on Friday, 8 June at 9.30 am. I inquired what that meant, as Parliament was not sitting. He advised me that the report would be handed to the Clerk at 9.30 am. I inquired how I could get a copy of it and was advised to look on the Internet at about 10.00 am. Then, in a change of heart, he indicated that he would send a spare copy of the report to the Clerk to give to me. Within 10 minutes I received a further call from Mr Silverstone indicating that he would fax me a copy of the three pages of the report relating to me, and he drew my attention to the second-last paragraph, and advised me that he could not talk to me about the contents. I went to my office to receive the fax but it did not arrive. I rang and asked where it was.

When it arrived, the cover sheet read as follows -

Please find the attached three-page extract from the Commission report entitled 'Report on an Investigation into Inappropriate Associations between Western Australia Police Officers and Pasquale Minniti', which is scheduled for tabling at 0930 tomorrow, Friday 8 June 2007.

It replicates, for the most part, a similar extract that was forwarded to you on 2 April 2007 seeking your submissions.

An embargo remains in place upon any further distribution of the information provided to you in this facsimile until after the report has been tabled.

I read the three pages and, more importantly, paragraph 2.7 - the commission's opinion. I was outraged. At no time was I provided with a copy of this extract, which is a requirement under section 86 of the act. The report is factually incorrect. I was denied the opportunity to make a submission on the untruths mentioned in the report. I immediately rang Mr Silverstone and informed him that he had not conformed to the provisions of the act and that the report was factually incorrect. I outlined to him the errors. He seemed shocked. He then rang back and said that he had to make some phone calls and that the report would not be tabled. This outraged me. I demanded that he table the report as it was. Not doing so would further damage my reputation and imply that I had something to be accountable for. However, he informed me that he would not. Not only that, he informed me that the commission would issue an order to stop me from talking about anything in the report. I informed Mr Silverstone that if he did not table the report on Friday, I would read it into Parliament today. I told him that any further interactions or directions would be directed to my barrister, Mr David Moen.

Commissioner Cashman rang Mr Moen, who in turn informed me that a gag order had been issued on the contents of this report and that it would not be tabled on Friday and that I could not discuss the contents of the report. However, Mr Moen advised me that he believed the gag order had no basis in law. At approximately 9.30 that evening, I collected an early edition of *The West Australian* newspaper. The front page basically reported the CCC's findings for all to see.

The leaking of the Corruption and Crime Commission report on Mr Minniti has resulted in the following: a criminal offence may have occurred, with a penalty of three years' jail or a \$60 000 fine under section 152 of the act; the CCC breaching section 86 of its own act in that it has to advise the person who is adversely affected, and it did not; the CCC not affording me natural justice; the destruction of the credibility of the CCC; and further damage being caused to my political reputation, inappropriately and unfairly. Furthermore, the CCC's claim that the report was couriered to Parliament House on 2 April is not true. The Parliament's records show that nothing was couriered to Parliament House from the CCC for me from 30 March into May. It has been caught out again.

I will now read the commission's opinion that basically appeared on the front page of *The West Australian*. It is not a draft report, but the report that was going to be tabled on Friday, 8 June. My notes indicate that the report states -

The Commission notes that Mr D'Orazio's stated explanation for his on-going dialogue with Mr Minniti was not an attempt by him to get assistance in circumventing proper process, but was in fact simply an unsuccessful attempt to make a persistent Mr Minniti go away. However, it is clear from conversations between Mr D'Orazio and Mr Minniti that Mr D'Orazio's concerns regarding alleged traffic infringements and his loss of licence were discussed in some detail.

After assessing all of the information and material obtained in the course of its investigation, the Commission is of the opinion that Mr D'Orazio has not committed an act of misconduct as defined by section 4 of the Act in respect to these matters. That is to say, there is no evidence to support a conclusion that he has acted corruptly or that he has engaged in conduct that could constitute an offence against a written law or a disciplinary offence providing reasonable grounds for termination under the Public Sector Management Act 1994.

I would like to read that last paragraph again. It reads -

After assessing all of the information and material obtained in the course of its investigation, the Commission is of the opinion that Mr D'Orazio has not committed an act of misconduct as defined by section 4 of the Act in respect to these matters. That is to say, there is no evidence to support a conclusion that he has acted corruptly or that he has engaged in conduct that could constitute an offence against a written law or a disciplinary offence providing reasonable grounds for termination under the Public Sector Management Act 1994.

My notes indicate that the report continues as follows -

Regardless of the above opinion, the Commission questions the appropriateness of Mr D'Orazio's actions, as a Government Minister, in, at the very least, implicitly encouraging Mr Minniti to use his informal contacts in DPI to seek to locate the missing DPI fax. Such activity and special access by a member of the public is highly inappropriate.

While Mr D'Orazio's appearance before the Commission adversely affected him, in his subsequent loss of public office as a Minister, the Commission considers that any damage to Mr D'Orazio's reputation or standing was caused, not by the public revelation of his conduct by the Commission, but by the conduct itself.

I will now comment on the commission's opinion. The first two points are self-explanatory. I welcome the commission's findings that there is no evidence to support a conclusion that I acted corruptly or engaged in conduct that could constitute an offence against a written law or a disciplinary offence providing reasonable grounds for termination under the Public Sector Management Act. However, the CCC claims that as a government minister my actions were inappropriate. Immediately one would think this means that there has been a breach of the Ministerial Code of Conduct and, of course, there has not been. Furthermore, unfortunately for the CCC, it is factually incorrect. I was, of course, not a government minister at the time.

Let us forgive the CCC for its incompetence, even if it cannot get the facts right, and look at the substance of the opinion. The finding is clearly contrary to the evidence presented at the public hearing, including that there was no evidence from Mr Pasquale Minniti that he ever approached the Department for Planning and Infrastructure for the purpose of obtaining a form on my behalf - page 21 of the transcript; I did not request any help on this matter or any other matter; Mr Minniti did not have any details of my change of address, he did not know my old address, he did not know my new address, he did not know my licence number, he did not know how I changed

my address details, he did not know where I changed my address details and he did not know when I changed my address details - members should remember that this could have been anywhere between March 2002 and May 2006; the evidence held by the CCC clearly shows that I knew from the first phone call on 10 May that Mr Minniti had no contact at all in DPI and that he was merely trying to ingratiate himself to me. How can I be accused of implicitly encouraging Mr Minniti when I knew he had no such contact, had made no such approach and had no information to act on? However, the reflections are a comment on Minniti's conduct, not mine. In my case, I went through the proper process. I approached DPI and was put through to and spoke to the head of the department. She indicated that if I could provide details of the fax and the period in which it had occurred, she would retrieve the hard copy records from storage and allocate staff time to manually check the records. She informed me that this would take at least a week. After I had informed her of the approximate period, this formal process was put in place. My direct approach to the Department for Planning and Infrastructure is in the evidence of the hearing. The Corruption and Crime Commission could have verified this process with a single phone call to DPI. The basis for the finding in the report appears to be a phone call from Mr Minniti on 11 May 2006. He called me to tell me that he had contacted someone high up in DPI, and that that person was to have a look for the faxed letter. My response was, "Excellent". Firstly, how could I have been encouraging Mr Minniti if he had indeed already made a phone call to DPI? Secondly, how could it be an encouragement when I knew he was lying? The use of the word "excellent", with no further comment - it appears on pages 23 and 24 of the transcript - was designed to terminate discussion on the matter without abusing Mr Minniti.

The final dot point in the extract refers to my subsequent loss of public office as a minister because of the publicity. This is factually incorrect. I did not lose public office as a minister because of the public hearings. Why is it that the Corruption and Crime Commission needs to justify its position for a public hearing of my case? The outrageous circumstances that have prevailed have now left a huge cloud over the Corruption and Crime Commission. I had originally also included in my complaint the office of the Premier and the office of the Leader of the Opposition; however, I apologise to the office of the Premier. Nothing short of an open and public inquiry will restore confidence in the Corruption and Crime Commission. I will not let this matter rest until my name is cleared, properly and totally, in public.