

*Joint Standing Committee on the Corruption and Crime Commission — Twelfth Report —
“An Unreasonable Suspicion — Parliamentary Inspector’s Report” — Motion*

Resumed from 11 March on the following motion moved by Hon Stephen Dawson (Minister for Environment) —

That the report be noted.

Hon NICK GOIRAN: I had the occasion to have a good look at this report earlier today, and I think it is worthy of some further consideration. At page 7 of the report, in the executive summary, the Parliamentary Inspector of the Corruption and Crime Commission states —

This report is made ... to make recommendations to the Joint Standing Committee to move the Government to act so as to provide a measure of redress to Mr Martin for the harm he has suffered at the hands of the Police.

He was, in my view, wrongfully arrested by police officers when suspected of behaving in a manner which did not constitute the offence of possession of child exploitation material, or any offence at all; wrongfully deprived of his liberty for an appreciable period; wrongfully and forcibly fingerprinted; wrongfully prosecuted for refusing to provide his personal details to the police; convicted, fined and ordered to pay costs; and he should now be provided with such remedies as are in the power of the State to afford him.

That is in the first two paragraphs of the parliamentary inspector’s executive summary, at page 7 of the report. The Joint Standing Committee on the Corruption and Crime Commission has kindly brought this report to our attention, as recommended by the parliamentary inspector, and the committee has made one recommendation. The committee’s recommendations are signed by the chair, the member for Girrawheen, my learned friend Margaret Quirk, MLA. Recommendation 1 states —

That the Attorney General give consideration to the matters raised in the attached report of the Parliamentary Inspector of the Corruption and Crime Commission.

That is pretty serious stuff. The Parliamentary Inspector of the Corruption and Crime Commission has come to the conclusion that a Western Australian has been wrongfully arrested by police, wrongfully deprived of his liberty, wrongfully and forcibly fingerprinted and wrongfully prosecuted, and that he should be provided some redress.

The parliamentary inspector is a very experienced and eminent individual. He has drawn the matter to the attention of the joint standing committee and the joint standing committee has asked the Attorney General to consider the matter. The response from Hon John Quigley, MLA, the Attorney General and Minister for Commerce, in tabled paper 3600, states —

As recommended by the committee, I have carefully considered the matters raised in the report of the Parliamentary Inspector of the Corruption and Crime Commission. Based on the facts as I understand them, I am presently inclined to prefer the ultimate conclusion of the Commission and Parliamentary Inspector.

I pause there to question that. Maybe someone within government with responsibility for representing the Attorney General might provide a response, because it is not at all clear how the Attorney General could be inclined to prefer the ultimate conclusion of the commission and the parliamentary inspector when those two do not agree. The commission has a view; the parliamentary inspector has a different view. The Attorney General says that he prefers the ultimate conclusion of the two of them. Maybe someone who represents the Attorney General in this place can get some instructions and let us know whether tabled paper 3600, which is an important document—it is a document given by the government to the committee to state its view with respect to the committee’s recommendation—needs to be corrected.

The Attorney General goes on in this response to say —

However, I consider that any questions relating to that issue, and Mr Martin’s conviction, are appropriately matters to be determined by the Supreme Court, if he decides to seek an extension of time from the Court in which to appeal his conviction and sentence. It would be premature for me to consider whether to advise the Governor in Executive Council that the Royal Prerogative of Mercy should be exercised in Mr Martin’s favour when the possibility remains open for him to pursue an appeal. I also note the Parliamentary Inspector’s important observation that he did not consult Mr Martin with respect to his report, assessment or recommendations. Mr Martin should have the opportunity to consider what, if anything, he wishes to do in relation to the matters which the Parliamentary Inspector has raised. Accordingly, I have written to Mr Martin.

That is the end of the response from the Attorney General. I do not think that we can finish noting this report until, firstly, the government has confirmed whether the government response needs correction and, secondly, we know what was the response from Mr Martin. All we have been told about this serious matter is that the Attorney General has written to Mr Martin. Did he reply? Has there been any follow-up? According to the parliamentary inspector, this is an individual who has been wrongfully arrested, wrongfully deprived of liberty, wrongfully and forcibly

fingerprinted, and wrongfully prosecuted. He goes on to indicate that some redress should be provided by the state. This is a pretty serious matter. There is little point in us having a robust oversight system that involves the Corruption and Crime Commission, the parliamentary inspector, the Joint Standing Committee on the Corruption and Crime Commission, an Attorney General, a Parliament, and a chamber that considers committee reports if we just note it and leave it like that. Mr Martin is either entitled to redress or he is not. The process is incomplete—a process that includes what appears to be an incorrect response from government. That aside, it may well just be typographical. The more substantive matter is: what is the situation with Mr Martin? Perhaps somebody in government can attend to that.

I pause at this stage. Whether any other member wishes to contribute to this debate remains to be seen. If not, I flag that I will probably seek the call again to seek that the consideration of this be postponed.

The CHAIR: Noting that, this might be a good time to address a matter that was raised by the Deputy Chair while I was temporarily out of the chair a little while ago, and that relates to the giving of the call to members in committee. This applies whether we are in committee in the present circumstances considering committee reports, or whether we are in a Committee of the Whole House dealing with a bill or in a Committee of the Whole House dealing with whatever other matter might have been referred. The rules for speaking times for all members are unlimited periods of 10 minutes. That means that members can get up and have their say, and then other members can have their say and sit down, but all those members, whether they have spoken or not, can then get up and have another go, so it can become more of an exchange and more of a discussion. That is why we have multiple times in which members can talk. Under the current temporary order, which used to be the regime for many years, we are demonstrating, I think, how that works a little more smoothly—members do get the opportunity to speak.

That means a couple of things. Firstly, it is there to provide that members do not have to try to say everything that they might want to say in one go. Perhaps the tendency has been developed in recent years for members to use their full time allocation because that was all they were going to get, rather than perhaps one of the benefits of our current temporary order which is that members can speak for a minute, if that is all it takes, and then sit down, secure in the knowledge that if they need to say something more, they are free to do so. Perhaps that is something that we have not quite got the hang of yet—that is, just getting up, saying what you have to say and then sitting down, secure in the knowledge that you can have any number of other bites if you wish to do so.

This matter came to notice just now in a situation in which several members were seeking the call at one point. The general rule—the convention in our house since time immemorial—has been that the presiding member, whether it is Madam President or a Chair of Committees, will give the call to the member who in their opinion was the first to rise in their place. In particular, perhaps in days of yore rather than now, it used to be the case that members would really spring out of their seats and yell very loudly to attract attention. These days, the current convention is that when a number of members all indicate that they wish to speak on a matter—this applies to bills and second reading debates and everything—the presiding member will note those several members at the first time and allocate an alternation of members so that everyone can have their turn. I think that has generally proved to be satisfactory for all members most of the time.

The question that immediately arose today, though, was a case in which one of the members seeking the call was the member whose 10-minute time allocation had just exhausted and they wanted to speak on. The question then was: do they automatically get another 10 minutes and just continue or should the call go to another member? The rule has been over a very long period, a convention of the chamber, that another member seeking the call will receive the call. However, noting that the member whose time has just expired may wish to continue, if there are no other members seeking the call, then the first member gets an extra 10 minutes and so on. It has always been the case that even though it has been indicated that there are several members all keen to get the call, if a member presently making their contribution clearly has a little bit more to say over their time limit—they might even indicate it—it is often a matter of courtesy by other members seeking the call that they do not try to interrupt the member, although any of them could, to get the call.

Indeed, we have seen over a period that it is quite common for a member on their feet, after being allowed to continue for another bite in those circumstances, to acknowledge and thank the chamber for that courtesy. Just to clarify it, there is no entitlement at all for a member who has just finished speaking to be given the call ahead of other members. In fact, it is specifically the case that other members, if they wish to seek the call, receive it. I hope that clarifies that matter. We have worked that through and I think members will find that that helps us to work. I thank the minister for raising it as a matter for clarification. In the case of the recent Deputy Chairman in the chair, and having chosen whom to give the call to in those circumstances that were challenged, he did absolutely the right thing in giving the call without question to Hon Simon O'Brien. I hope other Deputy Chairs acknowledge that example in future.

The question now is that the twelfth report of the Joint Standing Committee on the Corruption and Crime Commission be noted.

Consideration Postponed

Hon NICK GOIRAN: I move —

That consideration of the twelfth report of the Joint Standing Committee on the Corruption and Crime Commission be postponed to the next sitting of the Council.

I trust that before the matter next comes before the chamber, the Leader of the House, as the representative for the Attorney General, will clarify those points that have been raised about the response in tabled paper 3600.

Question put and passed.