

COMMITTEE REPORTS AND MINISTERIAL STATEMENTS - CONSIDERATION

Committee

The Deputy Chairman of Committees (Hon Louise Pratt) in the chair.

Sharing the Fish 06 Conference - Statement by Minister for Fisheries - Motion

Resumed from 1 November on the following motion moved by Hon Bruce Donaldson -

That the statement be noted.

Hon MURRAY CRIDDLE: The Minister for Fisheries is not in the chamber, but when we last considered this matter he said that he would give me some information on a couple of points that I had raised, one of which was about employment of overseas people. I have not been given that information yet, and I put the chamber on notice that I still want that information. I understood that he would forward it to me pretty quickly after we discussed it a couple of weeks ago, and I would like to have that information.

Question put and passed.

Joint Standing Committee on the Corruption and Crime Commission - Seventh Report - Clarification Sought by the Joint Standing Committee on the Corruption and Crime Commission

Resumed from 11 May.

Motion

Hon RAY HALLIGAN: I move -

That the report be noted.

The Joint Standing Committee on the Corruption and Crime Commission presented report 7 some time ago, in May of this year. It is a report into the clarification sought by the joint standing committee of certain statements that had been previously made and reported on the issue of allegations concerning a member of the other place. That information came out in report 4. In speaking on this motion I will refer also to report 4, to which report 7 relates. These matters concerned an inquiry by the Corruption and Crime Commission into those allegations that I have mentioned whereby certain things were said to have been said under examination and reported. Some of those things that were said and responded to revolved around the term the "Godfather", which had been used by Ms Patti Chong and was said to be a throwaway line. This is information which the CCC presented to the committee and which was subsequently tabled in this house. The committee had some difficulty in accepting the explanation that it was in fact a throwaway line.

The committee also sought some clarification of other matters associated with that inquiry. In seeking that clarification, the committee needed to work through the Parliamentary Inspector of the Corruption and Crime Commission, Malcolm McCusker. However, on this occasion the parliamentary inspector was unable to undertake that task because of a perceived conflict of interest; that was purely because the parliamentary inspector had previously acted for the person under investigation. We were able to use for this purpose the acting parliamentary inspector, a former judge by the name of Hon Graeme Scott. I believe this may well have been the first instance in which Hon Graeme Scott had undertaken a task of this nature on behalf of the joint standing committee.

I made mention when I spoke to report 4 of the manner in which information had been presented to the committee. With report 4 having been received by the joint standing committee and certain aspects of that report not being satisfactory to the committee, the acting parliamentary inspector was asked to go back and clarify certain issues.

Report 7 revolves around the clarification of some of those issues. I advise the house that all the issues in report 4 were clarified, but the committee wished to bring one issue in particular to the attention of the chamber. That has been done in the report 7. The report states -

The Committee held a closed hearing with Hon. Graeme Scott, Acting Parliamentary Inspector of the Corruption and Crime Commission on Tuesday, 9 May 2006, and received evidence from him.

In relation to the Committee's request for the Acting Parliamentary Inspector to clarify the Corruption and Crime Commission's finding in its report of 3 March 2006 that:

The term "Godfather" used by Ms Chong alone and only once at the public hearing was a throw away line and was not intended nor did it have any further meaning or significance"

The committee had no evidence before it that that term was a throwaway line that had no significance. The committee did what was reasonable and asked the acting parliamentary inspector to go back to Ms Chong and

find out exactly what she said and why, so that it would not then be supposition; it would be coming from the person who uttered the word. The report continues -

the Acting Parliamentary Inspector gave evidence to the Committee that:

Ms Chong gave evidence on oath before me on 4 April 2006 at my request.

I suggest that that was a most proper thing to happen. The report continues -

Her evidence was that her use of the word "Godfather" came from her Chinese ancestry. In Cantonese the term is "Tai Ko" a reference to village elders who were held in respect and were used to settle disputes.

Hon Bruce Donaldson: How did that get transferred to the Mafia? The Mafia uses the term "Godfather" as well.

Hon RAY HALLIGAN: This is evidence given under oath by someone who mentioned the word. Based on her Chinese ancestry, she has given this explanation, which has been accepted by the committee. The report continues -

The commonly understood term "Godfather" in our culture has a different meaning. Ms Chong said she did not use the word in the pejorative sense to refer to an "enforcer" or "standover man". The term was used as a term of respect.

Ms Chong said that she had no evidence which would justify the use of the word "Godfather" in the sense commonly understood.

That evidence has been accepted by the committee. However, I want to bring to the attention of members the fact that the committee had to go back and obtain this information. It was in everybody's best interests that it did so. I am concerned that a body such as the Corruption and Crime Commission could immediately surmise that it was a throwaway line without going back and asking Ms Chong. I keep telling members that I am not a lawyer, but I believe that there may be a reflection to some extent on the CCC for going down that path and reporting it in that manner. I can assure members that the Joint Standing Committee on the Corruption and Crime Commission would dearly love to be able to believe absolutely everything put before it. It would make our lives a lot easier. However, we have seen with some of the reports the committee has brought to this house that certain aspects require clarification. In some instances, as in the case of the seventh report, additional information had to be obtained otherwise there would have been a cloud over the statements that had been made and previously reported. For that reason, everything that is placed before the committee - and I mean everything - has to be looked at very closely. I will certainly not say it must be looked at with a jaundiced eye, but it is a matter of trying to ensure that the information that is presented by way of report to this house is as clear, concise and accurate as it can possibly be. We cannot afford any ambiguity. We cannot afford a situation in which somebody reads the report and says that certain words might mean something else. The report needs to be very clear in what it says and what it means. I hope that in this instance this report has clarified the issues that were brought forward in the fourth report.

Members can be assured that the joint standing committee will continue to do what it believes needs to be done for the benefit of members of this place and to ensure that justice is seen to be done.

Hon GRAHAM GIFFARD: I want to make a few comments on this report on clarification sought by the Joint Standing Committee on the Corruption and Crime Commission. The general observation I would make about this report and its contents is that despite having read this clarification, it is still about as clear as mud to me as to what was said and why it was said. I am not levelling any criticism at the committee.

Hon Ray Halligan: It was done under oath and you either believe it or you don't.

Hon GRAHAM GIFFARD: The point I would make is that one is either convinced by it or one is not. I find myself asking more questions about this report than the report supplies answers. This is the difference between a report that is provided to this house as a result of the joint standing committee's work and a report provided after the joint standing committee has itself been exposed to a closed hearing with the acting parliamentary inspector. We are not privy to the information that the committee was privy to. The committee has to work with such information as it has to produce a report that will satisfy members of this house as much as it satisfies members of the committee themselves. In that sense I feel a bit let down because I am still dissatisfied with the explanation that has been provided.

Like many people, I was concerned about the throwaway line that was described by the Corruption and Crime Commissioner.

I was curious to hear Ms Chong's explanation of why she had used the term the "Godfather". Hon Ray Halligan referred to the evidence given by the Acting Parliamentary Inspector of the Corruption and Crime Commission,

which is referred to in chapter 1 of the committee's report. The third paragraph of his evidence as quoted in the report states -

Ms Chong said that she had no evidence which would justify the use of the word "Godfather" in the sense commonly understood.

That begs the question of why she would use that term. I go back to the explanation contained in the report. Hon Bruce Donaldson made a worthy interjection a few minutes ago. It was a good point that does not appear to have been answered. How did the term "Tai Ko", which is a reference to village elders who are held in respect and who are used to settle disputes, become translated to the term the "Godfather"? I have some difficulty accepting that we must have blind faith and believe that that is an appropriate translation. Clearly it is a flawed translation. The term the "Godfather", as we all know it, has connotations of criminality, and it is an inappropriate word to use if a person means to refer to a village elder who is held in respect and who is used to settle disputes. The report contains far too little discussion, evidence or explanation to satisfy me that the term the "Godfather" can be dismissed as a simple throwaway remark. At the time there was a dispute, argument or however else it has been characterised, between two Italian gentlemen or between two families concerning a family friend. In that context, the use of the term the "Godfather" was and continues to be presented in *The West Australian* in a way that conjures a much more sinister meaning. The term the "Godfather" was not understood to be a derivative of Chinese; it has a much more Italian flavour to it than a Chinese flavour. Ms Chong's explanation was that she did not know who she was talking about and that she used the word affectionately. I respectfully suggest that regardless of who she was referring to, the meaning of the word had the potential to cause damage to that person's reputation. In that sense, the use of the term the "Godfather" in reference to a person whom she said she did not know was reckless at best. It was not as simple and innocent as we are now being asked to believe. It was quite reckless. Hon Ray Halligan has referred to the rather bland explanation we heard from the CCC at the time. It disappointed me that the commissioner did not take counsel assisting to task on that matter and publicly indicate to counsel assisting that if that was her explanation, she must be very careful about the choice of words she uses to describe people who are referred to at the CCC. The CCC is a powerful organisation that has extensive powers to call witnesses and discover documents etc. Therefore, it has a responsibility to deal appropriately with people. In my view, it was quite reckless for counsel assisting to use, in a public hearing, a term such as the "Godfather" in reference to a person who was conciliating in a dispute between two Italian families.

The second point I want to make is that I am actually a bit confused about this whole matter. I know as much about this matter as any other person who read about it in the daily paper, heard about it on radio or watched it on television. I recall that during the hearings it was revealed that the CCC was in possession of telephone intercepts. Some of those telephone intercepts indicated that John D'Orazio had been mediating in a dispute between two gentlemen from two Italian families. The focus of these telephone intercepts was that the discussion that John D'Orazio had been having with these two Italian gentlemen was along the lines of, "Come on. This is crazy. You have to talk to each other. You have to resolve this." In that sense, John D'Orazio was playing the role that was being described by the witness when Patti Chong dropped the term "the Godfather". That is what confuses me about this matter. The CCC had those telephone intercepts, so it knew that John D'Orazio was the person who had been talking to these gentlemen and had been trying to mediate between them to help them resolve their personal differences. Therefore, why did Patti Chong say that she did not know who she was talking about when she used the term "the Godfather"; it was just a term of endearment? The CCC had telephone intercepts that pointed clearly to the fact that John D'Orazio was the person in question. I therefore find the report unconvincing, because it does not clarify that important issue for me. If we accept that the CCC knew who the person was, it begs the question: why did Patti Chong not say in her explanation that she knew it was John D'Orazio, but she was using the term "the Godfather" as a term of endearment? Why did she say she did not know who the person was, when it came out subsequently in telephone intercepts that the CCC did know? I find that very confusing.

In my view, the explanation that is provided in this report is inadequate. I am still confused about the explanation that has been given. I am dissatisfied with the logic and the level of information that we have been given. I am still confused about how the evidence unfolded and whether we can reasonably accept the explanation that is given in the report. In that sense I am disappointed with the report, because in my mind it raises more questions than it answers when it comes to what on earth people were doing at this hearing six months ago. In fact, it does not answer any questions. I note the report, but I express my disappointment, because I do not believe it deals adequately with this issue.

Hon SIMON O'BRIEN: I am wondering whether this place has the capacity to refer a matter back to the joint standing committee; and, if we do have that capacity, the mechanism by which we could do that. I think it would probably need to be done by way of a substantive motion.

If members have this concern, and I thought Hon Graham Giffard articulated it very well, it may be that the Joint Standing Committee on the Corruption and Crime Commission will want to take that on board. I am sure Hon Ray Halligan will respond in a moment. However, I want to indicate, as Hon Graham Giffard did, that there are a few aspects about this whole business that I also found highly peculiar and I would like some answers.

This was a sensational incident involving a minister of the Crown giving evidence in a corruption investigation. I recall that the matters reported publicly were that a person was being investigated, I think, about how some carpet contracts had been awarded. I do not know whether that matter is still sub judice, so I will not go any further down that track. However, I recall that that was the gist of the matter; there may have been some other matters. The other party to the dispute was a fellow who had a carpet-laying business. A family member of the first party had ceased his employment with that carpet-laying business and had started his own business in competition. I believe questions were raised about whether the new carpet-laying business relating to the first party that I mentioned was now getting a lot of carpet-laying business that otherwise would have gone to the older, established carpet-laying concern. I was incredulous to hear of the matters that were reported publicly about this. There was a clear turf war about who would have access to lucrative carpet-laying and carpet-provision contracts. In the context of that, the subject of the now infamous comment became involved in some form of arbitration between the two parties. I will stand corrected if any member of the chamber has better knowledge. I had no involvement with the case in any way, shape or form; I was purely an observer, as were other members. However, my recollection of what was reported is that one solution that was suggested was that the elder, long-established carpet-laying party should take on the new carpet layer as an equal partner for no consideration at all; that is, the upstart who had formerly been an employee and who had set up his own business in competition and taken half the established customers with him. It was suggested that one party would find that things would not be as difficult for him if he gave away half his business for nothing to the bloke who was causing him all the trouble. The only sweetener available was that the person who had the power to obtain carpet contracts would ensure that although his relative would bring with him no capital contribution, there would at least be a guarantee of some contracts. That is my recollection of what happened. If any member says that I am confusing it with another case, please let me know. I do not wish to mislead, but that is my true recollection of what was reported.

That raises some concerns. The person who umpired that discussion - that kindly village arbitrator of Chinese tradition, who had ties with one of the parties and who may have been involved in brokering a very shady and very unfair resolution - happened to be a member of cabinet; indeed, happened to be the Minister for Police and Emergency Services. Together with just about everyone else in Western Australia who read the outline of that story in the paper, I thought it was like something out of *The Sopranos*. When I saw on television some of the people giving evidence walking out of the court, I thought this was something out of *The Sopranos*, judging by appearances. I saw reports that counsel assisting the CCC was referring to this dispute between two Italian families about so-called business arrangements being arbitrated by another Australian-Italian personality - a person invested with power and influence. When that prosecutor at the CCC hearings referred to that person as the "Godfather", no-one in the world would have thought she was using the term in the Chinese sense of the word.

A day or two later we became aware that the umpire in this fight between two Italian families about what turf these respective businesses would be allowed to engage upon - this "Godfather" figure - turned out to be none other than the then Minister for Police and Emergency Services. That caused, as we would expect, a tremendous ripple of concern throughout the community. Was the then Minister for Police and Emergency Services really involved in what appeared to be very shady and unfair proceedings? Apparently, he was. We later heard the Chairman of the Joint Standing Committee on the CCC get up, as he often does at media events, and tell us that the committee had a talk with the counsel assisting from the CCC, who said she did not really mean the "Godfather" but the Chinese term "Tai Ko". Why did she not say "Tai Ko"? If, because of her cultural and ethnic leanings, she thinks the chap we are talking about was a Tai Ko, why did she not say he was a Tai Ko? She did not say that a Tai Ko is a friendly village figure who arbitrates in disputes, as they say in China; she said, "Who was the Godfather?"

Perhaps from a slightly different angle, I also find it disturbing that this report has been delivered at all. There is too little to it. What were they trying to achieve? Were they attempting to write off one word and somehow expunge it from our collective consciousness? It certainly was a spectacular failure. Again, I am not concerned about it. Maybe there is the capacity for the commission to interview the officer. Why send Graeme Scott to clarify these questions?

The only reason I am saying this is not to be critical of the committee, but to express my concern along with others, that this is an extraordinary catalogue of events in the history of Western Australia. I gained no greater sense of confidence from seeing the antics of the chairman of this committee in calling together the committee

members to have the tiniest inquiry and then come out in the media, as he always does, and say that the reference was not to the "Godfather" but to a "Tai Ko", and that that is okay and everybody can forget about it. No-one in this state was fooled by it and neither was I. I do not know how much more of this we will see. We have already seen a bit. I join other members in expressing my concern about the incomplete nature of it.

Hon RAY HALLIGAN: I remind members that we created the arms-length approach between the oversight committee and the commission. Committee members are not in a position to go to the commission to query about any operational matters. That is why we created the position of parliamentary inspector, which is a very important position and one that requires, I suggest, a person of the ilk of Malcolm McCusker to fill. He is a Queen's Counsel and is very well known. The unfortunate thing about that is that he has so much work and he has been involved with so many people that conflicts of interest arise, causing him to have to stand back from tasks. That is why we ended up with an acting parliamentary inspector. If we were to give any number of people the same task, quite often they would each do it differently. I suggest that, in this instance, the parliamentary inspector may well have done things somewhat differently from the way the acting parliamentary inspector would do them.

I am not sure what previous speakers are looking for. If we do not accept what is in the seventh report about the information provided by Patti Chong, under oath and given before a retired judge, then we are saying that she is a liar; she has perjured herself. Is that what we are saying or is it something we do not want to accept?

I am not denying a great deal of what previous speakers said. It was a difficult time; a dirty time, in the words of some. One wonders why the commissioner allowed that form of questioning or, more importantly, why he did not ask that it be continued to clarify certain issues. Again, I remind members that we are working in an environment that we created.

I refer to the committee's fourth report and I will quickly go through some of the areas that caused me concern. I will read from the report provided to the committee by the acting parliamentary inspector before the committee asked for clarification, to which I referred previously. He states -

... I inspected the file and the papers made available to me by the officers of the Commission.

As I expressed at the time, I do not think it is unreasonable for anyone to expect that we do not just accept what is said to us; we are expected to ferret out what we believe needs to be considered. Hon Simon O'Brien mentioned the business and a partnership. I will not go into all the details, of which there are a fair number, but other questions arise. The report further states -

Mr Spagnolo was anxious to have his son Emilio not only work for the business but, because Mr Spagnolo had sent clients to Mr Drago, he wanted his son to have a share in it.

There is no mention anywhere of consideration - none. That raises another question. What was going on? Was he buying into it? The inspector states further -

There were discussions about an appropriate percentage and initially offers of 10% and 20% were made ... but those offers were rejected. Mr Emilio Spagnolo wanted more than 20% of Mr Drago's business.

I am not trying to read anything into that, but a number of unanswered questions reasonably come to mind considering the overall situation. It states further -

Mr Emilio Spagnolo decided to set up his own carpet business under the name of 'Goldwater'.

The report refers to Mr D'Orazio acting as a mediator to try to reconcile the dispute, and indicates that the two companies eventually came together and formed another company, and that the two men had a 50-50 shareholding in the new company.

Hon Simon O'Brien: What consideration?

Hon RAY HALLIGAN: Again, there is no mention of consideration. If one were to believe that there might have been something underhanded associated with all this, one might have expected consideration to be mentioned. However, people can come to their own conclusions. Some of the information provided to us, at arm's length from the commission, is as follows -

I am not persuaded on reading that transcript that anything sinister was meant by the use of that term.

He does not say, "I have checked the facts." He says "What I believe". That is all very well and good.

Hon Graham Giffard: Who is that quote from?

Hon RAY HALLIGAN: The acting parliamentary inspector. If he could say that he had eliminated certain aspects and therefore could make only certain conclusions, I would be reasonably comfortable with that, provided I can agree with the elimination of all those aspects and can believe that that is all that is left. However, that argument has not been made. The acting parliamentary inspector says, "I am not persuaded on

reading the transcript.” He does not say, “I checked this or that.” He does not even refer to spot checks. I would not expect him to investigate the whole matter again. He goes on to say -

His attitude throughout the course of events was reconciliatory. It is clear that he was trying to resolve the dispute between those parties.

We all know that reading a book is one thing, but watching a film can present a matter in an entirely different context. Even when we stand in this place and read from *Hansard*, we can quote in a monotone. That means it often sounds completely different from the way it was said. Again, I have some difficulties with some matters that were provided to us. I suggest the difficulty is - I did not want to go down this path to any great extent - that we had a closed hearing with the acting parliamentary inspector. It was closed but recorded by Hansard, so there is a transcript. We have not made that public or reported to Parliament. We have not provided the house with a transcript, which Hon Graham Giffard mentioned earlier in the piece. There is a lot more to this matter than is written in the report. The difficulty with this - it is possible for me to take the issue back to the full committee - is that I wish to pursue other matters that still revolve around this incident, not the players so much as the commission and the way in which the incident was reported. I am talking now about the commission's report of 3 March. I would have expected the wording to be somewhat different to again block out those areas in which I felt there could well be ambiguity. That is an issue for another day. I am still going down that particular path. Because it is likely that certain operational matters and certain papers will need to be looked into in order to clarify these areas, we cannot do it ourselves. We must do it through the parliamentary inspector. I am quite comfortable going down that path, provided we can be comfortable with what the parliamentary inspector, or the acting parliamentary inspector, reports. In one instance we were uncomfortable with the way in which the acting parliamentary inspector reported and with the wording of the report. We asked him to clarify the position. That is exactly what he has done.

I understand that some members are concerned about the term that was used and the way in which it was used, but I either accept the evidence that Patti Chong provided under oath in front of a retired judge or I ignore it and say that she is a liar. Knowing the young lady and her profession, my preference is to accept what has been presented to me through the committee; that is, the use of the term “the Godfather” was unintended or it was meant in a completely different context. As I say, it is either one thing or the other. The committee is not in a position to pursue many of these issues when it does not believe that it will elicit any additional information or alternative information. Given the statement was provided under oath, I will be guided by members of this place if they believe that the committee should ignore that and undertake further investigations.

Hon GRAHAM GIFFARD: I will very quickly summarise the points I am making to leave people in no doubt about my position. I will not be distracted by report 4, because we have dealt with, noted and moved on from that report. This specific report arose out of report 4 on a specific issue; that is, the use of the term “the Godfather”. I am raising two issues. First, on the basis of what I read in reports 4 and 7, I am wholly unsatisfied with the explanation. Hon Ray Halligan can draw whatever conclusion he wants from that, but I have made the point that not all the evidence that the joint standing committee had in front of it is available to me; nor do I have available all the evidence that the acting parliamentary inspector had in front of him when he wrote his report. I am saying that, on my reading of this report, I am wholly unsatisfied with the explanation.

Hon Ray Halligan: Again, we had no evidence before us. We were relying on third parties to provide information.

Hon GRAHAM GIFFARD: The joint standing committee had evidence. It had a closed hearing with the acting parliamentary inspector. What he said is evidence. We do not have that. I will finish off on that first point about not being satisfied. I have raised the questions that I have in my mind about that situation, so I will not rehash it.

The second point that I make to members is that I was disappointed with the way in which the Corruption and Crime Commission chose to handle what was said by dismissing it as a throwaway line, when I would characterise it as, at best, a reckless thing to say. There is a fair distance between the two. I was disappointed, and I continue to be disappointed, that there was no public acknowledgment by the commissioner - knowing what people say they now know - that it was quite an inappropriate thing to say. Nothing that I have seen from the CCC acknowledges that point, and I think it should.

Question put and passed.

Progress reported, pursuant to sessional orders.

Sitting suspended from 5.57 to 7.30 pm