

ANTI-CORRUPTION COMMISSION, LEGAL OPINION

275. Mr McGINTY to the Premier:

I again refer to the damning legal opinion provided by Malcolm McCusker, QC, in relation to the conduct of the Anti-Corruption Commission over the charging of five police officers with perjury.

- (1) As the minister responsible for the ACC, how does the Premier intend to restore public confidence in his embattled corruption commission?
- (2) How does the Premier propose to conduct the investigation Mr McCusker said is needed into “whether or not there has been an attempt to pervert the course of justice by the withholding of information from, and misleading, the DPP . . .”?

Mr Kierath: He has already answered that.

The SPEAKER: I nearly gave the call to the Minister assisting the Treasurer as he appears to want to provide an answer.

Mr COURT replied:

- (1)-(2) In relation to the “embattled” Anti-Corruption Commission, as the member described it, for the past couple of years members opposite have done everything possible to undermine the ACC. They have even put out a policy stating that they want a royal commission into police that will also look into the ACC. Members opposite will spend a minimum of \$20m, and they will wind down the activities of the Anti-Corruption Commission to help fund that exercise. It is just amazing! A royal commission found that we should establish this kind of independent body. It is established. Now members opposite want another royal commission to say that we need to establish another independent body.

Let us get on with the job. If the Opposition is unhappy with the independent body, it should provide some constructive suggestions on improving it. It should not come out with the cheap suggestion that we establish a royal commission. Since the member asked his first question, I have been given the Director of Public Prosecutions’ advice on the matter to the Attorney General. I have not had the opportunity to read it in full, but I will read parts of it. I quote -

I formed the view, in late 1999, that there was a reasonable prospect of securing convictions for perjury because of evidence contained in a statement dated 15 June 1998 from Inspector Barry John Mann and, additionally in respect of Gregson, there appeared to be evidence from an interview the ACC conducted of him which was capable of also supporting the evidence of Mann and Mylonas . . .

Referring to Mr Mylonas, the Director of Public Prosecutions states -

. . . I was always apprehensive about his credibility even on the materials with which the ACC had already provided me . . .

This suggests to me that it is more likely that the relevant officer in the ACC did not fully appreciate the significance of the 1997 interview rather than that it was a deliberate attempt to withhold the material from me . . .

It should be pointed out, however, that Mr Smythe was frank with the court in explaining what he did during his interview with Mylonas and I understand from the Chairman of the ACC that Mr Smythe had been counselled about that conduct. Whilst the approach taken by Mr Smythe when he interviewed Mylonas during the court adjournment was inconsistent with normal practice and inappropriate, nothing of consequence appears to have turned upon this conduct. Bearing in mind that Mr Smythe was cross-examined in relation to the matter before the Magistrate at the committal hearing, no further inquiry into that particular matter would seem either necessary or productive.

He concludes -

To then draw an inference that the failure of the ACC to do these things taken together with the destruction by Mr Smythe of his notes of his recent interview with Mylonas calls for an inquiry into the conduct of the ACC is, in my respectful view, to draw a particularly long bow and to require of the ACC investigative and legal skills well above those expected of other investigative agencies.

In my view no further inquiry into this case is necessary.

I table that advice for the information of the House.

[See paper No 368.]

