

*Joint Standing Committee on the Corruption and Crime Commission — First Report —
“Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?”*

Resumed from 20 June.

Motion

Hon NICK GOIRAN: I move —

That the report be noted.

In moving this motion I take the opportunity to observe that this is our first opportunity in the thirty-ninth Parliament to consider committee reports. Just as well the Joint Standing Committee on the Corruption and Crime Commission exists, otherwise we would have nothing to discuss today. In the limited time that I have, let us get stuck straight into this first report. The purpose of this report, which, for the casual observer, looks extremely brief, was to reproduce the findings and recommendations made by this committee in the last Parliament in the committee’s twenty-eight report, tabled in June last year, which contains the substance of the report. The reason that we took this opportunity is that, regrettably, at the conclusion of the thirty-eighth Parliament, the slate was wiped clean with respect to the consideration of committee reports, and there was no opportunity for us to debate and consider the report in this chamber. More importantly, there appears to be no obligation or no incentive for the government to respond to those findings and recommendations. Therefore, the joint standing committee in this Parliament decided to reproduce the findings and recommendations to force a response to come forward.

This report is of critical importance, because those who were with us in the last Parliament will recall that this committee had a very strong view of the role of the Corruption and Crime Commission. There was a view by some that the Corruption and Crime Commission should become some form of organised crime fighter. The view of this committee of four—a committee that consisted of two members of the Liberal Party and two members of the Labor Party—unanimously and in a bipartisan way indicated that this was not a good idea and that, rather, we needed to ensure that the focus of the CCC’s attention came squarely upon the WA Police. To elaborate on that a bit further, what is required in the fight against organised crime is to have a clean police force, and it is the role of the CCC to ensure that there is no misconduct and corruption within the WA Police. Therefore, rather than working together with the WA Police—hand in glove, if you like—the CCC should be the watchdog for the WA Police and leave the fight against organised crime otherwise to WAPOL.

What this committee then did in its examination of things in the last Parliament was pose the question: is there a discrete task that the CCC might be able to do to help the fight against organised crime that would not create this conflict of duty? The twenty-eighth report of the committee in the last Parliament, tabled in June, is the outcome of that. It is probably easiest, because I have such limited time this afternoon, to refer to the final portion of that twenty-eighth report. The final paragraph on page 48 of that report reads —

The Committee believes that the investigation of unexplained wealth represents a niche—albeit absolutely vital—function in the fight against organised crime that the CCC could discharge without unnecessarily being exposed to a substantially increased risk of internal corruption. Furthermore, a strictly defined amendment that would allow the CCC to deploy its skills to investigate unexplained wealth need not in any way compromise the CCC’s ability to oversight the WA Police with authentic independence—because any investigation of unexplained wealth should be conducted solely by the CCC on application by the WA Police Commissioner. That is, the Committee believes that the investigation of unexplained wealth ought to be made a function of the CCC, equal to the present ability of the CCC to confer exceptional powers of investigation upon the WA Police, so as to enhance the organised crime fighting capacity of the WA Police.

Lest anyone be in any doubt about the position of the committee, it is the case that the preferred model is for the Corruption and Crime Commission not to have this function. The preferred approach is to establish a new office of confiscations, which would be responsible for proceeds of crime and applications of unexplained wealth. However, there are obviously resource implications in that approach, and if the government is not minded to or due to other budgetary restrictions unable to establish an office of that sort, the committee has indicated a compromise that would confer those functions on the CCC.

Interestingly, as I indicated earlier, the purpose of tabling the first report of this thirty-ninth Parliament, which was tabled in Parliament in June this year, was to extract a response from the government that we were unable to extract in the last Parliament. I am pleased to tell you this afternoon, Mr Deputy Chair (Hon Stephen Dawson), that on 1 August the committee received a response. It is not clear to me whether that response from the Attorney General has been tabled in either house of Parliament, and so at the conclusion of my remarks I will seek leave to table it so that everyone has the benefit of it. Perhaps I should indicate that I will not seek to table the response in consideration of this report, but will do so in consideration of the next report. The simple reason

for that is the response to both reports is in the one letter and if I table it now, I will have nothing to refer to when I give my next speech—and we would not want that, Mr Deputy Chair! The response dated 1 August contains two recommendations, the first of which reads —

The Criminal Property Confiscation Act 2000 should be amended so as to invest the functions conferred upon the Director of Public Prosecutions in Sections 11–14 upon the Commissioner of the Corruption and Crime Commission. This would allow the CCC to conduct, on application by the WA Police Commissioner, investigations of unexplained wealth into targets identified by the WA Police. These functions could then be removed from the ambit of the DPP.

The Attorney General's response to the committee is as follows, and I quote from the letter —

A Bill will be introduced into the Spring session of the 39th Parliament which will incorporate those elements of the 2012 CCC Amendment Bill 2012 concerned with criminal property confiscation and unexplained wealth. The Bill will retain the DPP's role in applications for unexplained wealth declarations as it would be prudent for it to be able to pursue such an application if it is prosecuting members of a criminal organisation, but does not have prima facie evidence of a crime against a person associated with that organisation.

It is not clear to me whether there is a typographical error in the letter because the final sentence says “but does not have prima facie evidence”. I would have thought the Attorney General meant “but does have prima facie evidence”, but I will leave that for the Attorney General to correct at some later stage. However, I think we get the drift of what the Attorney General is saying. I commend him for this response, because it demonstrates that he is an Attorney General willing to listen to the recommendations of a committee, which was not evident with some of his predecessors on both sides of the chamber. Nevertheless, I am very impressed that the Attorney General has indicated that he will be bringing a bill into this spring session of Parliament, which I understand will give the Corruption and Crime Commission a discrete and narrow role with regard to the proceeds of crime and unexplained wealth. I think the people of Western Australia will be better served by the commission if that is in fact to be the case.

Hon LIZ BEHJAT: I do not want to take up too much of the house's time but I want to make a contribution to this first debate on committee reports in the thirty-ninth Parliament by firstly commending the Joint Standing Committee on the Corruption and Crime Commission for the quality of the reports that it tabled throughout the thirty-eighth Parliament and obviously now into the thirty-ninth Parliament. Also, for the benefit of members who are not as experienced as others in this place, I recommend that they take on board these committee reports. As the chair of the committee, Hon Nick Goiran, said and as we all know as we participate in our own committees, by and large membership of these committees is across all parties rather than just bipartisan, and some incredibly important work gets done at committee level. The demonstration of that work is shown in the response from the Attorney General, particularly the response to the issue of proceeds of crime and unexplained wealth, that we can expect to see legislation introduced into this spring session. That legislation has largely come about as a response to the report of this very important committee that my very good friend Hon Nick Goiran chairs. There are a number of committees. A lot of people in the public domain do not realise that the majority of the work we do is not done in this place at these times and that the work is not always of an adversarial nature. Some very hard work is done by committees. I, as chair of the Standing Committee on Public Administration, together with the members of that committee, have already started to do some very good work. We are building some great relationships and we will be producing some good reports.

These reports that committees such as the Joint Standing Committee on the Corruption and Crime Commission produce are invaluable tools to all of us in all the work we do. I commend this particular report to members. I will not be making any comment on the other reports that Hon Nick Goiran will be speaking to in this debate; I just reiterate what he said and recommend that all members take on board these committee reports. I recommend that members take them to the public, share them with the members of their communities and get responses from them so that they can better inform themselves and the people of Western Australia of the very important work we do as members of committees in this place.

Hon COL HOLT: I back up what Hon Liz Behjat was talking about. I would say that the report being tabled today can be matched only by those reports that were presented by the Standing Committee on Environment and Public Affairs in the last Parliament. I also reiterate what the honourable member has just said: it is a real opportunity to show the Western Australian community that we are working hard on its behalf. As a member of the Standing Committee on Environment and Public Affairs, I can say that that committee is really about responding to petitions presented in this place. Often we find that we get outcomes and some movement on issues just by the fact that the petition has been presented and we are starting to look into the issue contained in the petition. It provides a great opportunity for new and older members serving on those committees to get some outcomes outside this place through committees that have very strict processes to follow. Committee work

provides members with an opportunity to look at things differently, work together to solve issues and possibly arrive at outcomes that benefit the people they represent. Those are some brief words to encourage that participation and the role of committees in this house.

HON KATE DOUST: When I walked into the chamber I picked up on part of the contribution of Hon Liz Behjat, and I certainly endorse the words of Hon Colin Barnett about that extremely hardworking committee —

Several members interjected.

Hon KATE DOUST: What did I say?

The DEPUTY CHAIR: Barnett.

Hon Simon O'Brien: Withdraw.

Hon KATE DOUST: I do withdraw. I am sorry. I was thinking about something else. I endorse the comments of Hon Colin Holt about the extremely hardworking Standing Committee on Environment and Public Affairs of the last term. I am sure that hard work will continue under the stewardship of Hon Simon O'Brien. I endorse those comments and encourage members to participate and value the work of the committees in this place. This house has had this discussion on a couple of occasions recently. Yesterday Hon Ken Travers moved a motion to refer the Insurance Commission of Western Australia Amendment Bill 2013 to a committee. On the last day of sitting—it may have been the day before as I lost track of time—there was another attempt to refer the Duties Legislation Amendment Bill 2013 to the Standing Committee on Legislation. This place has a very good committee system and it is a shame that the Standing Committee on Legislation sits there idly and that its members have nothing to do. Given the way the government conducted its business in the last term—and it looks to be doing the same this term—it is possible that the members of that very important committee will not get an opportunity to learn how to explore the wonders of the legislation that that committee deals with. That is a real tragedy.

It is all very well to look at petitions or do self-referrals on issues, or to have matters referred by the house to a committee, but what is the point of being a house of review if this house cannot refer a bill to the Standing Committee on Legislation. I would have thought that that committee would have been at the top of the wazza in terms of the work being referred to it and the work being returned to this chamber. This house saw that on only three occasions in the last term, and the government seems to be reluctant to have that committee engage and do its job and to train up those members.

Hon Robin McSweeney is the chair of that committee and Hon Sally Talbot is a member of the committee, but I am not sure who else is on that committee—they are probably new members. When I was first elected to this place I was a member of that committee, and an extremely high volume of bills were referred to it. In many cases they were very contentious pieces of legislation, and the committee held inquiries that lasted, in some cases, 12 months. But those bills certainly got a good going over and would come back to this place with, again in some cases, significant numbers of recommendations for change. Often those recommendations were unanimously supported by members of the committee. They were not always necessarily supported by the ministers of the day, but at least the committee was able to come to an agreement on those things.

It is a shame that the members of that committee are not afforded the opportunity to open up the debate in our community, or to discuss with key stakeholders a particular piece of legislation, to explore how that legislation can be improved, or should be improved, and then provide a detailed document to this place to better educate all members on a particular bill.

I refer again to Hon Norman Moore, in his absence—in his slight break between his one period in this place and quite possibly another. Even the Leader of the House, Hon Peter Collier, has made reference to that—we have had this discussion before—but if members value the committees, they must start to bite the bullet and say, “Yes, we will refer a bill.” Take the risk

Hon Robyn McSweeney: I wish they would.

Hon KATE DOUST: Otherwise Hon Robin McSweeney will be sitting up the back saying, “What am I here for? I'm underemployed. I need to be kept busy.” In fact, she does need to be kept busy. I have worked with her on committees. If for no other reason, members need to keep that woman over there occupied.

Hon Peter Collier: Can I offer you a suggestion? If you see a bill in the other place that you think is worthy of going into committee, come have a chat to me. Don't throw it off on us on the day. Just come and have a chat behind the chair a day or two before, and we will consider it. It is very, very difficult, particularly if it is a bill that is not under my responsibility. I cannot make that determination. You know what they are going to say down in the other place. If you give me a couple of days, and I think it is worthwhile, I will have a discussion with that minister and, quite likely, if I think it is worthy, I will recommend that we do send it off to a committee. It is just a recommendation.

Extract from *Hansard*

[COUNCIL — Wednesday, 7 August 2013]

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Hon Nick Goiran; Hon Liz Behjat; Hon Col Holt; Hon Kate Doust

Hon KATE DOUST: I thank the Leader of the House for putting that on the record, even though it was via interjection. I appreciate that, because during the first two terms of the Labor government that would happen on a regular basis. A bill would come into this place, there would be a discussion between the two leaders, a bill would go off to the Standing Committee on Legislation, the work would be done and in all cases good solid reports would come back. It was a great tool for members to gain a better understanding of the legislation and its intent. If the Leader of the House is indeed genuine in his offer to do that, I am sure that our leader, Hon Sue Ellery, and other members who are involved in legislation will take up that offer. The opposition looks forward to the opportunity to make sure that its members on that very important committee have work to do over this term. Otherwise, members would have to question why they even bother to have a Standing Committee on Legislation if it does not have any work to do. That is a valid question.

All the other committees work hard on the matters referred to them. I am certainly enjoying new challenges on the Standing Committee on Uniform Legislation and Statutes Review. It is a vastly different world to the committees I have been a member of before, but it is a great learning tool, particularly for new members who sometimes have not dealt with legislation before. Vehicles such as the Standing Committee on Legislation are a great first port of call to learn how to do business in this place and how to understand the basics of developing legislation or understanding the language in this place, because this is a vastly different type of workplace from any other. The language used in this workplace, even in this chamber, is very different to that of other workplaces.

I thank the Leader of the House for his interjection, and the opposition will come to him in due course and try to entice him to refer a bill to committee. I know that the Leader of the House is prepared to be adventurous about changes to bills or to take in different approaches than some of his colleagues in the other place. I hope the opposition is able to take up that opportunity. Hon Sally Talbot is extremely keen to deal with legislation on that committee and sits there wondering why she has not been afforded that opportunity and why the government is so reluctant to open up its legislation to public scrutiny and contribution so that members can be better informed in this place.

I thank Hon Colin Holt for his contribution. It inspired me to say a few words. Committees are one of the main reasons for being in this place. Members should not forget that. While the other place has committees, this chamber's primary reason for being is examining legislation and members should do a better job on committee work than they did in the last term.

Question put and passed.