

Legislative Council

Wednesday, 14 September 2011, Page 3782

BURNSIDE COUNCIL INQUIRY

The Hon. A. BRESSINGTON (16:28): I move:

1. That a select committee of the Legislative Council be established to inquire into and report on:

(a) The legality and appropriateness of the decision of the Minister for State/Local Government Relations to terminate the inquiry pursuant to section 272 of the Local Government Act 1999 into the City of Burnside, and to ascertain:

(i) the likely duration and costs of proceedings with the inquiry to the completion of a final report by the investigator;

(ii) the likely duration and costs of proceedings with the inquiry to the completion of a final report by the Ombudsman;

(iii) the likely duration and costs of proceedings with the inquiry to the completion of a final report by a select committee of the Legislative Council ;

(iv) any legal impediments to the finalisation of the investigation; and

(v) the authority to which to refer any allegations of criminal conduct; and

(b) Any other relevant matter.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only;

3. That this council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council; and

4. That standing order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses, unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I am moving this motion for a select committee out of sheer frustration. Quite frankly, there are questions that need to be answered about the whole process of terminating this inquiry. The minister has not been able to convince me or anybody else in this chamber, or anybody in the public who has an interest in the Burnside council investigation, that his decision was lawful, that it was well considered and that it was actually made in the best interests of the people of this state.

The minister stated on a number of occasions the cost of completing this inquiry. It has gone from \$1 million to \$2 million to \$3 million, and he has made that judgement without ever even speaking to Mr MacPherson about how much it would actually cost for the completion of the report in abidance with the suppression order that was placed on the report. He has basically, I believe, tried to wiggle and worm his way out of taking responsibility for his decision by making a number of claims that these were nothing more than petty allegations. I

find it very difficult to believe that Mr Ken MacPherson would waste—and that is the implication of this—\$1.5 million of taxpayers' money and ask for two extensions, I think, into the investigation if they were just petty local government politics.

Call me naive, but I do believe that Mr MacPherson has a higher work ethic than that, and I believe that he was acting with good will and in good faith with the terms of reference he was given but that, as evidence was accumulated or received through this inquiry, it was obviously more serious than even Mr MacPherson had thought it would be. That is my assumption, and it is also the assumption of many other people out there.

The minister was very quick in the house today, when asked a question about Burnside council, to state that he is the only person—the only person in this entire place—who is upholding the law and showing respect for the courts in this state. I would just like to read part of the court judgement that relates to the minister's chest beating in the chamber in question time today. Paragraph 16 of the court judgement of 28 June 2011 states:

It is in the public interest that Mr MacPherson complete his inquiry and report to the Minister, as soon as practicable, on matters within the scope of the Terms of Reference as limited by the Court.

In fact, we have this judgement, part of the judgement, by the Supreme Court which put the suppression order on the entire report and stated that termination of the inquiry should not have been an option. How the minister, the Hon. Mr Wortley, can stand before this council and beat his chest about being the only one being respectful of the law, being respectful of the courts in this place, based on that excerpt from the judgement, defies belief.

I do not even believe he has read the judgement. Not only do I know he has stated in here that he has not read the report, I do not believe he has read anything to do with the Burnside inquiry—not the judgement, not anything. I think he is receiving very bad advice from people who do not want this report ever to surface. A petition has been presented of 1,630 Burnside or SA residents who have concerns and who want the investigation completed and want a report handed down. The response was 1,630 out of 30,000 residents. Do you know what? We had a very short time limit to gather those signatures. It was a citizen-initiated petition. The people who were doing this were working full-time as well as going to places and getting people to read the petition and agree to sign it. I believe that if we had another three, four, five months to collect signatures, to reflect exactly what the interest is in this inquiry amongst residents, we would probably have doubled or tripled the number of signatures we have.

No-one who was approached to sign that petition who understood what it was about refused to sign it. I think that is pretty significant. If people said, 'Look, I'm not interested and I don't want to sign it, I don't care,' and we scavenged 1,630 signatures out of it that way, fair enough, but no-one who was approached refused. It was a time factor and an ability factor, if you like, in terms of the number of feet on the ground doing this.

There is actually a great deal of interest out there from people, and the attitude of the minister, the 'That was then, this is now' scenario, 'It is a new council now and those members who are involved in all this have moved on, they have continued with their lives and all this is over'—no. If there are criminal conduct issues contained in the MacPherson report then the people engaged in those activities should be brought to justice just like every other citizen in this state.

We have people out there who do nothing more than challenge an expiation fee on a speeding fine, and who, because they choose to challenge that, end up with a criminal conviction, a criminal record. Ordinary, every day citizens do not get either the opportunity or the privilege of dodging a bullet where the justice system is concerned, and I do not believe that we in this

place would condone that people who have held a position not only of responsibility but of power within their community have a get-out-of-gaol card handed to them simply because of that.

I can tell honourable members that public sentiment reflects that, if it is good enough for us, by God it is good enough for them. No-one is sure that criminal charges will be laid, but that is the whole point of finishing the report, so that the entire report can be handed down and investigations pursued if necessary. On the finalisation of those investigations, if charges are to be laid, then that will go to the DPP and it will go through the justice process. But no, through the minister terminating this inquiry the way he has, he has cut that whole process of due diligence, due process, short. Why? Because he is the minister, he can do it, and he says so. It is not good enough, just not good enough.

Kevin Borick QC handed down a very brief opinion, but it was not a 'paid for' opinion, as the minister, in the previous sitting of parliament, implied. I paid him nothing for his view on this. He looked at the act, he interpreted the act and said that it was a very specific act; rarely do pieces of legislation contain the word 'must', but, under section 272, the Local Government Act provides that, when a committee has been lawfully formed, the investigation must be concluded and a report must be handed to the minister as part of that process. There is not very much room to move in the interpretation of that particular act, and Kevin Borick QC clearly stated that he believed that the minister had made an unlawful decision in terminating the inquiry the way that he did.

He said that, if we had 100 QCs in a room, we would probably get 100 different opinions. I have sought legal advice from more than five, and I can tell you now that they are all in agreement: that decision was unlawful. These are the issues that we will be looking at in this select committee inquiry. It is going to be short, sharp and shiny. There is no intention whatsoever to call in all the people who gave evidence to the MacPherson inquiry. There is no intention to redo the entire inquiry. I want clarity on the issues where I believe the minister has failed to sell the case—failed to convince me and others in this place and outside that he has made a well-informed and just decision in terminating that inquiry. That is what it is for.

I urge members to support this inquiry. As I said, it will be short, sharp and shiny. It is not going to drag on for months. It will also give us the opportunity to receive legal opinions about the decision of the minister in the evidence. The report from the select committee, whatever it shows, will then at least be out there for this minister to be judged on the decision that he made. If I am wrong, the report will reflect that. If my suspicions and the suspicions of others are correct, the minister is going to have a serious case to answer to justify his first major decision as a minister of the Crown in this place.

I leave this now with members, but I also make the point that, because the issue has been floating around this chamber for so long, I intend to bring this to a vote on the next Wednesday of sitting. I do not believe that we need to wait for three or four months for people to deliberate about whether or not they are going to support it. As I said, the sooner this is voted on the sooner we can get this select committee started, finalised and a report written. I leave it with members to consider.

Debate adjourned on motion of Hon. I.K. Hunter.