

2.2 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the report of the Independent Police Complaints Commission into the complaint of Mr. Lenny Harper:

Is the Minister aware of the report of the Independent Police Complaints Commission into the complaint of Mr. Lenny Harper and, if so, would he advise whether it states that the Metropolitan Police Interim Report, which was a factor in the suspension of the former Chief Officer and allegedly criticised the former Senior Investigating Officer, contained no such criticism of these officers and, if so, would he apologise or resign?

Senator B.I. Le Marquand (The Minister for Home Affairs):

This question relates to the circumstances of the original suspension of the former Police Chief by the former Minister for Home Affairs. I think because there are so many new Members, I am going to have to refer to people by their actual names so that is of Mr. Power by former Deputy Andrew Lewis. That suspension was the subject of a detailed report consisting of 51 pages, which was commissioned by the Chief Minister on behalf of the States of Jersey, which is called the *Napier Report*. I am aware that a report into the complaint of Mr. Harper exists but I have not seen it. The Metropolitan Police report was requested by Mr. Warcup with the agreement of Mr. Power in order to advise the States of Jersey Police both on high level issues and in relation to individual investigations forming part of the Historical Child Abuse Inquiry. Mr. Warcup then subsequently requested an interim report for reasons which I have stated before. He subsequently referred to the interim report in a letter written to Mr. Ogley and that letter was considered by Mr. Lewis as part of the matters he considered in the suspension hearing. Mr. Napier considered both the interim report and the letter of Mr. Warcup. He certainly considered the details of the interim report because he makes detailed reference to issues therein which he could only have found by so doing. He does not at any point in his report suggest that the section of that report quoted in the letter of Mr. Warcup did not, in fact, exist in the report. I also checked this. There was a whole series of questions to me in 2010 and eventually I checked the exact nature of the documents and also I checked that the words contained in the letter did, in fact, exist in the report. The Metropolitan Police report was not a disciplinary report and I would not expect it to contain direct criticism of individual officers. Frankly, I am completely puzzled as to what Deputy Trevor Pitman thinks that I have said or done in relation to this which warrants an apology or resignation.

2.2.1 Deputy T.M. Pitman:

How many supplementaries can I have? A quote from the findings of the Independent Police Commission: "In reality, having reviewed the report written by D.S.U. (Detective Superintendent) Sweeting" - sorry, I have got to name him and his team - "it is clear that no such criticisms are levelled at Mr. Harper." Paragraph 5.4. "The report was neither critical nor damning." Indeed, does the Minister - and I wish he would stop taking the flak for his predecessor - not agree that we should not have a situation where someone is suspended on the basis of a letter written claiming that there is something in a report which no one is allowed to see? Indeed, the Minister who suspended the individual was not allowed to see it and when you read the report, it warrants no such action at all.

Senator B.I. Le Marquand:

I am not sure that the words that Deputy Pitman just read out are inconsistent with what I said. I would not expect any such report to contain detailed or any criticism of individual people. It was an overall assessment of the situation. There undoubtedly was a problem in relation to the original

suspension in that the reference in the letter of Mr. Warcup to the interim report was considered by Mr. Lewis even though he did not see the report itself. I found myself subsequently some months later in exactly the same position and decided not to consider the part of the letter which contained that for that very reason.

2.2.2 Deputy M.R. Higgins of St. Helier:

I have got a number of questions on this so I will just start with this one. The former Minister for Home Affairs, Deputy Lewis, told this Assembly that what he had been told was contained in the interim report and was highly damaging. I will not quote him but he gave the House the view that he had no choice other than to suspend the Chief Officer because he had to investigate the allegations of gross misconduct in terms of management supervision and everything else. So in other words, basically, he was told in the letter that he was given by the Chief Executive at the time that this guy was basically out of control: "Something has got to be done and you have got to suspend him." Now, does he think that that was sufficient based on just a letter from the Deputy Chief of Police at the time to the Chief Executive who had already been planning from 24th September to look at disciplinary matters with the Chief of Police? Does he think that was justification to suspend him?

Senator B.I. Le Marquand:

I have been asked to express an opinion on somebody else's matters. I do not think that is within the normal rules of answering questions. It is very difficult for me to express an opinion because I do not know precisely all the materials that were before Mr. Lewis in relation to that but I do accept there was a difficulty in relation to the usage of the Metropolitan Report in circumstances in which the Minister did not see it. I also accept that a letter was written by Mr. Ogley in relation to this matter to Mr. Lewis in which Mr. Ogley put his own gloss, as it were, on some of the information which was produced and that may also, of course, have influenced Mr. Lewis but I cannot say.

2.2.3 Deputy M.R. Higgins:

Could I just follow up? The main question I am trying to ask is if the House was told at the time that the report contained such damning evidence that gave the impression of gross misconduct in terms of management supervision, *et cetera*, do you not think that misled the House into a suspension when there was no such evidence in the interim report?

Senator B.I. Le Marquand:

It is very difficult. I am being asked to express an opinion which a predecessor has done at a particular time. I accept that what he did and the manner in which he did it is open to criticism. I personally have always held the view that, irrespective of content, the procedure that was followed in relation to that matter was incorrect but I simply do not think it is fair that I am being asked to express a view, as it were, on the performance of a predecessor in relation to matters without knowing exactly what he considered. I would accept that on the basis of what he said to the Assembly, there were certain weaknesses undoubtedly.

[10:00]

2.2.4 Deputy M. Tadier of St. Brelade:

I understand that the Minister was not around at the time and that is perhaps where the difficulty arises. First of all, will he clarify that were he around at the time that he would have at least

insisted on seeing what the report said for himself before making a very serious decision to suspend a Chief Police Officer without having seen the report. So first of all, was that a mistake, quite categorically, yes or no; and secondly, because the Minister has subsequently said that he supports the suspension even though he did not support the way in which it was done suggests that he thinks it is okay to say that the means justifies the end and that it is all right to suspend somebody when the process is not correct, to do that unlawfully and then find the evidence for that later. Is that the correct way to do business?

Senator B.I. Le Marquand:

That question was so long that I think I have now forgotten the first half of it.

The Bailiff:

The first part was hypothetical. It was ...

Senator B.I. Le Marquand:

I think I agreed with it.

Deputy M. Tadier:

To clarify, I would be happy if the Minister would just answer the second part of the question.

Senator B.I. Le Marquand:

But I now cannot remember that. **[Laughter]** In relation to the first half, I think the answer I have already given indicates that I do not think that use should have been made of the material relating to this report without the Minister having looked at it and that is obvious that I think that because I found myself exactly in the same position and then chose to delete, as it were, the reference in the letter of Mr. Warcup to that for exactly that reason. Now, I have, I am afraid, forgotten the second half. There is meant to be only one question, is there not, Sir?

2.2.5 Deputy M. Tadier:

If I have a supplementary, that might help the Minister. I think I obviously took a leaf out of the Minister's first response which was also very lengthy and I could not quite remember the very beginning of that answer. The point that is being made here is that if the process was not being followed and the suspension was made and it was not based on due process, then we have a choice of a suspension either being made for valid reasons or for political reasons. So one is a process, one is to do with the fact that the job was not being done or the other alternative - which seems to be the case - that this was a political decision being made to get rid of an officer. So my question to the Minister is can he confirm that the criticisms of local journalists on the internet over here that this was a political suspension, politically motivated and not one for which the Chief Police Officer should have been suspended is correct? Will the Minister confirm that this was a political suspension and that there was no physical evidence at that time, no reason to suspend the Chief of Police?

Senator B.I. Le Marquand:

No, I do not agree with that. I have agreed that the procedure followed was not correct. That is, in fact, of course, what Mr. Napier found but Mr. Napier also found that there was no political

motivation, that this was properly followed through. I do not think that people can selectively choose parts from the *Napier Report*. Members of this Assembly must also remember that I reviewed the matter, that I reconsidered it, that I found that, in fact, the suspension was justified but that decision was attacked by Mr. Power by a judicial review before the Royal Court and my decision was not overturned.

2.2.6 Deputy T.M. Pitman:

Where to begin. If the Minister has read the so-called interim report, is he aware that it was not written by a working police officer, it was written by a civilian, and it is very selective in what it quotes? Does the Minister think that that is an appropriate way to go forward, effectively ending someone's career and ruining their life because that is what this political decision has done?

The Bailiff:

That was your question, Deputy. The rules are quite clear you ask one subject in a question.

Senator B.I. Le Marquand:

I have noted that among the papers flying around on blog sites are allegations that this interim report was not produced by the Superintendent who was named before. I have to say that is the first time I have come across that particular allegation. I would be very grateful if somebody would send me a copy of the I.C.C. (Independent Complaints Commission) Report so that I can have a look at that. I can then go back and have a look at the electronic form of the document which I have seen before which I have described before to this Assembly and see whether that is correct or not.