

COMMITTEES: Foreign Affairs, Defence and Trade Committee: Report

Mr HAWKER (Wannon) (12.45 p.m.) —On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the committee's report, incorporating a dissenting report, on an investigation into allegations of brutality in the Army's parachute battalion, entitled *Rough justice? An investigation into allegations of brutality in the Army's parachute battalion*, together with evidence received by the committee and a further submission received after the completion of the inquiry.

Ordered that the report be printed.

Mr HAWKER —This report came about as a result of public allegations regarding brutality and 'rough justice' within the Army's parachute battalion, the 3rd Battalion, Royal Australian Regiment—3RAR. In the report, the committee took the strong view that it would be entirely inappropriate to make comment on specific individuals or legal proceedings. The committee's focus in this report was on identifying and improving the processes of military justice. In conducting this inquiry, the committee received a total of 50 submissions, 29 from individuals with grievances. Two of these were from individuals in 3RAR relating to the initial allegations that sparked the inquiry. These submissions ranged across a variety of issues and time frames and are discussed in a generic way in chapter 5.

In relation to the specific allegations surrounding 3RAR, the main points of the report are as follows. Firstly, the committee did not find that there was a culture of violence in 3RAR or the Army. There was no evidence put forward to show that a system of illegal punishments was widespread in 3RAR or in the wider Australian Defence Force. Secondly, the committee found that there was a system of extrajudicial punishment taking place in A Company of 3RAR over the period 1996-98. That punishment took the form of illegal bashings of individuals who were not performing adequately or who were perceived to be guilty of offences by their peers. The committee is obviously concerned that this was allowed to occur over that period without being identified and stopped by those in authority.

The committee also comments on the performance of the military police and defence legal services. In essence, the investigations and charges should not have taken the time they did. The committee acknowledges the considerable positive change both the military police and the Defence Legal Office have undertaken in procedures and structure since the start of this investigation, and urges this to continue.

I must also say that the committee has been heartened with the Department of Defence response to this investigation. Since the committee started the inquiry, Defence has taken the following initiatives: the ADF stand-down day and the address by the Chief of the Defence Force and the service chiefs to the Defence Force, the establishment of the Burchett Military Justice Audit, the proposed establishment of an ADF Inspector General, an investigation into the command responsibility surrounding the events at 3RAR, the laying of charges against a number of senior individuals involved in the 3RAR investigation, the reorganisation of the Army Military Police, the introduction of an ADF prosecution team and an internal review of the Defence Legal Office. These are significant activities, and the ADF should be commended for their actions.

I would like to make a comment on one specific area of the evidence received by the committee. At the final hearing in this inquiry, on 9 March this year, the committee heard criticism regarding individuals within the Defence Legal Office. As this information came to the inquiry so late in the committee's proceedings, the committee wrote to the individuals named to offer them a right of reply to the allegations made during that hearing. Four officers took up that right and forwarded to the committee on 10 May this year their rebuttal of the views expressed about them at that hearing. The committee has authorised these responses as a supplementary submission to the inquiry.

The committee is now relatively comfortable that, because of the pressure by this committee and subsequent action by the Chief of the Defence Force and the Chief of Army, processes are now firmly in place to correct the situation. Those specifically responsible for the incidents have been identified and legal processes instituted where appropriate. Additionally, the ADF is looking at how this type of incident was allowed to happen. The Burchett audit and the investigation into the issue of command responsibility should allow lessons to be learned and identify if there are further issues to be addressed. Investigative and justice processes have already been amended as a result of lessons learned.

In the opinion of the committee, the events at 3RAR were unacceptable and should have been identified and stamped out earlier than occurred. However, the committee does not think that they were widespread and does not consider that there was, or currently exists, a culture of violence in 3RAR or in the wider Army. The action taken by the committee and senior leadership of Defence to raise the profile of the issues of justice and harassment will go a long way to ensuring this type of incident does not occur again.

I thank all members of the committee for their input, the committee secretary, Margaret Swieringa, Lieutenant Colonel Mike Milford and Lieutenant Colonel Leo Hogan. I commend the report to the House.

Mr HOLLIS (Throsby) (12.50 p.m.) —I agree with the comments made by the chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade. I was one of the signatories to a dissenting part of the report, *Rough Justice? An investigation into allegations of brutality in the Army's parachute battalion*, but that dissenting section dealt with only one aspect and, indeed, there was unanimous agreement on the rest of the report.

The terms of reference for this investigation were fairly narrow. It is fair to say that in many respects our work was taken over—indeed, taken over on the first day—by the Burchett inquiry. This is becoming something of a habit with this government. On a couple of committees I have been on, the committees have been doing their work and the government appoints another committee. I will give a couple of examples. One was an inquiry we were doing into the military, and the government appointed a three- or four-person committee to go around and do the work we were doing. Also, on a report I have been involved in on the United Nations, as we were doing it the government set up a secret inquiry within the department.

This inquiry that we are dealing with was not an inquiry into the brutality or alleged brutality in the defence forces but an investigation into allegations of brutality in the Army's parachute regiment 3RAR. I do believe that Australia is well served by our Defence men and women. Many of the recommendations that we were talking about, and which the chair has highlighted, have already been put into place.

It is true to say that the senior levels of our defence forces—indeed all levels—are concerned to stamp out any forms of brutality. I think it is true from events such as the stand-down day that all Defence personnel are aware of their rights and indeed of their responsibilities. It is generally accepted that brutality in any form will not be tolerated. Although the committee was not given evidence of illegal justice being used outside A Company 3RAR, we did not seek that evidence because that was not within the terms of reference. Committee members will await with interest the report of Mr Burchett.

One aspect that did cause some concern is that many of the committee members felt that the Department of Defence, and indeed the minister, should have informed the committee of the 3RAR investigation at the time that the previous military justice inquiry was being carried out. Had the committee been aware of the serious allegations of rough justice within 3RAR, this may have altered the committee's consideration and recommendations made in the report tabled in June 1999. I would not go so far as to say that the committee had been deliberately misled, but I must say that evidence that should have been put before that committee was not.

It is always difficult when a dissenting report comes forward. I support the recommendations made in the dissenting section of the report, but I stress that that was only one aspect that the

committee debated. On our side, we felt very strongly in this measure, so we signed that dissenting report; other members of the committee thought that we should wait until Mr Burchett brought down his report before deciding whether it was necessary to take the measures that we recommended.

We are keen to improve the whole process of military justice. I think anyone interested in the defence forces would want to see an improvement in military justice, and we hope that our report will go some way towards ensuring this. There have been significant improvements and we welcome those. Like the chair, I thank those who assisted us in this report, especially the secretariat staff, led by Margaret Swieringa.

Dr SOUTHCOTT (Boothby) (12.55 p.m.) —This inquiry was precipitated by media reports into rough justice occurring in 3RAR, and it subsequently generated great media interest during the hearings. It continues an interest that the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade has shown in the issue of military justice, culminating in a report on military justice and procedures, which was tabled in June 1999. The question which was never really answered was: why didn't the Department of Defence or the ADF bring these issues to the attention of the committee? As the report highlights, these issues were being investigated within 3RAR while the committee's inquiry in 1999 into military justice was proceeding.

By examining the 3RAR allegations in depth, the committee has provided a case study to evaluate the implementation and reporting of justice and equity procedures within the defence department. By examining the issue, the committee can take some credit for the response from the ADF, which includes an audit team under Mr Burchett QC to examine whether 3RAR allegations are a one-off or more widespread, an inspector general to expedite complaints, a specific investigation into events at 3RAR and the ADF stand-down day in February 2001 to brief all members of the ADF on their rights and responsibilities in military justice. This is the correct role of the committee. I believe the role of the committee is to prod Defence and to keep Defence accountable but not to act as some sort of kangaroo court, sitting in judgment on others. 3RAR is the Army's parachute battalion. The battalion has a proud record stretching back to the Battle of Kapyong in Korea in 1951 and distinguished service in Vietnam and East Timor. The benefit of undertaking a detailed inquiry into 3RAR and the allegations is that it has allowed the committee to understand the organisational culture which was operating in one isolated company of 3RAR. Cultures are informal but in this situation appear to have been reinforced by key NCOs.

The committee is in no doubt that extrajudicial punishments were being carried out in A Company 3RAR from 1996 to 1998. These punishments took the form of illegal bashings. While the committee was concerned about intimidation as part of the culture, we were also concerned that the victims did not use available avenues of complaint. We do not believe that the culture which operated in A Company 3RAR from 1996 was widespread throughout 3RAR or widespread throughout the ADF. In addition, there was some suggestion in the media that 3RAR might be disbanded. I do not think there was any support for this within the committee. This issue in fact was not even addressed within the committee.

I also want to address the role that the opposition has played on this committee. As the deputy chairman has said, dissenting reports are unusual. I think that the dissenting report is actually quite measured. What I want to talk about is the process of these hearings and so on over the last year. Parliamentary committees play an important role in providing scrutiny in their respective areas. The opposition raised these issues and pursued them with zeal. However, in their zeal, they lost sight not only of our obligations as a parliamentary committee but of our responsibilities to, in the words of the physician's dictum, first do no harm. Opposition members fail to realise that this inquiry has not been operating in a vacuum. There was always the danger that our investigations, which were not governed by rules of evidence or established procedures, had the potential to prejudice ongoing military investigations within military justice channels. As

a parliamentary committee, we are not judge and jury. Our role is to prod and to scrutinise the Australian Defence Force and Defence, not to sit in judgment on individuals. As MPs, we should remember we are dealing with the reputations of service personnel and their units. This calls for care in dealing with allegations. The dissenting report, as I have said, was actually more careful than some of the deliberations we have had over the last year. The committee also had an unfortunate habit of leaking in camera evidence; this will be the subject of a Privileges Committee hearing later. The committee examined what we believe was an isolated culture operating within a company, A Company 3RAR. There was no evidence it was widespread. The changes announced by the Chief of Army will assist in highlighting this issue and increasing awareness within ADF ranks. The committee plans to revisit this issue in 12 months to determine whether the new changes and awareness are working well.

Mr PRICE (Chifley) (1.00 p.m.) —It is with pleasure as an opposition member that I get up to support this report, Rough justice? An investigation into allegations of brutality in the Army's parachute battalion, of the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, and all of its recommendations, and I thank the chair, the honourable member for Wannon, for what I think has been a quite difficult task. I have described the report as a snapshot of 3RAR. Others, including the Prime Minister, have sought to portray the report as a clean bill of health on bastardisation in the rest of the ADF. I do not agree. The committee heard only from a very limited number of soldiers from 3RAR. We did not call all those who came forward who had served in 3RAR. We did not call anyone who had been bashed by 3RAR members. We did not call anyone from any other army unit or any other service. The committee spent in total 1½ days on hearings, the majority of which was behind closed doors. One can debate the reliance on in camera hearings. For the record, I wish to state that the truth is not, and nor should it be, a privilege extended by the ADF to the committee only behind closed doors. From the evidence, the committee is in no doubt that bastardisation did occur in 3RAR. Drawing conclusions about the rest of the Army or the other two services is a risky business and the parliament will have to await the findings of the Burchett audit, and there is now far more responsibility on him and his team.

What is most amazing to me about this sordid affair is the utter lack of any ministerial leadership and indeed the extent of ministerial inertia and cover-up. The first record of a complaint was directly to the minister concerned. In March 1998, Mrs Nishimura complained on at least two occasions to the then junior minister, the Minister for Defence Industry, Science and Personnel, Mrs Bronwyn Bishop, about the bashings in 3RAR. Army took fully 12 months before it treated the matter formally. In May 1999, in an exercise of great deception, Minister Scott, the Minister Assisting the Minister for Defence, did not disclose the identity of 3RAR, which was the subject of a military police investigation, and the excuse he offered was that it was 'inappropriate, as it may have prejudiced the investigation or legal proceedings'. Thus the committee, at the very time it was concluding its first report into military justice, was left ignorant of the bastardisation that two ministers were made fully aware of. In that three-year period what action did either minister take? Absolutely nothing. They claim to have been briefed, but they took zero—nil, no—action, issued no directions and no instructions. In those three years these impotent ministers have been moved to do absolutely nothing. For three years there has been no ministerial statement about bastardisation in general or in 3RAR in particular. There has not even been a dorothy dixer. How can the public and the mums and dads of serving men and women believe that the government is serious about bastardisation when its ministers are constantly missing in action and bereft of a skerrick of leadership? Because of the abortive investigations and charging of those involved in bastardisation in 3RAR, consideration of command responsibility has been deferred to the end of the process. Let me say that, from the evidence presented to the committee, Command has much to answer. The committee is continuing to follow this issue closely and will again be briefed on Tuesday, 19 June by General Leahy, whose frankness I for one very much appreciate. I understand that charges have been laid against a lieutenant-colonel, but there has

been no official confirmation of this. If this is true, silence can serve only to undermine public confidence. I call on the minister to confirm whether or not such charges have been laid.

Mr DEPUTY SPEAKER (Mr Nehl)—Order! The time allotted for statements on this report has expired. Does the member for Wannon wish to move a motion in connection with the report to enable it to be debated on a future occasion?

Mr HAWKER (Wannon) —Yes, I do, Mr Deputy Speaker. I move:

That the House take note of the report.

I seek leave to continue my remarks later.

Leave granted.

Mr DEPUTY SPEAKER —In accordance with standing order 102B, the debate is adjourned and the resumption of the debate will be made an order of the day for the next sitting. The member will have leave to continue speaking when the debate is resumed.