

**CORRUPTION, CRIME AND MISCONDUCT AND CRIMINAL
PROPERTY CONFISCATION AMENDMENT BILL 2017**

Second Reading

Resumed from 16 August.

MR P.A. KATSAMBANIS (Hillarys) [12.43 pm]: I am the lead speaker for the opposition on the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017, which does two major things. The main part of the bill deals with giving the Corruption and Crime Commission the power to investigate unexplained wealth of people in Western Australia—those people who may have accumulated wealth without any justifiable explanation for it, and there is a presumption, but no conviction, that the wealth has been accumulated through illegal or illicit means. The bill, interestingly enough, also introduces another concept and changes the relationship between the CCC and Parliament in relation to parliamentary privilege. I will discuss that second component later.

The Liberal Party does not oppose this bill. Like everybody, we want to see criminals brought to justice. Like everyone in the Western Australian community, we want to ensure that our community is protected from criminal activity, particularly criminal activity as it relates to the manufacture, distribution and trafficking of illicit drugs that, as we have spoken about in this place, are cutting a swathe through our society right now and causing harm to so many people and so many families right across our state. We, like all Western Australians, welcome every single move that can potentially reduce that harm, get the drug dealers off our streets, punish them for their wrongdoing, get treatment for those people who are suffering drug addiction and give respite to the families that have been ruined and damaged and smashed by drug dealing. We in the opposition never want to give any form of protection to criminals, particularly drug dealers. As I said, we welcome anything that will make it tougher for the bad guys. We also have no problem with the CCC having jurisdiction over Parliament or members of Parliament. However, in these two major elements of the bill, we want to know how all this will work in practice. Some of my colleagues and I will take a bit of time discussing each of those issues. We will leave the issue about Parliament and parliamentary privilege aside for the moment, because that is a separate issue and it ought to be treated separately, and I will make that case later.

I should point out right from the outset that any change to parliamentary privilege requires proper parliamentary scrutiny and should not be hidden in one clause in an otherwise basically unrelated bill. It needs to be pointed out—it was pointed out by the Attorney General in his second reading speech—that our crime fighters in this state have powers over unexplained wealth. The police and the Director of Public Prosecutions do. They have not been used very frequently and there has been only one unexplained wealth application made since 2011. There were reasons for that, which again I will get to. But this bill confers similar jurisdiction over unexplained wealth to the Corruption and Crime Commission so that it can use its powers and its functions and all its officers to track down unexplained wealth.

Our criminal property confiscation regime here in Western Australia effectively operates on two separate limbs. One is a convictions-based approach whereby the police go out and catch a criminal, gather the evidence, arrest them, charge them and take them to court, based upon a conviction, and then a process starts to confiscate the assets of that criminal—proceeds of crime, other unexplained assets and also any property that was used in the commission of that crime. That regime tends to work relatively well. Police will always say that they could use more resources and that the more resources they have, the more they would be able to pursue criminality and keep the community safer. That regime works well. References are made to the DPP from the police and those matters are followed through. That conviction-based property confiscation is not being touched, in the main, by this bill. No powers are being conferred on the Corruption and Crime Commission. But there is another element to our property confiscation laws in Western Australia and that is the element of a penalty for unexplained wealth that does not require conviction. In fact, it only exists because there is a fear in the recognition that people undertake significant criminal activity that provides them with massive financial benefits, but manage to avoid criminal prosecution. That allows them to do two things. It allows them to continue to operate their criminal enterprise without effective sanction, so we are not getting the drug dealers and others off the streets; we are not getting the drugs off the streets and we are not protecting our community. The other thing it does is allow these people, since they have not been convicted, to avoid having their ill-gotten gains, their property, confiscated under the conviction-based limb of the property confiscation regime in Western Australia. This groundbreaking legislation was introduced in around 2000—the Criminal Property Confiscation Act is an act of 2000, but came into effect in 2001. Since then we have seen only 28 applications for unexplained wealth when there has not been a conviction. The theory at the time was that the authorities in Western Australia could be allowed to point the finger at one of these people and say, “Sir”—these people tend to mainly be males—“you have amassed great wealth. How do you explain your wealth?” As we said, there have been 28 applications, and only one since 2011.

This regime is considered not to have worked as effectively as it did back in 2000–01 when it was introduced. The solution proposed by the government is to confer the powers on the Corruption and Crime Commission. In his second reading speech, the Attorney General suggested that the reason that there had been only one application since 2011 is that the Director of Public Prosecutions simply did not have the resources to pursue them.

Mr J.R. Quigley: In fact, they called a moratorium.

Mr P.A. KATSAMBANIS: I take that interjection up, Attorney General. The DPP did call a moratorium. It basically said that it did not believe it was the right body to do it. Without putting words into the Attorney General's mouth, I note he is nodding his head. It was not a resource issue; it was a philosophical issue. The DPP clearly believed that, as a prosecutor, its role would be tainted if it also undertook investigations of unexplained wealth. It clearly delineated its role to be that of a prosecutor. Someone else ought to do the investigations, give the DPP the brief of evidence and then the DPP could prosecute. The DPP walked away from that. There may have been a lack of resources in the police or perhaps there may have been a lack of focus on the police.

What is the role of the police? It is to keep our communities safe by pursuing criminality. Yes, we can empower the police to look at how people have gathered their wealth, but their main aim ought to be pursuing criminals—especially in this area, which we are told is all about drug trafficking—and gathering evidence that leads to criminal charges being laid that would stand up in court so we can get a conviction, get the drug dealers in jail and get them off the streets. That is the job of the police. There was a gap, and I recognise that, but it is unfair for the Attorney General in his second reading speech to glibly say as he did that there has been only one prosecution since 2011, because the DPP simply did not have the resources to pursue them. That is not correct, because the DPP called a moratorium. It made a decision that it did not want to undertake investigations. The police are busy catching crooks—that is their job—and obviously doing all the other community liaison things that they ought to do as well to keep our community safe, including maintaining a highly visible police presence, attending to disputes, working through the local community, and local policing—the normal stuff. It is not their job to be forensic accountants. In fact, if we asked the community whether we should give the police more forensic accountants or have more police on the beat, I know people would say, “Get some police on the beat.” There was a gap, it was understandable—fair enough. This has been discussed at length. In the thirty-eighth Parliament there was a bill to change this regime which lapsed and which we have come to today.

We have come to the bill today with the government, in its wisdom, deciding to give the Corruption and Crime Commission the power to pursue this second theme of property confiscation—a limb that not only does not rely on a conviction, but also operates in a vacuum in which there is no conviction. The civil liberties arguments in relation to this were ventilated at the time that the concept was introduced to our legislation 16 or 17 years ago. It was groundbreaking. Western Australia was the first jurisdiction to introduce this type of civil confiscation of property—unexplained wealth legislation—when there has been no conviction. I do not profess to stand up for criminals and I will not ever accept the label that I am soft on crime. We have been through that debate and it was decided as a community that it is fair enough that if someone has little obvious means of income or accumulation of wealth and has accumulated vast amounts of wealth, they ought to explain themselves. If they cannot properly explain themselves, there ought to be a presumption that they did not gain the wealth legally and are therefore not entitled to keep it. We are not arguing that.

Concerns arise about whether this new regime will give our crime fighters, in this case the Corruption and Crime Commission, the practical ability to achieve the laudable aims of the legislation as it was introduced almost two decades ago or whether this is smoke and mirrors. We have heard this Attorney General in this place and outside in public debate talking about cutting heads off snakes or hydras and punching away at the belly of the beast, or any other hyperbolic statement that he would like to make. I might not necessarily use language like that, but believe me, Attorney General, if there are people out there, and I am sure there are, who have ill-gotten gains, I do not want to stand in the way of punishing them by removing those gains from them, that unexplained wealth. What I want to know, and what this opposition wants to know, is whether this legislation will finally be able to achieve those aims of nearly two decades ago that the Parliament decided was a good thing to do, or whether this is just going to be another valiant but unsuccessful attempt and whether in two, three, five or 10 years' time we will still be able to walk around our communities and hear people say in a rather condescending tut-tut voice, “I wonder how that particular person is earning an ‘honest’ quid?” Despite the Attorney General's hyperbolic statements about chopping heads off hydras and all that sort of stuff, a number of questions arise as to both the capacity of the Corruption and Crime Commission to undertake the tasks it is given by the legislation we are considering today, and the practical implications of dealing with various jurisdictions and bodies, both in the commonwealth and internationally, that track unexplained wealth. There is also the overriding question of whether the Corruption and Crime Commission's activity may unintentionally hinder or make impossible the task of police, which, as I said earlier, is to pursue the same people and lay criminal charges against them. That is traditionally how we punish wrongdoers in our society. We charge them with crimes and, if they are convicted, they are

punished. Traditionally, we have not taken away their wealth as a primary step; we can do that later. We ought to pursue these issues and we will pursue them. They require scrutiny. They require answers that so far have not been given by the Attorney General. For instance, in his second reading speech and in the reading of the legislation, it is quite clear that for the powers that relate to unexplained wealth—in shorthand, the unexplained wealth powers used under civil proceedings, not relying on a criminal conviction—this bill will not exclusively transfer those powers to the Corruption and Crime Commission. The power of the Office of the Director of Public Prosecutions will remain. How will that work? What sort of memorandum of understanding is there between the Corruption and Crime Commission, the police and the Director of Public Prosecutions? How will these powers be exercised concurrently? In particular, as I said a few moments ago, what sort of working relationship will ensure that the Corruption and Crime Commission's actions in investigating the unexplained wealth of an individual do not hinder or, at worst, destroy or taint evidence that ought to be used by police to pursue criminal convictions? Has there been a memorandum of understanding? How will information be exchanged? Will police even know whether the Corruption and Crime Commission is pursuing an investigation into an individual whom the police may also have under investigation at the time? Will evidence be caught up in one investigation at the expense of the other? When all these powers lay with the police and the DPP, all this could be managed externally. I am not suggesting that it cannot be managed but I want to know whether government members have turned their minds to how it will be managed. I think the public of Western Australia want to know that.

We are looking at getting drug dealers off our streets. That is what our Attorney General has said this legislation will do. If we get drug dealers off our streets, they will go to jail. Taking away unexplained wealth will punish them a bit, but it does not hinder their business operations in any way. Drug dealers can phoenix again, either here or somewhere else, and continue down their unacceptable path, on their merry way. They can continue their drug trafficking and drug dealing operations, which will continue to cause harm to the Western Australian and Australian community. It is critically important that whilst pursuing unexplained wealth, nothing is done to compromise either existing or future criminal investigations. In fact, it will require significant information sharing and that is only locally. For the CCC to do its job, it will require not only local cooperation, but also national and international cooperation. The operations around unexplained wealth operate in a little bit of a nether world. Plenty of bodies are out there investigating and trying to pursue unexplained wealth. We know that. The Australian Taxation Office is one of the most effective bodies. It has significant powers and it uses them regularly. It probably does not crow about it, but it uses them a lot, in all sorts of instances. Its powers are not narrowly limited to drug dealers but perhaps anybody who comes on their radar with spending patterns that may not correlate to the income they divulge to the Australian Taxation Office. The Attorney General really needs to explain this to Parliament and the public of Western Australia because usually, that is the first step. The first step in determining whether someone has ill-gotten gains is to compare their ongoing income over a long period with the assets they have managed to accumulate and the spending power that they demonstrate. The ATO is the first port of call. What sort of relationship does the Corruption and Crime Commission have in place with the ATO? What sort of relationship does the Corruption and Crime Commission have in place with the Australian Criminal Intelligence Commission, which is also a body that is charged with pursuing unexplained wealth and has done so and continues to do so? What sort of disclosure arrangements does the CCC have or intend to put in place with banks and credit card companies? That is critically important too. Has the CCC turned its mind to less apparent and more modern types of currency, including cryptocurrency, bitcoin, and the darker versions of bitcoin that exist? I am sure I do not need to spell this out to the Attorney General. I can make a fair assumption that the Attorney General knows that the major reason a bunch of people out there in our community have unexplained wealth and yet have avoided criminal conviction for years and decades on end is that they have actively constructed their affairs to avoid detection and criminal prosecution. They have hired the smartest and best lawyers. They have hired the smartest, best and most expensive forensic accountants. They have organised their affairs so they can effectively become untouchable to our criminal authorities. Do members think that these same people who have spent an enormous amount of time and resources working on protecting themselves against criminal prosecution are not doing exactly the same in protecting the wealth they have accumulated from their criminal enterprise? We are not dealing with dummies; we are dealing with serious criminals who have demonstrated significant capacity to continually hide both their criminality and their ill-gotten gains, often outside of our jurisdiction, which I will come to in a minute. I know the CCC will not be under any illusion in this matter. It is not simply a matter of the Corruption and Crime Commission walking down the street and identifying a big house or the purchase of a large yacht or noticing excessive holidays and saying, "Here's a notice, you've got unexplained wealth", and the person who is served with the notice will simply keel over and hand over their money and say, "Ah, you've got me now. The police haven't got me for decades, the tax office hasn't got me for decades and the ACIC hasn't got me for decades. Anything I've done extraterritorially—the authorities overseas, the FBI and the like haven't got me but, CCC, you've given me a notice; you've got me!" It is going to be a long and drawn out process to get the so-called Mr Bigs that the Attorney General is fond of talking about.

Mr J.R. Quigley: And not one the Liberal Party has been keen to take on so far!

Mr P.A. KATSAMBANIS: I do not profess in any way that the Liberal Party or I are opposed to this—we are not; we want to see it happen. But we do not want to hear glib statements from an Attorney General who is more interested in headlines than actually pursuing these people in practice. I would like to hear, in his response to the second reading debate, whether the Attorney General really thinks that these people are going to roll over and hand over their assets because they have been served with a notice or they have gone to a couple of hearings, or whether they will pursue every single avenue available to them, as they have so far in some cases over decades and over generations of the same family. We are dealing with criminals, yes. We are dealing with people who have been able to hide their criminality, yes. We are not dealing with dills; we are dealing with people who have significant financial resources.

What financial resources will the CCC be given to keep up with these Mr Bigs? What financial resources will the CCC be given when it has these extra powers? The CCC has a set of powers. It has been resourced by governments since its inception to pursue matters it has been tasked to pursue. In the main, it does a great job, but it will now be tasked with more powers. I would imagine more powers, particularly in this area, will require significant resources to chase down these Mr Bigs; to chop heads off snakes and the like or to punch the belly of the beast or whatever the next term will be. It will need significantly more resources, but at a recent briefing we were told by the CCC that it will not be provided with additional funding or additional resources in the near term. There is a loose agreement with the Attorney General or the government, or someone, that it will be reviewed in three years' time and we will see how it all goes. The CCC will swallow up this major role without any additional resources. We can draw two conclusions from that. One is that there is a bunch of people who have the capacity to do this work—forensic accountants, lawyers with significant understanding of international and cross-border fund flows and the like—and that there is a body of these people sitting at the CCC with nothing to do at the moment and all we can do is say, “Here you are; now we’ve got something for you to do.” I do not believe that for a moment. Every government agency in Western Australia has had to trim, including the CCC. I do not believe for a moment that a bunch of people at the CCC are sitting around waiting, with very little to do right now, and will pick up the ball and start running with it on the first day the CCC has the power to do this work. Even if there are resources that are not being applied at the moment, they may not be the appropriate resources. We would significantly need to tinker. That is one conclusion, which I do not think is the right one.

The second conclusion, and I think the more obvious one, is that the CCC will be stretched. It is already using its resources as well as it can to undertake the tasks that it is currently tasked to do by our community through legislation. The CCC will have this new onerous task imposed on it and it will have to do some form of triaging. What is more important, and in which instance? It will have to make the same amount of resources spread thinner across a larger number of responsibilities. How much resource will the CCC be able to apply to this job, this onerous and difficult task? That is why I said earlier that we want to examine the practical implications of this bill. Yes, we will give someone the job of doing it, but if they do not have the resources to do it, how will they do it effectively? That is an important question that we need to have answered.

Ms M.M. Quirk: If you had listened to the answer, you would have known the answer.

Mr P.A. KATSAMBANIS: Member for Girrawheen, I will pick up on your interjection. That is why we are here. We are here in Parliament to scrutinise the legislation that is presented to us to make sure that it is going to work in practice.

I have no doubt that the inherent consistency of the legislation works. I have read it and I have read the blue bill that has been provided as well. Inherently, it works relatively consistently. Legislatively, there is no issue. It is primarily a matter of resources. Where will the CCC divert resources from to do this job?

What agreement will be put in place with federal government bodies such as the Australian Taxation Office, the Australian Criminal Intelligence Commission and the Australian Transaction Reports and Analysis Centre? What agreement will be put in place with third parties?

Mr M. Hughes: They are operational matters.

Mr P.A. KATSAMBANIS: They are not operational matters, and I will tell the member for Kalamunda why they are not. We also know that the acronyms change. The Attorney General and I both struggle with some of those acronyms. At a national level, there has been ongoing discussion between commonwealth and state agencies about how they can cooperate better in this element of civil unexplained wealth. That is non-conviction based unexplained wealth targeting. There is an ongoing conversation at the highest levels—at governmental levels—on how agencies can operate. I have heard that one of the sticking points—not the only one—is how do we share the money when we get it? How much does the ATO get, how much does the federal government get and how much does each state government get? There are ongoing conversations at a national level between state governments, including this one, and the federal government, and third party agencies too, about how we can have a national

conversation on this. How will that be impacted by this legislation and by the powers of the CCC? How will the relationship be managed going forward? They are important matters.

Then we get to the cross-jurisdictional matters. If the CCC discovers that a Mr Big has their assets in another state or, increasingly, in another country like China, Panama or wherever they want to put it—who knows where they have it—we will no doubt find out when the investigations start happening. What extraterritorial effect will any order from the CCC have? Because we know that these Mr Bigs do not just lock up their assets in Girrawheen, Kalamunda, Hillarys or wherever. We know that they spread them far and wide and, as I said earlier, they hire the smartest minds that they can buy to help hide their assets. How are we going to get to them? How are we even going to examine someone who earns income overseas and bring it here because they want to live well in Western Australia? How are we going to examine someone who loves living here but earns their income overseas? There are questions about extraterritoriality that cannot be brushed under the carpet. It is not just extraterritoriality of overseas territories, but how we relate to the other states. There are constitutional aspects around banking and the like. They are not insurmountable, but they are questions that need to be answered by this government and the Attorney General before they set high expectations. That needs to be properly scrutinised in this Parliament. Another question is: who keeps the money that the CCC will hopefully extract from these people?

Mr J.R. Quigley: Who what?

Mr P.A. KATSAMBANIS: Who keeps the money?

Mr J.R. Quigley: I do!

Mr P.A. KATSAMBANIS: Is it the CCC, the Attorney General or is it consolidated revenue? How will it be applied? Will it be applied as a balancing item? The Attorney General says in an interjection that he keeps it. He will keep it in the Attorney General's portfolio.

Mr J.R. Quigley: It goes into the confiscation account. You know that. Don't you know that?

Mr P.A. KATSAMBANIS: It will go into the confiscation account and what will happen to it then?

Mr J.R. Quigley: The same as what happens under the confiscation act now.

Mr P.A. KATSAMBANIS: Alright, so let us go to the next question. What is the expectation of receipts over the foreseeable period? What is the expectation of success under this regime? Are there indicative targets for the number of unexplained wealth handovers or the amount of the unexplained wealth handovers? At some point in time, whether it is done by court order or simply by someone saying, "Here you are, take my assets because I cannot explain it any more", how many of these unexplained wealth cases does the Attorney General expect to be successful over the next 12 months, three years or five years? How much money does the Attorney General intend to recoup through these unexplained wealth provisions? I notice a stony silence because, again, it is about best endeavours: "We will do our best. We are not providing any additional resources to the CCC." The CCC is being told, "Do everything that you are doing now and do this really important task but don't have any more resources" and then, we have no indication of what is expected to be recouped. There have been 28 applications in the last 16 years, once since 2011. How many successful applications do we expect under this process? How much money do we expect to gain? The Attorney General said that, according to the Australian Criminal Intelligence Commission, organised crime costs Australia \$36 billion annually. How much of a dent are we going to make in that and, importantly, how much information will we gather that then leads to criminal convictions to get these people properly punished for their crimes?

Those are some of the issues that need to be examined around this bill, and hopefully the Attorney General can answer them. I do not think they are difficult; it is a matter of turning his mind to them. The opposition is here to scrutinise this bill. We want it to work. We actually want this to work. We do not want the CCC to be wasting its time and not getting the results. We want it to be properly resourced and given the powers and agreements with other places, jurisdictions and bodies so that it can do this as effectively as possible. In the sort of vernacular that the Attorney General likes using, we want to put some teeth into the tiger. But we are not going to get it with glib statements such as, "They will just shuffle around their resources." It is not going to happen. We are not opposing this legislation, to make it clear. We want to see it succeed. The Attorney General is really good at smearing good people with his words because it is a substitute for substance. It is all about the headlines for this Attorney General.

Point of Order

Mr S.A. MILLMAN: I refer to standing order 92 relating to imputations of improper motives. The member for Hillarys is impugning the Attorney General and the work that he is doing. He needs to be careful about the way he engages in this debate.

Mr J.R. Quigley: Give him more rope, I say.

Mr P.A. KATSAMBANIS: See, he is not fussed!

The ACTING SPEAKER (Mr S.J. Price): Member, you are sailing close to the wind. Be careful as you proceed. Members on my right, let the member for Hillarys finish what he has to say in silence, please. That would be great. Thank you.

Debate Resumed

Mr P.A. KATSAMBANIS: Thank you, Mr Acting Speaker. I will take note of your words.

We support the intent of this bill. We want to make sure it works in practice and that is why we are scrutinising it today. To impugn any other motive on any other person in the opposition is slanderous. The Attorney General ought to know better, but he does not because that is his form and that is his style.

Several members interjected.

The ACTING SPEAKER: Members!

Mr P.A. KATSAMBANIS: Back to the substance of the bill, there is the other limb. Unfortunately, I do not have enough time to scrutinise it properly, but I will try in the remaining time I have at my disposal. That is the other bit that the Attorney General has snuck into the legislation, completely unrelated to tracking down unexplained wealth. He has made a tiny change to the Corruption, Crime and Misconduct Act 2003 that changes the relationship between Parliament and the CCC. There has been a lot spoken about this, but again this is where the Attorney General has been tricky and sneaky. If members listen, in the time available to me, they will understand why he has been tricky once again on this. The Attorney General says that the act had a balance of powers between the CCC and Parliament and that it was changed in 2014. Subsequent to that, the Corruption and Crime Commissioner, Mr McKechnie, publicly stated that he believes his powers over backbench members of Parliament are limited. That is fair enough. It is not an issue that needs to be necessarily debated too much.

The Attorney General said today in Parliament that this bill will return our legislation to the position that existed prior to 2014, but his bill does absolutely no such thing. He has added only one part of the words that were taken away in 2014 and not the other part. I believe that the position as it existed up to 2014—I was not around at the time—came out of significant consternation on the part of parliamentarians in the Legislative Council about the relationship of parliamentary privilege to the CCC when the Corruption, Crime and Misconduct Act was brought into being. There was the pre-2014 position and the position of 2014 to now, and the third limb is the one that the Attorney General is proposing. To suggest that he is reversing what happened in 2014 is completely incorrect and he ought to know that because he is the Attorney General! Not only that; he is a very learned legal person and he ought to know that. The very fact that he told us one thing and is doing another thing needs to be looked at. The Attorney General is returning the word “exclusively” to section 3(2) of the principal act. Prior to the changes made in 2014, there was CCC scrutiny and the Attorney General was an expert on that matter. Prior to 2014, the provision read “to the extent that the exercise would relate to a matter determinable by a house of Parliament”. That is the wrong term; I apologise. I am trying to read here on the run. The term in question here is “unless that house so resolves”. The words “exclusively” and “unless that house so resolves” were removed in 2014, which created some confusion. One construction—we will probably pursue this matter in consideration in detail, Attorney General—is that the removal of the word “exclusively” did not impact on anything because Parliament had already decided in many other acts that its privilege is shared concurrently with other bodies, including the CCC. That is one construction. I will not debate whether the word “exclusively” should be included in the act, which is what this amendment is doing. It is what this amendment is not doing that I think is critically important, because when the word “exclusively” was removed in 2014, the words “unless that house so resolves” were also removed. The position until 2014 was that privilege of Parliament was untouchable unless the house told the CCC to go away and investigate it. Each house of Parliament individually had the power to refer a matter to the CCC. When the changes were made in 2014, the word “exclusively” was removed, but so were the words “unless that house so resolves”. The effect of the half change that the Attorney General is proposing is that Parliament will retain full control of the privileges that it holds exclusively—the bill will clarify that. I do not think that is a major issue, but some people do. I have read the commentary in Justice McKechnie’s public lecture about this and I realise that clarifying this position is a good thing. As I said, I still think—we will consider this during consideration in detail—that the provision as amended in 2014 still allowed concurrent power for the CCC, the police or anybody else to investigate malfeasance by members of Parliament. However, it did remove the power for this house or the other place to refer matters to the CCC. When the Attorney General says that he is reversing the changes made in 2014, he is not telling the whole truth. He is only putting back the word “exclusively”; but he is not putting back the term “unless that house so resolves”. The one power that was clearly taken away in 2014 for the houses to refer matters to the CCC is not being returned. Yes, the Attorney General is making changes, and it is incumbent on him to explain how that change will alter the privileges of this place.

The public does not get caught up on parliamentary privilege, but it is an important axiom of our entire democratic process. Let us not forget that parliamentary privilege arose from the bill of rights in, I think, 1609. It is not new

Mr Peter Katsambanis; Mr Simon Millman; Mr Bill Johnston; Ms Libby Mettam; Mr John Quigley; Mrs Liza Harvey

and it is something that Parliaments around the world have guarded jealously and importantly to protect us as members of Parliament. No-one has any qualms about malfeasance, illegal activity or criminal activity being investigated by the police, the CCC or any other body, including the Australian Taxation Office or whoever wants to investigate. But in taking away or changing privilege, the Parliament ought to be consulted. It is Parliament's privilege to change it and take it away. This issue requires scrutiny. By rights, this matter should be considered independently by the parliamentary Procedure and Privileges Committee of this chamber and the Standing Committee on Procedure and Privileges of the other chamber. We should probably have a joint process on these sorts of privileges because they are not the processes of the house; they are the privileges of Parliament. We do not have that at the moment, but perhaps we could in the future. However, this requires scrutiny. The Attorney General knows as well as I know the form and precedence of the other place. It is not going to give away privilege without looking at it, which raises the question: why did the Attorney General not bring in that clause separately, knowing that it was a matter of privilege that ought to properly be investigated by the privileges committee of each house? He buried it in this bill. I do not ascribe any ill will towards the Attorney General on this. I think he has made a wrong call procedurally. He has time. I ask him to go away and consider severing this tiny clause from the bill. If he really wants to go after the Mr Bigs and chop the heads of the snake, the Hydra and all that sort of hyperbolic stuff, he should allow the rest of this bill to have safe passage and the matter of privilege to be examined separately. He knows as well as I do that this is not a Liberal Party thing or a Labor Party thing; it is a thing for the Parliament, particularly the other place, the Legislative Council, to pay significant attention to this. Make no bones about it: no matter who moves this, it will go to a parliamentary privileges committee investigation, so sever it now. Take it out now. Let the rest of the bill have its own passage to allow it to do what we all want it to do: to get the ill-gotten gains out of the hands of these criminals who have been so smart that they have outsmarted our criminal justice process, so at the very least they do not get to enjoy the spoils of their criminal activity. Do not let it get caught up in an admittedly important matter, which has not been properly explained to this Parliament in respect of how it changes the privileges, rights and obligations of Parliament and individual members—a matter that ought to be properly scrutinised independently of the rest of the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. The Attorney General has time. I could propose amendments and waste the time of the house; if the government does not accept amendments to sever this clause from the bill and treat it separately, it is going to ram it through this house. But be under no illusion: the parliamentarians who will give it proper scrutiny in the other place will not let it go through on the numbers; they will let it go through on its merits, and the question marks around this clause absolutely require it to be scrutinised.

I am putting this in good faith. Some members on the other side made ridiculous statements about the intentions of the Liberal Party. Our intention is to help our crime fighters in this state go after the same people that the Attorney General says he wants to go after, but with real teeth and in good time, not in delay. There will be delay if one tiny clause gets caught up, and rightly caught up, in the processes of the Parliament. I do not think any member of Parliament should ever vote away a change on parliamentary privilege without having it subjected to an inquiry by the appropriate parliamentary committee, otherwise we would not be doing our job. If the Attorney General really wants to go after these Mr Bigs and chop off their heads and whatever and if he really believes that the Corruption and Crime Commission has the resources to do this job—I really hope it does—he should sever this clause and put it in separately. We will support him on that.

Mr J.R. Quigley: Will you take an interjection?

Mr P.A. KATSAMBANIS: I have a few seconds.

Mr J.R. Quigley: If that happened, will you guarantee the passage of this bill through this place today?

Mr P.A. KATSAMBANIS: Attorney General, we have some scrutiny. I will try my best; if not today, possibly tomorrow. I do not know; we have some scrutiny. We will do it this week, Attorney General. We will get it through this week.

Mr J.R. Quigley: The answer's no, then.

Mr P.A. KATSAMBANIS: We will get it through this week, Attorney General, tomorrow or today. It depends how many speakers you have on your side. If you do not have —

[Member's time expired.]

Ms L. METTAM: I would like to hear more from the member for Hillarys.

Point of Order

Mr W.J. JOHNSTON: The member for Hillarys was breaching standing orders by continuing to speak after his time had expired. I would ask that you draw that to his attention and ensure that the standing orders are complied with.

The ACTING SPEAKER (Mr S.J. Price): Thank you, minister.

Extract from Hansard

[ASSEMBLY — Wednesday, 6 September 2017]

p3432b-3441a

Mr Peter Katsambanis; Mr Simon Millman; Mr Bill Johnston; Ms Libby Mettam; Mr John Quigley; Mrs Liza Harvey

Debate Resumed

MS L. METTAM (Vasse) [1.43 pm]: Unexplained wealth provisions have existed in WA since 2000 under the Criminal Property Confiscation Act—an act brought in by the then Liberal-led Court government, and contested ever since by the Labor Party over its draconian nature. Here we are, debating Labor’s amendments to the Criminal Property Confiscation Act 2000, and the Corruption, Crime and Misconduct Act 2003—amendments to laws that shine a spotlight on, investigate and potentially confiscate, the assets of those who have unexplained wealth.

It would be fair to ask the Attorney General what concerns he would have about the powers of the proposed new regime to confiscate assets, given concerns raised in the past regarding the great injustice of the current legislation or scheme—laws that in the November 2015 edition of the *Western Independent*, the Curtin University journalism students’ publication, were labelled by then shadow Attorney General John Quigley as inflicting a great injustice upon some innocent people, including those who had lost their home because of offences committed by family members. But it gets better. In the same article the then shadow Attorney General stated that upon becoming Attorney General, he would ask the Law Reform Commission to prepare an urgent report on these injustices and publish it for the community’s and Parliament’s consideration. Now we have the Attorney General showing his hypocrisy with these amendments. This is the Attorney General who described these laws as dormant and stated in *The West Australian* of 28 April 2017, and I quote —

“The only way of killing a snake is to cut off its head and these syndicates are evil serpents in our community,” ...

According to the media statement of the Attorney General, these amendments will provide the Corruption and Crime Commission with important powers in the fight against corruption and organised crime in Western Australia. These amendments will replace the Director of Public Prosecutions as the investigative authority with the Corruption and Crime Commission to investigate unexplained wealth that has been gathered by those in the drug trade and other criminal activities. The Attorney General said that the CCC was uniquely placed to do the work because it has covert operatives and uses and has covert listening and tracking devices. The CCC has access to telephone intercept warrants and employs experienced crime analysts and forensic accountants.

We can all agree that if there is any group in Western Australia that has firsthand experience of the investigative powers of the CCC, it is the WA Labor Party. For those new members sitting across from me perhaps we should recall the events of 2006 and 2007. They may have forgotten a time when another new Labor Premier, Alan Carpenter, symbolically overturned his former leader’s ban on ministerial contact with disgraced former Labor Premier Brian Burke by elevating veteran Labor MP Norm Marlborough to the frontbench. Perhaps they have forgotten that, despite then Labor Premier Alan Carpenter saying, with his arm around his new minister’s shoulder, that he was absolutely confident that Marlborough’s close friendship with Burke would not interfere with his job as small business minister, and that the state’s corruption watchdog would be listening to their phone conversations; or that, as was discovered during the public hearings on this matter, the day after joining the Carpenter ministry Marlborough went out and bought a second mobile phone, in his wife’s name, which he used as an exclusive hotline to and from Burke—a hotline on which the pair spoke up to 10 times a day, with Burke urging Marlborough to appoint a particular woman to a government board and instructing him how to answer questions in Parliament. The revelations from these hearings forced Norm Marlborough off the frontbench and out of Parliament. They also forced Brian Burke out of the ALP after more than 40 years as a member. They caused the CCC to step up its inquiries and to ask who else was on the phone to Burke and just who was really running the state. The Burke scandal hit the Carpenter Labor government like a landslide. Four Western Australian Labor ministers were dumped as a result of the corruption hearings and, as former Premier Alan Carpenter said, the affair created a situation in which the integrity of the government was under question.

That integrity was lost when, upon assuming government, the first act of the new Labor government was to refuse to accept the longstanding convention of having two members from the opposition on the parliamentary oversight committee for the Corruption and Crime Commission. The oversight committee has been compromised by the government stacking it with its own members, despite the Premier’s hollow claims that having one Green and one Liberal has not destroyed the balance of the committee because the Greens are not part of the Labor government.

Point of Order

Mr J.R. QUIGLEY: Mr Acting Speaker, I would not rise other than the fact that a rule was strictly applied by the member for Cottesloe, who said that members were not to read speeches in this chamber and took exception to the fact that during the second reading debate, I appeared to be reading a speech. There is no doubt that the member for Vasse is reading line for line. I would not have taken this objection on the member for Vasse if it was not for the truculence of the member for Cottesloe and his insistence that the notes be put aside. I would ask you to rule in the same way as the Chair ruled on me —

Several members interjected.

Extract from Hansard

[ASSEMBLY — Wednesday, 6 September 2017]

p3432b-3441a

Mr Peter Katsambanis; Mr Simon Millman; Mr Bill Johnston; Ms Libby Mettam; Mr John Quigley; Mrs Liza Harvey

Mr J.R. QUIGLEY: There is some gibber from Scarborough that I am trying to ignore. I would ask you to rule in the same way as the Chair ruled on the point taken by the member for Cottesloe. We seek only fairness.

The ACTING SPEAKER (Mr S.J. Price): Thank you, Attorney General.

Mr C.J. BARNETT: Further to that point of order. Given the large number of new members, the Liberal opposition did not object to any of the new members reading their maiden or inaugural speeches. Not once did we object—not once—and that courtesy could be extended.

Several members interjected.

Mr C.J. BARNETT: No, it is not. It is not.

Several members interjected.

Mr C.J. BARNETT: The objection I raised to the Attorney General was as a minister reading a third reading; it is unacceptable.

Several members interjected.

Mr C.J. BARNETT: So, yes, the opposition can make the point we are not meant to read speeches, but we gave the government the courtesy and respect.

Several members interjected.

The ACTING SPEAKER: Members! Member for Carine.

Mr A. KRSTICEVIC: Further to that point of order, the Attorney General is fully aware that the member for Girrawheen always reads her speeches—has for years—and we have never objected. She will probably read her speech today, and we will not complain about that either.

Several members interjected.

The ACTING SPEAKER: Minister! Member for Cottesloe, thank you. Member for Vasse, please use your notes sparingly as you go forward.

Debate Resumed

Ms L. METTAM: I will.

Labor's decision to stack the oversight committee destroys the integrity of not only this government but also the Corruption and Crime Commission.

Several members interjected.

The ACTING SPEAKER: Minister for Tourism, please!

Ms L. METTAM: In 2016, the Western Australian Police Union lodged an appeal over an officer who was charged by the CCC in 2014 with assaulting two detainees in separate incidents at Broome Police Station. In a unanimous Court of Appeal decision, the prosecution was ruled invalid because, according to Chief Justice Wayne Martin, there was no authority to prosecute. Following the decision, the WA Police Union stated that it was vehemently opposed to any changes to the CCC act that would authorise the corruption body to commence further prosecutions. I quote —

“The extensive and wideranging powers conferred on the CCC mean that it is absolutely essential there is an independent review of the outcome of any CCC investigation where criminal charges are recommended.

That was according to union president, George Tilbury. I quote further —

“The CCC cannot be judge, jury and executioner. Independent oversight is imperative.”

Perhaps Labor Party members should remember the events of a decade ago and the reasons we should be working to ensure the integrity of the CCC.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [1.53 pm]: I, too, rise on behalf of the opposition to support the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. But I also put on the record that we have the concerns about its operability. Reiterating some of the comments of the member for Hillarys, some of the issues we see coming out of this legislation are highlighted in the second reading speech of the Attorney General.

To backtrack, we already have unexplained wealth provisions in the Criminal Property Confiscation Act 2000. Those unexplained wealth provisions allow police to make an application with the Director of Public Prosecutions to serve an order on an individual to basically have that individual explain and prove that they acquired their wealth by legitimate means. Other aspects of that legislation allow for the confiscation of all assets of declared drug traffickers and other offenders as the proceeds of crime confiscation component of that legislation, but the explained wealth provisions already exist in legislation.

My concerns come from the experience I had in being Minister for Police in this state and speaking to police about the difficulties in executing an application to confiscate wealth from individuals prior to a conviction; indeed, there have not been many successful applications and confiscations through the unexplained wealth provisions. From my understanding of this issue, the main problem police and the DPP have had has been a resourcing problem in trying to get the right kind of forensic accountants to do the research into where the money goes. Indeed, police have been working quite effectively, as I understand it, with the federal police, the Australian Transaction Reports and Analysis Centre—the organisation that tracks large money transactions—and the Australian Criminal Intelligence Commission in Canberra. We often need the combined resources of all those agencies to track money and the ownership of the assets of many of these individuals. We know that these individuals often siphon all the proceeds of crime offshore, and indeed the assets from, for example, the sale of drugs in Western Australia, the assets of those traffickers and the people who are at the top of the organised crime tree, are often held in other countries. The money is shipped offshore through various means—it might get laundered through casinos or whatever—but it ends up building an asset base in a country other than Australia. That is the difficulty with the unexplained wealth provisions in the existing legislation, and I cannot see—indeed it is incumbent on the Attorney General to explain—how shifting this function from the current jurisdiction of WA Police to the CCC will achieve a better outcome.

Mr J.R. Quigley: Can I just clarify one thing, member? Are you supporting the legislation or not?

Mrs L.M. HARVEY: Yes, we are supporting the legislation. The member for Hillarys has already said that, Attorney General.

An also somewhat confusing message is being sent to the community of Western Australia. At a time when the new state Labor government is collapsing government agencies into super-agencies, why would it want to duplicate the function and actions of an existing agency? It is unclear whether WA Police and the CCC will work together on unexplained wealth provisions. It is unclear whether WA Police, which has some expertise in this area, will be working with the CCC. It is unclear whether officers from WA Police will be seconded to the CCC to engage in these investigations. What we cannot ignore or forget is that the CCC is the main oversight body for WA Police for serious misconduct matters, and for investigating criminal matters that WA Police officers might be engaged in. Ring-fencing these activities effectively could prove to be somewhat difficult, and that is what the CCC will need to do if it engages in these investigations with the assistance of WA Police.

My other concern comes from the example the Attorney General raised about these laws operating in New South Wales and Queensland. There was reference to the agencies' coercive powers being used to, for example, identify unexplained wealth and the owners of the unexplained wealth, which is assumed and said to be proceeds of crime. These matters are often settled out of court, without litigation. That means that our main crime and corruption agency will be sitting down with organised crime members and settling transactions outside of the court process. I find that very concerning indeed. If the legislation in this state is going to operate in the same way as it is operating in New South Wales and Queensland, as the Attorney General has identified —

Debate interrupted, pursuant to standing orders.

[Continued on page 3453.]