

CORRUPTION, CRIME AND MISCONDUCT AMENDMENT BILL 2021

As to Consideration in Detail

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1: Short title —

Ms M.J. DAVIES: In the second reading speech, I was interested in information about the time line of the meetings of the nominating committee through to advice back to the Premier and when that was provided to the Joint Standing Committee on the Corruption and Crime Commission. Does the Attorney General have information that he can provide to the house about that time line? It is pertinent because we were talking about the tabling of the report from the Standing Committee on Procedure and Privileges and where that fitted into the process.

Mr J.R. QUIGLEY: We are dealing with the title of the bill and the time line I referred to in the second reading speech. I have nothing to add.

Ms M.J. DAVIES: Thank you, Attorney General. I think we played this game yesterday. It is relevant in my mind. The reason we are here today is to amend the Corruption, Crime and Misconduct Act. The process by which we got to this point started with a meeting of the nominating committee. We can go back further and I can ask a question under the next clause about how the advertising was carried out.

I am interested in the date that the nominating committee met in relation to the possible appointment of Mr McKechnie, when that information was provided to the Premier and the time line for that information being provided to the Joint Standing Committee on the Corruption and Crime Commission. I understand that we are here to talk about how the appointment has reached the point that we are inserting a name into the legislation. I would like to understand the process that led to us having this debate today.

Mr J.R. QUIGLEY: Certainly. The nominating committee placed an advertisement in the national newspapers, as required by the legislation. I cannot tell the member what date the nominating committee met; she would have to ask the committee. The committee wrote to the Premier. The member would have to ask the Premier on what date he received that first information from the nominating committee. I understand that as soon as the joint standing committee was convened—the Deputy Leader of the Opposition can give the member that date—the Premier immediately wrote to the joint standing committee. The reason we are here today is that the committee then replied to the Premier, saying that it could not achieve bipartisan or majority support. I cannot help the member further.

Ms M.J. DAVIES: We asked for this information in the briefing yesterday. It surprises me that that information cannot be made available to the Parliament. I do not believe that that is being open and transparent, particularly about such an important appointment. I do not think it is unreasonable to seek to understand when that nominating committee met, when it provided advice to the Premier and then when the Premier sent that letter through. If that information is not forthcoming in this debate, I ask whether the Attorney General would consider providing that information to the opposition before it goes to the other house.

Clause put and passed.

Clause 2: Commencement —

Dr D.J. HONEY: This clause relates to the commencement of the act. Can the Attorney General outline what impact it would have if there were any delay in the passing of this bill? He made a number of assertions during his second reading speech and by way of interjection that it was imperative that this bill progress immediately; otherwise, it will delay investigations. If this bill is not passed, will it delay investigations?

Mr J.R. QUIGLEY: I made the comments in the second reading speech. The member is quite correct; there will not be any delay because sections 1 and 2 of the act will come into operation on the day on which the act receives royal assent. There will not be any delay because the rest of the act, being sections 3 and 4, will automatically come into operation.

Dr D.J. HONEY: I think the Attorney General knows what I was referring to; that is, if this bill were delayed, would that prevent any investigations occurring? Would that stop any investigations occurring? That is the question I want answered. He made that assertion. This is our opportunity to understand the process. If this bill is delayed in the other place for some reason, what will stop occurring at the CCC that is not already occurring?

Mr J.R. QUIGLEY: I cannot give a hypothetical answer. I cannot see any reason for the bill being delayed in this Parliament. It certainly will not be delayed in this chamber, and I cannot see why it would possibly be delayed. The question is therefore entirely hypothetical.

Dr D.J. HONEY: In the Attorney General's second reading speech he made it very clear that he believed that this appointment was critical for the function of the Corruption and Crime Commission. I am intrigued to know why it is

critical to the CCC and I am interested to know and I think the people of Western Australia would be interested to know what functions the CCC would be prevented from carrying out, in this case, if there were a delay to this bill.

Mr J.R. QUIGLEY: I cannot answer further. I cannot provide a further answer on clause 2.

Dr D.J. HONEY: I do not think the Attorney General is being transparent in this. He made a great point about it, yet he refuses to say it. He has made an assertion in this place that somehow or other this appointment is critical to the function of the CCC, yet he is unable to give us any answer to justify that claim.

Clause put and passed.

Clause 3: Act amended —

Ms M.J. DAVIES: This clause goes to the point that we are amending the Corruption, Crime and Misconduct Act. We have not had an answer on the time line of the meetings, so we do not quite entirely understand the process of the appointment. We are amending the act to change the way that this appointment is occurring. Can the Attorney General give me an outline of whether he has seen an appointment in other jurisdictions —

Mr J.R. Quigley: Just give me that line? I'm sorry.

Ms M.J. DAVIES: Has this appointment process been used in other jurisdictions? Are we the first jurisdiction to insert the name of somebody into an act that covers the Corruption and Crime Commission or the equivalent body in other states?

Mr J.R. QUIGLEY: That question is probably relevant to clause 4. Clause 3 just identifies the act that is being amended. The act being amended is the Corruption, Crime and Misconduct Act 2003. The question might have more relevance to clause 4.

Ms M.J. DAVIES: I can ask the question again. The Attorney General could humour me and answer, given that I think it is a relevant question and is something that the chamber probably deserves to know, given that we have expressed concerns about the appointment of the commissioner in such a way. We are amending an act that contains a specific process for appointing the commissioner, so I am interested to know whether this differs significantly from other acts in other jurisdictions and whether this legislation is unique.

Clause put and passed.

Clause 4: Section 9 amended —

Mr R.S. LOVE: I would like to ask a couple of questions on this issue. This is the proposed section that specifically inserts the name of John Roderick McKechnie as being appointed to the role of commissioner for a period of five years. I ask the Attorney General about the wording of this particular clause, which refers particularly to a five-year appointment. I understand that the appointment is normally for five years. Why has the Attorney General specified five years in this clause and what effect will that specification have? Will it have any additional effect, for instance, to make it more difficult to appoint another person if ill health or some other matter were to lead to the early retirement of Commissioner McKechnie?

Mr J.R. QUIGLEY: The five-year period is nominated because the normal term of a commissioner is five years. It does not in any way override the provisions in sections 11 and 12 of the Corruption, Crime and Misconduct Act 2003 or other provisions in the Corruption, Crime and Misconduct Amendment Bill 2021 dealing with incapacity. Clause 7 of schedule 2 of the act provides —

The office of Commissioner becomes vacant if the Commissioner —

- (a) dies; or
- (b) resigns the office under clause 6; or
- (c) becomes a police officer; or
- (d) becomes, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (e) is removed from office under section 12.

All of those provisions remain undisturbed, so the commissioner is appointed by virtue of clause 4 of this bill, amending section 9 of the act. He is appointed for five years, but the vacancy provisions provided for in clause 7 of schedule 2 of the act will still apply.

Mr R.S. LOVE: Further to that, can the Attorney General explain why he chose to have five years specifically mentioned in this clause rather than just relying upon the normal appointment term, which would have been five years in any case? Why has the Attorney General specifically included the wording “five years”?

Mr J.R. QUIGLEY: For the very reason the member said: because the normal appointment is five years.

Mr R.S. LOVE: There is no specificity about five years in any of the other appointment methods under section 9 of the act, so why has the Attorney General specifically included it in this clause?

Mr J.R. QUIGLEY: Certainly. Because clause 1 of schedule 2 of the act states —

Tenure of office

Subject to this Act, the Commissioner holds office for a period of 5 years and is eligible for reappointment once.

We are reappointing him for a five-year period, which will be his second and last term.

Mr R.S. LOVE: Notwithstanding that, I am still at a loss as to why the Attorney General has chosen to use the term “five years”, but I will move on to something else that I note in this clause. Section 9 of the Corruption, Crime and Misconduct Act as it is currently printed is quite clear, all the way through, about the various appointment procedures. Section 9(4) states —

Except in the case of the first appointment, before an appointment is made under subsection (3), the Premier must consult with —

- (a) the Standing Committee; or
- (b) if there is no Standing Committee, the Leader of the Opposition, and the leader of any other political party with at least 5 members in either House.

We know that the standing committee has to have bipartisan support, and there is quite clearly a necessity for bipartisan support under that provision. Similarly, section 9(4a) states —

In the case of the first appointment, before the appointment is made the Premier is to consult with the Leader of the Opposition.

In all those circumstances, there is a need for bipartisan support. We can see that under clause 4 of this bill, the Attorney General has departed from the bipartisan support required for every other appointment method in the act.

Mr J.R. QUIGLEY: Yes, a new subsection will go into the act, proposed section 9(4B), which will not require the bipartisan support of a committee; it will require the support of the parent chamber—that is, the Legislative Assembly, which has more authority than a committee. Rather than bipartisan support, it will have to have support of a majority of this chamber.

Mr R.S. LOVE: Nonetheless, the bipartisan nature of the appointment is reflected in the act. The Attorney General has consciously done away with the bipartisan requirement in the act. Is the Attorney General saying that he will make it a simple majority of the government-dominated houses?

Mr J.R. QUIGLEY: Yes. The employment of the initial commissioner did not require bipartisan support either. The appointment of the initial commissioner just required the Premier to simply consult with the Leader of the Opposition. A senior Liberal during the life of the fortieth Parliament suggested this as a way out of this imbroglio. As the member will recall, we put on the notice paper an amendment to say that when a commissioner has been appointed and approved by the Joint Standing Committee on the Corruption and Crime Commission on a bipartisan basis in the first place, the reappointment for a second term could take place with consultation between the Premier and the Leader of the Opposition. We wrote to the Leader of the Opposition and said we were prepared to proceed with that amendment and we would withdraw the other amendment if the opposition indicated that it supported that in the case of a reappointment. The opposition failed to do so. That sent us back to the default position of proposed section 9(4B), which is now before the chamber. Clearly, proposed section 9(4B), like section 9(4a), which has been in the act since 2003, does not require bipartisan support.

Mr R.S. LOVE: That may be the Attorney General’s opinion, but for both —

Mr J.R. Quigley: It is not an opinion; it is a fact.

Mr R.S. LOVE: Just let me say my piece. Section 9(4) only requires the Premier to consult —

- (a) the Standing Committee; or
- (b) if there is no Standing Committee, the Leader of the Opposition, and the leader of any other political party with at least 5 members in either House.

The wording in both sections 9(4) and 9(4a) is the same. It requires the Premier “to consult with”. “Consulting with” clearly means “must have the support of”; otherwise, if the Premier is only consulting with the standing committee and is going to disregard that consultation, why are we even here?

Mr J.R. QUIGLEY: “Consult” does not equate with “support”. Consult means he will discuss it with them and then he will make a call. Consult does not equate with support. We are here this evening consulting and have been consulting with the opposition all day. We understand the member’s position, but the debate is a debate of consultation.

Mr R.S. LOVE: Can the Attorney General explain, for the benefit of the chamber, the difference between the consultation required under subsections (4) and (4a)? The Attorney General has now claimed that under

subsection (4a), the initial appointment only required consultation and that consultation could be set aside. The wording concerning what the Premier must do is identical in subsections (4) and (4a). He must “consult with”. If the Attorney General’s view is that we can set aside the consultation, why are we even here?

The SPEAKER: The Attorney General is not seeking the call.

Ms M.J. DAVIES: Attorney General, during the second reading debate, I asked for clarification of whether the nominating committee had access to the Standing Committee on Procedure and Privileges report that was tabled. My understanding with the time line that we have been able to piece together—the Attorney General has been less than forthcoming about the time line—is that it would not have been furnished with the information in this quite significant report. The report canvasses a number of issues, including what I would say is probably an irregular amount of communication between the Attorney General, his office and the commissioner that he is proposing to appoint through this legislation. I think it is necessary to understand whether the nominating committee was apprised of the information so that we know that that has been considered in the recommendation to the Premier and then on to the joint standing committee.

Mr J.R. QUIGLEY: As the former President of the Legislative Council said this evening in the Council, the sixty-first report is simply a wrap-up to pull together and bring up to date for members all the events of the last couple of years. The fifty-sixth report, as I have read out earlier, had in its body what the member is referring to. There is no adverse comment about Mr McKechnie, QC, in the sixty-first report. The member only has to look at the date of that. I have already referred to when the nominating committee wrote to the Premier to work out the time line.

Ms M.J. DAVIES: From the comments the Attorney General has provided, I take it that the nominating committee did not have access to that information.

Mr J.R. Quigley: I do not know.

Ms M.J. DAVIES: I think it is material. The quite lengthy information in the appendices that go to the interactions between the commissioner, the Attorney General and his office would have been of interest to those putting the commissioner forward for appointment. I would like to know whether the Attorney General thinks that is immaterial. Clearly, it is his position that it is immaterial, and that the work the committee has done is immaterial to the appointment process of the most important person in relation to the commission doing its job.

Mr J.R. QUIGLEY: There is nothing in that report that the nominating committee would not have had access to by reason of a litigation that is before the court, the pleadings in the litigation and what is in the fifty-sixth report. In my opinion, there is nothing material that the committee would not have had access to. There are other pleadings in the court, which are extensive, all conducted in the Supreme Court of Western Australia, of which the chair of the nominating committee is the Chief Justice. There is the fifty-sixth report, and that is all brought together in the sixty-first report. The member has not identified anything that was not available to the nominating committee at appropriate times.

Ms M.J. DAVIES: I will take a different tack then and see whether we can get some answers under this clause on other jurisdictions. We are now inserting a specific name in the legislation. My question previously was: Is this something consistent with other jurisdictions or is it unique? Has it been contemplated in Western Australia previously, either under the current formation or in the precursor to the CCC? I suppose the question is: please explain to the chamber whether this is completely out of step with how we have proceeded with the appointment of such an important role in previous times and how that compares with the appointment of similar roles in other jurisdictions.

Mr J.R. QUIGLEY: It is unusual but not inappropriate to specifically name people in legislation. An early example is naming people who were incorporated for the purpose of the Perth Diocesan Trustees, specifically the Anglican Church of Australia (Diocesan Trustees) Act 1888. Section 2, “New trustees incorporated”, in part names —

THE Right Reverend Father in God Henry Hutton Parry, Doctor of Divinity, Lord Bishop of Perth; the Very Reverend Frederick Goldsmith, Dean of Perth; the Venerable James Brown, Archdeacon of Perth; Mr. Justice Edward Albert Stone —

Et al —

... and their successors as appointed by Statute of the Synod, or to be appointed in accordance with the provisions of any Statute of Synod to be made and enacted hereafter, shall be and are hereby constituted a Corporation, by the name and style of “The Perth Diocesan Trustees” ...

It also appears in serious criminal matters where ad hominem legislation is passed to adjust the parole period of a particularly serious offender. The High Court in 2019 considered section 74AB of the Victorian Corrections Act, which specifically named Craig Minogue, the Russell Street bomber, and set out conditions for making a parole order for him. The High Court held that this provision was not invalid. That was *Minogue v Victoria* [2019] HCA 31.

I am not aware of another commissioner being named in legislation. It is unusual, but not unique, to name people in legislation. Of course, this is a unique situation in which a commissioner, who was already subject to probity examination by the Joint Standing Committee on the Corruption and Crime Commission in 2015, under

a Liberal–National coalition and a committee chaired by a Liberal chair, approved the appointment, only to block the reappointment when the same commissioner was investigating—not allegations; we know now—serious corruption by then members of the governing Liberal Party.

Ms M.J. DAVIES: On the comment the Attorney General made at the end there about the appointment by the previous government of Justice McKechnie and the fact his reappointment was blocked, the Attorney General will agree that there is a process for reappointment laid out in the Corruption, Crime and Misconduct Act. Will the Attorney General agree that following that process has not resulted in the recommendation that Mr McKechnie be put forward?

Mr J.R. QUIGLEY: I agree —

The SPEAKER: Attorney General! Generally, the practice is that when you want the call, you seek the call. I will now give you the call if you are seeking it.

Mr J.R. QUIGLEY: I am seeking the call, Madam Chair.

The SPEAKER: Or Speaker, even!

Mr J.R. QUIGLEY: We are in consideration in detail, so I was not sure of the proper etiquette.

Ms M.J. Davies: Is it Speaker?

The SPEAKER: It is either.

Mr J.R. QUIGLEY: I will say this: it is a unique situation, not ever envisaged by the Parliament, that one of the people on the committee who would be vetting the commissioner was part of a group of people, namely the “Black Hand Gang”, under current investigation. As such, that person should have recused himself from the committee and been replaced by an independent person from the opposition who did not have an interest in the matter. Now we have found that the next committee has —

Point of Order

Dr D.J. HONEY: The Attorney General is making the most serious imputation against a former member of the other place that they have somehow conducted themselves in a corrupt way and that they should have not been on that committee. I also heard the Attorney General make a statement earlier that, in fact, individuals were guilty of corrupt behaviour.

Mr J.R. Quigley: They were.

Dr D.J. HONEY: Yet I have heard nothing; there has been no court case and no decision. I believe they are disgraceful imputations that the Attorney General should withdraw now. He has clearly got too excited about this matter.

Mr J.R. QUIGLEY: There was a finding by the Corruption and Crime Commission, within its jurisdiction, that the member, Phil Edman, and others had involved themselves in serious misconduct by using public money to spend on a sex tour to Japan to “Soapland”, to the Barossa Valley on a drinking trip, and in expensive restaurants where they were actually filmed!

Dr D.J. Honey: Point of order, Madam Speaker.

Mr J.R. QUIGLEY: I am speaking on the point of order.

The SPEAKER: Sorry; you cannot interrupt a point of order with a point of order. I ask the Attorney General to conclude his point of order. A point of order is not an opportunity to make a long argument; it is just to make a point on the matter of the point of order.

Debate Resumed

Mr J.R. QUIGLEY: On saying that there had been serious misconduct corruption, I did no more than expand upon the findings of the Corruption and Crime Commission for which it was set up.

Dr D.J. HONEY: This is disgraceful conduct by the Attorney General and it is not something that is unfamiliar. The Attorney General knows that this body can only make allegations and assertions. It makes no legal findings. To say that those people have been found guilty of corruption and that in fact a member of the Joint Standing Committee on the Corruption and Crime Commission considered this matter is completely inappropriate and he should withdraw.

The SPEAKER: The member for Cottesloe is starting to get into an argument, too. My view is simply this: the Corruption and Crime Commission has a number of capacities, one of which is to make findings of serious misconduct. If that is what the Attorney General is referring to, I regard that as being in order. I think the Attorney General was making some remarks at the time of the point of order. Do you wish to continue your remarks?

Mr J.R. Quigley: I am not withdrawing any remarks.

Debate Resumed

Ms M.J. DAVIES: Is it conceivable that the Joint Standing Committee on the Corruption and Crime Commission, in this appointment process that the Attorney General referred to prior to the point of order, may have had information

about the reappointment that the Attorney General, I or others did not have? The Attorney General raised the issue of the reappointment being blocked by a committee or government members that had previously appointed Mr McKechnie. Is it conceivable that the Joint Standing Committee on the Corruption and Crime Commission either had information or was able to obtain information as part of its deliberations that the Attorney General, I and others were not privy to and that that information simply informed its decision not to reappoint Mr McKechnie and that it was not, as the Attorney General has made out, a decision made along the lines of partisan politics or other nefarious reasons? They are the assertions that the Attorney General brought to this house. He is undermining the fact that committee members should be doing the role they are tasked with, not taking orders from their leaders or being directed by the Premier or leader of their political party to vote in a particular way on a committee. That is what it sounded like when the Attorney General talked about this during his reply to the second reading debate. He made assumptions about how people voted according to their political party. Is it conceivable that in the committee's deliberations, its members were able to access information that, due to the deliberations of committees, they are not allowed to disclose as part of the committee processes? Perhaps there was a very good reason that we are none the wiser about at this time because the deliberations of committees cannot be revealed in that process, as we do not do for other committees.

Mr J.R. QUIGLEY: No, that is inconceivable. It is totally inconceivable for the following reasons. The nominating committee that conducted a thorough examination of these matters and had all the information available to it concluded that there was nothing adverse against Mr McKechnie and that he was the outstanding candidate. The Commissioner of Police spoke of Mr McKechnie's high probity and integrity, and his desire to see his crime fighting partner, Mr McKechnie, reinstalled. As to whether something was said in that committee adverse to the interests of Mr McKechnie, we know from a debate in this chamber from the member for Kalamunda—who did not speak of what he heard in the committee but of what he did not hear—that he never heard a whisper of anything that was adverse to Mr McKechnie. An attack was mounted on the member for Kalamunda, not for divulging what he had heard in the committee, but for simply commenting on what he had not heard in the committee, and he had not heard in the committee anything of the nature of which the member speaks.

Ms M.J. DAVIES: I thank the Attorney General. I understand that the nominating committee made a recommendation and that the Commissioner of Police made some positive comments about Mr McKechnie's stature and capabilities. But the point is that the process for appointing the commissioner is that the recommendation goes to the Joint Standing Committee on the Corruption and Crime Commission, which is the body responsible for that oversight. I want to clearly understand that the Attorney General understands that it is absolutely inconceivable that in diligently following the role given to them they would not have been able to ask additional questions or delve into matters that may not have been canvassed in a public forum, and that perhaps they did have information that was available to them that has not been made available to us. The Attorney General has already said that he does not believe that is conceivable, which I find inconceivable, so I go to a further point. Is the Attorney General aware of how many times the current committee met? Did the Attorney General or the Premier satisfy themselves that the committee had gone through a process and had reached a complete block, and was there anything that could have been done to overcome that? It all seems to have happened very fast from when the nominating committee made the recommendation to when we found out about the appointment from the Premier. Did the Attorney General and the Premier satisfy themselves that there had been due diligence by that committee, without asking what they deliberated on? I would think that before the Attorney General did something like this, which he has admitted is unique, he would have tried to make sure that he had utilised the processes laid out in the act—and for very good reason. Did the Attorney General seek to understand how many times the committee had met, what processes it had gone through and that there was absolutely no way of reaching any agreement on that?

Mr J.R. QUIGLEY: This is too cute by half! It is not for this chamber to inquire into the business of the committee; the committee meets in camera. We know that the committee met, and on the very day it met, it wrote to the Premier saying, "We cannot achieve bipartisan support or majority support for the nomination." We know that that happened on a Wednesday and that Parliament met at 12 o'clock on the Wednesday. We know that in the afternoon of that Wednesday, a letter to the Premier was signed off, so the Leader of the Opposition knows the committee met on the Wednesday morning. The Deputy Leader of the Opposition sitting at the member's right-hand was in that committee and can confirm this to her. He is not confirming anything that this chamber does not know, because we have the date of the response, and the date of the response is the date that the committee met.

Now, as to whether there was anything against Mr McKechnie, the Deputy Leader of the Opposition does not have to reveal anything of the business of the committee. But if the Deputy Leader of the Opposition is personally aware of information, which he may not have even put before the committee—I am not asking him about the committee's business—he has a duty to this Parliament to stand up and say why he will not now support Mr McKechnie. He does not have to say what happened in that committee. It might be something that he knows outside of the committee, but he cannot sit there and have the Leader of the Opposition on his left and saying that perhaps he knows something that he is not telling this Parliament. That is fraudulent, I suggest. It is a fraudulent argument. We know that the committee met on the Wednesday, and on that Wednesday it responded to the Premier that the recommendation had not got the support.

We know that the Labor people would have supported Mr McKechnie, because we meet as a party and we go along to these things as a party. The member for Kalamunda has already voted in support of the second reading debate, so obviously in this Parliament he has supported Mr McKechnie, and will when this debate is finished. We know that he is a member of the caucus, which has resolved to proceed with this bill, and the resolution was to proceed with this bill if the committee could not achieve bipartisan and majority support. Of course, they voted for Mr McKechnie; that is as plain as the nose on your face. The member for Moore was the only other person in that committee room who had the power to approve or disapprove of Mr McKechnie because he is the person who is a member of the party of which the member for Central Wheatbelt, the Leader of the Opposition, is a member, as defined in section 3 of the legislation, which states that “bipartisan” means —

... members of the Standing Committee who are members of the party of which the Leader of the Opposition is a member;

That is only the member for Moore. If he knows something about Mr McKechnie and why this Parliament should not appoint him to this position, he has a duty to stand up and say so.

Ms M.J. DAVIES: That was the assertion that the Attorney General made in his second reading speech. I disagree completely that the Attorney General can make assumptions about how people voted. The Attorney General can make assertions, but he is making assumptions. Quite frankly, as I said, the committee process is that individual MPs are appointed to these committees and they should take on board the fact that they are there to diligently do a job. Yes, they are defined in the act as a person from the opposition, but there is no way that the Attorney General can possibly know—he should not know—how these people vote. I will not canvass this because it is straying into areas that are completely inappropriate.

I will ask one last time: given that the process for appointing the commissioner did not result in a recommendation to appoint Mr McKechnie, does the Attorney General agree that the decision to insert Mr McKechnie’s name into the act taints him as being handpicked by the government, which will make it more difficult for him to do his job as an independent individual?

Mr J.R. QUIGLEY: No, I totally disagree. I say that the rejection of Mr McKechnie, firstly by Hon Jim Chown and now by the member for Moore, taints the opposition with a cover-up. That is what I say. It does not taint Mr McKechnie at all; it taints the opposition. It is trying to sack the policeman who is investigating it. That is what it amounts to and all the mums and dads in the community know this. If they were under investigation, they could not turn around and sack the copper who was investigating them. If they were running a business, they could not turn around and sack the taxation commissioner who was investigating them. They could not turn around and sack the state taxation commissioner who was investigating them over stamp duty evasion. They could not do any of that, but the conservative parties in Parliament, by reason of the way in which this has been set up, had the power, and they exercised that power, to sack the commissioner who was investigating them. Why on earth —

Withdrawal of Remark

Ms M.J. DAVIES: Madam Speaker, that was a broad assertion that members of the opposition were being investigated. I am not sure that the Attorney General should be sharing that with everyone. He broadly applied that assertion to everyone in the opposition. I ask him to withdraw.

Mr J.R. Quigley interjected.

The SPEAKER: Attorney General, I will rule on points of order.

Mr J.R. QUIGLEY: I will not withdraw, but I will be more specific. I will withdraw —

The SPEAKER: Perhaps you could let me rule on the withdrawal of remark first. I do not regard it as a withdrawal of remark and I do not require the Attorney General to withdraw.

Debate Resumed

Mr J.R. QUIGLEY: I will say this: under the act, the people on the committee are not representing themselves. They are not going along with independence to represent themselves; they are representing their party. That is why it states “members of the Standing Committee who are members of the party”. They are there representing their party, just as Hon Klara Andric and the honourable member for Kalamunda will be doing. They will be on that committee representing the Labor Party, under the first part of the definition that says —

... members of the Standing Committee who are members of the party of which the Premier is a member ...

They are representing the Premier’s party. The member for Moore was representing the Nationals WA. The member for Moore voted down Mr McKechnie in the same way that the member of the “Black Hand Gang”, Hon Jim Chown—it sort of sticks in my throat!—was representing the Liberal Party on that committee when he effectively sacked the policeman who was investigating them. It is outrageous!

Dr D.J. HONEY: Attorney General, I have covered this topic before.

A member interjected.

Dr D.J. HONEY: The Attorney General's contention is that the CCC is incapable of carrying out or completing an investigation without John McKechnie in the position of CCC chair. The Attorney General has no faith whatsoever in the CCC. He has no faith whatsoever in the investigators of the CCC. The Attorney General is contending that this investigation can only be completed by him. We on this side welcome investigation of any improper behaviour, but the Attorney General has made the statement in here that by us disagreeing with this completely improper process and his shameful and disgraceful behaviour tonight that that investigation cannot be completed without that individual as chair of the CCC. The Attorney General is saying that he has no faith at all in the acting chair of the CCC, that he has no faith in the investigators of the CCC and that there is only one person who can complete that investigation. Your assertions, Attorney General, are shameful!

The SPEAKER: Before I give the call, I point out that it is unruly to interject from somewhere other than your seat.

Mr J.R. QUIGLEY: I will respond to the member for Cottesloe and tell him what shameful behaviour is. Shameful behaviour is getting on the government internet and communicating with the former corrupt trade agent in Japan, Mr Craig Peacock, and saying that you and your mates in the "Black Hand Gang" are, in reference to young Asian girls, coming up there for some "Japanese honey". That is what the Liberal Party was up to—going up to Tokyo for "Japanese honey" at the taxpayers' expense. That is shameful behaviour.

I will tell the member for Cottesloe what shameful behaviour is. This is shameful behaviour. The CCC's *Report on electoral allowances and management of electorate offices*, dated 26 November 2020, states that Mr Craig Peacock was summonsed to Perth to attend a compulsory hearing and was under instruction and a requirement of the CCC act not to discuss the evidence with anyone. However, he was followed to an Italian restaurant on 17 December 2018 and was photographed there with Mr Edman, Hon Ricky Mazza, who was under investigation—Hon Ricky Mazza had to eventually resign from the Standing Committee on Procedure and Privileges because of his disgraceful conduct—and Mr Ellis. Was Mr Ellis a member of your political party, Leader of the Liberal Party? The member indicates that he does not know, but he used to be the president! The corrupt Mr Peacock is right there. Was Mr Hallett a member of the Liberal Party? Did he get elected as a member of the Liberal Party? They went along to that restaurant to discuss the evidence that they were told they were not allowed to discuss, to cook up a story. That is shameful behaviour by the Liberal Party. The Labor Party is doing nothing here tonight other than standing up for decent Western Australians.

As to the absence of the commissioner, I will read from the 2019–20 annual report. This is from Mr Scott Ellis, the acting commissioner. There is his picture. It states —

Although I have been the Acting Commissioner of the Corruption and Crime Commission since 1 July 2016, this is my first annual report. In past years, the Hon John McKechnie QC held office as Commissioner.

Commissioner McKechnie's term of appointment ended on 27 April 2020.

Listen closely, member for Cottesloe —

The current lack of a full time Commissioner is regrettable. It creates uncertainty for the Commission. Commissioner McKechnie was a very effective and highly respected Corruption and Crime Commissioner. I was very pleased to collaborate with him on the important work of the Commission.

I have also benefited greatly from the support and skills of the talented and committed team ...

He has said that it is highly regrettable that members opposite have cut the commissioner off at the knees, right when he was on the trail of corruption in the Liberal Party. That is shameful behaviour.

Dr D.J. HONEY: There was not one thing that the Attorney General said then that answered the question that I put to him, and that is: does the absence of Mr McKechnie stop that investigation from going forward? The Attorney General loves going through salacious detail; he gets a certain fervour whenever he does it. The truth is that if they have done any wrongdoing, they should be prosecuted. Let the Corruption and Crime Commission take them to court. As I have said, we on this side expect the CCC to follow through with investigations and take those matters to court. The Attorney General has not answered my question. His contention is that this whole charade we are going through now is necessary because that matter cannot be prosecuted and that in some way members on this side are complicit in some conspiracy to stop that investigation, and that is contingent on the fact that that investigation could not continue to be done properly in the absence of Mr McKechnie. He said nothing in that statement. I can understand why an acting commissioner would say that they would want to be in that position permanently or that someone should be in there permanently, and we have heard that Mr McKechnie is a well-regarded individual. That does not speak to the key point, which is: is Mr McKechnie's appointment critical for the prosecution of this case? Based on what the Attorney General has said and the fervour with which he has said it, it seems to me that the commission has matters that it can take to court. I welcome that. I welcome proper exploration of these issues, but I find incomprehensible his contention that that matter cannot be investigated because of the absence of Mr McKechnie. In fact, I find that a ridiculous assertion on his part. The Attorney General should answer the question: will that

investigation be prevented from going forward and coming to its natural conclusion if Mr McKechnie is not on the commission?

Mr J.R. QUIGLEY: That investigation is not going forward because, up until now, another chamber controlled by the Liberal and National Parties has managed to keep a computer and two hard drives away from the CCC. I refer to paragraph 22 of the report of 26 November 2020, which I have already referred to. It states —

While this is the second report in connection with Operation Betelgeuse, the investigation is not complete and cannot be completed until the Commission has been able to examine two hard drives which the Commission understands are still in the physical custody of the Clerk of the Legislative Council. If those materials become available to the Commission and if those materials reveal serious misconduct the Commission will investigate further.

What is impeding the progress of Operation Betelgeuse is the retention by the Legislative Council of those two hard drives. What is critical for the ongoing operation of the Corruption and Crime Commission is to have a permanent commissioner—the best permanent commissioner available. Mr Paul Whyte did not knock on the door and give himself up for \$25 million. He was found out by the CCC. Mr Fullerton did not hand himself in for having his house rebuilt and a couple of hundred grand dropped in his account. He was found out by the CCC. These sorts of corruptions were never, ever uncovered during the terms of previous commissioners. Mr McKechnie had breathed new life into the CCC, and the public knows it. The public is not silly. We went to the public. The Premier said to the public time and again, “Vote for us, and we’ll do all we can to reinstate Mr McKechnie as the commissioner.” To go to the member’s question, what is critical to Operation Betelgeuse—that is, the further investigation—is for the member’s parliamentary colleagues in the Legislative Council to join with Labor and get these two computers over to the CCC. That is what is critical. The next thing that is critical for the general operation of the CCC, is, as the acting commissioner says, to have a permanent, expert, best available commissioner, and that is Mr McKechnie.

Dr D.J. HONEY: The Attorney General has a habit of making assertions that are in fact completely untrue. He said that the Liberals and Nationals controlled the Legislative Council in the last Parliament.

Several members interjected.

Dr D.J. HONEY: Yes, he did. He said control. He said the Liberals and Nationals controlled the Legislative Council in the last Parliament. The Attorney General knows that in the last Parliament, there were nine Liberals and five Nationals in the Legislative Council. That is 14 members out of 36. The Attorney General knows that the votes in that house could be defeated only if the crossbench voted with those groups. Therefore, he knows that is a false statement to make to this Parliament. The Liberals and Nationals did not control that chamber. The Attorney General also knows, because he took this person to court, that the former President of the Legislative Council was deeply concerned that the Attorney General and the CCC were confounding parliamentary privilege. The Attorney General also knows that the former President of the Legislative Council had worked out and agreed to a process whereby the CCC could have the information that was available on those computers, subject to a review of any information that was possibly subject to privilege. So why does the Attorney General make those statements in this chamber? That is not being honest, Attorney General. The Attorney General is being salacious and disgraceful in the way that he presents this. It does no service to him and it does no service to this bill.

The SPEAKER: I would caution the Leader of the Liberal Party against accusing another member of not being honest. Perhaps you would reflect on that language in your future choices, member.

Dr D.J. Honey: He just called Liberal Party members corrupt.

Mr J.R. QUIGLEY: They were corrupt, Madam Speaker. It is corrupt to take public money and hire young Asian women in brothels in Tokyo. I know the Liberal Party does not understand that to be corrupt, but that speaks more of Liberal Party ethics and morals than it does of the conduct itself. No-one in the community would disagree with the proposition that Liberal Party members of Parliament using taxpayers’ money to hire young Asian women in brothels in Tokyo is corrupt. No-one in the community would disagree that Liberal Party members using taxpayers’ money to go on wine tours in the Barossa Valley is corrupt. To say that there was an agreement between the Standing Committee on Procedure and Privileges and the CCC whereby there would be a handover of documents is patently wrong.

Today I read a letter to the chamber from the Corruption and Crime Commission addressed to the State Solicitor’s Office. It was a sensitive legal-in-confidence letter, dated 22 July 2019, and was an appendix to the fifty-sixth report of the Standing Committee on Procedure and Privileges. It is addressed to the State Solicitor’s Office and I will read it again —

Notices to Produce ...

I refer to our telephone conversation ... in relation to this matter, in which you sought clarification as to:

1. whether there is an agreed procedure in place between the Commission and the Procedure and Privileges Committee ... in relation to accessing documents to be produced under the above Notices for parliamentary privilege; and
2. whether the proposed process of physically handing the records to be produced under the above Notices to the Commission's exhibit officer, before that officer immediately passes the records to the PPC, would satisfy production under the Notices.

Is there an agreed procedure in place between the Commission and the PPC?

The Commission has not agreed to a procedure with the PPC.

The Commissioner's letter of 26 June 2019 noted the PPC had 'finalised its procedure for dealing with the Commission notices'.

While the Commission has conferred with the PPC (and with the DPC) with a view to offering technical assistance, the Commissioner's clear position at all times has been that the Commission cannot approve or agree to a process. That is a matter for the PPC, not the Commission.

The Commission's position was confirmed most recently verbally and in writing by the Commission's Director of Operations, Mr David Robinson, to Mr Nigel Pratt on 3 and 5 July 2019 ...

Therefore, there was not, as the member asserts, an agreement between the CCC and the Standing Committee on Procedure and Privileges about the production of these documents. The fact of the matter is that within football kicking's distance from where we sit is a computer, and on that computer are emails, which we know of from Mr Craig Peacock, in which a Liberal Party member was arranging trips to brothels and arranging those trips to brothels to be paid for by the taxpayer. That is what the scandal is, and every time the conservatives have the opportunity to try to close down this investigation and keep this information from the public information, they take that opportunity.

Imagine, back in the days of the Carpenter government when I was here in 2007 and 2008, when the CCC was investigating Labor, if Premier Carpenter had closed down the Corruption and Crime Commission. The city would be calling for the government's resignation. It is disgraceful conduct! And you say that I speak with fervour on this salaciousness—no! I reflect the community's anger at the conduct of a whole group of Liberal members of this Parliament who have taken and played the taxpayers for suckers.

Dr D.J. HONEY: Attorney General, you are also referring to the previous President of the Legislative Council, Hon Kate Doust, because you know that she did not agree with the wholesale taking of that drive. But you also know that Hon Kate Doust agreed that a retired judge could review the material, determine what material was privileged and release all the rest of that material to the CCC. That is the matter, amongst other things, that is being considered by the courts at this moment. What you are doing here is making cheap political tricks and not answering the substantive question. You have again asserted that because Mr McKechnie was not appointed to that position that this investigation would be shut down. You know there is a path forward. You know there should be a finding coming from a court case as to what is privileged information and what is not, and that that information will otherwise be available. So there is no attempt. The Hon Kate Doust is a member of your party and can I say, clearly outside yourself, a highly respected member of the Labor Party and a highly respected former minister and a highly respected senior member of the Legislative Council. You know that Hon Kate Doust was also concerned about the release of that information. It has been said that that information was being stopped by the Liberal Party or the National Party, but it required a majority of the Legislative Council to do that. It was asserted that it was those parties alone, knowing that Hon Kate Doust had deep concerns that parliamentary privilege was being breached. She took the considerable action of going to court to defend parliamentary privilege and to have a process so that that information could be released in a way that other material that was subject to parliamentary privilege would not be released. She developed that process. The Attorney General can be cute with words but what he is saying to members in this place is misleading and he should not do it.

Mr J.R. QUIGLEY: I am glad that we are talking about former office holders. I am glad the member raised former office holders because his predecessor in the seat of Cottesloe was a former office holder; he was the Premier. When the committee, on the vote of the Liberal Jim Chown, cut Mr McKechnie off at the knees and blocked him from continuing the investigation, the former officer holder, the former Premier of Western Australia, Hon Colin Barnett, said it was disgraceful of the Liberal Party to have done that. I thank the member for reminding me of former office holders and what they had to say. Mr Barnett would never have trucked the nonsense that the new member for Cottesloe, or his successor, is putting before this Parliament. He said it was disgraceful how the Liberal Party was acting.

Dr D.J. HONEY: The Attorney General knows that during this entire debate, we have been at pains to make clear that we are making no statement about whether Mr McKechnie is a suitable person. We have deep concerns about the process that the Attorney General is following. To say that we are focusing on Mr McKechnie is completely

false and goes completely against all the statements that have been made by those on this side of the house during the debate.

Ms M.J. DAVIES: I have a final question, which I think goes to the point that the member for Moore, the Deputy Leader of the Opposition, was trying to make earlier in relation to bipartisanship. I think I mentioned this during my speech on the second reading. When we go back to the original second reading, we find that Hon Jim McGinty went through a number of different points and principles. He talked about accountability and the new structure for the CCC that the Labor Party was introducing. He said —

The CCC will have one commissioner, with provision for an acting commissioner, a parliamentary inspector, and continued monitoring by a parliamentary committee.

To ensure the community and Parliament will have confidence in the commissioner, the appointment of the commissioner can be made only after the Premier has consulted the parliamentary leader of each party in the Parliament.

To me, that says Hon Jim McGinty felt that bipartisanship was important in the appointment. I understand that was for the first appointment, not a reappointment. Nonetheless, the notion is the same; bipartisanship was important. I think the Attorney General and this government, through their actions, have quite clearly dismissed this as one of the fundamentals. That bipartisanship is important because it is about how the commissioner can conduct their business without having concerns raised by the community; they are acting at the behest of the executive or the government. Hon Jim McGinty felt it was so important to make the point right at the beginning of his speech about the creation of the commission and how the commissioner would be appointed, but this government sees that that is not an important factor to progress with the appointment of this most important role.

Mr J.R. QUIGLEY: This government did consult. It consulted extensively. It consulted with the voters of Western Australia repeatedly throughout the election campaign and made a promise to the voters of Western Australia that if they wanted Mr McKechnie reappointed, they should vote Labor.

Clause put and passed.

Title put and passed.

Third Reading

MR J.R. QUIGLEY (Butler — Attorney General) [8.15 pm]: I move —

That the bill be now read a third time.

MS M.J. DAVIES (Central Wheatbelt — Leader of the Opposition) [8.15 pm]: This has been a remarkable two days in which the opposition has been asked to consider two quite extraordinary bills. As we have pointed out, we were happy to consider the first bill and assist the government in rectifying a mistake of its own making so that we could protect data provided through the SafeWA app so that the people of Western Australia could have the confidence to continue using it. We did that yesterday, I might add, under great duress; we found out about it at 10.00 am, were briefed at 5.00 pm and debated it at 7.00 pm. The debate was cut off at 9.15 pm, and certainly it was far more than the four clauses of the amendment bill that we have been dealing with today, notwithstanding those four clauses are somewhat more contentious, I think, and have more far-reaching ramifications on how we deal with the most important and serious of matters—the oversight and investigation of crime and corruption in our public service.

We made it very clear from an opposition perspective—I think the leader of the Liberal Party also enunciated this in his last contribution—that our concerns have always been about the way that the commissioner is appointed and are not necessarily in relation to Mr McKechnie. We went through the fact that he has the qualifications that enable him to be put forward by the nominating committee and to be put forward for consideration by the Joint Standing Committee on the Corruption and Crime Commission. That is not in question. What is in question is the process outlined in the Corruption, Crime and Misconduct Act 2003, brought in by a Labor government, that involves a specific number of steps to ensure that the person appointed to that role can conduct their investigations and the business of the CCC with a degree of independence from government and the executive and their influence. They need to be able to act outside of the shadow of being appointed or hand-picked by the government of the day.

Mr McKechnie was appointed by a Liberal–National government. He went through that process. The Joint Standing Committee on the Corruption and Crime Commission approved him. He met that threshold of bipartisan and majority support. When it came to the reappointment of Mr McKechnie, that threshold was not met. As a consequence, quite extraordinarily I thought at the time, because we were in the midst of a pandemic and under emergency management rules in this house for the legislation that we were dealing with, the Premier sought to bring that piece of legislation, which is very similar to the one that we are debating today, back into the house, declaring that it was urgent, we must go through this process and we could not do anything other than insert Mr McKechnie's name in the legislation. At that time, I wrote to the Premier as the Leader of the Nationals WA—I was not the Leader of the Opposition at the time—and made it very clear that we did not think that that was an appropriate way to go forward with that

appointment. I think that we have made those reasons clear in both the second reading debate in May 2020 and also today.

It casts a shadow over Mr McKechnie. It is not of his own doing; it is the Premier and the Attorney General's doing. They have tainted this process, and as a consequence, anything Mr McKechnie undertakes will always be linked back to partisan politics. Some of the behaviour we have seen in this house tonight makes that absolutely clear to me.

Not one of us believes that the matters the Attorney General canvassed tonight, into which investigations have been undertaken, are befitting of members of Parliament. We believe they are matters that need to be taken forward into the courts. This side of the house—the Nationals WA and Liberal Party opposition—will never endorse corrupt behaviour. We in this Parliament, as servants of the public, have to be above that behaviour. The way to prove we are above that is by having an independent Corruption and Crime Commission that actually does its role outside the shadow of the government of the day. The moment the Premier and the Attorney General sought to appoint Mr McKechnie outside the process laid out in the Corruption, Crime and Misconduct Act 2003 was the moment they effectively inhibited Mr McKechnie from conducting his role in an impartial way. That, to me, is most disturbing, because a precedent has now been set.

The Attorney General foreshadowed in his second reading speech that the government will be reviewing the way in which future commissioners are appointed. It would have been a far more prudent way to approach this situation to actually do that work and bring the legislation to the house rather than forcing this bill through using the government's numbers and, I think, thereby putting Mr McKechnie in an impossible position. The government went outside the process that did not deliver it the outcome it wanted. It picked up its bat and ball, went home and said, "We're just going to insert this name into the legislation and we're going to use our numbers to force it through. We're going to force it through the Parliament." I think that is an absolutely atrocious use of the majority the government has been afforded by the people of Western Australia.

This does not set a good precedent. It ignores all the debate and discussion that took place when the Corruption and Crime Commission was first introduced by Hon Jim McGinty. At that time, it was made very, very clear that bipartisanship, the checks and balances of the Joint Standing Committee on the Corruption and Crime Commission and the processes that the nominating committee would go through to appoint the commissioner were incredibly important for maintaining public confidence. The CCC investigates very serious matters.

Once again I say: we cannot ever defend the misuse of public dollars, whether it is by one of our own party members, somebody in the public service or a police officer. That is not something that anyone in this place should defend, and not one of our members has done that. We are worried that the process this government has chosen to appoint Mr McKechnie will effectively render him ineffective in pursuing his role without calling into question the motives behind the task he has been assigned. It is a most important task.

I share the Leader of the Liberal Party's outrage at the way in which the Attorney General chose to conduct himself in this place this evening. I believe we were simply having a debate about the process that was laid out and why the government has gone down this road to insert Mr McKechnie into that position. It is unique. At one point the Attorney General compared the insertion of the name of the Corruption and Crime Commissioner into this legislation with the appointment of someone in the Anglican diocese! They are hardly comparable; it is too cute by half.

The public commentary by the Attorney General and the Premier has been most disappointing. We are here to make sure that we do not set precedents that could call into question the role of the CCC in the future, but that is exactly what this government has done.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [8.24 pm]: I also rise to make a contribution on the Corruption, Crime and Misconduct Amendment Bill 2021. It is a great misfortune that we see this bill come before this house and the way the Attorney General has conducted himself tonight is an even greater misfortune. This bill is simply wrong and it is a shameful day for this chamber and this Parliament when it progresses in this manner. This bill not only taints the appointment, as the Leader of the Opposition has pointed out, but also casts a shadow on the Premier, the Attorney General and the entire Labor government. If this bill progresses through the upper house, this will be a partisan appointment—the choice of the Premier and the Attorney General. Any action by Mr McKechnie will be tainted by a perception that he is a partisan appointment. That is a great shame and a terrible reflection on this Premier, the Attorney General and this Labor government.

What we are seeing in this chamber is the worst example of an arrogant Labor government drunk on power, indifferent to proper and decent process. As the Leader of the Opposition has pointed out and I will reassert, we have no truck on this side with corrupt behaviour. If people have behaved corruptly, the Corruption and Crime Commission should investigate that corruption and apply charges, but what we have seen tonight is the most senior lawmaker in this state be judge, jury and executioner. What we have witnessed in this chamber tonight is the Attorney General make the specific allegation that a number of individuals have behaved corruptly. The Attorney General knows in his position, given that he is a lawyer and the most senior lawmaker in this state, that that is a specific legal term and

not a general assertion. We may be disgusted or upset by someone's behaviour and we may think that someone's behaviour is extremely wrong, but only a court can decide whether that behaviour is in fact corrupt. What we have here, clearly, is the Attorney General being the court and making that assertion himself. Not only did he make an assertion about those people who are being investigated, who he named in this place, but also he made an assertion about a former member of the Joint Standing Committee on the Corruption and Crime Commission. I think that is shameful behaviour on the part of the Attorney General and he should know better. He can express his outrage and upset. I am certain that many members of the public are upset by the matters that he has reported. We on this side and I am upset by those reports. That behaviour is unacceptable behaviour in my terms. If that behaviour has been corrupt, that matter needs to go before a court and charges laid.

We know that on a number of occasions the parliamentary inspector has reported that the CCC has made assertions and allegations against individuals and those charges have not even been able to go to court. The parliamentary inspector has been extremely critical of the CCC for making those claims public when there was no hope that those matters could be proved before a court. We are yet to see whether the matters that the Attorney General discussed can be proven before a court. If they are proven before a court and those people are prosecuted and those people have carried out their behaviour corruptly, then good. Bring that on. Bring that to court; let us hear those matters out. We on this side would welcome that as much as the Attorney General would welcome that.

I believe that the Attorney General's behaviour tonight has been quite improper and disgraceful. For the Attorney General to be the judge, jury and executioner and make those assertions and statements here, in particular about the previous Liberal member on the CCC joint standing committee, does the Attorney General no service and, as I said, does this bill no service whatsoever. This is an improper process. This is a partisan process. If this bill goes through the upper house and this government does not see good sense, it will taint that appointment for as long as it lasts as a partisan appointment. That risks tainting every decision made by the CCC. Those decisions could also be tainted as a partisan process, and that is a disgrace because the CCC is critical for ensuring that we do not have corrupt or illegal behaviour in the community, but more particularly, corrupt behaviour in government, the executive of government or amongst members of this and the other chamber. That is a great shame.

As has been pointed out, there are several ways this matter could have been dealt with. The government could simply have made a recommendation, a suggestion, for another person who is acceptable to that committee. The government could have gone through a thorough process of putting forward other legislation to decide how the head of the CCC should be appointed if it was dissatisfied with this method. The government has not chosen to do that. The government, the Attorney General and the Premier have made it clear to not only members of their own party—the former member for Girrawheen and the former President of the Legislative Council—but also everyone in the legal community and in Australia that they will not accept any other person in that role than Mr McKechnie. They are making it clear that Mr McKechnie is their appointment, even though he may be called upon to adjudicate on an issue that involves the Attorney General, the Premier, Labor members in this house or Liberal or National Party members or members of other parties in this Parliament. Specifically, they are making Mr McKechnie their appointment, a Labor appointment, when he may be called upon to investigate matters concerning Labor members and, in particular, the Attorney General and the Premier. As I pointed out earlier, I would be surprised if anyone had bothered to nominate for this position given the statements by the Attorney General and the Premier on this matter.

We heard a contention, which was repeated in this place, that somehow the CCC and the current acting head of the CCC are incompetent. The assertion is that they cannot carry out the required investigations; only Mr McKechnie can complete those investigations. The assertion is that those investigations and whatever other investigations the CCC is carrying out can be carried out only by Mr McKechnie. Regardless of whether Mr McKechnie is appointed for another five years, will we see at the end of those five years that he is the only person who can head that organisation and successfully carry out investigations? Some members on the other side are legal practitioners and they know that there are many learned people who could carry out that job. It is a false assertion.

It is an equally false assertion to say that our debate in this chamber or the concerns around privilege in the other chamber are there to protect individuals. As I said, no-one has any truck with individuals who behave corruptly. If that is the case, bring those charges before a court, charge the people in question, prosecute them and they will suffer a penalty. We have no truck with that. However, we have deep concerns with this process for the reasons I have outlined. The government has utterly tainted this position. It is utterly tainting a crucial part of the checks and balances on this Parliament and an organisation that is there to investigate corruption and crime in other parts of the state. Government members should collectively feel ashamed of themselves.

MR J.R. QUIGLEY (Butler — Attorney General) [8.33 pm] — in reply: Have we heard some cute disinformation in this chamber this evening! It'd make you blush! There is the Leader of the Liberal Party saying that no-one on that side of politics would support corrupt behaviour. That is exactly what happened. As soon as the Corruption and Crime Commission, through its intercepts on the materials of Mr Craig Peacock, the former trade agent in Japan, found the connection back to Phil Edman and it executed a warrant on him, the most senior person then in

the Liberal Party, the longest-serving member of the Liberal Party and a member of the Standing Committee on Procedure and Privileges of the upper house, Mr Simon O'Brien, rang the corrupt Mr Edman to say, "I support you, mate, and I'll support you all the way." Then they come in here and speak these mealy-mouthed words. There is no-one on this side of the chamber —

Dr D.J. Honey interjected.

Mr J.R. QUIGLEY: I am not taking interjections from the peanut gallery this evening; it is too late, Mr Deputy Speaker.

The DEPUTY SPEAKER: Leader of the Liberal Party!

Mr J.R. QUIGLEY: Someone in the Liberal Party, the longest serving member of the Liberal Party, at the time also a member of one of the most senior committees of this Parliament, the Standing Committee on Procedure and Privileges of the Legislative Council, was ringing up the corrupt Mr Edman offering him his ongoing support. The member for Cottesloe says, "How dare the Attorney General call these people corrupt." I do so by reason of the Corruption, Crime and Misconduct Act, which I am now holding. In part 3, "Serious misconduct: role of Commission", section 22, "Assessments and opinions as to occurrence of Serious misconduct", states —

- (1) Regardless of whether or not there has been an allegation of serious misconduct, the Commission may make assessments and form opinions as to whether serious misconduct —
 - (a) has or may have occurred; or
 - (b) is or may be occurring; or
 - (c) is or may be about to occur; or
 - (d) is likely to occur.

I go back to section 4 to the term "serious misconduct". Misconduct occurred. We know the Corruption and Crime Commission made a finding of serious misconduct against Liberal Party members of the Legislative Council. That is in its report thus far on Operation Betelgeuse, but what does a finding of serious misconduct entail when the commission makes that finding, which it has made—not a finding of the Attorney General, not a finding of the Premier, but a finding of the commission. What does a finding of serious misconduct mean? Section 4 states, in part —

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or

Cop this one —

- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself —

Read: "Asian honey", "Tokyo honey" —

or herself or for another person —

Read: his mates, whom he was emailing, "come and get the 'Asian honey'". It continues —

or to cause a detriment to any person ...

That is corruption; not a finding of the Attorney General. The finding was of serious misconduct for that conduct—fraudulently taking, as was noted in the report. What appeared in the diaries of those who went on that sex trip is not what happened on that sex trip. No; there was no mention of "Soapland", no mention of "Asian honey". It was fraudulent, so do not come in here getting all offended saying that the Attorney General has acted disgracefully by referring to the truth of the corrupt behaviour of the members of the Liberal Party who formed a gang in the Legislative Council, which was kept secret, called—they called it; I am not saying I called it; they called it themselves—the "Black Hand Gang", the ominous "Black Hand Gang". The CCC was investigating members of the "Black Hand Gang" for serious misconduct that involved fraud on the public purse. One of the "Black Hand Gang" was embedded in the committee and was able to cut off the inquirer at the knees.

Mr Deputy Speaker, I rest our case. I say no more. I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.

House adjourned at 8.38 pm
