

CORRUPTION AND CRIME COMMISSION BILL 2003

Returned

Bill returned from the Council with amendments.

Council's Amendments - Consideration in Detail

The amendments made by the Council were as follows -

No. 1

Clause 2, page 2, lines 10 to 14 - To delete the lines.

No. 2

Clause 3, page 2, lines 18 to 28 - To delete the lines.

No. 3

Clause 3, page 3, lines 6 to 11 - To delete the lines.

No. 4

Clause 3, page 3, line 15 to page 4, line 26 - To delete the lines.

No. 5

Clause 3, page 5, lines 6 to 32 - To delete the lines.

No. 6

Clause 3, page 6, line 4 to page 7, line 3 - To delete the lines.

No. 7

Clause 3, page 7, lines 8 to 17 - To delete the lines.

No. 8

Clause 3, page 7, line 20 to page 8, line 22 - To delete the lines.

No. 9

Clause 4, page 8, line 23 to clause 5, page 10, lines 3 - To delete the clauses.

No. 10

Clause 18, page 16, line 1 to page 17, line 35 - To delete the clause.

No. 11

Clause 19, page 18, line 7 - To delete "Without limiting the Commission's functions under section 18".

No. 12

Clause 21, page 19, line 22 to clause 150, page 96, line 21 - To delete the clauses.

No. 13

Clause 157, page 104, line 1 to clause 177, page 113, line 13 - To delete the clauses.

No. 14

Clause 185, page 118, line 1 to page 119, line 11 - To delete the clause.

No. 15

Clause 196, page 126, line 3 to clause 206, page 131, line 29 - To delete the clauses.

No. 16

Clause 217, page 140, lines 22 to 24 - To delete the lines.

No. 17

Clause 223, page 143, line 19 - To delete "147 and".

No. 18

Clause 228, page 146, line 1 to clause 260, page 160, line 2 - To delete the clauses.

No. 19

Clause 261, page 160, line 6 - To delete the line.

No. 20

Clause 262, page 160, line 8 to page 161, line 21 - To delete the clause.

No. 21

Schedule 1, page 162, line 1 to page 163, line - To delete the schedule.

No. 22

Schedule 2, page 164, line 26 - To insert after "spouse" -
or de facto partner

No. 23

Schedule 2, page 164, line 30 - To insert after "spouse" -
or de facto partner

No. 24

Schedule 4, page 171, line 5 to page 173, line 28 - To delete the lines.

No. 25

Schedule 4, page 184, line 2 to page 192, line 26 - To delete the lines.

No. 26

Schedule 5, page 195, line 1 to page 201, line 24 - To delete the lines.

Mr J.A. McGINTY: I seek leave to deal with amendments Nos 1 to 26 in Legislative Council's message No 85 together.

Leave granted.

Mr J.A. McGINTY: This procedure is a productive example of the high level of cooperation in this Parliament to achieve what three divergent groups wanted to achieve from the Corruption and Crime Commission Bill. Yesterday the Greens (WA) and the Liberal Party were approached to give consideration to splitting the Corruption and Crime Commission Bill, and to enable those parts of the Bill dealing with the establishment of the Corruption and Crime Commission to proceed without delay. The beauty of enacting those provisions is that it achieves the Government's objective of getting on with the appointment of a commissioner, the establishment of the commission, the recruitment of staff and all those important administrative matters, so that we will not lose time if we honour the royal commission's self-imposed objective of achieving a seamless transition from the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers to the new anticorruption body in Western Australia. As members will be aware, 31 August is the date on which the police royal commission will come to an end. The Government's objective is to have the new corruption body up and running, so that on 1 September it can take over from the police royal commission; and also replace the Anti-Corruption Commission. The intention was always, within a very tight framework, to achieve that transition from the old to the new. Yesterday that proposition was put to the upper House parties - the Greens (WA) and the Liberals - and a meeting was held at 10 o'clock this morning. At that meeting, with the cooperation of all the parties, we were able to set about achieving what we wanted. On the part of the Government it was to get the administrative arrangements in place. On the part of the Greens (WA) and the Liberal Party it was to ensure that the appropriate upper House committee had the opportunity to review principally, but not exclusively, the powers to be exercised by the new anti-corruption watchdog. The agreement that was reached was that the Legislative Council would refer to its Standing Committee on Legislation not only the powers but also the entire Bill, notwithstanding the passage of part of the Bill once the Bill was split. I was more than happy to accommodate that, because the Government would gain the benefit of not losing time in establishing the new body in an administrative sense. That proposition was put and was agreed to in principle. The very skilful people from the Crown Solicitor's Office and the Parliamentary Counsel's Office, and the Clerk of the Council, then formulated a way in which that could be done, and that was done through the Legislative Council this evening.

I am more than happy to agree to these amendments, because it will mean that the Government will have an interim Act that will enable it to do everything that it wants to do while concurrently the Legislative Council Legislation Committee is looking at all of the provisions and will, no doubt, make some recommendations that hopefully will improve the situation. I have, as members would be aware, indicated my support for a bipartisan

approach to this matter, and that has been achieved to a very high degree by accommodating the views of the Liberal Party and also the Independents in this House. I see no reason that that cannot be the productive end result of the same process in the Legislative Council. The Legislative Council has agreed that the Legislation Committee will report by the end of the first week of the new session of the Parliament on 15 August. On that day members will obviously begin fairly intense negotiations to determine whether the views of the Legislation Committee can be accommodated and whether the rapid passage of the Bill through both Houses of the Parliament can be achieved so that the original deadline of having the complete Act in place on 1 September can be met, having had the benefit of some two months of operation of what I will term the interim Act, which is the Bill that is now before us.

Mrs C.L. EDWARDES: The Liberal Party is happy to support this proposal, which will provide administrative support for the new anti-corruption body, and in particular will overcome some of the concerns that have been raised by staff of the police royal commission. Some of those staff have come from the eastern States, and they rather like our sunny State, although it has not been so sunny this past week. They have enjoyed their time in Western Australia and the work that they have been involved in, and they would like to continue to work in this State. The employees of the Anti-Corruption Commission have also been left in some quandary about their position, as have the staff of the Ombudsman's Office, who have been dealing with the police investigations that will now be undertaken by the Corruption and Crime Commission. This proposal will enable the staff of these three organisations to have some level of certainty about their future employment options and opportunities. Could the Attorney General highlight exactly what process will be used to overcome the concerns that have been raised by staff of these three organisations, as constituents, with particular members of Parliament? There is a great deal of uncertainty, and that is not good for anyone, particularly if they are valued staff and people whom the State would hope would join the CCC. The opportunity to join the CCC should be available to those staff as opposed to letting them go to find a job elsewhere. What will the process be, particularly for the staff of those three organisations? When will they commence work? What is the administrative process that will be set in place prior to commencing work on 1 September?

Mr J.A. MCGINTY: If this interim Bill were not to be enacted, as we hope it will be as a result of our considerations, we would be left with a hiatus in which nothing could have been done for staffing the new Corruption and Crime Commission. I imagine that some of the staff from the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers might well have returned to other jurisdictions. I understand that the Australian Crime Commission and other bodies have undertaken active recruitment. Obviously we want to be involved at the earliest possible date in order to retain the best possible staff. The appointment of the commissioner, of course, is subject to consultation with the leader of each political party, which for our purposes means the Leader of the Liberal Party and the Leader of the National Party. Once that is done, I hope that we will be able to secure the services of an appropriate person. It may be necessary to have an acting appointment, because someone might be reluctant to take the position not knowing what the powers will be. However, both the police royal commission and what has passed through this House have given a strong indication of broad support for the legislation. I hope that any upper House intervention might well be in the nature of finetuning by way of improvement rather than wholesale rewriting, but we will wait and see and cross that bridge when we get to it. Nonetheless, I hope to be able to secure the services of an appropriate person who would be the long-term commissioner who would oversee the establishment of the organisation forthwith.

Although we do not yet have the powers, if something like those powers we want emerges, we know what we want in the way of staffing. The budget for it has been approved. It is roughly double the current budget. Without treating with contempt the upper House review of these matters, I think we can proceed on the basis of certain assumptions for the recruitment of staff. That will enable staff from the Anti-Corruption Commission, the police royal commission and elsewhere in the public sector to be considered. Of course, the staffing arrangements for the anti-corruption body, whether it be the Anti-Corruption Commission or the Corruption and Crime Commission, are unique, in that the people who are employed are not public servants but are currently employed by the Anti-Corruption Commission. The move last November to make them permanent made them permanent employees of a body that was about to cease to exist. They are not permanent public servants. We need to ascertain their precise status. It is one thing to say that somebody has been made permanent with a body that is about to cease to exist; it is another thing if they were appointed in accordance with the criteria laid down by the Government, there was merit-based selection and all those sorts of matters. I believe that the view is that we should look after those people. We are not capable of doing that at the moment, because the Anti-Corruption Commission has refused to make their personal files available so that we may ascertain the nature of the permanency and whether it was done in accordance with public sector guidelines and approval. There is therefore no legal obligation to the staff of the Anti-Corruption Commission, because they are employees of the Anti-Corruption Commission. Having said that, we hope that the opportunity to gain employment with this body is one that will result in a freeing up of the personal files and therefore provide us with the ability to make a

proper assessment of the basis on which their permanency was considered. Once the commissioner is in place, we intend to embark on recruitment to properly staff this organisation in anticipation of the legislation being in place. The intention is that the legislation will come into effect on 1 September, or at least on the day after the royal commission concludes. Should there be any consideration given to the adjustment of that date, it would not be significant. It is not intended that there be any overlap in the timing of these bodies. The transitional arrangements laid down in the Act envisage a phasing out of the Anti-Corruption Commission. That legislation will not cease on a particular day, because certain functions need to continue until appropriate changes are made to commonwealth law. That quite sophisticated transitional arrangement will come into effect in the way that was originally intended. However, there is still a lot of pressure on us to meet the deadline. I am highly appreciative of the cooperative way in which we have put together this arrangement today, which will enable everybody to get on with looking after their respective interests.

The SPEAKER: Before we move on, amendment No 2 deletes lines 18 to 28 of clause 3. It should probably read "19 to 28" because otherwise it deletes line 18 and the words "under the Anti-corruption Commission Act 1988;". I do not know whether that was meant to occur.

Mr J.A. MCGINTY: We should agree with the amendment proposed by the Legislative Council. However, with his usual perceptiveness the Speaker has detected what appears to be a typographical error. Although that may be the case, we do not wish to move an amendment to what is proposed, but we note the Speaker's observation.

The SPEAKER: We will seek advice from the Legislative Council. If it appears to be a typographical error, I will direct that it be amended.

Mr J.C. KOBELKE: Before the question is put, there is a question of procedure to consider. Another Bill has been amended and is to come by way of message. Therefore, if we put the vote now and we conclude consideration of the amendments in this message, we still have to seek your assistance, Mr Speaker, in suspending the House until the other message arrives. It might be appropriate to adjourn for a minute or two now so that we can clarify that typographical issue and not go beyond a point at which we have to come back and retrieve matters.

Sitting suspended from 6.23 to 7.02 pm

The SPEAKER: Members, we are still considering message No 85 from the Legislative Council, which contained a number of clerical errors. Those errors have now been corrected. There are now 27 amendments, not 26 as provided in the original message. However, one error remained after those corrections were made, and a further correction has been made by hand to amendment No 22 to clarify that the amendment is to line 7 on page 163. The Attorney General will need to deal with amendments Nos 1 to 27, as corrected. He may also wish to explain why the corrected message contains an extra amendment.

Council's Amendments, As Corrected

The amendments made by the Council, as corrected, were as follows -

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- No. 20
- Clause 261, page 160, line 6 - To delete the line.
- No. 21
- Clause 262, page 160, line 8 to page 161, line 21 - To delete the clause.
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- Schedule 1, page 162, line 1 to page 163, line 7 - To delete the schedule.
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- Schedule 2, page 164, line 26 - To insert after “spouse” -
or de facto partner
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- No. 27
- Schedule 5, page 195, line 1 to page 201, line 24 - To delete the lines.

Mr J.A. McGINTY: I move -

That amendments Nos 1 to 27 made by the Council be agreed to.

The Speaker's statement about how this situation came about was adequate to explain why we now have one more amendment to consider.

Question put and passed; the Council's amendments agreed to.

The Council acquainted accordingly.