

**CORRUPTION AND CRIME COMMISSION AMENDMENT AND REPEAL BILL 2003**

*Committee*

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon George Cash) in the Chair; Hon Kim Chance (Leader of the House) in charge of the Bill.

**Clause 5: Section 3 amended -**

Progress was reported after Hon Kim Chance (Minister for Agriculture, Forestry and Fisheries) had moved an amendment.

Hon PETER FOSS: I was under the impression that a different amendment was to be moved.

The CHAIRMAN: The question is that the words to be deleted be deleted.

**Amendment (words to be deleted) put and passed.**

The CHAIRMAN: The question now is that the words proposed to be inserted be inserted.

Hon KIM CHANCE: An amendment is proposed to this amendment. The amended amendment is as follows. I move -

Page 4, lines 7 to 10 - To delete the lines and insert instead -

**“bipartisan support”** means the support of -

- (a) members of the Standing Committee who are a member of the party of which the Premier is a member; and
- (b) members of the Standing Committee who are a member of the party of which the Leader of the Opposition is a member;

I believe the alternative amendment takes into account the comments made by Hon Derrick Tomlinson and Hon Peter Foss. It provides for more than one member of the Opposition to be a member of the committee but does not prescribe precisely what the numbers will be nor does it seek to prescribe precisely the total number of members of the committee. The wording is deliberate and will allow some flexibility for the Government and future Governments to make appropriate decisions on the make-up of the bipartisan nature of the committee.

The CHAIRMAN: Because the minister has already moved the words to be inserted - the original motion - it would be convenient to seek leave to withdraw those words and substitute the words just read.

Hon KIM CHANCE: I seek leave to do that.

The CHAIRMAN: The minister seeks leave to withdraw the words originally intended to be inserted and, in substitution, insert the words just read to the Committee.

Leave granted.

**Amendment (words to be inserted), as altered, put and passed.**

Hon KIM CHANCE: I move -

Page 5, line 17 - To delete the line and insert instead -

- (c) a person appointed by the Governor to represent the interests of the community;

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 9, line 4 - To delete “sections 4(a)-(c)” and insert instead -

section 4(a), (b) or (c)

Hon PETER FOSS: I support the amendment. I should not point this out, but I cannot help myself. I actually suggested that this is how the amendment should be drafted and somebody else suggested that it should not be. It gives me a great deal of pleasure to see that I had accurately predicted parliamentary counsel's preference.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 9, line 5 - To delete “is” and insert instead “means”.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 9, lines 23 to 27 - To delete the lines and insert instead “the *Parliamentary Papers Act 1891*.”

Hon PETER FOSS: Will the Leader of the House provide an explanation about this amendment? This is not just an unnecessary addition; it goes a bit further than what is now proposed. I know there is an argument about whether the privileges of the House have been codified. The difficulty with this amendment is that it makes the proposed clause a bit more justiciable than would otherwise be the case, the intent being that the matters relating to the last five lines are more a matter for determination by the House.

Hon KIM CHANCE: In answer to the question of Hon Peter Foss - as best I can provide an answer - the words are proposed to be deleted because it was thought that the words, and in particular those stating that an exercise would relate to a matter determinable exclusively by the House, were so broad as to be effectively meaningless. It was felt that it was more desirable to remove those references altogether, and simply end the clause with the words referring to the *Parliamentary Papers Act 1891*.

Hon PETER FOSS: I picked what the Government was doing with this, but my concern is that it has now been made very much a matter of statutory interpretation; it is now highly justiciable. It seems to assume - I know there are arguments to this effect - that parliamentary privilege has been codified, and I do know that the House would accept that. I do not have a problem with trying to make the clause more precise, but the difficulty is trying to leave it within the definition of the House, so that if there is any doubt, the commission will notify the House to see if it can go ahead. It would be unwise to remove that altogether, simply because the net result will be that the matter will end up being justiciable, rather than being dealt with by the House. I know it is very broad at present, but it is not so broad as to be without meaning. It is so broad that the meaning is determined by the House. It is very meaningful for the House, but not very meaningful, perhaps, for the commission. That has always been the case when dealing with parliamentary privilege. I remember a royal commission trying to serve a member with a summons in the House, and it quickly found out it was a matter to be determined by the House rather than by the royal commission. I do not have a problem with this clause being broad, because I am a member of the House. I can see that the commission might not be quite so happy with it, because it is not made up of members of the House. Given the choice between the two, I would rather leave the commission with the problem than us.

Hon KIM CHANCE: The proposed amendment has that effect. The wording we are left with, after the amendment, terminating with the words “the *Parliamentary Papers Act 1891*”, is a form of wording we see in other legislation. I am not all that familiar with references to the *Parliamentary Privileges Act 1891*, or the *Parliamentary Papers Act 1891*. I am also not all that familiar with references in other legislation to the *Parliamentary Privileges Act* that then goes on to specify or further qualify what that means. Normally, the wording we are used to is that nothing in this Act affects, or is intended to affect the operation of parliamentary privileges, and it is left at that. This is a somewhat unusual circumstance in which the impact of those words is further qualified.

Hon PETER FOSS: In that case, perhaps the better wording would be “nothing in this Act affects, or is intended to affect, parliamentary privilege”, without specifying the two Acts. That might achieve the necessary end without those extra words. I am not sure how we ended up with the titles of the two Acts in there. I think we were originally intending to slip something that was somewhere else back into this part, but it was since deleted. I do not know what other members of the Committee think, but I would be happy with the words I suggested.

The CHAIRMAN: I ask members to speak to the question before the Chair. The Leader of the House is invited to withdraw his amendment and move forward in the manner suggested by Hon Peter Foss.

Hon DERRICK TOMLINSON: Before I make up my mind, I want to do what the Leader of the House suggested, which is to read the matter currently under consideration with subsequent matters. I turn to proposed section 27B on page 25 of the Bill, in which a peculiar manner is proposed for dealing with allegations of misconduct against members of Parliament. When the misconduct is of a kind that a privileges committee should deal with it, a privileges committee would deal with it. If it is of a different kind, the commission would deal with it. Proposed subsection 27B(3) confers upon the commissioner the powers and privileges etc of the *Parliamentary Privileges Act*. Likewise, proposed subsection 27B(4) states that the commissioner is to act in conformity with the *Parliamentary Privileges Act*, and so on. The amendment under discussion to subclause 5(2) is to delete the words “and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament, unless the House so resolves” from proposed subsection 3(2) of the *Corruption and Crime Commission Act 2003*. That limitation is relevant to the inquisitorial powers conferred upon the commissioner. I want to hear what the Leader of the House has to say about that.

Hon Kim Chance: No, you don't!

Hon DERRICK TOMLINSON: Yes, I do.

Hon KIM CHANCE: I thank the member for drawing that matter to my attention. The member has raised an interesting question. It seems to me to better explain the reasons for the original wording. The word “exclusively” in the second last line contemplates matters that are being exclusively determined by the House and those matters that are not being exclusively determined by the House as a result of proposed subsection 27B(3). In that case, that would seem to be a valid argument for retaining the words as they stand in subclause 5(2).

Hon PETER FOSS: Can I find out what the Government’s attitude now is? Has the minister been persuaded by Hon Derrick Tomlinson’s argument?

The CHAIRMAN: The question before the Chair is the Leader of the House’s original amendment. Can I ascertain from the Leader of the House whether he intends to amend what he has proposed, and if he does, does he want to withdraw his amendment, which would mean leaving in the existing words? I indicate to the Chamber that we will take as long as is required to get it right.

Hon KIM CHANCE: I seek leave to withdraw my proposed amendment.

**Amendment, by leave, withdrawn.**

**Clause, as amended, put and passed.**

**Clause 8: Section 7 amended -**

Hon KIM CHANCE: I move -

Page 12, after line 26 - To insert the following -

- (1) Section 7(3) is amended by inserting after “appointed” -  
“ on the recommendation of the Premier ”.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 12, lines 29 to 32 - To delete the lines and insert instead -

- (3a) The Premier is to recommend the appointment of a person -
  - (a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and
  - (b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 13, line 1 - To delete “a recommendation” and insert instead “nominations”.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 13, lines 16 to 19 - To delete the lines.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 11: Section 18 inserted [was Clause 7] -**

Hon KIM CHANCE: I move -

Page 17, lines 14 and 15 - To delete “, in the case of an allegation under section 4,”.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 12: Section 15 amended [new Clause 8] -**

Hon KIM CHANCE: I move -

Page 18, line 1 - To delete “(b)” and insert instead “(ab)”.

Page 18, line 4 - To delete “(c)” and insert instead “(ac)”.

Page 18, line 6 - To delete “(d)” and insert instead “(ad)”.

Page 18, line 12 - To delete “(g)” and insert instead “(ca)”.

Page 18, line 15 - To delete “(h)” and insert instead “(cb)”.

Hon PETER FOSS: I do not have any problem with these amendments. I am sure they are just a renumbering. However, if the minister could explain the reason for these amendments, I am sure it would be very helpful to have that on the record.

Hon KIM CHANCE: The amendments relate to an amendment in the Bill itself. Were we not to so alter those designations we would have, as I understand it, a repeat of those designations.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clause 15: Section 21A inserted [new Clause 10] -**

Hon KIM CHANCE: I move -

Page 19, lines 9 to 12 - To delete the lines and insert instead -

- (2) The Commission may deal with a matter notified under subsection (1) as if it were a matter notified under section 28(2).

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 16: Parts 3 to 8 inserted [was Clause 10] -**

Hon KIM CHANCE: I move -

Page 21, after line 31 - To insert -

Penalty: Imprisonment for 3 years and a fine of \$60 000.

Summary conviction penalty: \$10 000.

Hon PETER FOSS: I apologise if I am being painful, but this is also where I thought the penalties should go, and it was shifted, so I am pleased it has been put back.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 22, lines 4 to 6 - To delete the lines.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 29, line 21 - To delete “sections” and insert instead “section”.

Page 29, line 23 - To delete “those sections” and insert instead “that section”.

Hon PETER FOSS: I understand that we are not changing it from a plural number of sections; we are simply saying that we need only the word “section” to describe each one of those sections because they deal with individual duties.

Hon KIM CHANCE: I confirm that is the case.

**Amendments put and passed.**

Hon KIM CHANCE: I move -

Page 30, line 8 - To delete “33,” and insert instead “22,”.

This is simply an incorrect cross-reference resulting from the splitting of the Bill in the first instance.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 30, lines 27 to 30 and page 31, lines 1 to 4 - To delete the lines and insert instead -

- (2) The Commission may deal with a matter reported to it under section 30 as if it were a matter notified under section 28(2).

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 31, after line 6 - To insert the following -

- (1) Without limiting the matters to which the Commission may have regard, when the Commission decides whether or not to make a decision under section 32(1)(a) or (b) the Commission is to have regard to whether, in the opinion of the Commission, serious misconduct -
- (a) has or may have occurred;
  - (b) is or may be occurring;
  - (c) is or may be about to occur; or
  - (d) is likely to occur.

This is really a pre-screening mechanism. Before the commission determines that it needs to undertake an inquiry into a specific incident, it must assure itself that serious misconduct has taken place that warrants its investigation. It does not necessarily limit the commission from undertaking an inquiry into a matter on which it has been unable to establish clear evidence of serious misconduct. However, it does mean that in undertaking the intended inquiry, it does so in the knowledge that it has not passed that hurdle. I also bring to the attention of the House the fact that there is a misprint in the third line of the amendment. The reference to section 32 is wrong; it should be section 33. I seek leave to delete "32" and to insert instead "33".

**Amendment, by leave, altered.**

**Amendment, as altered, put and passed.**

Hon KIM CHANCE: I move -

Page 31, lines 13 and 14 - To delete the lines and insert instead -

- (b) whether, in the opinion of the Commission, serious misconduct -
- (i) has or may have occurred;
  - (ii) is or may be occurring;
  - (iii) is or may be about to occur; or
  - (iv) is likely to occur;

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 32, lines 12 to 14 - To delete the lines and insert instead -  
information to the person is in the public interest.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 33, line 26 - To delete "33(1)(a)-(c)" and insert instead -  
33(1)(a), (b) or (c).

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 37, lines 26 and 27 - To delete the words "by the independent agency".

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 37, lines 27 and 28 - To delete the words "discharging its obligations under".

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 64, line 16 - To delete "a Standing Committee" and insert instead "the Standing Committee".

Page 65, line 1 - To delete "a Standing Committee" and insert instead "the Standing Committee".

Page 68, line 25 - To delete "a Standing Committee" and insert instead "the Standing Committee".

**Amendments put and passed.**

Hon KIM CHANCE: I move -

Page 70, line 30 - To delete "official" and insert instead "officer".

Page 71, line 3 - To delete "official" and insert instead "officer".

Page 76, line 14 - To delete "official" and insert instead "officer".

Page 76, line 17 - To delete "official" and insert instead "officer".

**Amendments put and passed.**

Hon KIM CHANCE: I move -

Page 76, line 28 - To delete "serious".

Hon PETER FOSS: The Opposition cannot agree to this amendment. The original suggestion of the committee was that we leave powers under section 711 of the Criminal Code to be used for any matter involving an offence. We looked at it and thought that there were some procedures in this Bill that would probably be more helpful to the commission than was section 711 of the Criminal Code. We did not agree that it should go towards anything that was not of a nature that justified the granting of these extra powers. Some forms of misconduct do not involve an offence; they can just lead to a person being sacked. It seemed to be extraordinary that a search warrant could be issued over a form of misconduct for which a person can be sacked, so we said that it should be made "serious misconduct". That would seem to deal with the problem.

The definition of "serious misconduct" that has been inserted on page 9 of the Bill is as described in proposed section 4(a)-(c). Under that definition, we are really dealing with serious matters. It involves public officers engaged in conduct that adversely affects or could adversely affect the impartial performance of their functions, for which they could be sacked. It does not seem right that that sort of thing should lead to all the extra powers. Without looking forward to too many other amendments, I see that a similar thing is being done with the power of arrest. One cannot go arresting people for their failure to turn up when one wants to ask questions about misconduct. Therefore, I think it is rather overdoing it and that we cannot accept the deletion of the word "serious".

If we are dealing with offences that are not in proposed section 4(a)-(c), of course, we still have section 711 of the Criminal Code if we really need it. It therefore does not leave the Government totally without the opportunity to obtain a search warrant for minor offences, but it will have to justify it to a judge of the Supreme Court under section 711 of the Criminal Code rather than use the special powers that will be granted under this Bill.

Hon DERRICK TOMLINSON: I do not want to give the impression that there might be a division within the Opposition on this. I support wholeheartedly Hon Peter Foss's statement that the committee's intention was to allow the commission to focus on serious misconduct and for other misconduct to be dealt with by appropriate agencies. The committee was at pains to suggest that matters that were regarded as reviewable police action should be dealt with by the Police Service and reported to the commission so it would have complete intelligence files of misconduct. However, the committee also made provision for the call-in of matters which related to reviewable police action or which did not appear on the face of it to be serious misconduct but were identified as an apparent trend that justified the commission looking more closely at those matters of misconduct that did not fall into the category of serious misconduct. If the commission is to have the power to call in matters that are not serious misconduct but is to be constrained in its investigation of matters of misconduct by limiting the operation of proposed section 101 to serious misconduct, the purpose of the call-in power might be defeated.

Hon KIM CHANCE: As questions have been asked, an explanation is required. The bottom line is that this determination is a judgment call, which is why we have seen some difference in expression of opinion. The effect of the amendment would be that the commission would be able to exercise the search warrant power that is set out in proposed section 101 for cases relating to misconduct that were not, in the commissioner's opinion, serious misconduct. The particular circumstances of the case would be used to justify the exercise of that power. The difficulty relates to the commissioner exercising that judgment alone. I can understand why a civil libertarian would be concerned about that possibility. The issues as Hon Derrick Tomlinson has stated them are

Hon Peter Foss; Chairman; Hon Kim Chance; Hon Derrick Tomlinson; Hon Giz Watson; Hon Jon Ford

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that we have already allowed the exercise of powers without having to establish that serious misconduct has occurred. That judgment call will already have been made. Why should we then limit the powers to exercise that judgment call? It is a matter of judgment by honourable members.

Hon PETER FOSS: I am sorry; I cannot accept the idea of conferring criminal justice enforcement powers on a non-criminal matter. I just do not think that is appropriate.

Amendment put and a division taken with the following result -

Ayes (9)

|                |                       |                  |                                 |
|----------------|-----------------------|------------------|---------------------------------|
| Hon Kim Chance | Hon Graham Giffard    | Hon Tom Stephens | Hon Ed Dermer ( <i>Teller</i> ) |
| Hon Kate Doust | Hon Louise Pratt      | Hon Ken Travers  |                                 |
| Hon Jon Ford   | Hon Ljiljanna Ravlich |                  |                                 |

Noes (18)

|                                      |                  |                     |                       |
|--------------------------------------|------------------|---------------------|-----------------------|
| Hon George Cash                      | Hon Ray Halligan | Hon Simon O'Brien   | Hon Derrick Tomlinson |
| Hon Robin Chapple                    | Hon Frank Hough  | Hon Barbara Scott   | Hon Giz Watson        |
| Hon Paddy Embry<br>( <i>Teller</i> ) | Hon Barry House  | Hon Jim Scott       | Hon Bruce Donaldson   |
| Hon John Fischer                     | Hon Dee Margetts | Hon Christine Sharp |                       |
| Hon Peter Foss                       | Hon Norman Moore | Hon Bill Stretch    |                       |

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Pairs

|                    |                     |
|--------------------|---------------------|
| Hon Nick Griffiths | Hon Robyn McSweeney |
| Hon Sue Ellery     | Hon Murray Criddle  |
| Hon Adele Farina   | Hon Alan Cadby      |

**Amendment thus negatived.**

Hon KIM CHANCE: I move -

Page 78, lines 13 to 21 - To delete the lines and insert instead -

- (8) Before an authorised person acting under a warrant uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable -
- (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
- (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,
- as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the search permitted by the warrant or would endanger any person.

Hon PETER FOSS: It is amusing that we started with an amendment very much like the one now before us. We took out the equivalent of the minister's paragraph (b) as it would have made the situation difficult. First, an attempt must be made to ask the occupier's permission before going into the place, and then the person who has possession or control of the thing in question must be provided an opportunity to give access. The Government has tightened up the provision again, which is probably not a bad idea. The Opposition is trying to be eminently reasonable. Some slightly tighter wording is used with the following qualification -

... unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the search permitted by the warrant or would endanger any person.

They are slightly weasel words. One would hope that the provision would not be abused. It would allow a degree of abuse. It states -

... unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the search ...

The people could somehow hide it; I suppose that might be it. Even though they are weasel words -

Hon Kim Chance: Flush it down the toilet.

Hon PETER FOSS: Presumably so. I can understand it. I hope it does not become the norm that people will crash in through the door and say that they thought the thing would be flushed down the toilet. One has these little concerns that this might become the case. No doubt the Parliamentary Inspector would be informed if that were to happen, and we hope that the Parliament would also be informed, and maybe we would go back and take out those words, if that were to occur. Although I have some hesitation about those words, I will accept the amendment.

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 105, line 22 - To delete "Where an investigation relates to serious misconduct, if" and insert "If".

Hon PETER FOSS: This is the point that was raised before, and I believe the same arguments apply to it. Again, we do not believe people should be arrested for matters that will essentially be dismissed without an offence. I have a bit of a problem with this one.

Hon KIM CHANCE: What Hon Peter Foss has said is correct as far as it goes. However, another issue needs to be considered, which is taken into the scope of the amendment. In particular, what the amendment will enable the commission to do, which has not so far been mentioned in this context, is to exercise the arrest power that is set out in proposed section 148 in circumstances in which a person has failed to attend as required by an organised crime summons. That is the additional function of the amendment.

Hon Peter Foss: Will the minister draw my attention to the extra -

Hon KIM CHANCE: I am sorry. I will have to move an additional amendment.

Hon Peter Foss: Is that why I didn't know about it?

Hon KIM CHANCE: Yes. It was not brought to my attention either until just now.

Hon Peter Foss: So it relates to an amendment that we do not know about yet.

Hon KIM CHANCE: Perhaps it would help if I foreshadowed what that will be.

The CHAIRMAN: It would be very helpful, in fact.

Hon KIM CHANCE: I propose to seek leave to insert a further amendment in that part dealt with by amendment 39, which is at page 105, line 22, to insert after "misconduct" the words "or a summons is issued pursuant to an application under section 48".

Hon Peter Foss: Is this an alternative amendment?

Hon KIM CHANCE: No, I think it is in addition to -

Hon Peter Foss: You have deleted the word "misconduct".

Hon KIM CHANCE: It is an alternative to amendment 39; I am sorry.

Hon PETER FOSS: To assist, I indicate that this sounds like a much more acceptable alternative, and I will be able to support it.

The CHAIRMAN: Before I put any question, I would like to know what is being proposed in respect of proposed amendment 39. I have the time to wait so that it can be written out and we can know the exact words being proposed. I plan to take a minute until that occurs.

Hon KIM CHANCE: If you would prefer, Mr Chairman, we could do that while we move ahead with other amendments.

The CHAIRMAN: It will take only two minutes to write it out; then we can get this in order and move quietly forward. It may be convenient for the minister to withdraw the motion before the Chair and substitute his proposal.

Hon KIM CHANCE: I seek leave to withdraw the whole amendment.

**Amendment, by leave, withdrawn.**

Hon KIM CHANCE: It is a significant change because we are not seeking now to delete any words. I move -

Page 105, line 22 - To insert after "misconduct" the words -

or a summons is issued pursuant to an application under section 48

**Amendment put and passed.**

Hon KIM CHANCE: I move -

Page 106, line 24 - To delete “immediately” and insert instead -  
as soon as is practicable

Hon PETER FOSS: This is not an acceptable amendment. Essentially, the commission has control over this. It should not apply for an arrest warrant unless it is ready to hear the person give evidence. Proposed section 148 reads in part -

Where an investigation relates to serious misconduct, if a person who . . . fails to attend . . . the Commission may, on proof by a statement verified by statutory declaration . . . issue a warrant . . .

It is not necessary to apply through the court. The commission should not issue a warrant unless it is ready to hear the person. The person should not be arrested and then brought as soon as is practicable; the person should be arrested when the commission is ready. It is not a good concept for people to be arrested and held until it is practicable for the commission. Usually, anyone who is arrested is brought forthwith before a magistrate - in this case it is the commission. The concept of bringing a person forward as soon as is practicable is inexcusable. How long might a person sit around? He should not be arrested until he is ready to be heard.

Hon KIM CHANCE: The proposed change seeks to recognise in words the practicalities of the situation - the person to whom the arrest warrant applies might not be available, conveniently, to be taken into custody. It is as simple as that. I imagine that an arrest warrant is written on the basis of the evidentiary material that is available to the investigator, not on the fact that the body is in the office waiting conveniently for the arrest warrant to be served. I imagine that on some occasions there could be hours, days, weeks or even months between the issue of an arrest warrant and its execution. The proposed wording in the amendment simply recognises that.

Hon DERRICK TOMLINSON: It is important to remember that we are talking about a hearing during an investigation. This is not a hearing during a criminal prosecution or a court proceeding in that sense. It is an inquisition. The witness in that inquisition may or may not be the target of the investigation. He may or may not be able to provide relevant information to the investigation. It is nothing more than an investigative hearing. No-one would have been charged with anything. It is not a criminal or a disciplinary proceeding; it is an inquisition to establish the facts. The clause allows the person to be apprehended and to be brought before the commission. “Immediately” is to be replaced with “as soon as is practicable”. Of course, one would allow the person to have a shower, shave, shampoo and shoeshine before being taken immediately before the commissioner at the inquisitorial hearing. The person would not be apprehended and be required to wait for hours, days, weeks or months. A person of interest guilty of nothing, charged with nothing and who may be providing useful information is apprehended and detained at the convenience of the commission. If the commission wants to issue a warrant to a witness to attend an inquisitorial hearing, the warrant is executed, the person is apprehended and brought immediately before the commission, not as soon as it is practicable or at the convenience of the commission.

Hon PETER FOSS: This is very important because we see what some of the other aspects are. We must keep in mind that, generally speaking, we have eliminated the capacity of people to complain about things happening under this legislation. However, there is a form of review because a decision must be made on whether to detain someone or release him. If it is not dealt with under proposed section 148(6)(b), a person can be released by order of the commission. We raised the problem of the non-delegable powers of the commission. There is only one commissioner who must decide everything. It may not be very practical to have the commissioner around to release people. If a person is arrested by a policeman, he is immediately taken to a situation in which he can receive bail. Proposed section 148(6)(b) is the equivalent of that. It may not be practical for a person to be seen for one or two days. What if a person is arrested on a Friday night? Will the person have to wait until Monday before proposed section 148(6)(b) comes into effect to obtain his release? That could possibly happen if the commission was not sitting; it would be “as soon as is practicable”. The commissioner might not be back until the Monday; he might have gone to Eagle Bay for the weekend. We should consider proposed section 150(1), which states -

A person who has not been released by the Commission under section 148(6)(b) or whose release under that provision is subject to one or more conditions may apply to the Supreme Court for a review of the decision not to release the person or of the terms of one or more of those conditions.

The commission must facilitate the person’s access to legal representation or to make an application under that provision. The whole idea is that a person either be dealt with, be released or go before the Supreme Court. As soon as the phrase “as soon as is practicable” is included, it will allow people to be arrested on a Friday night or weekend and to be made to sit around until the commissioner gets back. We suggest that people should not be

arrested if the commission does not want to deal with them. There must be some form of provision to make certain that people can be released. We have suggested to the Government that there should be a few assistant commissioners. If that were to happen, people could be admitted to this form of bail. They could be told to come back on the Monday. The fact that we might set up a system that makes it inconvenient to arrest people when the rest of a matter can be dealt with does not seem to justify keeping people hanging around and kicking their heels simply because we want to talk to them. As Hon Derrick Tomlinson said, the people could just very well be witnesses who might not want to claim that as an excuse.

Hon Derrick Tomlinson: At least they will be put up in a four-star hotel.

Hon PETER FOSS: Yes, we have done that much for them. Before that, they would have ended up in jail. It was suggested previously that people be sent to jail. They would have been told that they could not be dealt with until the Monday and that they should enjoy themselves at Hakea Prison.

Hon Kim Chance: That is proposed section 149; we have not got there yet.

Hon PETER FOSS: That deals with release from custody.

Hon Kim Chance: It is keeping people on the terms and conditions to which they have become accustomed.

Hon PETER FOSS: That is right. The Government had a lovely amendment that stated we should keep them in Hakea Prison. We thought that was a bit tough on those people. It gets worse and worse: someone is arrested on a Friday night and, unfortunately, the commissioner is down at Eagle Bay and not due back until the Tuesday because he is taking a long weekend. That is as soon as the person can be brought before the commissioner. Proposed section 146 does not come into effect because it is "as soon as is practicable" and there is no time for the person to be released. He has to enjoy himself over the weekend at Hakea Prison. What if the person were only the accountant? He might say the reason he did not turn up was that he was not aware of the particular day. He had an excuse. He was told he could then tell the commissioner on Tuesday, but he should enjoy Hakea Prison in the meantime.

Hon Kim Chance: It was actually proposed section 149A in the new version.

Hon PETER FOSS: I think the minister can understand. The whole aspect is within their control, and if they cannot deal with it they should not be arresting people. This might be a good reason for the Government to take up our suggestion that it should have a few assistant commissioners, or at least one, so that at times like this the jobs could be passed around.

Hon GIZ WATSON: This issue was debated at length by the committee. I agree with the sentiments put forward by Hon Peter Foss and Hon Derrick Tomlinson that "immediate" is a much more appropriate word. For the reasons that have been outlined, the Greens (WA) will not support the amendment as moved by the minister.

Hon KIM CHANCE: Members have got carried away with the idea that the kind of people who will be subject to the issue of such warrants are either nice or seriously misunderstood. Members should disabuse themselves of that notion: these people are likely to be seriously bad people. These are not people who have been on a jaunt to Eagle Bay. These people are potentially seriously bad people. It is an appropriate question to ask why. For a start, the application of this part of proposed section 148 is used only when a person has failed to attend in answer to a summons or it is believed likely that he or she will not respond. The first line of proposed section 148, which has been amended, states -

Where an investigation relates to serious misconduct or a summons is issued pursuant to an application under section 48 -

Proposed section 48 deals with organised crime figures.

Hon Peter Foss: But not necessarily witnesses to organised crime figures.

Hon KIM CHANCE: They might be, in which case they would probably need to be looked after even more carefully. This does not necessarily deal with somebody who is innocently caught up in some kind of investigation, because if they were those kinds of people, they are unlikely to be people who it is deemed would fail to attend in answer to a summons, or would be likely not to respond to a summons. We must get very clear in our minds just who it is we are dealing with. These warrants might have to be issued in the middle of the night because there might be a concern about the flight of the subject of the warrant - all kinds of issues might arise. I understand what everyone is saying, and I appreciate that, but we must put this in the context of the legislation we are dealing with and the kinds of people we are likely to be dealing with in these circumstances. I urge members not to change the proposed amendment.

Hon PETER FOSS: That is a curious argument. Whoever the people are, they are in custody, so there is no problem of their flying out of the country. They have been arrested. At that stage, the commission has them in custody.

Hon Kim Chance: That is not true.

Hon PETER FOSS: It is, if they have been arrested. The obligation to bring a person immediately before the commission does not arise until that person has been arrested. Proposed section 148(6), as printed, reads -

A warrant issued under this section authorises any person to whom it is addressed -

- (a) to apprehend the person named in the warrant at any time and bring immediately the person before the Commission;

At the time the obligation to bring the person immediately before the commission arises, the person the subject of the warrant is in custody. Even if that person is not unblemished, he or she has a right to be dealt with before the law. The minister gave the example of somebody about to fly the country. If the commission can make itself available to serve the warrant, it can make itself available to deal with the person who has been arrested. The issuer of the warrant cannot just go to bed, because the person subject to the warrant may not get to bed at all, but will be in detention. The person could very well be innocent, as in the example given by Hon Derrick Tomlinson. Two underworld figures having dinner at Coco's could be discussing matters and their conversation may be clearly overheard by the person at the next table. That person could then be summonsed to give evidence, but may, for some reason, be reluctant to do so. Not very many people would be happy to tell the commission about the conversation they heard between the head of the Coffin Cheaters and Abe Saffron. I would not be too keen on saying what I heard discussed between those two!

Hon Paddy Embry: You might not understand the language.

Hon PETER FOSS: If I did understand the language, I might not live very long to tell people about it. I certainly would not be wildly keen on zipping along to tell the commission all about it. Any person who is arrested is entitled to be brought before the commission. If the commission arrests a person, it must do something. We have presumed everybody will be guilty; we have presumed them guilty enough by handing out these powers. I am quite happy to hand out these powers. We can arrest people so that they can come and give evidence, but it goes too far in presuming them guilty and saying that they can languish in custody while the commission makes itself available to decide what to do with them. Considering what has been done to the right to go to the Supreme Court and argue against being kept in custody, that right is dependent upon the obligations under proposed section 148(6)(a) and (b). That is a problem also, because a person who has not been released by the commission under proposed section 148(6)(b), or whose release under that provision is subject to one or more conditions, is dependent upon being brought before the commission, and may be hanging around for a couple of days before the commission makes up its mind. How can such a person apply to the Supreme Court? The review by the Supreme Court can be almost indefinitely deferred, and, by the time the person actually comes before the Supreme Court, he or she may have been in custody for three days. That is not the way we deal with people who have been arrested. A person arrested on a Friday night is brought before the court on Saturday morning, if not granted bail earlier. There are provisions for people to be granted bail on the same night as the arrest, but if bail is not granted, that person will be in court the next day, and can make an application to the court for bail. This provision does not even give that right to a person arrested purely for failing to give evidence that may be about somebody else. Not only is the person not guilty of any offence; he or she is not even under investigation. I do not know why such a person cannot have the basic rights given to a person picked up in a drunken brawl on a Friday night. The Government must get its Act in order. If the police are not prepared to do something about it, they should not be allowed to arrest people.

Hon DERRICK TOMLINSON: I suggest that this is the first of the problems I foreshadowed when I talked about the flaw of bringing forward a Bill that is an amendment to flawed legislation. One of the great problems with interpreting the Anti-Corruption Commission Act was that it had such a confused structure. One was never quite sure whether sections in one part of the Act applied to sections in another part of the Act. We have exactly the same problem here. The same confused structure has been applied. Part 3 of the Bill deals with misconduct, part 4 deals with organised crime, part 7 deals with examinations and decisions for claims of privilege etc, and part 7 applies to parts 4 and 6. The Leader of the House says that we must recognise to whom these sections will apply. They will apply to nasty criminals. Some will be great big hairy bikies. Some will be musclebound bodybuilders with ponytails who are predators in Northbridge. Others will be the lawyers and accountants of those people. Those for whom warrants will be issued under proposed section 48 will be under investigation for serious organised criminal offences, which is set out in the schedule of the Bill. They are serious matters.

However, proposed section 96 deals with a public servant - I mean a public officer; they do not serve anybody any more, they merely officiate. Public officers can be summonsed to produce documents relevant to an investigation of misconduct. Proposed section 96 does not relate to organised crime. The Commissioner of Police will investigate organised crime; the CCC will conduct hearings because only the commissioner can exercise the hearing power in an investigation.

Hon Peter Foss; Chairman; Hon Kim Chance; Hon Derrick Tomlinson; Hon Giz Watson; Hon Jon Ford

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Proposed section 96 relates to misconduct and public officers being summonsed to produce information, including documents and other things. If they fail to do so, they will be arrested and detained until they can be brought before the commission. I have no sympathy for the organised criminals or the suspected organised criminals who spend some time in detention, which can be salutary to the sorts of evidence they might give. However, I am very reluctant to impose that sort of threat upon a public officer who is merely an officer called upon to provide information or other things to a hearing.

Hon JON FORD: Perhaps we could consider a compromise and include a limit to insert the words “and, in any event, within X hours”; for example, six hours.

Hon Peter Foss: That may be shorter.

The CHAIRMAN: Hon Jon Ford has made a proposal, which is not in writing. Does Hon Peter Foss wish to respond? Hon Jon Ford is offering an opportunity to discuss the proposal.

Hon PETER FOSS: The compromise suggested by Hon Jon Ford is more prescriptive and probably more of a problem. What would happen if the person apprehended was not brought before the commission within six hours? Although the suggestion might address some of the Opposition’s concerns, the practical application might be more problematic. Perhaps the minister’s instructing officers could think through that suggestion because I think it may create more problems. Believe it or not, the word “immediately” is a flexible term. Apprehending officers would not be allowed to hesitate and do anything else while bringing a person before the commission; in other words, they could not engage in anything else in the meantime. They would also have to seek out the commissioner, which would mean they would not be allowed to sit around waiting to resolve the practicalities of the situation; they would have to take the person right there and then to the commissioner. The word “immediately” has a bit more flexibility. If the commissioner were in Eagle Bay, they could drive the person to Eagle Bay; however, if the commissioner were in Port Hedland, they could drive the person to Port Hedland, but it may take more than six hours to get there.

Hon Derrick Tomlinson: Even if you flew, it would take more than six hours.

Hon PETER FOSS: Yes. The difficulty is that “six hours” is potentially more prescriptive than “immediately”.

**Amendment put and negatived.**

Hon KIM CHANCE: I move -

Page 107, lines 3 to 11 - To delete the lines and insert instead -

- (7a) Before the person acting under the warrant (the “**authorised person**”) uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable -
  - (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
  - (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the warrant or would endanger any person.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 20: Section 33 amended [new Clause 13] -**

Hon KIM CHANCE: I move -

Page 123, lines 17 to 21 - To delete the lines and insert instead -

and is responsible for assisting the Standing Committee in the performance of its functions.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 21: Section 34 amended [new Clause 14] -**

Hon KIM CHANCE: I move -

Page 123, lines 27 to 32 and page 124, lines 1 to 3 - To delete the lines and insert instead -

- (1) The Parliamentary Inspector is to be appointed on the recommendation of the Premier by the Governor by commission under the Public Seal of the State.
- (2) The Premier is to recommend the appointment of a person —
  - (a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and
  - (b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.
- (3) The Parliamentary Inspector is to hold office in accordance with this Act.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 24: Sections 196 to 198 and Part 13 Division 3 inserted [was Clause 13] -**

Hon KIM CHANCE: I move -

Page 130, line 9 - To delete “a Standing Committee” and insert instead “the Standing Committee”.

Page 130, lines 20 and 21 - To delete “a Standing Committee” and insert instead “the Standing Committee”.

Page 131, lines 8 and 9 - To delete “a Standing Committee” and insert instead “the Standing Committee”.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clause 31: Renumbering of provisions of *Corruption and Crime Commission Act 2003* [new Clause 18] -**

Hon KIM CHANCE: I move -

Page 140, after the table - To insert -

- (14) In the first reprint of the *Corruption and Crime Commission Act 2003* (the “**principal Act**”) as amended by this Act provisions of the principal Act as reprinted may be renumbered or redesignated in arithmetical or alphabetical order and, if that occurs, relevant cross-references in the principal Act as reprinted are to be adjusted.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 32: Application of *Interpretation Act 1984* [new Clause 19] -**

Hon KIM CHANCE: I move -

Page 141, line 8 - To delete “21 and 32” and insert instead “35 and 46”.

I am informed that the changes simply correct cross-referencing issues that have become necessary as a result of amendments already passed.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 34: Meaning of terms used in this Division [new Clause 18] -**

Hon KIM CHANCE: I move -

Page 141, after line 22 - To insert -

“**commencement**” means the day on which section 35 comes into operation;

The amendment simply corrects a drafting error. The definition of “commencement” was always intended to be inserted at that point but had been overlooked in the drafting.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 47: References to repealed Act and former titles [was Clause 31] -**

Hon KIM CHANCE: I move -

Page 146, line 28 - To delete “this Act” and insert instead -

*the Corruption and Crime Commission Act 2003*

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 48: Transfer of assets and liabilities to Commission [was Clause 32]-**

Hon KIM CHANCE: I move -

Page 147, lines 8 and 9 - To delete the lines.

Hon PETER FOSS: It will probably come as no surprise to the Leader of the House that the Opposition opposes this amendment. I will mention one point on which I have not had any chance to consult with anyone. The words “and welfare”, which are used in paragraph (ba), were taken from the Crime and Misconduct Commission Act. I know that the Attorney General was not too happy about the use of those words. I do not know what they mean. If it would assist the Government - I am saying this purely from my point of view; I wait to hear what others may have to say about it - I would be happy for the paragraph to read “the rights and interests of any person employed by the A-CC are transferred to the Commission”. I accept that the Attorney General was somewhat worried about what the word “welfare” meant. I confess that these words would not have been used if they had not been in the Queensland Act. I suggest that other members may also like to consider that point. I would certainly be interested in hearing whether the use of the words “the rights and interests of any person employed” would make that paragraph more acceptable to the Government.

Hon KIM CHANCE: The answer to Hon Peter Foss’s question is, “Probably not.” However, if we do get to the stage that we are required to consider alternative words - that is, if I am convinced, by what some of our colleagues say, that the Government would lose this amendment - I would prefer to defer consideration of the amendment until tomorrow so that we could have some time in which to work through a more appropriate set of words. This is not a set of words on which I would like to make a lightning decision. I appreciate that the proposed words, lifted as they are from another piece of legislation, are somewhat obscure. At the same time, the Government’s fundamental position was expressed by the Attorney General in the ministerial statement that I provided to the House this morning; that is, the rights and interests of those currently working for the Anti-Corruption Commission, and indeed any other agency that might be affected by the operation of the legislation, would be properly and adequately dealt with in the way outlined by the Attorney General. On that basis, I fundamentally disagree with what Hon Peter Foss has said.

This is the way in which staff from one agency that will be subject to fundamental changes will be dealt with. Those staff will not be left without an employer. They will retain the same employer. Their employer is not the ACC but the public sector. They will be shifted to another public sector agency while the issues pertaining to their rights and interests are dealt with. As much as I feel sympathetic to the arguments that Hon Peter Foss has put, those arguments cannot be accepted in respect of ACC employees and then not adopted for any other public sector employee. If his arguments were accepted, it would mean that the Public Sector Management Act would need to be changed. I do not think it is appropriate to deal with people in that way. The appropriate way to deal with people who will not be picked up by the new agency is to transfer them to another agency and deal with their future in the context of their current employment. I note that my colleague Hon Ljiljanna Ravlich, who has experience of the Public Sector Management Act as a former opposition spokesman on public sector management, is agreeing with me. I am somewhat relieved that she is.

Hon Paddy Embry: You wouldn’t want her against you, that’s for sure.

Hon KIM CHANCE: Exactly. She is an acknowledged expert in this field and I am not.

Hon Peter Foss: You haven’t even set that in the legislation.

Hon KIM CHANCE: No, it is not in the legislation, and I regret that. However, it is probably not appropriate to deal with someone’s employment in legislation that has been provided to meet another purpose. Were it to be contained in the legislation, it could be argued that the words currently contained in clause 48(ba) were in fact outside the spirit, and not within the scope, of the legislation. This is not an Act dealing with the rights, interests and welfare of employees. On those grounds I cannot see how it is relevant for such a provision to be contained within the Act. All public sector employees need to be dealt with evenhandedly, fairly, responsibly and in the same way. Why would we want to change that in respect of employees from quite a small agency, but nonetheless an agency of the State? Why would we want to alter the way in which we deal with public sector employees simply because of the nature of the function of the agency that employs them? I must hold the line on that. In the event that it looks as though we do not have the numbers, we are prepared to sit down overnight and to defer consideration of the clause to try to work out something that satisfies everyone. However, I must put the point very strongly that there is effectively no difference in the way these people are employed from the way in which any other public servant is employed.

Hon DERRICK TOMLINSON: May I at the outset respond to the suggestion by Hon Peter Foss that the reference to welfare in subclause (ba) be removed? It is something I would be loath to support. The obligations of an employer to an employee in contemporary industrial relations extend beyond protecting remuneration, holiday pay, long service leave and superannuation entitlements. They extend to general wellbeing. Such things as the Occupational Safety and Health Act impose obligations on employers to protect the wellbeing or, as it were, the welfare of employees.

Here we have a peculiar organisation. The minister was at pains to argue that this organisation is a public sector organisation. However, it is a public sector organisation by a decision of the Industrial Relations Commission of about six weeks ago. It was never regarded as a public sector organisation. In fact, the Government argued vehemently that it was not a public sector organisation, to demonstrate that the right to transfer from fixed-term contracts to permanent employment contracts did not apply to the Anti-Corruption Commission. It was a directive given by the Premier that all public sector officers employed under contract would be transferred to permanency. The ACC did say, having received advice from the Department of the Premier and Cabinet, that the directive applied to the ACC. It was subsequently challenged. In its decision of about six weeks ago the Industrial Relations Commission ruled that that directive applied to the ACC as a public sector organisation. Until that ruling, the Government's position was that it was not a public sector organisation; that it operated outside the public sector. In fact, some provisions in the Anti-Corruption Commission Act are quite explicit in excluding certain officers of the ACC from employment under conditions of the Public Sector Management Act. They were not members of the public sector.

What is the peculiar nature of their employment? They are investigators, not police officers. The ACC was not an alternative police force. One of the faults in the initial staffing of the ACC was that it recruited police officers who were accustomed to criminal investigation of a particular kind and in a particular style. The investigation of public sector corruption requires a quite different approach. It is not a standard criminal investigation, although it has some of the characteristics of a criminal investigation in that the investigators are dealing with crime under the Criminal Code. However, the discovery of the crime or the misconduct requires a quite different investigation. The ACC employed, and the CCC will employ, people with skills in forensic accountancy, particular forensic legal work, information technology data gathering and analysis and the interpretation of data. The ACC has also employed people with particular technological surveillance skills. Much of the information is, and must be, gathered by means other than conventional policing.

The ACC has particular welfare obligations to its investigators as a result of the nature of their tasks, the people they are investigating and the investigations themselves. One obligation is to keep its surveillance officers alive. I suppose there is an obligation to keep us in this House alive, but in a different way. The ACC's responsibility for the psychological - or psychiatric - wellbeing of some of those investigators is also quite different. That responsibility will not stop when the ACC ceases. Some of those obligations to protect the welfare of the officers of the ACC will continue for some time. Therefore, I would be reluctant to say that the CCC should be given the obligation to protect the rights and interests of former employees of the ACC if that responsibility to protect their welfare is not also transferred.

I now turn to the question of whether the Government should employ those persons. Quite clearly, the CCC will be obliged to employ many of them because they have competencies that are very hard to find. For example, when the Telecommunications (Interception) Western Australia Act was passed in this State, the ACC spent 12 months looking for competent surveillance operators. Fortunately, commonwealth legislation was necessary to enable the Western Australian telecommunications interception Act to apply, and the enabling legislation was delayed during those 12 months. Even after the commonwealth legislation was passed, it took in some instances up to six months for the ACC to find competent investigators. That is how rare people with those skills are, and that is the quality of the persons the ACC has employed. Those are the persons that some people in the political field want to describe as the "discredited ACC". They are highly competent, highly skilled -

Hon Peter Foss: Recently employed.

Hon DERRICK TOMLINSON: Some of them are recently employed. They are much sought-after persons. It will take some time for the Corruption and Crime Commission to recruit officers if those ACC officers are not immediately employed by the CCC. Clearly, some persons employed by the Anti-Corruption Commission are not of that kind, and some of them are not amenable to the values of the incumbent Government. There is a political dimension to the decision not to transfer the employment of ACC officers to the CCC; namely, that some members of, and some ministers in, the Government have referred to the Anti-Corruption Commission publicly and constantly as the "discredited ACC". I have already said that I think that is an unfair judgment. As key figures of the Government see the ACC as discredited, and as they will not re-badge the ACC as the CCC, but create a whole new organisation, they want to create the impression that the Government will start with a new broom and get rid of the old "discredited ACC" and replace it with the credited, I suppose, CCC. In fact, as confirmed by the Attorney General's statement presented this morning by the Leader of the House, the majority

of the existing 78 ACC officers will be employed by the CCC. They will win the positions on merit; they would be unbeatable on merit. Therefore, we are not starting with a new broom at all.

Who are the persons at the ACC the Government does not want to employ? How many of them are there? Most ACC officers will be employed. Some will not be employed. How many is some? The commissioners certainly will not be employed. We know the attitude of the present Government to the Chairman of the Anti-Corruption Commission; that is no secret. They regard him as their political enemy, which is probably unfair. One thing that Mr O'Connor has been is politically impartial in his role as Chairman of the ACC. I do not know what government members think of Don Doig, who had an outstanding track record in the Crown Law Department. I do not know what government members think of Moira Rayner, but I would have thought she would be eminently acceptable on all counts to this Government. Those people will not be employees of the Corruption and Crime Commission. They will be replaced by new commissioners to be appointed. We start to ask: who are the few who will not be employed? I can only speculate.

It comes down to a question. It is not a question of whether the new organisation should be obliged to employ the officers of the organisation it replaces, but whether the Legislative Council should save the Government's political bacon because it has said that the "discredited ACC" will go and the Government will not employ any officers of the discredited ACC as it will start afresh. Let it be known that the Government would prefer to have the investigators of the royal commission transferred from the royal commission to the CCC. Why? That is because they have corporate knowledge acquired as a result of their work with the royal commission, and that knowledge would allow a seamless transfer of the royal commission work to the CCC. That is a credible argument. The only thing is that the royal commission dealt only with police misconduct, and the ACC deals with misconduct across the entire public sector.

Debate interrupted, pursuant to sessional orders.

[Continued on page 14788.]

*Sitting suspended from 4.15 to 4.30 pm*