

CORRUPTION, CRIME AND MISCONDUCT AMENDMENT BILL 2021

Time Limits — Statement by Deputy President

THE DEPUTY PRESIDENT (Hon Martin Aldridge) [11.32 am]: Before we commence the debate on the Corruption, Crime and Misconduct Amendment Bill 2021, I remind members that yesterday the house amended standing order 21 on time limits for speeches on the second and third reading questions on bills. Unlimited speaking times on these questions have been abolished. The new speaking times for second and third reading speeches are as follows: mover, 60 minutes; lead member, government or opposition, 60 minutes; party leader or member deputed, 60 minutes; other members, 45 minutes; and mover in reply, 60 minutes. I also note that under standing order 22, a member limited to 45 or 60 minutes speaking time may, by leave, be granted an extension of 15 minutes.

Second Reading

Resumed from 17 June.

HON NICK GOIRAN (South Metropolitan) [11.33 am]: I rise as the lead speaker on the Corruption, Crime and Misconduct Amendment Bill 2021. At the outset, I encourage members today as they contemplate their vote to consider this paraphrased quote from G.K. Chesterton: “Don’t ever take a fence down until you know the reason it was put up.” I would ask members who are considering today to vote in favour of the second reading of this bill to stand and explain to the house: what is the fence, why was it created, and why do they believe it should be taken down? If members cannot do that, they have failed in their duty to the people of Western Australia.

I understand, expect and anticipate that members opposite will have been ordered by their Leader of the House not to speak today. I respect the fact that they will feel obliged to comply with that direction. Nevertheless, even if they feel obliged to comply with that direction, they should still in their own mind and conscience be able to articulate precisely what is happening today. If they cannot, they should question their position as a Legislative Councillor.

I encourage members, if they are not already familiar, to read the *Royal commission into whether there has been corrupt or criminal conduct by any Western Australian police officer: Final report*. The volume that I now show members is only volume I. They will need to take a little extra time to read volume II of this final report from January 2004. There will be inadequate time for members to achieve that accomplishment today, but, at the outset, I say that Western Australian history since WA Inc informs us why it is necessary to have an apolitical appointment to the corruption watchdog of Western Australia. History since WA Inc informs us of this. If a member is a poor student of history and is unfamiliar with the inquiries that have taken place since WA Inc, they have a duty to Western Australians to inform themselves of that history. Once they do, they will understand why it is imperative that the corruption fighter in Western Australia is an apolitical position. I will spend some time later this morning taking members through that history.

Secondly, I encourage members today to give significant weight to the fact that the Parliament’s expert committee in this field has rejected this candidate’s appointment not once, not twice, but three times. Significant weight should be given to that fact. It is not the determining factor as to why members should vote a particular way on the bill before the house and nor is the history in Western Australia since WA Inc. But we are being asked today to specifically endorse the selection of one Western Australian to head up the Corruption and Crime Commission for the next five years. A statutory reappointment of that sort is inappropriate if an individual’s first term of office has been filled with a litany of episodes of refusal to be guided by the statutory guardians. That is to say—I will unpack this a little later this morning—that there has been a plethora of examples in which the then commissioner, Mr McKechnie, refused to take the guidance of the chief guardian, the Parliamentary Inspector of the Corruption and Crime Commission, and the second guardian, the Joint Standing Committee on the Corruption and Crime Commission.

Thirdly, a statutory reappointment of this sort is improper if the lawfulness of an individual’s actions is pending determination by a court, parliamentary committee and/or the parliamentary inspector. Lastly, it is the position of the opposition that Parliament should not facilitate, by force of law, the executive’s desired reappointment of an individual whose eligibility is in question in circumstances in which the underperformance of the individual has been repeatedly exposed by those entrusted to oversee that performance and, worse, when questions of misconduct by that individual remain unresolved.

At the outset, I take members back to the history of the Corruption and Crime Commission and its genesis following the interim report by the Kennedy royal commission. The royal commission was established in Western Australia to determine whether any officer in the Western Australia Police Force had engaged in corrupt or criminal conduct. Following that interim report, a bill was progressed through the chambers of this Parliament, and, subsequently, the final report, to which I referred earlier, found that members of WA police had engaged in corrupt and criminal conduct.

The Attorney General at the time in 2003 was the member for Fremantle. In his speech introducing the Corruption and Crime Commission Bill 2003, he indicated that the purpose of the bill was to, I quote —

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

... restore the community's confidence in the integrity and honesty of those who serve the public.

He went on to say —

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.

Later, he said —

The CCC will have three main jurisdictions: investigation of police corruption; investigation of public sector corruption; and a role in relation to the investigation by the police of organised crime.

He emphasised that the CCC would have, and I quote —

... all of the powers of the Anti-Corruption Commission, plus the powers currently used by the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers, including powers to examine on oath, both in public and private; powers to use assumed identities and surveillance devices; and powers to conduct covert activities, such as controlled operations and integrity testing programs. Even when no allegation of misconduct has been made, the CCC may conduct integrity tests on police officers and prescribed classes of public officers.

It was emphasised at the time that the role of the Ombudsman in reviewing police conduct would be transferred to the CCC and that the CCC would be able to investigate Western Australian police officers. That was the reason that the Corruption and Crime Commission Bill was brought in by the previous Labor administration and its Attorney General; it all arose out of the Kennedy royal commission's interim and then final report.

It is important to be a keen student of history when it comes to these matters, because if we follow the progress of that bill from 2003, brought in by the Labor administration, to create this new corruption fighter, we will note that the outcome of that first bill was that the bill was split and it was referred to the Standing Committee on Legislation. The Standing Committee on Legislation at the time was chaired by Hon Jon Ford, MLC. The twenty-first report, titled *Report of the Standing Committee on Legislation in relation to the Corruption and Crime Commission Act 2003 and the Corruption and Crime Commission Amendment Bill 2003*, was tabled in December 2003, and specifically considered the appointment process. It is that appointment process that, today, the McGowan government is asking members to dispense with.

As I said at the beginning, it is important to understand why the fence was created in the first place before we decide to tear it down, particularly because when one of our own members, Hon Jon Ford, tabled this report in December 2003. It was so persuasive that the Labor government at the time decided to change the appointment process. The appointment process that had been outlined in the original bill by the Labor government was described at the time by the Anti-Corruption Commission—for those members who do not know what the Anti-Corruption Commission was, it was the predecessor to the Corruption and Crime Commission. The Anti-Corruption Commission submitted that the proposed appointment process for the commissioner created a political appointment, which it did not support. The Anti-Corruption Commission at the time further submitted to the legislation committee, chaired by Hon Jon Ford, that the current process under the then Anti-Corruption Commission Act 1988 was an appropriate procedure and was recommended by the WA Inc royal commission.

As a result of that inquiry. The legislation committee, chaired by Hon Jon Ford, indicated to the Parliament that it considered that the appointment of the commissioner should be “apolitical and bipartisan” and therefore did not endorse the appointment process that was contained in the act at the time. The committee recommended that the CCC act be amended to incorporate the appointment process, which would involve the process that is in place now in which a majority of the committee needs to agree with the appointment of the Premier and it must have bipartisan support.

I take members through that history so they understand that the fence that has been created was created by the previous Labor government. It was a fence created at the request of Hon Jon Ford. It was a fence that the Labor government decided that it saw sense with, because it, presumably at the time, understood that we do not want to repeat the dark days of WA Inc and that we should respect the inquiries that have taken place since that time and ensure that an appointment process is indeed apolitical and not political.

Be under no illusions, members, that the fence that you desire to tear down today, and have no doubt been muzzled from speaking on, will be because of the work undertaken by the predecessors in your own party as a result of the inquiries that followed after WA Inc. So members should consider carefully: do they wish to be associated with the dark days of WA Inc and the return to political appointments or do they prefer to take the approach recommended by the Anti-Corruption Commission, Hon Jon Ford and, ultimately, the Labor administration in 2003? I indicated to members that they should consider more than just the history behind what is occurring today. I strongly recommend that members be in a position to articulate their position. Even if they come to the position, notwithstanding the history

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

of this matter, notwithstanding WA Inc, notwithstanding the Kennedy royal commission, notwithstanding the work of the Standing Committee on Legislation in 2003 and notwithstanding the fact that the then Labor administration changed the process because it saw sense in it being an apolitical process, members say that it is 2021 and they have decided that they want to create their own history, members need to consider the appropriateness of the individual being put up for candidacy today. If they are to do their job properly, they need to consider the performance of the individual over that five years and they need only look at matters on the public record on that performance.

There has been much talk in the debate, which has ensued over more than a year, about secret deliberations and secret material and so on and so forth. I do not know anything about the secret material or deliberations, but I do know that there is a ream of material on the public record that sets out the performance of John Roderick McKechnie over his five-year term. I take members to the twenty-fifth report of the Joint Standing Committee on the Corruption and Crime Commission, tabled on 20 November 2015, titled *Parliamentary inspector's report on allegations of misconduct made against officers in the Corruption and Crime Commission electronic collection unit*. Incidentally, at the time I was chairing that committee, which comprised Peter Watson, Hon Adele Farina and Nathan Morton, MLA, in circumstances in which I was a member of the party in government. Members should take the opportunity to read this report because they will see that there was corruption in the Corruption and Crime Commission—specifically, in the commission's electronic collection unit. So that I am not in any way misquoted either in or out of this place, the corruption that occurred in the CCC by the electronic collection unit was not—was not—during the tenure of John Roderick McKechnie.

However, the Parliamentary Inspector of the Corruption and Crime Commission, who uncovered and reported on this corruption in the CCC, through the Joint Standing Committee on the Corruption and Crime Commission, wanted to investigate and deal with this matter further, but John Roderick McKechnie said no. I invite members to familiarise themselves with this report and, if nothing else, the chairman's foreword. John Roderick McKechnie did not want that parliamentary inspector of the CCC to continue to deal with this matter; he wanted to shield those corrupt officers under the guise of the Industrial Relations Act 1979. No sooner had he started his term in 2015 than he was shielding corrupt officers within the CCC. Not a good start by John Roderick McKechnie in 2015. He had a five-year term and within the first year he was shielding corrupt officers from the electronic collection unit. Maybe that is not enough and members will say that he was new to the role in 2015. He had five years. Maybe his performance improved over the following four years. Members are about to cast their vote either in favour of this individual or not. Ask yourselves: should a person, one of the first acts of whom was to shield corrupt officers, be supported?

I turn now to the following year—2016—and encourage members to familiarise themselves with the thirty-second report, tabled in November 2016. At that time, the committee that I was chairing, which also had the same members to whom I referred earlier, when we did our job without fear or favour—it did not matter to us who was the Premier of the day and which political party we were part of because we had a sworn duty to fulfil as the oversight body for the Corruption and Crime Commission—we tabled the thirty-second report in November 2016. We sought information from John Roderick McKechnie, and his attitude to the parliamentary committee, the oversight committee, was to decline to provide us information. He said, and I quote —

“unless summonsed under section 5 of the Parliamentary Privileges Act 1891 or directed under the Standings Orders of the Legislative Assembly.”

Strike two, Mr Deputy President. John Roderick McKechnie, in his first year, was trying to shield corrupt officers from the electronic collection unit under the guise of the industrial relations legislation, and in his second year he told one of the two guardians—the Joint Standing Committee on the CCC—that he would not provide any information to those to whom he reports. He said, in effect, “If you want information from me, you will need to summons me.” That was the attitude of the person that the McGowan government wants members to reappoint for another five years. That same year, the Standing Committee on Procedure and Privileges had something to say about the performance of John Roderick McKechnie, and it will be a performance that will be well known to the Leader of the House, because the forty-fourth report is titled *Referral of a matter of privilege raised by Hon Sue Ellery MLC*. Read the report, members. November 2016. The members of that inquiry at the time, should anyone be concerned it was being politicised in any way, were Hon Barry House, Hon Martin Aldridge, Hon Adele Farina, myself and a substitute member by the name of Hon Sue Ellery, MLC. That five-member committee made a number of findings and recommendations. Finding 17 reads —

... the use by the Corruption and Crime Commission of *proceedings in parliament*, being the drafts of answers to Question without Notice C 192 and associated emails, to form an opinion of misconduct against Ms Turnsek *impeached or questioned* those proceedings. This is contrary to the immunity provided by Article 9 of the *Bill of Rights 1688* (UK). The actions of the Corruption and Crime Commission therefore constituted a breach of parliamentary privilege.

That was Hon Sue Ellery's attitude, and mine, in November 2016. Who was in charge of the Corruption and Crime Commission during the next fiasco? It was John Roderick McKechnie—strike three! It is uncomfortable, members;

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

is it not? Once members start to get the history of this matter they can start to see how corrupted this process is. If people were serious about the fight against corruption in Western Australia, they would go out of their way to make sure that this appointment is apolitical. Instead, we have people going out of their way to make sure that it is a political appointment. If the government wants to make it a political appointment, because it has total control of both houses of Parliament, it can do that, but it should then expect its candidate to be scrutinised for their performance during their first five years.

I do not want to spend time going through and identifying all the elements of underperformance by John Roderick McKechnie, with whom, at least during the time I had the opportunity to work with him, I found I had a relationship that was professional and cordial. We both understood that we had a job to do, and we did it. I would like to think that at the time he knew that it made absolutely no difference that I was a member of the Liberal Party that recommended his initial appointment, and that the Premier of the day had made that recommendation, because I was still going to ask the questions that needed to be asked.

I would prefer much more that we were in a situation in which we could simply respectfully thank this gentleman for his service to the people of Western Australia, including a long history in the legal profession, and move on. However, for reasons not yet clear to me, the McGowan government insists on dictating that this particular person will be the commissioner. Well, the questions that need to be asked will be asked, including a comprehensive analysis of this person's performance over his five-year term.

As we consider further the underperformance of John Roderick McKechnie during his five-year tenure, having already quickly struck out three times—trying to shield corrupt officers from further scrutiny, trying to withhold information from the parliamentary committee that oversees him and breaching the law of Western Australia, as identified in the forty-fourth report—I turn to the Joint Standing Committee on the Corruption and Crime Commission's seventh report of November 2017, *Unfinished business: The Corruption and Crime Commission's response to the committee's report on Dr Cunningham and Ms Atoms*. The report refers to the committee's fourth report of October 2017 titled *Parliamentary inspector's report on a complaint by Dr Robert Cunningham and Ms Catherine Atoms*. Members who are about to cast their vote in favour of John Roderick McKechnie might like to familiarise themselves with the extraordinary sequence of events experienced by Dr Cunningham and Ms Atoms. The chair's foreword of the seventh report reads —

This report marks the unsatisfactory conclusion to a long-running saga where the Corruption and Crime Commission has consistently declined over a number of years to exercise its statutory duty to monitor and report upon a case of police misconduct, excessive use of force, tampering with physical evidence and collusion in the content of sworn evidence.

The report goes on to say there has been —

... outright refusal to revisit the case even to examine whether its own processes were lacking ...

The report goes on to say that the commissioner—make no mistake who that was at the time; it was John Roderick McKechnie —

... had notified the committee that he did not intend to accede to these recommendations.

These recommendations were not just made by the Joint Standing Committee on the Corruption and Crime Commission, but also had as their genesis recommendations from the Parliamentary Inspector of the Corruption and Crime Commission, the now late Hon Michael Murray. We had a situation in Western Australia in which two Western Australian citizens were so wrongfully dealt with by Western Australian police and John Roderick McKechnie's CCC was so derelict in its duty that they had to go to the court to seek some form of justice. The District Court determined that the nature of the police officers conduct was unlawful and malicious, and awarded general, aggravated, exemplary and special damages totalling \$110 304.10 and \$1 024 822.11 respectively. Such were the aggravated circumstances for citizens Cunningham and Atoms that they had to resort to that measure, while John Roderick McKechnie said to the Parliamentary Inspector of the Corruption and Crime Commission and the Joint Standing Committee on the Corruption and Crime Commission, "There's nothing to see here. I will not accede to your request to relook into this matter." That was John McKechnie attitude in 2017. Members should put themselves in the shoes of citizens Cunningham and Atoms and ask themselves whether it is right and fair that in a First World democracy such as Western Australia a person can be so badly treated by WA police that they complain to the CCC, which does nothing about it, and only eventually get some form of justice after having expended a massive amount of dollars to go to court. Thankfully, the Parliamentary Inspector of the Corruption and Crime Commission and the Joint Standing Committee on the Corruption and Crime Commission were overseeing this process to ensure that there is some modicum of fairness. But John Roderick McKechnie refused outright to revisit the case. He refused outright to deal with a case of this nature. A Western Australia citizen is awarded more than \$1 million in compensation because of the behaviour of police officers in Western Australia. The Corruption and Crime Commissioner's job is to oversee police corruption.

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

I have shown members before the two-volume report from the Kennedy royal commission. Why was the CCC created in the first place? It was created to look into police corruption. When there was misconduct by the police, there was an outright refusal by John Roderick McKechnie to revisit the matter. His overseer, the Parliamentary Inspector of the Corruption and Crime Commission, said, “I really think you need to have another look at this matter”, but he said no. The Joint Standing Committee on the Corruption and Crime Commission said, “I really think you need to have another look at this matter”, but he said no, and the McGowan government want us to give a ringing endorsement to this person. That is the fourth strike.

The result of the debate yesterday will suit the McGowan government, and I am limited to a one-hour contribution. The litany of underperformance by John Roderick McKechnie during his five-year term as the Corruption and Crime Commissioner is so long that it makes a mockery that members are expected to evaluate his performance today in these battering ram-type conditions imposed upon us by the Leader of the House and the McGowan government. It makes a mockery of this. The people of Western Australia deserve a lot better than this when we consider that at the heart of the matter today are matters to do with police corruption, government corruption, the history of WA Inc and multiple inquiries. In 2003, Hon Jon Ford tabled a report pleading with the government of the day to revert to the apolitical appointment process and the government of the day agreed with Hon Jon Ford. Now, we have the McGowan government behaving in dictatorial fashion and saying in effect, “We have no regard for the rule of law and we have no regard for the history of anticorruption bodies and the appointment process. We will do whatever we want to do.” Do not expect the opposition to roll out the red carpet while the government corrupts the process.

I turn to the fifth strike with respect to the underperformance of John Roderick McKechnie, whom the Premier and Attorney General of Western Australia tell us has to be the Corruption and Crime Commissioner. I encourage members to look at the report tabled in the last Parliament when the Joint Standing Committee on the Corruption and Crime Commission was chaired by Margaret Quirk, MLA. One of the government’s own members chaired the committee in the last Parliament. I refer to the twelfth report of October 2019. Members opposite who have a great fondness for the member for Kalamunda might note that there is no minority report. Even that individual, whom I have described on the public record as unsuitable to be on a parliamentary committee, recognised the problems by presumably providing his consent towards this report, and there is no minority report. The other members of the committee are of course well known to members, being former members Hon Jim Chown and Hon Alison Xamon. This is the twelfth report. This matter deals with another Western Australian. This Western Australian’s name is Mr Denys Martin, and he had a complaint about his treatment at the hands of WA police. It is worth noting that in the opinion of the parliamentary inspector—once again, John Roderick McKechnie had not done his job, so Denys Martin had to go above him to the parliamentary inspector—this Western Australian was wrongfully deprived of his liberty for an appreciable period. He was wrongfully and forcibly fingerprinted, wrongfully prosecuted for refusing to provide his personal details to the police and convicted, fined and ordered to pay costs, all under the watch of John Roderick McKechnie. What was the response of this man at the time, when he was getting paid the big bucks by Western Australian taxpayers? I quote from the twelfth report of October 2019 of the committee chaired by Margaret Quirk. It says —

The Corruption and Crime Commissioner advised that while he does ‘not disagree’ with the opinion of the PICCC expressed in the attached report, he considers ‘the issue beyond the remit of the Commission’s functions in relation to misconduct.’

The history that explains the creation of the Corruption and Crime Commission is police misconduct. If it has a role to play in Western Australian society, the chief of those roles is to oversee the police. That is why it was created. That is not its only role, but it is the chief of the roles. When a Western Australian who was wrongfully deprived of their liberty for an appreciable time, wrongfully and forcibly fingerprinted, wrongfully prosecuted for refusing to provide his personal details to police, convicted, fined and ordered to pay costs complained to the Corruption and Crime Commission about his treatment, I am afraid the commissioner was asleep at the wheel. I am sure that Mr Martin is eternally grateful that the now late Hon Michael Murray was not asleep at the wheel and was doing his job. I am sure that Mr Cunningham and Ms Atoms, whom I referred to earlier, feel the same way. Thank goodness that the guardians were there watching the watchdog at the time, because in five years we have had five major failings by John Roderick McKechnie. In five years we have had five major failings exposed by different Joint Standing Committees on the Corruption and Crime Commission. Will those members who feel that they want to give no weight to the reports of the Joint Standing Committee on the Corruption and Crime Commission while I was the chair give some weight to the committee reports done when Margaret Quirk, MLA, was the chair? Will they give some weight to the reports by the parliamentary inspector, the now late Hon Michael Murray? How many reports of underperformance by John Roderick McKechnie does it take before a Labor member in this administration understands that he is not an appropriate appointment? His performance has been woeful. We did not need to say that today. He has had a long career in the public service. He has now attained the age of retirement of a judicial officer and is entitled to continue to be paid his judicial pension and enjoy his retirement. We do not get that

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

opportunity because the McGowan government insists that we deal with this particular matter and agree to this particular appointment. If I have said it once, I have said it a few times this week: the government should not expect me to do my job half-baked. If it wants to roll up with a bill naming John Roderick McKechnie as the Corruption and Crime Commissioner, it should expect his underperformance to be exposed. I have no interest in witnessing WA Inc mark II play out before my eyes in the Parliament of Western Australia and staying silent on it. This is an unacceptable state of affairs if ever there was one.

It does not stop there. Members may be aware that the Standing Committee on Procedure and Privileges Committee tabled its sixty-first report only last month. If members have not had the opportunity to read the reports that I referred to earlier, I hope that they are at least across that particular report. It was presented by Hon Kate Doust, MLC. The other members of the committee included Hon Simon O'Brien, Hon Adele Farina, Hon Martin Aldridge and Hon Rick Mazza until he was replaced by Hon Tjorn Sibma.

Hon Sue Ellery interjected.

Hon NICK GOIRAN: Sorry, Leader of the House?

Hon Sue Ellery: Nothing.

Hon NICK GOIRAN: Hopefully, Hansard picked it up but I think the Leader of the House said, "And why was that?" If that is what she said, through you, Madam Acting President, I think the public record reflects that the former member, upon being alerted to the fact that he might be the subject of an investigation, did the honourable thing and stood down. He was then replaced by another member of this place. Incidentally, Leader of the House, for the record, the CCC has subsequently tabled a report. I am not sure if she has read it. It exonerates the former member. She and I might well have strong feelings about the disgraceful conduct of some former members of this place but Hon Rick Mazza is not one of them, according to the CCC. Today will be long and difficult enough but let us not besmirch the reputations of those who have done nothing wrong. Indeed, they cannot defend themselves either. That is not right.

I referred to the sixty-first report of the Standing Committee on Procedure and Privileges because we are dealing with an extraordinary set of circumstances. No doubt other members will be better placed in the time provided to them to unpack these matters. At the heart of it is the report that I referred to earlier. When Hon Sue Ellery and I were on a committee, we identified that the CCC, under the stewardship of John Roderick McKechnie, had breached parliamentary privilege. It is my assessment that since that time, Mr McKechnie felt aggrieved by that finding of the procedure and privileges committee. I note that the public record reflects that after that episode, when he was, in effect, reprimanded by the expert committee of this Parliament for his breach of Western Australia law, he said that he would take a more timorous approach to these matters. Time has told us that nothing could have been further from the truth because now two court actions involving this chamber are being mitigated in the Supreme Court because the same individual, John Roderick McKechnie, chose not to take a timorous approach.

As per the motion that I gave notice of earlier today, the record reflects that the law of Western Australia has been breached more than 1 000 times. That is the assessment of the expert committee of this Parliament with respect to parliamentary privilege. What were those 1 000 breaches? They involve the delivery of draft parliamentary speeches, draft parliamentary motions, draft parliamentary questions, submissions from members of the public requesting a member to vote a certain way on a bill or other measure before the Legislative Council, documents indicating how a member intended to vote on a bill or other measure, and confidential parliamentary committee material, including committee deliberations and draft report recommendations—more than 1 000 times. For anyone who is unclear about that, that means that about 1 000 documents or 1 000 records are subject to parliamentary privilege, things like draft parliamentary questions. They have been handed over to the CCC contrary to Western Australian law.

In the meantime, that same expert committee of this Parliament has identified that more than 450 000 records are not subject to parliamentary privilege. It has invited—encouraged—the CCC to access them. I want to emphasise this point for two reasons. First, we have expensive litigation occurring in Western Australia because John Roderick McKechnie decided not to take a timorous approach as he previously said he would, having been reprimanded by the procedure and privileges committee. Second, any member of this place or the other place or any member of the public who suggests that the appointment of John Roderick McKechnie somehow facilitates the investigation into former Liberal members is nothing more than a liar. Incidentally, members, we do not need a full-time commissioner at the moment because we have an acting commissioner, Scott Ellis, who is doing a fine job as far as I can see. Nevertheless, all those documents, including the much sensationalised laptop, are available for collection by the CCC. They have been available for ages. It does not suit the McGowan government to facilitate that; instead, it prefers to interfere with operational investigations; well, maybe not all members of the government but certainly the Attorney General of Western Australia.

Paragraph 5.49 of the report tabled last month states —

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Finally, in an sms message sent by the Commissioner of the CCC to the Attorney General dated Monday, 22 July 2019, the Commissioner wrote:

The DPC has delivered a USB in accordance with the requirements under the CCM Act. Any privileged material was identified and removed prior to delivery. I have ordered that the USB remain in the secure exhibit room. In the absence of any indication to the contrary I will release it to the investigators later this week. Enjoy your last night in Bali.

Was John Roderick McKechnie simply taking instructions from Hon John Quigley? Is that how the CCC is now operating in Western Australia? Maybe WA Inc mark II will start on 24 June 2021. I suspect that by the time this bill is concluded, it will probably be 25 June 2021. Whatever date it is, that will be the day that WA Inc mark II started. Despite the public record of the underperformance of John Roderick McKechnie, the McGowan government will proceed with its political appointment anyway. That was completely contrary to the history of why the Corruption and Crime Commission was established in the first place. It is as though WA Inc never happened, according to the McGowan government. It is as though the Kennedy royal commission into police corruption never happened. It is as though Hon Jon Ford was never a member of this place, let alone the chair of the standing committee recommending, clearly persuasively, that the then government revert to an apolitical process. It is as though those things had never happened. People talk about cancel culture—the McGowan government is into cancelling history!

These are no trivial matters that we are dealing with today. The Corruption and Crime Commission has extraordinary powers. Those extraordinary powers need to be overseen by a person who has demonstrated integrity and competence. Reports on the public record should be sufficient for members to understand that competence has been lacking in respect of that first five-year tenure. With respect to integrity, I take members no further than that disgraceful SMS from John Roderick McKechnie to the Attorney General while he was holidaying in Bali. This standard of performance is not acceptable for Western Australia's corruption watchdog, yet that is what we are being asked to do.

In the remaining minute or so that I have left, I invite members to look at other matters on the public record. We have the fifteenth report, again chaired by Margaret Quirk, MLA, dated September 2020 in the last Parliament, titled *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force*. It says that in effect the CCC was—I am paraphrasing—asleep at the wheel; it was not doing its job with respect to the WA Police Force. All this was under the time and stewardship of John Roderick McKechnie.

It is so important that those members who are about to cast their vote in favour of a particular person—this is unique; to the best of my knowledge it is genuinely unprecedented to be naming an individual in this fashion—at least spend the time to review that particular person's performance. As I say, Parliament should not facilitate, by force of law, the executive's desired reappointment of an individual whose eligibility is in question in circumstances in which the underperformance of the individual has been repeatedly exposed by those entrusted to oversee that performance and, worse, when questions of misconduct remain unresolved.

HON WILSON TUCKER (Mining and Pastoral) [12.33 pm]: I rise to make a small contribution to outline the reasons I will not be supporting the Corruption, Crime and Misconduct Amendment Bill 2021. Hon Nick Goiran and other opposition members have already outlined the events that led to this bill. I will raise two points today for why I will not be supporting the bill. The first point is that the appointment of a Corruption and Crime Commissioner should be about the process; not the person. Drawing on my experience working in technology companies, the direct appointment of John McKechnie, by bypassing the current process in place to appoint a commissioner by directly naming the commissioner within the bill—to use a tech term—feels like a code smell and a hack in the process! The current process, which relies on recommendations by the nomination committee, the joint standing committee and the Premier, has been used successfully for a number of commissioner appointments in the past. Because the Premier did not like the outcome of this last appointment, the process is considered broken and a bypass mechanism, naming McKechnie directly, is now being used. If the government does not want to wait until a review is completed into the process to appoint a commissioner, it has two other candidates to fall upon—both were recommended by both committees. I do not believe the argument is valid that the CCC is not currently functioning correctly and that Mr McKechnie's reappointment needs to be rushed through as he is the only suitable candidate.

My second point relates to the suitability of Mr McKechnie. Given the extraordinary powers of the CCC and its important role as WA's premier integrity agency, it is essential that the commissioner we appoint is not only experienced, competent and of the highest integrity, but also is unbiased, rational and above party politics. On 25 November, former commissioner Mr John McKechnie gave an address outside St George's Cathedral in Perth. In his address, Mr McKechnie attacked the Liberal Party, the former Leader of the Opposition and members of the Joint Standing Committee on the Corruption and Crime Commission. His address included extraordinary claims of a deliberate and targeted attack against the CCC, criticisms of the leadership of the former Leader of the Opposition, and criticism of a house of this Parliament. The making of such a political statement really raises serious questions

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

in my mind about Mr McKechnie's ability to perform the duties of commissioner. Whether Mr McKechnie was suitable previously or not, given these comments I do not believe he is suitable now.

I believe we should be trusting the Joint Standing Committee on the Corruption and Crime Commission that it acted impartially, unless proven otherwise, in its vetting of the suitability of a commissioner. It is for these reasons that I will not be supporting the bill.

HON DR BRIAN WALKER (East Metropolitan) [12.36 pm]: I rise as the lead speaker for the party on this topic. I actually have personal experience of the opposite. Living in Russia, I was exposed to being commanded by the KGB. I vividly recall having to hand my passport over as I stood at a railway station seeking to leave the country. I was exposed to the difficult status of actually having no passport in a foreign country that was under the care of the KGB—I use that word carefully—and not knowing whether I would get my passport back and be allowed to leave the spot where I was standing. There was no oversight. I was completely under the vicarious attention of a very malignant organisation, which had complete control of every member of that society. We do not want that. We do not want anything like that in this country of ours.

I rise to oppose the motion based on my own personal experiences. I expect, however, that the bill will be forced through. This troubles me a lot because we have not got anything in the way of a consensus. This affects every single one of us; not simply 51 per cent of the population. We ought to have a consensus approach to managing this problem. There are other priorities. What about family law? What about confiscation reform? Manifest major injustices are occurring right now in our society, which I think have precedence. Daily injustices are occurring. This bill being forced through affects only two people: the Premier and Mr McKechnie. This matter is not proportional. I do not understand these priorities. Who am I? I am not a member of the government. Manifest daily injustices are being perpetrated but we are not addressing them right now. Take the example of me prescribing some cannabis to a patient who is suffering from severe pain. When that person is stopped by police and drug tested, police determine that they have more power over my patient than I do. They do not care about the pain: "You shouldn't be taking this and driving; therefore you're going to the magistrate and you will have a criminal record." This matters to hundreds if not thousands of people in our nation every day, and we ought to address this. Do we want the police to be determining what the doctor prescribes or not? Is that more important than the bruised feelings of Mr McKechnie or, indeed, the Premier?

The Corruption and Crime Commission is important. It is vitally important. It has a wide range of powers. It is imperative that we have leadership that is beyond reproach, is it not? It is essential also for the public to be 100 per cent behind this organisation. There will be those who wish not to be. I would not like to be friends with those people. I would think of them as criminals or reprobates. But the honest, ordinary public should be 100 per cent behind the highest standards of a very important body.

I think that the first appointment of Mr McKechnie was very appropriate. I have heard things today I knew nothing about—I am thankful for that information—such as the times he has fallen short, as indeed we all do. Hon Wilson Tucker referred to statements that Mr McKechnie made, and for the benefit of *Hansard* and to refresh the memory, I will read these words into the record. On 25 November last year, speaking at St George's Cathedral, Mr McKechnie said of the committee's process to fulfil the commissioner's role —

"The Liberal Party, which could have quickly solved the problem has shown no inclination to do so, apparently content to let the Commission flounder without a permanent head."

He went on to describe the Liberal Party's refusal to support his reappointment as —

... "a deliberate and partially successful attempt to lessen the effectiveness of the CCC".

I have to say that I am not a member of the Liberal Party, or, indeed, of any other party apart from this one. But these remarks were made in a public forum and printed in *The West Australian* for all to see. He can certainly do that as a private individual; there is no reason he should not. He was no longer in the employ of the government. He may even have been right, but, sadly, that is not the point. His comments made me question his impartiality going forward. This reflects on one of the most important of our important committees. It casts doubt on the very institution of Parliament. It casts doubt on me and every member here. This is a matter of principle. I feel the major concern we have is that the committee is being assaulted, and if that can happen to this committee, why not to every other committee? Members should consider this very carefully: do we wish to allow the integrity of this house to be impugned and damaged by outside forces? I sincerely hope not. This is a sorry affair.

I do not attribute any blame to Mr McKechnie. He is a private individual; he can say what he likes. But when it comes to this particular role, I need to have full confidence that the CCC is being well-managed, and that our important committees here with that oversight are not going to be hindered in any way in the duties that they have. To my mind, we do that by following the tried and tested procedures of this house and the other place, not by abandoning them. We abide by the standing orders. Let me say that again: we abide by the standing orders. We

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

do not let anyone dispense with the standing orders to achieve their desired outcome because they did not like what we said.

It is also noted that we need a bipartisan approach. I do not like the word “bipartisan”. We do not have two parties; we have a plurality of parties. We all have a voice here. We will take the idea of being bipartisan and note there was actually bipartisan—not “tripartisan”—support in the committee, and there was a difference of opinion. I was not there and I am not now. But they tried again, did they not? We have had a number of attempts to have Mr McKechnie appointed, and a very respectable committee, staffed by very respectable, honourable members, has twice reviewed this and twice said no. This is the important fact to remember, not the personality of Mr McKechnie and not even, indeed, how the CCC is functioning. That is not our job. It is not a failing of the old Parliament. It is not even a failing of this Parliament, because what has happened has been a complete and correct approach, according to the standards that we have had for quite a long time. I think it is a sad reflection that we now have to consider the integrity of our committee to appoint someone simply because they failed the first and second time. I have every confidence in the four members of the Joint Standing Committee on the Corruption and Crime Commission. I know for a fact that Hon Dr Steve Thomas and Hon Klara Andric are honourable and worthy people. Similarly, I am sure that Mr Matthew Hughes, MLA, and Mr Shane Love, MLA, are both honourable and worthy people, too. I must therefore trust in the outcome of that committee process, even if the outcome is an unfortunate deadlock; and, if I must trust it, why not the Premier?

Our predecessors put in place the requirement for a bipartisan approach. They relied upon the committee to ensure, for good reason, that checks and balances are required when such an important organisation is headed by one man who has been granted extraordinary powers. We should not abandon these checks and balances because they inconvenience anyone or any organisation that might argue that they have more powers than any other citizen in Western Australia. We should cherish these checks and balances and cherish the committees and work with them, as, indeed, we work with all to achieve compromise.

I am going to plead with the government to show some grace. Work with the Parliament. Work with this house. Do not dictate to us. Dictating to our house is simply unacceptable. As I understand it, there were three candidates suggested. All three would be worthy and honourable. It is clear to everyone, I think, that Mr McKechnie no longer has the bipartisan confidence of this Parliament. To continue to push for that I think is not only arrogant, but also dangerous and foolhardy for the future.

I would urge all colleagues to take this message back to Mr McGowan. We will work with him. We want to work with him. We want to work with the CCC candidate who will be agreeable to all. We need to work together in the spirit of bipartisan support for the people of Western Australia we represent. We need to have unfettered confidence in this. All that needs to happen now is for the Premier to choose a second name from those three provided to him and for the joint standing committee to again deliberate and come to a decision. I am confident that such a move would meet with success in short order and we could all agree with that. It would allow us to get on with the challenge of scrutinising other bills and doing the proper work of helping the people of WA to achieve the life they desire. I would welcome that and I presume that all here would also welcome it.

HON DR BRAD PETTITT (South Metropolitan) [12.47 pm]: I was not intending to speak on the Corruption, Crime and Misconduct Amendment Bill 2021, but I want to make a very brief statement with two points. First, I have no reason to believe that Mr McKechnie would not be a highly competent commissioner. Second, this important and powerful role should be one that has bipartisan or, as Hon Dr Brian Walker said, multipartisan support and be above party political differences. It is simply for the latter reason that I cannot support the motion as moved.

HON NEIL THOMSON (Mining and Pastoral) [12.48 pm]: I do not have a lot to say on this. I do want to speak from the perspective of a former public servant who had a very senior role in government and various other roles, and the importance of the Corruption and Crime Commission and the amazing work that it does for our state. Then, if I may, I will lead to my points on this appointment.

Without going into any specifics, in my previous life, I was fortunate not to be involved in too many investigations. As a public servant, one supports matters being referred to the Corruption and Crime Commission. Those matters are of grave importance for good public order and the integrity of our public sector. As I said, I have been fortunate not to have been involved in many, but I have been involved in some. I have been intimately involved in some of those investigations, obviously, not that I would want to disclose to this place the detail of any of those. But I must say it was an experience that gave me great confidence in the role of the Corruption and Crime Commission. However, like all organisations, we are dealing with human beings, we are dealing with a bureaucracy, and we are dealing often with judgement calls and the collection of evidence over a period of time. Some of those investigations took several years. We have seen the importance of this in recent times in the Department of Communities, for example, with people involved in activities that are quite sad to see at a senior level in government.

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

The role of the CCC is to assess and investigate and expose serious misconduct in the Western Australian public sector. That is vital. That is absolutely essential to ensure the confidence of the Western Australian community in the delivery of services by the executive and to ensure that public moneys are spent in a way that delivers fair and equitable outcomes in accordance with a transparent process.

The important part is that the CCC can assist the WA Police Force in the combatting of organised crime when required. The CCC has incredible powers of direction. I have been subjected to powers of direction as a senior public servant in relation to what I can say and what I cannot say. I have been privy to very delicate investigations, unfortunately, of those in the public sector who may not have been doing the right thing, and as a person in a position of responsibility I have assisted the commission in collecting evidence and providing statements to the commission and supporting the commission. It is absolutely vital that we ensure that the level of governance in our state is maintained to the highest degree. However, obviously things fall through the cracks and behaviours arise and things occur that are not in accordance with acceptable standards. That requires a multilayered approach. In the case of the public sector, that starts with the rules that govern the public sector and the quality of our management systems and the rigour that the senior public service, in my case, goes through in assessing what is going on and investigating and reporting matters.

The CCC has incredible power. It has the power to effectively require evidence to be delivered. It also has the power to undertake covert and overt investigations. I am not an expert on that, but, as I said, I have been in support in my role as a public servant of inquiries that have led in some cases to action and in other cases have not led to action. In some cases, it might just lead to a requirement for the public sector to put in place better controls to ensure that whatever actions have occurred—whether it be misconduct, or maybe not misconduct but something in the realm of misbehaviour—do not occur again.

That is my experience. I have seen that firsthand. I commend the staff of the Corruption and Crime Commission. They have a very difficult job. I commend all those who sit in a position of having to make decisions and take evidence and make the final call, and particularly the role of the commissioner, who sits at the top of that important organisation and has enormous powers to make determinations about serious misconduct. The whole purpose of the CCC is to help secure and maintain public confidence that in the actions of government and of our public service in the management of serious issues like organised crime, these matters are being properly assessed and addressed.

One issue that comes up is bipartisanship. I have had some discussions very recently on this issue. There are some things that sit above politics. This matter is one of those. This matter is about the confidence that we can have in the security and integrity of our systems of government and the way we operate, the confidence that we can have in the integrity of members of this place and the way they behave, and the confidence that we can give to our community that matters will be dealt with impartially, quickly and effectively. That is absolutely vital. Therefore, the issue of bipartisanship in this appointment should be maintained. I would call on the Premier and those who support this bill to reconsider. This issue has become very much a partisan issue, and that is unfortunate. I would ask that we reconsider this appointment and that we come back to this idea of bipartisanship so that that issue of confidence can be held in the highest regard.

I am talking about the views of the Liberal Party. Members opposite have been at great pains to say that there are not many supporters of the Liberal Party, and they can all have a little laugh about that. In the context of arguing about things like the Agricultural Produce Commission, retail trading hours, or even social issues, it is fine to have our argy-bargy and our debates, and we can throw comments across the floor, but we are talking here about the confidence that we can have in the integrity of our most important crime fighting body. In saying that, I mean no disrespect to WA Police Force, because it is at the operational end of all that. It is at the pointy end. It gets to do the prosecutions when they arise. However, in relation to those very sensitive matters that were highlighted recently, like the very sad case in the Department of Communities, when millions of dollars disappeared into someone's gambling habits, and we could point to a number of other examples, we would never want to politicise these issues, because these issues erode, or corrode, the confidence that our taxpaying public, our electors and our community have in the functions of government.

I thank Hon Dr Brian Walker for his comments today. I thought they were very considered. We do not have the numbers to defeat the bill. I expect that this bill will pass by a large majority of members. But I just ask that at this eleventh hour, we stop and pause and consider the implications of what we are doing in relation to maintaining the confidence of people in the good governance of Western Australia. Thank you.

The ACTING PRESIDENT (Hon Dr Sally Talbot): Members, we are considering the Corruption, Crime and Misconduct Amendment Bill 2021. The question is that the bill be read a second time. I am going to give the call to Hon Peter Collier so that he may make his introductory remarks. Members will note that we go from the time on the face of the clocks in the chamber, not their iPhones.

HON PETER COLLIER (North Metropolitan) [1.00 pm]: Thank you, Madam Acting President. Can I just say at the outset that I will not be supporting the Corruption, Crime and Misconduct Amendment Bill 2021, along with

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

the opposition alliance, for a number of what I think are very pertinent reasons, and I will outline those in quite a comprehensive fashion after the lunch break.

Sitting suspended from 1.00 to 2.00 pm

Hon PETER COLLIER: Thank you, Mr Acting President. I repeat at the outset that I most definitely will not support this Corruption, Crime and Misconduct Amendment Bill 2021. I find it yet again an offensive intrusion on the integrity of Parliament and an example of another day of trashing the conventions of Parliament. In this instance we have a one-page bill that says —

(4B) Despite subsection (3), John Roderick McKechnie is reappointed as Commissioner for a period of 5 years commencing on the day on which the *Corruption, Crime and Misconduct Amendment Act 2021* section 4 comes into operation.

It is unprecedented that we have a bill that names someone—that usurps all the processes and names someone. It is unprecedented. Members opposite are covering new ground yet again. They are creating yet another precedent that trashes the conventions of the chamber. Just look at my comments of yesterday to understand why that does not surprise me.

I will not go through the entire process for the appointment of the head of the CCC. Suffice to say, a process was put in place by a previous Labor government that has worked very effectively. Part of that process, of course, is that three applications are provided to the Joint Standing Committee on the Corruption and Crime Commission, which determines whether a person's name is forwarded to the Premier for confirmation. The previous joint standing committee could get neither bipartisan nor majority support. When the committee told the Premier that, he lost the plot. The Attorney General literally lost the plot as opposed to accepting the will of the committee. They lost the plot; they went absolutely feral. They called us corrupt, terrorists, underhand and clandestine. Every sinister adjective we can imagine was thrown at the Liberal Party, because it was the Liberal Party's fault, despite the fact that a Greens member was also a member of that committee. However, the government saw it as an opportunity to lambaste the Liberal Party. That went on relentlessly. The then Leader of the Opposition suggested the submission be put back to the committee for a second deliberation. It was and the committee came back with the same result. Well, they went atomic. It was the atomic solution that I talked about yesterday. I have a few examples of this to show that I am not exaggerating, and there is a plethora of them. There are dozens and dozens of absolutely offensive comments made in Parliament, in the media and publicly. This is the Premier on Thursday, 14 May. It states —

We are trying to get Mr McKechnie reappointed and all the arguments we hear do not address the main issue, which is him. The Leader of the Opposition came with all these reasons about how we had done things wrong and that sort of thing, but clearly that is not true. Clearly, what has occurred here is that the Leader of the Opposition cannot control her own party and that is why we are in this position.

As I said yesterday, in the Liberal Party, our leaders do not tell us how we should vote or act on a committee.

The Leader of the Opposition cannot get a Liberal Party member of Parliament in the upper house who has lost preselection, who, frankly, barely anyone has ever heard of to agree to her position.

How patronising of the Premier to make a comment like that about a member of the upper house because the Premier could not get his own way. The Premier said also on 13 May 2020 —

I do not think that I have ever spoken to Mr Chown, an upper house MP who represents a region—I am not sure which one. Obviously, he is a member of the upper house. Who did Mr McKechnie investigate? He investigated upper house opposition members. That is what has occurred.

Again, at that stage he was quite subtle in terms of the corruption but not so subtle as time wore on. On Sunday, 26 October 2020 when asked at a media conference about John McKechnie, the Premier said —

‘We want him re-appointed. It’s wrong, it’s outrageous. It’s bordering on corruption.

You can’t give in to terrorists. You give in to terrorists they just continue to terrorise and that’s what the Liberal Party is doing.’

Give me a break. I have been through this on many occasions before. We are not terrorists; I am not a terrorist. I find that highly offensive. Members opposite get bent out of shape when I refer to them as bolsheviks, yet they call each other “comrade”.

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Do you think it is okay to call us terrorists? Keep saying that and I will ask for it to be withdrawn. Keep it up. Al Qaeda are terrorists; Liberal Party members are not terrorists. To assume that that somehow will make us change our mind is naive in the extreme. What about this one?

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Hon Darren West interjected.

Hon PETER COLLIER: Grow up.

Withdrawal of Remark

Hon DONNA FARAGHER: I heard Hon Darren West refer to me as a terrorist and I ask that he withdraw it now.

Hon DARREN WEST: My comment was in jest and I meant no offence or disrespect to the member and I withdraw the comment.

Debate Resumed

Hon PETER COLLIER: Thank you, Mr Acting President.

Does the member not have some business he needs to be doing?

On Tuesday, 14 October 2020 the Attorney General accused the Legislative Council Liberals of delivering their verdict on Hon Jim Chown when he said —

‘They told him to get rid of that McKechnie. Get rid of him behind closed doors and don’t give a reason. What this bill is going to do—because I anticipate that it will pass through the Legislative Assembly—is that it is going to flesh these people out.’

When the government tried to bring in this bill originally, it tried to usurp the parliamentary process so it thought it would bring in a bill and say, “Up you” to the committee system. It goes on and on. The Attorney General said in the chamber on 28 May 2020 —

The CCC commenced an operation and put out an interim report. The Operation Betelgeuse interim report— It is important that members listen to this because the language the Attorney General uses is very, very closely aligned to language that the now candidate for the head of the CCC used a few months later. I ask members to listen to this now —

I stress it was an interim report—revealed that there was a cartel within the Liberal Party, called the “Black Hand”. I do not think the “Black Hand” was known to Liberal members in the Legislative Assembly. There were factions in the Labor Party: the left, the right and, where I was in my first term, the left right out! But those factions are known to everybody. When I first went along to the state executive, I saw the left faction sat on the left, the right sat on the right, and the centre sat in the middle.

It goes on. Again, that allusion to the “Black Hand Gang” and the sinister little subgroup of the Liberal Party is worthy of note for when I talk about it a little bit later. Also, on 15 April 2020, Gareth Parker said to the Premier —

‘It is an offense and a breach of Parliamentary Privilege for the committee to reveal its deliberations. How are you 99.9% sure that it is Jim Chown?’

The Premier said —

‘Well the idea that the government members of the committee would not be supportive of the Premier’s recommendation I think is very unlikely.’

That is in itself is very telling. Gareth Parker said —

‘Have they told you that?’

The Premier said —

‘No. I haven’t spoken to them. It’s very unlikely. All I’d say is we are trying to do the right thing about busting corruption in Western Australia. Mr McKechnie has been outstanding. We want to reappoint him. We are trying to do the right thing by getting rid of corruption in our state and we are using every measure at our disposal to try to get him reappointed. His position expires on April 28th. Going to the parliamentary committee with someone of that stature and ability. I think most people would have thought was just a formality. The idea that he was rejected by the Liberal MP on the committee I just find astounding and so...’

Gareth Parker said —

‘I’ve said repeatedly that Mr McKechnie should be reappointed on this programme. But did they come back to you with an alternate name?’

The Premier said —

‘No, so in effect what the Liberal MP on the committee has done has said go back through the reappointment process. We are not doing that. Mr McKechnie is the nominee. He will be the nominee. Until such time when he is reappointed there won’t be a head of the CCC. So I’m not going to allow the Liberal Party in this state to scuttle the best appointed to the CCC to run anti-corruption matters in WA. So the ball is in the Liberal Party’s court. They need to help us get this appointment through.’

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Yet again, the Premier is making this highly political and making John McKechnie’s appointment absolutely untenable by saying, “It doesn’t matter what you do, we are not going to abide by it. We are going to have McKechnie as the head of the CCC.” That is why we are now here. That is why we are debating this bill. They will not abide by the rules of the Parliament so they are just going to trash them.

This next quote is overtly political. It is extraordinary. On 28 May 2020 the Attorney General, in the Parliament, said —

The election is 40 weeks away. This will be a much shorter time than the 54 weeks it took the Liberal government to install Mr McKechnie. The people of Western Australia will have a clear choice at the forthcoming election. If they vote Liberal, they will shut out the person who the Leader of the Opposition, the member for Nedlands, the member for Dawesville et al say is the most outstanding nominee. If they want to shut out the best corruption commissioner the state has ever had, if they want to cover up and bring to a stop Operation Betelgeuse and stop those warnings from coming, and if they want to cover up corruption, they should vote Liberal. If they want Mr McKechnie, the best corruption and crime fighter the state has ever seen, they should vote Labor. That will be the choice.

There it is in black and white. The Attorney General said it. It is a political position. It is a political appointment. We do not need any more clarity than that. It is there.

Then, to make matters worse, he continued after the election. On 16 June 2021, he wrote an extraordinary inflammatory opinion piece. I cannot believe that the Attorney General wrote this, it is just extraordinary. It states, in part —

Mums and dads who get unwanted attention from the Australian Taxation Office can’t just sack the Commissioner of Taxation. Motorists caught speeding can’t impound the multanova. So why should politicians get away with ending the career of WA’s corruption watchdog in the middle of an investigation into MPs rorting their entitlements?

It’s just dodgy. Today the McGowan Labor Government will introduce legislation to reappoint John McKechnie QC as Western Australia’s Corruption and Crime Commissioner.

Then he goes on —

A subsequent report by the CCC in November 2019 revealed that Liberal members of the Legislative Council call themselves the “Black Hand Gang” and used taxpayer money to fund lavish functions at high-end restaurants.

The Legislative Council whip at the time was Phil Edman, who became nervous when the CCC seized his laptop computer. “It’s got everything, all the emails between all of us, Black Hand Gang dinners, it’s got the video,” the CCC captured him telling his former colleagues.

“That McKechnie will expose it all.” Funnily enough, Mr McKechnie’s support among the Opposition nosedived shortly afterwards when his contract came up for renewal by April last year.

It goes on and on and on. Again, the insinuation there, quite clearly, is that we are protecting Phil Edman; we are protecting the laptop. As I said yesterday, nothing could be further from the truth. I will never stand in the way of the CCC having the laptop—never. It cannot have the privileged information. I stated that yesterday. I challenge any single person in this chamber to say that the CCC can have their privileged information or anyone can have their privileged information. That is all we have done. All we have done is to ensure the integrity of the Parliament.

It goes on and on and on. There are so many quotes, I want to move on. The Premier continued it yesterday, 23 June, when according to the uncorrected *Hansard* he said, in part —

That was what we committed to. What is going on here is actually corrupt. The reason the Liberal and National Parties do not want Mr McKechnie reappointed is that he investigated their members; that is why.

...

You are totally and utterly conflicted. He investigated the upper house Liberals. He found corruption in their ranks and so now the upper house Liberals cannot stand him and do not want him reappointed. That is actually corrupt. That is corrupt on the part of the Liberal Party. We will not stand for that. We will not stand for that and I will not stand for that—that level of corruption.

The Premier is calling me corrupt. I tell the Premier: I am not corrupt. I have not had anything more than a speeding fine. I tell him right now that if standing up for the conventions of the Parliament makes me corrupt, so be it; I will do so gladly. But I am not corrupt and I can say quite categorically, hand on heart, that I have great confidence in saying that none of my colleagues is corrupt. As I have said, if there is an instance whereby the Premier can find evidence that any of us have been implicated in corrupt behaviour, he should reveal it. Not agreeing to the procedures of the Parliament does not make us corrupt. It simply does not. It might make for nice political fanfare, but that is not accurate.

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

With that, of course, they followed the process. The Premier then decided that what he would do is find a way to get his own way. After the proposal for Mr McKechnie’s appointment had gone to the committee twice, the Premier wrote a letter to the Leader of the Opposition, saying, “Come on, let’s get rid of these minor parties and let’s, you and I, just have an agreement so we can get Mr McKechnie across the line—bipartisan support”, sidelining the committee. A letter from the Premier to Hon Liza Harvey, in part, says —

The interim report released on 17 December 2019 was critical of expenditure by Mr Edman in respect of social activities of a group which exists within the Parliamentary Liberal Party and particularly the Legislative Council, known as the “Black Hand Gang” (a name associated with secret criminal groups, and which has no doubt been adopted in jest). However, no member of the public should be able to suggest that the reason why Commissioner McKechnie QC does not have bi-partisan support is due to this investigation. It is therefore critical that Commissioner McKechnie QC should now receive bi-partisan support, to avoid any diminution of public confidence in the great institution of Parliament.

Oh my goodness! You have to be joking. He wrote that letter. Of course, that is garbage. Again, it is talking about this sinister “Black Hand Gang”. I make one thing perfectly clear, again for the public record—I went public on this and I did media on this and I mentioned it in Parliament—the “Black Hand Gang” is a colloquial term that has been used for decades for all members of the Parliamentary Liberal Party in the Legislative Council. It is not some sinister little group within the Parliamentary Liberal Party that involved Phil Edman. It is nothing like that. But every single piece of correspondence, every time they went on the news, and as we will find out in a moment, and in everything that was carried through to Mr McKechnie alluded to the fact that it was this sinister little group. It was not.

With that Hon Liza Harvey wrote back to the Premier and suggested that he resubmit the nomination, as I mentioned earlier. They did. The committee said thanks, but no thanks. Again, as I said yesterday, we do not know what the committee knows. No-one knows unless someone from the committee leaked something. We do not know why the committee said no to Mr McKechnie, not once but twice. They said no twice.

Then, not accepting defeat, not saying, “Actually we need to abide by this decision”, the Attorney General decided that he would write a letter to the Leader of the Opposition and try to do a sweetheart deal with the opposition. In that letter he said —

Following the conclusion of the second reading speeches on this Bill, I had discussions with a number of senior Liberals who are looking for a compromise way forward other than to complete all stages in the Legislative Assembly and move on to the Legislative Council, where the Hon. John McKechnie QC’s good character may be undermined by some members.

...

As one senior Liberal commented to me, this is a “sensible and orthodox” way of going forward and that Mr McKechnie QC was regarded as an outstanding appointment to that position when first appointed by the Barnett Government. It would allow for the reappointment of Mr McKechnie QC whom you have indicated your strong support for.

The Premier has asked me to write to you seeking your concurrence with this approach, in which event the Bill will be brought back on in the Legislative Assembly and during consideration in detail the attached amendment would be moved and the clause naming Mr McKechnie QC deleted.

Again, the government was trying to bypass Parliament and have a little sweetheart deal with the opposition across the chamber. The Premier and Leader of the Opposition would shake hands and say, “Yes, we’ll do it.” They would sideline the crossbench and the Greens and say, “You don’t matter; you are irrelevant. We will do it whether you like it or not.” That is absolutely offensive. Not only that, I got text messages from the Attorney General personally asking for my support for this. I absolutely ignored them. All I am saying is that they will stop at nothing. They do not seem to understand that we have procedures here in Parliament. As I have said over and over again, you do not stamp your feet when you do not get your own way and you do not have a hissy fit; you just accept the conventions of the Parliament. Perhaps, just perhaps, you do not get your own way all the time.

You do not sack the former head of the joint standing committee because she did not do what she was told to do. You do not sack the President of the Legislative Council because she did not do what she was told to do. Perhaps, just perhaps, they were doing what they should have done.

The opposition got some advice on that bill because the second reading speech alluded that somehow there was something inappropriate. The legal advice from Grant Donaldson read, in part —

My *second* observation concerning the Second Reading speech arises from the following assertion:

“In view of the resounding support of both the nominating committee and the Leader of the Opposition for the reappointment of Mr McKechnie as the continuing Corruption and Crime

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Commissioner, the government has no intention of putting any other name forward to the joint standing committee and therefore there exists an impasse in the appointment process.”

...

It is trite to observe that it matters not that the Leader of the Opposition and the nominating committee support the reappointment of Mr McKechnie.

To the extent that there is an “impasse” in the appointment process, it arises because the Premier will not recommend a candidate other than Mr McKechnie.

There is no failure in the processes prescribed by the Act, or indeed in the design of such processes. That the Joint Standing Committee might not, by majority and in a bipartisan way, support appointment of the Premier’s recommended candidate is an intrinsic part of the mechanism for appointment, and has been from the commencement of the Corruption, Crime and Misconduct Act 2003.

Hear, hear! Everything that happened was absolutely appropriate, apart from what the Premier and Attorney General were trying to do. They were trying to bypass the procedures. It is almost: why on earth are the Premier and Attorney General so intent on appointing Hon John McKechnie? As I have said in this place before, I have never had an issue with John McKechnie. I have met him a couple of times, vaguely, at some social events, but I cannot remember ever having a conversation with him. I had nothing against him, but the Premier and the Attorney General were making his position untenable. There is no way he could then be seen as impartial, as a direct result of the intervention of the Attorney General and Premier. That of course made us more suspicious than ever. Having said that, if the joint standing committee came back and said it had reconsidered and agreed that Hon John McKechnie should be the appointee, I am sure that as a party we would have agreed to that, but we did not have that. Not only that, there is a notion that somehow the CCC went into freefall since John McKechnie left; that it was not doing anything and it had become redundant. Rubbish. Listen to the Joint Standing Committee on the CCC public hearing on Wednesday, 7 October when the CCC was interviewed. The transcript states —

Hon JIM CHOWN: Mr Ellis, congratulations on your first annual report on behalf of the commission. Obviously, you are an extremely busy person, and taking up this role as acting commissioner has probably put a major burden on your leisure time as such. In regard to the matter where you have stated that it creates uncertainty for the commission in not having a full-time commissioner, have you expressed this opinion in writing to the Attorney General?

Mr Ellis: We have expressed to the Attorney General that it is desirable for a full-time commissioner to be appointed. We have also expressed the view that it is desirable for there to be a second acting commissioner—sort of a tag-team approach. As you would be aware, that is not an appointment that can happen overnight. The same process needs to be followed.

Hon JIM CHOWN: It has been nearly six months, acting commissioner. And what was the response?

Mr Ellis: Is it appropriate for me?

The CHAIR: Absolutely!

Mr Ellis: My understanding was that he was eager to address the issue. No doubt he will be able to say what his priorities are, but my understanding of his priority was to procure the reappointment of former Commissioner McKechnie.

The CHAIR: From my recollection—Mr Warnes might be able to help me—the issue about having a second acting commissioner has been a live issue for a long time, as I understand it. This is not a new thing.

Mr Warnes: I think previous to Mr Ellis’s first appointment, there were two commissioners. Certainly when I started at the commission, they were in that transition to one, with Mr Douglas finishing his term and Mr Shanahan continued. Since that period, we seem to have only one acting commission. It has been great to have an acting commissioner when former Commissioner McKechnie had a conflict of interest with matters—Scott was able to jump in—but we do not have that luxury now. We are fortunate that we have not had that and been confronted with that particular issue yet, but it is around the corner I am sure.

As I said, it is not unusual to have just one acting commissioner. The transcript continues —

The CHAIR: While we are on that matter, there have been some indications, in both the report and I think publicly, that the commissioner has ongoing investigations into electorate allowance matters, if I can put that in broad terms. Given that there is no decision at this stage from the court, how active is that investigation, or is it effectively in suspension until you get more legal guidance?

Mr Ellis: We are still actively pursuing that investigation.

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

This nonsense that the investigation is stalled as a result of no John McKechnie is rubbish. That came from the CCC: it is still actively pursuing that investigation, and good luck to it. Members should remember this for a point I am going to raise in a moment. I continue to quote the transcript —

Hon JIM CHOWN: Can I just ask why the Attorney General received a full list of CCC investigations?

Mr Ellis: I beg your pardon.

Hon JIM CHOWN: Can I just ask why the Attorney General received a full list of investigations underway within the CCC?

Hon ALISON XAMON: That came out in the course of a line of questions within the Legislative Council. The Council was advised that the Attorney General had requested and received a full list of ongoing investigations from the CCC.

Mr Warnes: I do not think he got a full list of investigations. He got an indication of some of the serious investigations that we were undertaking by nature of them, not the specifics that would be operational.

Hon ALISON XAMON: I am just recalling that this has been the source of some debate within the Council.

It goes on. The Attorney General got a list of the investigations. We know that because in a letter from the Premier to the Leader of the Opposition he mentioned they had got a list of the investigations the CCC was looking at. The transcript continues —

Hon JIM CHOWN: On any previous occasion has an Attorney General requested such information from the CCC to your knowledge?

Mr Warnes: Not to my knowledge.

Hon ALISON XAMON: This is the first time.

Hon JIM CHOWN: This is without precedent.

Mr Warnes: I guess, administratively, he wanted to know the impact of not having a reappointed commissioner and we were giving him a sense, administratively, on what would happen at that point in time when we were trying to understand what the impact was.

The CHAIR: Clearly, you failed to convince him.

Mr Warnes: Clearly.

The notion that the CCC has folded and is not doing anything is garbage. Another CCC report was tabled in this place today; it is obviously working. Its investigation into Operation Betelgeuse is continuing in earnest. Not only that, the Attorney General has asked for a list of operations from the CCC, for the first time ever, and was provided it. This relationship between the Attorney General and the head of the CCC is very, very cosy. This excerpt from the procedure and privileges committee's sixty-first report was read into *Hansard* today by Hon Nick Goiran. This message shows the negotiation between the Attorney General and the head of the CCC, a position that is meant to be completely impartial. I quote —

Finally, in an sms message sent by the Commissioner of the CCC to the Attorney General dated Monday, 22 July 2019, the Commissioner wrote:

The DPC has delivered a USB in accordance with the requirements under the CCM Act. Any privileged material was identified and removed prior to delivery. I have ordered that the USB remain in the secure exhibit room. In the absence of any indication to the contrary I will release it to the investigators later this week. Enjoy your last night in Bali.

There is evidently a strong cosy relationship between the Attorney General and the former head of the CCC. That leads one to wonder why the Premier and Attorney General are so insistent on reappointing John McKechnie. He had a good term in office—he had a term in office; whether it was good is open to interpretation—he is pushing 70 and it is time for retirement, potentially, and to go into other things. But no. For some reason, the government decided, “No, we’re going to have him whether you like it or not, and if we cannot get it through the normal procedures, we’re going to bulldoze it through by taking control of the Parliament”, which is exactly what is happening today and exactly what everyone is a part of, and it is something that government members will have to live with. This is an extraordinary precedent. With that, as I said, one has to ask: is there something? Up to that point, I was willing to give John McKechnie the benefit of the doubt. Perhaps it was just the Premier and Attorney General carrying on with their vitriolic attacks on the Liberal Party for nothing other than political purposes, saying that the Liberal Party is tainted with corruption. It played out nicely in the media and for most people who do not understand, they think that somehow the Liberals are protecting corruption and that we dominated the Council, which we did not. They kept

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

saying that the Liberals dominated the Legislative Council. Members need to remember that we had nine members out of 36 members. We did not dominate the Council at all. It just so happened that every other party agreed with the Liberal Party. Given that every other party, all seven of them, agreed with us, perhaps the Labor Party needs to do a little soul-searching.

As I said, I was willing to give John McKechnie the benefit of the doubt until he delivered a speech on 25 November 2020 at St George's Cathedral. Just how far he has been drawn into the web of the Attorney General and the Premier is exposed in this speech. I say quite categorically that, as a result of this speech, John McKechnie, quite frankly, cannot be the head of the Corruption and Crime Commission. He has rendered himself ineligible as the head of the CCC. He is evidently not impartial. I will read parts of his speech. He said —

As you no doubt know, I was not reappointed as Commissioner when my 5 year term concluded. Since 29 April 2020 the Commission has not had a full time Commissioner. Unless the Liberal party dramatically changes its stance, this state of affairs will continue indefinitely. Because it is nothing less than an attack on the functioning of the Commission, it is important for the community to understand what has happened. As you will hear shortly, there is no explanation as to why it has happened.

Listen as I read through this, members, to see whether there is any connection or similarity between the language used by John McKechnie and that used by the Attorney General and the Premier. He continues —

No, I view the decision not as a personal attack, but rather a deliberate and partially successful attempt to lessen the effectiveness of the CCC.

...

Under the CCM Act, before an appointment or reappointment of commissioner or acting commissioner can be made the JSC must reach majority and bipartisan support: s9 (3)(a).

- The current membership is Margaret Quirk (Labour) (Chair);
- Jim Chown Liberal (Deputy Chair);
- Matt Hughes (Labour);
- Alison Xamon (Greens).

Section 9 (3a) seems to have been added to the bill during debate and without much thought. It directly contradicts s 9 (4) which requires only that the Premier consult with the JSC. I add in parenthesis that the CCM Act is not the finest example of the draftsman's art. It is, in places a mish mash of concepts. The fact that 2 contradictory sections appear next to each other begs a question about legislative scrutiny. The Legislative Council prides itself as being a house of review.

Because of this poorly thought out addition, it is open for two members to emasculate the CCC forever by declining to approve an appointment. If a member of the JSC was aware of an investigation into their actions or those of a friend, that person, with one other, could stultify the appointment of even the most qualified person.

One does not need a PhD to work out what he is insinuating; that somehow the decision was made to protect their friends. He continues —

Aah but you say, surely there are protections built into the process to ensure that any decision is fair and accountable. Well, no actually.

In the present case, I was the first Commissioner to complete a full term and to offer to continue. The nominating committee, the Chief Justice, Chief Judge and community representative assessed me as the outstanding candidate. Two other candidates were assessed as suitable.

The Premier put forward my name to the JSC for its consideration. The JSC was unable to give majority bipartisan support, effectively rejecting the nominating committee's unanimous recommendation.

The former Leader of the Liberal party, Ms Lisa Harvey then wrote a strong letter in support of my reappointment. In a stunning demonstration of her lack of authority within the party, the JSC rejected the nomination a second time.

So this guy is not biased in any way? He is not passing a value judgement on this? Listen to the language. This speech was given by a candidate for the role of commissioner of the CCC. He continues —

Why did the nomination get rejected? Only the 4 members know. A media release put out by 3 members but disavowed by Mr Hughes said reasons would not be given as it would disclose confidential third party communications and interfere with the operations of the Commission.

Extract from Hansard

[COUNCIL — Thursday, 24 June 2021]

p1981b-2010a

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

The latter reason is complete nonsense. As to the former, a letter to the Chair Ms Quirk seeking basic procedural fairness—to know what was said about me—has gone unanswered.

Mr Hughes has stated in Parliament that he saw nothing which would suggest rejection of the Commissioner. So real questions remain as to whether there ever were any third party communications.

Listen to this! He continues —

The JSC could answer these questions but has chosen not to do so.

Apart from the 4 of them, nobody else knows. The JSC deliberations are confidential and so cannot be shared. The Liberal party unsuccessfully moved to refer Mr Hughes to the Privileges committee for disclosing confidential information from the JSC (he didn't).

It would then be extreme hypocrisy if confidential information was shared by a member of the JSC with members of the Liberal party. There is nothing to suggest that any member of the JSC has in fact breached its confidentiality requirements. That means of course that the rest of the Liberal party have locked themselves into a position concerning an appointment vital to the functioning of an effective anticorruption agency without knowledge as to the facts. How have we come to this?

Perhaps we believe in Parliament, Mr McKechnie, and that you are not above Parliament. The speech continues —

The appointment of a Commissioner should not be a matter for party politics, though it has been on occasions in other jurisdictions. If the JSC has reached its position for party political reasons, why not say so? After all that is the purpose of the JSC and why it has members of parties other than the current government. Refusing to appoint a Commissioner in these circumstances may be likened to refusing to accept the results of a free and fair election—destroy a norm of governance without regard to the wider harm that will cause.

If that is not hypocrisy in the extreme, I do not know what is! He continues —

The government through the Premier, has insisted that there is and will be no other nomination considered by it. The Liberal party, which caused the present situation, could have resolved the issue months ago but has not done so.

Again, he is leading into language used by the Premier. He is saying to the Liberal Party, “Tell your guy on the committee to do what he is told”, which is exactly the language used by the Attorney General and the Premier. The speech continues —

Ms Harvey refused to put an amendment to the CCM Act proposed by the Attorney General to the party room for consideration. Now the clock has run out. Those who are happy to have a diminished CCC have won.

That is garbage, Mr McKechnie! Quite frankly, John McKechnie needs to do some soul-searching. He has been drawn into the evil web of the Premier and the Attorney General. They had a hissy-fit and spat the chewy because they could not get their own way and that is why we are sitting here, once again, breaking precedent on the appointment of the CCC commissioner. Mr McKechnie should be impartial, but he has been drawn into their web. It goes on —

Mr Chown and Ms Xamon are both members of the Legislative Council.

There is better to come, so listen. This speech was given by John McKechnie. He continues —

In December 2019 the Commission published a report into misconduct risks in electorate allowances for members of parliament. In that report an opinion of misconduct was formed in respect of a former Liberal member. The report also mentioned the existence of the Black Hand Gang, a name given to themselves by a group of Liberal Legislative Council members. The report foreshadowed further investigations.

Again, he has been drawn into that web. He is assuming that there is a little sinister group, an idea perpetuated by the Attorney General and the Premier. John McKechnie has been sucked in by it. It is wrong, Mr McKechnie! He continues —

The liberal member possessed a laptop computer which was lawfully seized by the Commission under warrant. This is how he described some of its contents:

John McKechnie said this stuff in a speech at St George's Cathedral —

And there's enough stuff on that f***** computer to bury f***** a lot of people and ruin their political careers forever...There's videos and pictures and lots of lovely little collections that I've got on there.

In other States, Parliaments have closely co-operated with anticorruption agencies while preserving parliamentary privilege. This is what one would expect from the legislative arm of government—a willingness

Extract from Hansard

[COUNCIL — Thursday, 24 June 2021]

p1981b-2010a

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

to fully co-operate with a law enforcement agency while preserving the important though limited role of parliamentary privilege.

Not so in WA. The Liberal dominated Legislative Council responded to the investigation by seizing exhibits from the Commission especially the laptop computer. It targeted ordinary public servants in hearings. Instead of seeking to work with the CCC, remarkably the Legislative Council launched legal action in the Supreme Court naming the CCC as Defendant. The litigation is ongoing.

I need to make two vital points on that. Evidently, John McKechnie is starting to believe the mantra that he can walk on water, which has been prophesised for months on end by the Premier and the Attorney General. He is starting to believe in his own infallibility, which is a shame, because it has affected his judgement. He is using the stuff about the “Black Hand Gang” as though he does not know. Remember that he made that speech in November 2020, months after all this started—almost a year. I wrote to John McKechnie for his benefit, because he should know better. Not only should he know better, but he does know better. I wrote to him 12 months before, on 20 December, regarding the CCC report and explained the composition of the “Black Hand Gang”. I will not read the whole lot, but I will quote my letter in part. It states —

The “Black Hand Gang” reference has attracted media interest over recent days.

By way of clarification, the “Black Hand Gang” is a collective label or group nickname that has been applied for some 40 years to refer to all Liberal Party Members of the Legislative Council.

I did that to provide clarity for him. I did not care whether he continued the investigation just as long as he understood what the “Black Hand Gang” referred to. I got a response from Ray Warnes. It said —

Dear Mr Collier

...

Thank you for your 20 December 2019 letter to the Corruption and Crime Commissioner clarifying the membership of the “Black Hand Gang”.

The Commissioner has asked me to respond on his behalf as he is currently on leave.

So, he had seen the letter and was responding. It continues —

The reference to the report to the “Black Hand Gang” is in the context of examples where electorate allowances are alleged to have been used inappropriately by a former Member of Parliament. The examples, along with other instances highlighted in the interim report, illustrate a serious misconduct risk for the Government and Members of Parliament to consider.

Your clarification of membership will be useful should there be any further reference to the “Black Hand Gang” in future reports on the misconduct risks in electorate allowances.

Do members know how useful it was? He still did not know what was going on 12 months later as he mentioned it in a speech at St George’s Cathedral. That is how useful it was. My clarification was not useful because it did not fall into the mantra that somehow there is a sinister little group of Liberals who have acted inappropriately and that all their buddies on this side of the chamber are protecting them.

As I have said over and over again, they can have the laptop. If there has been any illegal action, they will suffer the consequences. My colleagues all agree with that. We have never ever said anything to the contrary. We all agree with that. That is not an excuse to completely usurp the processes and procedures of this chamber. Do not use that as an excuse—that political high ground that the Premier and Attorney General use day after day, in unedifying displays, to try to categorise everyone on this side of the chamber as corrupt. They use that as an excuse to pass this insulting piece of legislation today.

What we have here today is a precedent that will live forever. Members opposite are going to be part of a government that sets a precedent that means if a government cannot get its own way, it will change the rules. That is what they are going to do. As I said, they have a man who is evidently now inappropriate for the position; he is tainted by the political paint that they have garnished him with. In addition to being of the same colour, he is speaking the same language as members opposite. That is terrible. The head of the Corruption and Crime Commission is sacrosanct. The head of the CCC should be above politics. Everyone knows that. As a direct result of the actions of Labor Party members—particularly the Premier and the Attorney General—consistently, unambiguously and over a long period of time, they have made John McKechnie’s position as head of the CCC absolutely untenable. The CCC will have absolutely no moral authority if he becomes head of the CCC again. As I said, we are being asked to pass a bill that is unprecedented. It appears that precedents and convention mean absolutely nothing to this mob—it is their way or the highway, which is such a shame. As far as members on this side are concerned, we, as a group, really do respect the institution of Parliament.

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

In closing, I want to make a few things clear. As far as this issue is concerned, we respect the procedure for the reappointment or appointment of the head of the CCC. We respect that process. We respect the Joint Standing Committee on the Corruption and Crime Commission and its deliberations. We respect the fact that the chair of that committee was a Labor member. We respect the fact that the committee made the decision not once, but twice. In addition, we respect the process to have another go. That did not happen. We do not respect the fact that the government did not agree with the committee so it tried to bypass committee procedures and go its way or the highway. We do not respect the constant lambasting from the Premier and Attorney General that somehow categorises members on this side of the chamber, particularly Liberal members, as terrorists or corrupt. We did not control the Legislative Council in the last Parliament. I was Leader of the Opposition in the Legislative Council. As I said before, trying to get people on our side to vote on legislation or motions was like herding goldfish. It was very, very difficult. In this instance, it was not an issue at all. Every single non-Labor member, including the Greens, supported us on this issue. It was nothing to do with the Liberal Party controlling the Legislative Council. If the Leader of the House had been able to secure one vote and the Greens, she would have got it through, but there was no negotiation at all. That is in their DNA—the atomic solution. They get their own way or they just blow up. That is what we have here. Labor Party members cannot get their own way, so they are going to blow up, stamp their feet and go out to the media ad infinitum and call the Libs corrupt. Their justification for putting John McKechnie back in that position is that the Liberals are corrupt. Quite frankly, if I were John McKechnie, I think I would do some serious soul-searching on this issue. It is evident from the speeches made thus far that the only members who are going to support this bill are Labor Party members, yet again. Rather than lambast everyone else, they should read the tea leaves and say, “Perhaps this is not a good idea.” The government should go back to square one and follow the integrity of the Parliament.

HON MARTIN ALDRIDGE (Agricultural) [2.47 pm]: I rise to speak to the question that the Corruption, Crime and Misconduct Amendment Bill 2021 be read a second time. I think members who have spoken before me today have set out quite well the history of this issue and where we have come from regarding the appointment of a Corruption and Crime Commissioner following the expiry of the term of Hon John McKechnie.

This is quite an extraordinary bill in many ways. It is extraordinarily short, with just four clauses to consider when we reach the Committee of the Whole stage. It is extraordinary in the way it seeks to change the convention by which Western Australia has traditionally appointed a commissioner of the Corruption and Crime Commission. This is of great concern. Of more concern is the way in which we have reached this point. That is what I want to go to today. I want to get to the point of why I cannot support the bill and why other members should not support the bill.

Before I go any further, I acknowledge in the public gallery the students and staff from Central Midlands Senior High School in Moora, and welcome them to the Legislative Council.

It seems to me that because government members have not been able to get their own way in the statutory process for appointing a commissioner, they are no longer prepared to accept any other outcome than the appointment of John McKechnie. Members who have a copy of the Corruption, Crime and Misconduct Act 2003 need only turn as far as page 15. I refer to section 9 in part 2 of the CCM act, which provides, in part —

- (1) There is to be a Commissioner who, in the name of the Commission, is to perform the functions of the Commission under this Act and any other written law.
- ...
- (3) The Commissioner is to be appointed on the recommendation of the Premier by the Governor by commission under the Public Seal of the State.
- (3a) Except in the case of the first appointment, 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.

Subsection (6) provides —

The office of Commissioner is not an office in the Public Service.

When we get to the Committee of the Whole stage, it will be interesting to find out why the other two eligible candidates who were submitted by the nominating committee were ineligible to be recommended for appointment by the Premier to the joint standing committee. As members would be aware, “nominating committee” is defined earlier in the act at section 3 as follows —

nominating committee means a committee consisting of —

- (a) the Chief Justice; and

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

- (b) the Chief Judge of the District Court; and
- (c) a person appointed by the Governor to represent the interests of the community;

Why were the other two people who were put forward to the Premier not worthy of nomination to the joint standing committee of the CCC to be appointed commissioner? I will speak about this matter later in my contribution, but I do not think the case has been made. In fact, the case has far from been made for why section 9 of the CCM act should be ripped up and put in the bin by the Corruption, Crime and Misconduct Amendment Bill 2021. Members who are voting for this bill need to stand in their place this afternoon this evening or maybe tomorrow morning and put on the record why they believe section 9 needs to be torn up and put in the bin and why Mr McKechnie, one of three eligible nominees put forward by the nominating committee, should be the one appointed. The Parliament is effectively conducting the interview process for the commissioner of the CCC, instead of the process that would normally take place under section 9 of the CCM act. We are conducting the job interview and, at the end of it, the 36 members of this chamber, along with the other place, will decide the outcome. How many members have met Mr McKechnie?

Hon Darren West: His daughter lives in Carnarvon.

Hon MARTIN ALDRIDGE: Hon Darren West has indicated he knows Mr McKechnie. I look forward to his contribution in 38 minutes, setting out the reasons why Mr McKechnie is the most eminent person to be appointed the Corruption and Crime Commissioner. If we are moving towards a US Senate-style confirmation system for the appointment of these types of offices, I want to know from the government when we will have an opportunity to examine the nominee. Will the parliamentary secretary allow a committee of this house to conduct that examination on behalf of this place? This has to be done. The highest priority of the McGowan government, with absolute control, is to appoint this commissioner tonight, so will the parliamentary secretary support a resolution that calls the Premier's nominee to the Bar of the house so that we can examine him?

The parliamentary secretary has two options. We are the ones who are now taking responsibility, through this amendment bill, for interviewing and approving the nomination for the Corruption and Crime Commissioner, an office that has extraordinary powers. I ask members who are not that familiar with the operations of the CCC to turn to part 6 of the act, which commences at page 100. Extraordinary powers exist within the office of the commissioner, powers not even our police have, that do not have judicial oversight and that he can exercise alone. That is why we have a parliamentary inspector and a joint standing committee to oversee the CCC; from a very early time, the need for regulation of these extraordinary powers has been recognised.

I draw members' attention to section 100, "Power to enter and search premises of public authority or officer", which states —

- (1) An officer of the Commission authorised in writing by the Commission may, at any time without a warrant —
 - (a) enter and inspect any premises occupied or used by a public authority or public officer in that capacity; and
 - (b) inspect any document or other thing in or on the premises; and
 - (c) take copies of any document in or on the premises.

Members opposite wonder why the Standing Committee on Procedure and Privileges took the extraordinary actions that it did by commencing action and proceedings in the Supreme Court of Western Australia. It is because, members, you are public officers. Your electorate offices belong to the Department of the Premier and Cabinet. Under section 100, the commissioner or an officer of the commission can enter, inspect and seize without a warrant. That is not the reason alone. That power has existed for a long time. I will come to the sixty-first report shortly, but that is the reason that the Legislative Council has taken action in the Supreme Court against the CCC and others in respect of the powers it has exercised against Parliament.

I really hope that the parliamentary secretary will give some regard to the two suggestions that I have just given him, because I cannot, and I cannot see how any other member of this chamber could, endorse by statute the nomination of a person, whom most in this chamber have probably never set eyes on, to the highest paid public office in Western Australia with unquestionably the most significant powers available to them. On what basis are members sticking up their hands this afternoon, this evening or tomorrow morning to say that they are satisfied individually that the decision that the government is about to take is the right one?

As I said, we are heading towards a half-baked United States-style confirmation system without the ability to examine the outstanding nominee, as the government calls him. There are two options. We can allow one of Parliament's committees to conduct inquiries on our behalf, which probably would be my preference, or, if we do not want to impede debate, let us issue an order and have the outstanding nominee appear before the Bar of the

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

house. Then, whether prior to the conclusion of the second reading or maybe when we enter the Committee of the Whole stage or maybe at some other time, members can examine this outstanding nominee and ask him why we should support this extraordinary amendment bill that the government seems intent on ramming through Parliament this evening.

I will turn to a few different documents in a moment, but I want to start with the second reading speech. We do not have to go far. In the first paragraph it states —

It seeks to restore Hon John McKechnie, QC, the best corruption fighter Western Australia has ever had, as Corruption and Crime Commissioner.

This statement is quite interesting; it depends on which lens you look at it through. Another point of view could be that in the five-year term of Commissioner McKechnie we have seen some of the most significant cases of corruption in our state's history, under his watch. How operationally effective has the commission been in deterring and preventing corruption when, during his term, we have seen some of the worst corruption in our state's history? As far as I can tell, none of that was covertly uncovered by the CCC, either.

Moving on to the second paragraph of the second reading speech, it states —

In 2013–14, the last financial year before Mr McKechnie, QC, was appointed by the Barnett Liberal–National government, reports from members of the public accounted for just 12 per cent of total allegations investigated by the CCC. In 2019–20, when the term of Mr McKechnie, QC, expired, the proportion of allegations to the CCC from members of the public had risen to 45 per cent. It is difficult to think of a more ringing endorsement of the leadership of Mr McKechnie, QC.

I am not quite sure how those facts—if, indeed, they are facts—prove the case that this is a ringing endorsement of the leadership of Mr McKechnie, QC. Is it that corruption has been out of control under the watch of Mr McKechnie? Further along in the second reading speech, there is talk about the corruption that has been uncovered by the state's best corruption fighter. It starts on the second page of the second reading speech and goes through a list of examples: the North Metropolitan Health Service's procurement issues, involving a public servant billing taxpayers \$170 000 for home renovations while accepting \$200 000 worth of travel; Craig Peacock, who fleeced taxpayers of more than \$500 000 by double-dipping his allowances; Sir Charles Gairdner Hospital clinical trials manager Judith Innes-Rowe who, at the estimate of the State Solicitor's Office, ripped off taxpayers to the tune of more than \$1 million in false representations of overtime; and Paul Whyte, who siphoned an estimated \$22 million. We need to keep in mind that this all happened on Mr McKechnie's watch.

The last sentence of that paragraph states —

The failure to reappoint the commissioner who presided over these operations, which have saved taxpayers tens of millions of dollars, has been a further stain on Western Australia.

This is the parliamentary secretary's second reading speech, so when we get to clause 1 in committee, I will want to know how much of the money he claims has been lost through corruption has actually been recovered. It is claimed in his second reading speech that the best corruption fighter in Western Australia has saved taxpayers tens of millions of dollars. As far as I can tell, corruption is out of control. Have we recovered any of that money? At the estimate of the State Solicitor's Office, the state was fleeced of \$22 million by Paul Whyte. How much of that has been recovered?

Further along in the parliamentary secretary's second reading speech there is the following statement —

The inability to reappoint Mr McKechnie was met with public dismay and scepticism.

I think someone is making things up at this point. This is a long-running issue, and I am not sure that I have had one contact from a constituent on it. I think the media has taken great interest in it and I think the Attorney General has great interest in it—mostly, if not exclusively, for political benefit, leading into an election campaign. I am not sure that that statement is true. The second reading speech states —

WA Labor went to the March election promising to restore Mr McKechnie, QC, as commissioner. After the election, on advice, —

I pause there; I would like to know, parliamentary secretary, on whose advice, and whether the parliamentary secretary will table that advice —

it was determined that the best way to proceed would be to re-commence the appointment process set out under section 9.

On page 5 the second reading speech states —

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

I advise the house that on 2 June, the joint standing committee replied to the Premier advising that it had met on that day and had been unable to achieve majority and bipartisan support for the appointment of Mr McKechnie, QC. This indicates that the representative on the joint standing committee from the National Party was unwilling to provide bipartisan support.

How does the government know that?

Hon Darren West: Member, it says “indicates”.

Hon MARTIN ALDRIDGE: How does it indicate? Could it not be possible —

Hon Darren West: You asked how we knew. It says “indicates”.

Hon MARTIN ALDRIDGE: Yes. If the honourable member still believes in privilege—I am not sure that he does—the deliberations of any parliamentary committee are privileged and confidential to that committee, unless released by that committee. They are starting to get a bit noisy on the other side. I thought they were all on a gag order, but they should feel free to chime in. I have 25 minutes left.

Hon Darren West: You were confusing an indication with knowledge. I just wanted to point that out to you, member.

Hon MARTIN ALDRIDGE: Hon Darren West, could it not indicate that the Labor Party did not support Mr McKechnie’s nomination? Could that be possible? We have no reply from the crossbench of the Labor Party. It has all gone quiet again.

One or two things could be happening here. One is that the Joint Standing Committee on the Corruption and Crime Commission is once again leaking to the government, which is probably most likely, or this second reading speech is just making things up to suit the government’s argument. It states —

This indicates that the representative on the joint standing committee from the National Party was unwilling to provide bipartisan support.

The government cannot possibly have that knowledge unless, of course —

Hon Darren West: It doesn’t say that!

Hon MARTIN ALDRIDGE: The member probably has not even read the second reading speech, so my advice to him is to pipe down until he does. The only thing that would plausible would be if the joint standing committee had written to the Premier and said, “Dear Premier, we met on 2 June 2021 as a committee, and the National Party representative on the Joint Standing Committee on the Corruption and Crime Commission was unable to provide bipartisan support.” I doubt that that would be the case. I think correspondence has been tabled, so I will go and check it, but it cannot possibly indicate that. The government could speculate on which member of the committee did not provide bipartisan support, whether it was a Labor member or National Party member, but it cannot indicate that—unless, of course, one of the two Labor members has been informing the government about the deliberations of the joint standing committee again.

We had a debate recently that considered the comments of the member for Kalamunda. I do not want to go over that debate, because this is a very time-limited occasion. In preparing my contribution to that motion on notice, which, sadly, was defeated by the Labor Party yesterday, I came across some wise counsel from the member for Girrawheen on Wednesday, 13 May 2020, during a debate on the referral of the member for Kalamunda to the Procedure and Privileges Committee. The record will reflect that the Labor Party used its numbers to protect its member. On this occasion, 13 May 2020, the then member for Girrawheen, who I think at the time would have been the Chair of the Joint Standing Committee on the Corruption and Crime Commission, said —

Of note, I am of the view that the deadlock of the Joint Standing Committee on the Corruption and Crime Commission is not the same as a veto. The lack of veto power of the committee has generally been conceded in a range of reports, including the statutory review of the act by the then barrister Gail Archer, SC, in 2008. It has generally been held that the JSCCCC does not have the power of veto and, accordingly, the present impasse should not be treated as being a de facto veto. In fact, in a submission to the previous committee in 2016 by Commissioner McKechnie, he recommended, amongst other things, removal of the nominating committee but, more relevantly, on the issue of veto, in paragraph 54 at page 12 of his submission, he said —

The Commission recommends that the JSCCCC be given the power of veto regarding the appointment of a Commissioner, and that the passing of a resolution of appointment require a majority support of the JSCCCC.

You cannot make up this stuff, members. Unlike the second reading speech, elements of which I think are made up, the next paragraph states —

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

The Commission recommends consideration of provisions similar to those set out in subsections 21(1)–(3) IBAC Act.

That is the New South Wales legislation. The next paragraph states —

As a joint standing committee of Parliament, the JSCCCC is representative of both houses of Parliament and must be comprised of two members of the Legislative Assembly and two members of the Legislative Council. At present, the JSCCCC is comprised of four members with each major political party (Liberal and Australian Labor Party) represented in equal numbers. The current Legislative Assembly Standing Orders and membership of the JSCCCC already ensure that no one political party may dominate consideration of a resolution to support an appointment of a Commissioner under the CCM Act.

That is the Corruption, Crime and Misconduct Act.

The member for Girrawheen continues to quote from a submission from Mr McKechnie —

The next paragraph states —

A requirement that the JSCCCC hold the power of veto by majority resolution in relation to a recommended nominee will ensure that the requirement for bipartisan support is maintained.

It sounds to me as though Commissioner McKechnie, in 2016, was very much in favour of the current system. The member for Girrawheen continues —

We have heard reference to the Independent Commission Against Corruption in New South Wales. Those laws were enacted before the Western Australian act and in there is a specific reference to the parliamentary committee having the express right to veto. Similarly, the Victorian Independent Broad-based Anti-corruption Commission rules give the committee a similar power, but this is limited in time, as it is in South Australia and in a 2014 amendment in Queensland. However, no such power is conferred on the committee in Western Australia. As a fundamental principle of statutory interpretation, such a power, and the serious consequences it entails, is not the kind that would be inferred. The power of veto needs to be expressly stated in the act for that to take effect.

There has been much discussion about, firstly, how the joint standing committee did not recommend Commissioner McKechnie for reappointment and, secondly, the fact that the committee was deadlocked. The effect of the deadlock means that the requirement under section 9 of the Corruption, Crime and Misconduct Act 2003 that the committee needs to give both majority and bipartisan support could not be achieved.

Tune in, members, because this is an important section —

The role of the nominating committee headed by the Chief Justice is qualitatively different from the role of the standing committee. The latter has an ongoing oversight role and thus frequent dealings with the Corruption and Crime Commission, the parliamentary inspector, members of the public sector, senior police and so on. The standing committee analyses and examines reports and also conducts hearings. The standing committee reports to Parliament on its findings. Access to this broader range of matters is not, by definition, something of which the nominating committee is apprised.

The act is silent on what should transpire should a deadlock occur. From a report of the Joint Standing Committee on the Corruption and Crime Commission in the last Parliament, it seems that such an issue may have previously occurred, but as the matter was not prosecuted in the media —

I pause to say, unlike recent occasions —

this was not widely known. The details and circumstances of that matter are unknown, as the standing orders that require that deliberations remain confidential were strictly complied with. We cannot even inquire of the past chair or committee members what transpired.

I want all members to reflect on the words of the then member for Girrawheen, now member for Landsdale and the former Chair of the Joint Standing Committee on the Corruption and Crime Commission, from 13 May 2020. I do not think I could have set out the case for opposing this bill any better than she did on that occasion. How has she been rewarded by her party and her government? She is no longer Chair of the Joint Standing Committee on the Corruption and Crime Commission.

I think that quote is salient because the then member for Girrawheen quoted from a submission of Mr McKechnie in 2016 in which he advocated for the removal of the nominating committee and that a power of veto be given to the Joint Standing Committee on the Corruption and Crime Commission. That is what he advocated for in 2016, but now it would appear that he is quite happy to change his tune as long as he gets his job back, and why would

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

he not? He is the highest-paid public officer—I will use that language because he is not a public servant—in our state. Members need to satisfy themselves—I am not sure how they will do it because I suspect that none of them have met the man—that it is appropriate to tear up section 9 of the CCM act. That is the first decision members have to make. The second decision is whether Mr McKechnie is, out of the three candidates put forward by the nominating committee, the one who should be appointed to the highest-paid and most powerful public office in the state.

I really look forward to the contribution of members who support the passage of this legislation, because I honestly do not know how they can answer those two questions, unless cooler heads prevail and members accept the two genuine suggestions that I have put forward in good faith. A subcommittee of this place could be established to examine this issue and the nominee. Maybe we could establish a select committee with cross-party representation. It could be a bigger than the usual select committee to ensure that we have the multi-partisanship that Hon Brian Walker spoke about. We could then come back in the future—keeping in mind that an acting commissioner has been in place for some time and therefore this is hardly a matter of state urgency—and all look each other in the eye and say that this decision is being made for the right reasons. I suspect that none of those suggestions will be taken up by the government and I suspect the simple retort will be, “Well, if not McKechnie, then who?” I think this is a problem that the government needs to take responsibility for. The government alone has completely corrupted the appointment process for the Corruption and Crime Commissioner. It is a process and a position that should never have this level of debate about it because when it does, we get it wrong. It does not work. I want to quote a former member of this place who I think put the role the government has played in corrupting this process in a set of words, briefly, better than I could this afternoon. It was Hon Michael Mischin in his final speech to this place on 11 May 2021 when he said —

In the case of the appointment of a Corruption and Crime Commissioner, the government sought a particular person’s appointment—the government would say “reappointed”. Let us face it, it is an appointment. Each appointment goes through a process set up by this Parliament that, back in the days when the act was passed, was considered by this house, by a committee, which decided that leaving it in the hands of government ran the risk of making it a political appointment. So, it set up a system—an imperfect one—which was a three-stage system. One involved a nominating committee and a submission of three names to the Premier, that is stage 2, but also that a joint standing committee consider those nominations and accept or reject them. Everyone has abided by that over the years, but this government has chosen to disregard that. On the strength of stage 1 of the process and the Premier desiring that particular person, it dispensed with convention and decided that it would move heaven and earth, and even legislate specifically, to name a person it wanted to be commissioner. That is notwithstanding there was no bipartisan or majority support for that person by the joint standing committee.

I know the focus has always been on the Liberal Party blocking the appointment—that has been the political theme—and, regrettably, it was also something that was taken up by the ex-commissioner. The Liberal Party was blamed, ignoring the fact that there was one other parliamentarian with responsibility on that committee. At least two people out of that four-person committee did not support that nomination.

Sadly, another convention has been broken: one member of that committee decided to grizzle about the process in public. Rather than having it investigated in order to see whether a breach of privilege was involved or there was a crossing of the line, after he had shown to the other members of the committee that anything they say might end up being revealed to the public, have we had an inquiry into it? No; it was blocked by the numbers in the Assembly. So much for that and that level of accountability. In fact, that member was hailed by our Attorney General as being courageous and a hero for doing so. That set a precedent. I know Hon Pierre Yang is concerned about precedents—that is another precedent that has been set.

For political gain, we have had misinformation about the process. We have had the Attorney General seeking and obtaining from the then commissioner, who he wanted to reappoint—the evidence is that is unprecedented—a list of ongoing and prospective investigations by that commissioner. What an astonishing thing to do! The pretext is, “It makes me understand just how important this particular person is,” but it also tells our Attorney General who is being investigated, who is going to be investigated, who is not being investigated and who is not going to be investigated, if that commissioner is reappointed.

We have had the Premier breaching another convention—just because he can, he told us, in answer to a question that I asked in this place—revealing the names of the unsuccessful applicants in order to humiliate and embarrass them. I add to that that in a speech last year, the ex-Corruption and Crime Commissioner said, to an audience, that he was not only the “outstanding” candidate but also that the others were only “suitable”. That is what he told his audience. What an appalling way to treat unsuccessful applicants for a position!

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

We are going to restart the process now, which is supposed to legitimate what has been done. But who would be inclined to put their name forward knowing that the government does not want anyone except its chosen appointee and might very well reveal the identities of those unsuccessful applicants, and indeed whether the nominating committee thought they were “outstanding”, “suitable”, “so-so”, “unacceptable” or “mad”? Seriously! That was a disgraceful breach of trust.

There have been many debates about this up until that point. But it was not until Hon Michael Mischin put that together in his final speech on 11 May 2021 to this place that it actually clicked for me—that is, hitting the reset button now requires the government to rebuild trust in the process that if someone puts their name forward to the nominating committee, it will not be revealed. An opinion will not be expressed on whether a candidate is outstanding or just suitable. The outstanding candidate said in public that the rest of the field was only suitable. I am surprised that the Labor Party actually supports this sort of behaviour.

Having said all that, if members still need a reason to contemplate whether they should support this extraordinary legislation, I ask those who have not had the opportunity yet, given we have only one hour under our standing orders to consider this, to turn to the sixty-first report of the Standing Committee on Procedure and Privileges. I do not need to table exhibit A because it has already been tabled by Hon Kate Doust. Just like the member for Landsdale, Hon Kate Doust has been dealt with by the Australian Labor Party. The Standing Committee on Procedure and Privileges’ sixty-first report sets out quite clearly why members should question whether they should support the second reading of the Corruption, Crime and Misconduct Amendment Bill. Maybe over the winter recess, which we are soon to embark on, members could take this home and, rather than buying a good novel, I can recommend the sixty-first report of the PPC to Hon Darren West. We will have a short quiz when he comes back to make sure that he has digested the contents!

I will not have an opportunity today to read this extensive report, but some of the transcripts attached in the appendices to this report are quite telling. Keep in mind that Hon Nick Goiran pointed out previously the actions of the CCC in previous reports—I am referring now to the inquiry into the matter referred by the Leader of the House, often referred to as the Home–Turnseck matter—when the actions of the CCC in performing its functions were contemptuous of this house. Just read the executive summary; there are 24 paragraphs. Members could knock it out before dinnertime. Read the executive summary. The Legislative Council has just engaged in a two-day trial in the Supreme Court on behalf of members, and the decision is reserved. There is no need to rush this process. We have not even considered the recommendations of the sixty-first report yet, in which, I remind members, recommendations 2 and 3 recommend to the house the re-referral to the procedure and privileges committee for inquiry and report on the actions of Ms Emily Roper, Mr Darren Foster and others.

I see that there is no urgency for the government to bring on recommendations 2 or 3. This report was tabled in May 2021 and there have been several sitting weeks since then. The sixty-first report was considered and discharged from the notice paper. I ask members to balance the rhetoric of the Attorney General, particularly in debate in the other place on this bill, by reading the executive summary. I challenge them to point out where a part of this report is in error. If there is not a case for us not to support the reappointment of former commissioner McKechnie, there is at least a case for us to pause. We are about to go into the winter recess. It could allow members time to read the sixty-first report of the Standing Committee on Procedure and Privileges. It could allow the house to consider in particular recommendations 2 and 3, but also recommendation 1 of the report. That does not seem to be a high priority for the government. The recess could allow a select committee time to examine this very short bill, and, more importantly, time to examine the most outstanding nominee, all while the CCC continues to do its work with an acting commissioner.

I look forward to the parliamentary secretary’s reply, particularly on the questions that I have asked around the second reading speech. I particularly look forward to his response on the two suggestions that I have made about a path forward to resolving this matter. But I think, ultimately, it is up to the government to restore trust and faith in both the appointment of a Corruption and Crime Commissioner and the Joint Standing Committee on the Corruption and Crime Commission. I do not think that will take place under this government while it continues to have absolute control of the Parliament. It has shown its actions to be contrary to trust and good faith. That is why we are here on the final day before the winter recess debating this bill as the highest priority of the government.

HON TJORN SIBMA (North Metropolitan) [3.32 pm]: I rise again also to voice my opposition to the Corruption, Crime and Misconduct Amendment Bill 2021. In contemplating what might constitute this address, I was undecided about where I would begin my remarks. I might take up, somewhat, from where Hon Martin Aldridge left off, by examining more closely the content and the claims made within the second reading speech, presumably drafted by the Attorney General or one of his officers, and read into this place dutifully by the parliamentary secretary. A number of claims made within that second reading speech are absolutely debatable and misconstrue the order of events, and they put a certain complexion on issues and cherrypick evidence and the like. But I found a stunning claim that is demonstrably untrue, and it attempts to encapsulate what this bill is about. It states —

Extract from Hansard

[COUNCIL — Thursday, 24 June 2021]

p1981b-2010a

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Put simply, this bill is about righting a wrong. It is absolutely wrong for the tenure of Western Australia's most respected and decorated corruption fighter to be prematurely ended by opposition MPs at a time when the CCC is investigating opposition parliamentarians over the misuse of entitlements. It cannot be allowed to stand.

There are many problematic concepts and accusations embedded within those two short sentences. However, I draw members' attention to the second claim that it is absolutely wrong for the tenure of Western Australia's most respected and decorated corruption fighter to be prematurely ended. Leaving aside whether that claim can be substantiated—whether Justice McKechnie is the twenty-first-century version of Eliot Ness—the claim that is being made is that it was the opposition, previously, who prematurely ended his tenure. That is absolutely incorrect. His tenure of appointment concluded through the elapse of time; it was not ended prematurely before his contract came to an end. That statement was completely wrong. It seems as though the government has been prepared to elevate the career ambitions of one particular individual unfortunately at the expense of the political careers of two of its most respected women: Hon Margaret Quirk and Hon Kate Doust. That their careers should have been prematurely ended at the expense of the elevation of, or the purported elevation of, or the attempt to elevate, this man beggars belief and is strange given some members' commentary on the membership of the Weld Club—it really is. I find it a very discordant note.

There are a number of problems with the approach to this bill that I will examine in some detail, but I must also note in passing a phrase that goes along the lines of “Pride goes before destruction, and a haughty spirit before a fall.” We have seen evidence in even the last few sitting weeks of a very buoyant Labor Party that is basking in its electoral glory, and why would it not? But that has come with the continuation of snide remarks that we just wash off. More problematically, what it accommodates is a will to power—a might makes right that because they have the numbers, that is the only justification this chamber or any other chamber need worry itself with.

I am seeing very early evidence of a vulgar display of power by this government—continual vulgar displays of power—and I think that that will ultimately be at the government's peril. Hon Peter Collier made the observation, and it is a truism—there is nothing contentious in the statement—that the seeds of its own destruction are sown in the Parliament, and the government is absolutely sowing those seeds as frequently and wantonly as it possibly can. I choose the word “wantonly” with some reason, because this bill demonstrates a wanton disregard for convention—an absolute wanton disregard for convention. It is, frankly, a legislative outrage, and it is driven by nothing more than political opportunism and, sadly, I think, a measure of personal vendetta as well.

To have a bill of no more than four clauses that seeks to name a particular individual to be appointed to one of the most sensitive positions within the architecture of the state is absolutely telling. It would come as no surprise to members that if we were to explain to people exactly what this bill was about, we would effectively be saying that the government is naming its man. That is not an elaboration or artifice; it is not a glib turn of phrase. The government is naming its man—the man it wants and the man whose career is more important than the careers of Hon Kate Doust or Hon Margaret Quirk. This is, effectively, the poachers appointing the gamekeeper. This is not about the Liberal Party attempting to protect ex-members of the Liberal Party. If that were the case, the proposed reappointment of Mr McKechnie would have been thwarted not once but twice by differently constituted Joint Standing Committees on the Corruption and Crime Commission. In fact, the prospect of such a bill, when considered last year in the fortieth Parliament, was also sadly rebuked by members of the Greens, the Liberal Democrats, Pauline Hanson's One Nation, the Shooters, Fishers and Farmers Party and the like. Today we heard excellent contributions from Hon Dr Brad Pettitt, Hon Wilson Tucker and Hon Dr Brian Walker on statements of principle. They emphasised different elements of some fundamental principles that are fundamentally the same. That should demonstrate that this is not a protection racket—that the government cannot reduce opposition to this bill to the flimsy attempt at character assassination that has been perpetuated by not only the Premier, repeatedly, but also an increasingly erratic and unorthodox Attorney General. That lie no longer stands. It is being completely blown up today. This is an issue of principle. It is fundamental outrage at the government's contempt of convention and the bypassing of an established process.

It strikes me, as both a practitioner and an observer of political life for some time, that the Premier has not received wise counsel against a move such as this. I do not think it is wise for any Premier, of any political hue, to so stridently advocate for the appointment of a single individual, because they do not know what is coming next. If the roles were reversed and I could go back 10 years with a Liberal Premier in this position, that is not the kind of advice that I would give him. What has this done? This has absolutely politicised the process of appointment. If there is one process of appointment in this state that needs to be sacrosanct, it is the appointment of the Corruption and Crime Commissioner. That should be fundamentally clear to everybody—absolutely. Subverting that process has done damage. It damages trust in the CCC. Like any organisation, it is subject to fallibility. Of course it has been fallible, and of course it will be, but largely speaking, the public has a regard for the CCC as a watchdog. What is its trust predicated on? It is probably predicated on the fact that that organisation is impartial and it is led by somebody

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

who is impartial, who brooks no fear and no favour. They get on with the job, follow the evidence, take it wherever it leads and are focused on the right set of priorities. This bill absolutely trashes the integrity of the CCC. It also damages the position of the head of that organisation, the commissioner of the CCC. It does so because it has transformed that position into a political pawn; it made it the subject of a political commitment during an election.

I am not necessarily convinced that the electorate of Western Australia went out in March and voted for the government on the basis that it was going to appoint one John Roderick McKechnie, as named at clause 4 of this bill, to that position. I think they may have been preoccupied by one or two other matters. Nevertheless, it was an election commitment. Something like that should never be an election commitment. Labor should not make this an issue of political discretion or a point of difference. If that has not compromised not only the institution but also the prospective nominee, I do not know what does.

Hon Martin Aldridge: What office is next?

Hon TJORN SIBMA: Indeed, one might ask that question: where does it stop?

More broadly, it damages the integrity of good governance in the state of Western Australia. It is a really important signal that I doubt other jurisdictions, both nationally and internationally, will miss. Delving not so much into ancient history but into modern history, I thought if there was one major political party in this state that would look askance at direct involvement in the appointment of corruption bodies, considering the track record of a number of its members, and very senior members at that, it would be the Australian Labor Party in Western Australia. But no, the temptation of power and to throw that power around at every available opportunity is indeed an opportunity this government will never miss.

Why do we need an independently appointed commissioner rather than a commissioner rammed through this chamber on this basis? It is because the government is so powerful. It is because the Premier is apparently still so overwhelmingly popular. It is because he is also the luckiest and most powerful Treasurer in the country, aside from the federal Treasurer. It is because he controls both houses of Parliament. It is because, with one exception—the Standing Committee on Estimates and Financial Operations—the government controls every single committee in this Parliament. There are sensible members opposite who I know are constrained in what they can say and contribute to this debate. This will be their own personal undoing over the next four years, I guarantee it, but I hope they will at least acknowledge that it would be sensible, in light of the very powerful position that their government holds, and particularly their Premier and the first law officer of this state, that perhaps we should have an oversight, anti-corruption watchdog that is effectively not in the government's direct employ and appointment. I thought that prudence would dictate that there are limits even on the exertion of the government's power, no matter how tempting that exertion may be. It would not be.

Why is that? Remarks were made about the degree to which the CCC previously disclosed its current and prospective investigations to the first law officer of this state. That, I must say, is a very troubling piece of evidence, because there should absolutely be complete and utter separation between the interests and the day-to-day behaviour and execution of duties of the Attorney General and the conduct of the CCC. In fact, never the twain should meet, particularly in operational terms. But we have seen at least on one occasion, by virtue of the tabling of the sixty-first report of the Standing Committee on Procedure and Privileges, that there is indeed a strong relationship between the Attorney General and one John Roderick McKechnie and that, in a way, reflects poorly on both individuals and should give rise to concern. —I make that observation, not to be personally critical, but to identify that issues, decisions, contracts and commercial decisions made by this government over the course of the last four, nearly four and a half years, which, ostensibly, invite more than a measure of curiosity. That is not to say that corrupt practice has taken place in any of the instances that I am about to outline; rather, I will identify decisions taken by the government that benefit either big business or big unions that do not automatically avail themselves of justification to be in the public interest and perhaps need an independent watchdog to look into them. I am not going to contest the policy merits of the decisions; all I say is that they invite speculation. They are issues that have been raised in the media over the course of four and half years. They are a select group; by no means are they exhaustive.

One is the estimated \$300 million value of road construction contracts awarded without public tender upon the cancellation of the Roe 8 and Roe 9 projects in early 2017. Another is the full consequences of the at least \$200 million contract between the Public Transport Authority and the Huawei–UGL consortia for radio replacement projects, which stalled. Another is a number of individual projects, commercial redevelopments, undertaken in partnership with commercial entities by DevelopmentWA. I need not cite specific project examples. There is also a lack of transparency, openness and accountability about the unsolicited bids process, which may or may not just happened to favour Labor Party donors. There is also that very strange and abrupt change to our domestic gas reservation policy last year, which caught all of industry by surprise and benefited a particular entity. Deals have been made; I do not say the word “deals” in a pejorative sense. My problem is that there is absolutely no openness or transparency about their conduct. They are transactions of a kind between the government and the bigger and more powerful

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

unions, which resulted in the cancellation of non-clinical service delivery by Serco at Fiona Stanley Hospital. There is also the abrupt in-housing again of various water service delivery lines in the Water Corporation, directed by Minister Dave Kelly. That is not to say that either of those decisions were wrong—although we would disagree with them in policy terms—or that they were corrupt, other than to acknowledge that they were significant deals and a significant shift in policy, practice and operations, about which the government has not necessarily been open, transparent and accountable. I labour these points because on a day-to-day basis, ministers make exceptionally important and consequential decisions and the public of Western Australia operates on the assumption and the confidence that an independent watchdog looks into these kind of matters. But what faith should the public have that that institution will be able to conduct itself freely and independently of government after that government has gone to an election with its preferred candidate? It begs the question: why this candidate? I cannot answer that question.

My problem with the government's management of this issue is that it has been nakedly politically opportunistic. Both the Premier and the Attorney General have engaged in language that is absolutely beyond the pale and, frankly, is defamatory, but, nevertheless, we have taken it on the chin, which is not to say that it is acceptable but it absolutely indicated their motivation. I do not believe that the government believes that its sole motivation is to appoint the best person possible. I do not know how any individuals could claim to be best possible person for this position, particularly when I reflect on the contribution made earlier by Hon Nick Goiran about four or five not insignificant matters concerning the performance of Mr McKechnie in his first five years. They are at least matters that demand an explanation. I would not be particularly encouraged to recommend a reappointment if I had been apprised of those issues and I was in the position to do so. They are very concerning.

I am minded to think that not only do I object in principle to the circumstances that led to this bill and the process by which the outcome is being sought, I am unconvinced that the individual named in this bill is a suitable person for the position, and I have come to this position very reluctantly. I do so because of Mr McKechnie's public contribution towards the end of November last year, which was a scornful, partisan diatribe that misrepresented facts and impugned a political party because he did not get his way. If government members are of the mind to appoint a person to a position like this because of an inestimable quality of judgement that they possess, I am in the sad position of saying that I am not encouraged by Mr McKechnie's judgement. I do not think that members opposite would be either if the roles were reversed. I have every reason to suspect that, individually, government members are people of integrity. I think they would personally find the proposition, the bill in front of us today, utterly offensive if we were in government and they were in opposition and our proposed candidate was the candidate that we took to an election. If we replaced every reference to the "Liberal Party" that Mr McKechnie referred to in his speech and replaced it with the "Labor Party", what would members opposite do? While they are throwing their weight around, I am sure that they still possess the capacity for moral imagination. I hope that they do at the very least; indeed, it would be sad if they do not.

There is also an issue of leadership here. I will focus on the leadership of the Corruption and Crime Commission because, even within the kind of alternative reality or alternative historical narrative that presents itself as the minister's second reading speech, there is a view put that the operations, functions and capacity of the CCC are absolutely dependent on Mr McKechnie being the commissioner—the head of that organisation. There is this view that, without him, the organisation will crumble and the CCC will be unable to continue with Operation Betelgeuse or any other investigative operation. That is the assertion that effectively has been made here and has been made repeatedly, no less than by Mr McKechnie himself. I do not think that anybody believes that. In fact, I have evidence to the contrary. This report was tabled today: *Review of the Office of the Auditor General's response to misconduct risks with access to confidential information*. It is a very slim, 28-paragraph report; nevertheless, it serves as proof of life. Is it not extraordinary that this organisation can outlive and outlast the previous commissioner of the organisation? How extraordinary.

I had the benefit of exposure to high-quality leadership as a very young person. I had that as a civilian member of the defence headquarters in Canberra, where I worked in very close proximity to three stellar, eminent Australians. One was Rick Smith, a Western Australian, who was secretary of that department and an ex-ambassador to Beijing and Jakarta. He managed the response to the Bali bombings back in 2002. He is an absolutely stellar individual. I will also include here General Sir Peter Cosgrove and Air Chief Marshal Sir Angus Houston, who were both consequently Chiefs of the Defence Force in the early 2000s. Perhaps I was spoiled by exposure to high-quality leadership in the early stages of my career, because it set my expectations for everything else that has followed. I am sad to say that the contribution made by the individual named in this bill, Mr McKechnie, seems to undermine the capacity of that organisation. Any true leader knows that they are but a servant of the organisation they are at the helm of. They normally demonstrate a sense of gratitude and humility for the position that they hold. They understand that the essence of leadership is the management of human relations. They are there to extract the best out of the people whom they lead to ensure that the organisation, which they are but a custodian of, is improved by the tenure that they have been gifted. That was absolutely true of the three individuals whom I named. But the view of

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

Mr McKechnie seems to be quite the contrary. It seems to be that without him there, the organisation is loose and adrift. That, frankly, is the ego talking. If anything, we need a commissioner who, after a very extensive career—some 30 or 40 years—is in a position at which they can set ego aside and think about what is in the best short, medium and long-term interests of the commission and that commission’s mission of service to the Western Australian public. That is, sadly, not evident in the remarks of the government’s proposed commissioner. At the conclusion of this very long sitting day, the government is going to get its man. I do not know whether its man will get the government. That is absolutely another issue.

At the very least, we have demonstrated that the entire approach to this bill has been opportunistic and politically transactional, and the government has initiated a game that has become bigger than it. This issue has mutated to a degree that now potentially imperils the concept of parliamentary privilege. Unfortunately, the government is setting new precedents apace. Each new precedent it establishes will give rise to another precedent. I think this has completely and utterly got away from the government now. If it has the power to bring in this legislation, surely it has the power to take it out. When I look at today’s daily notice paper, I see that the government could potentially be getting on with at least one other bill. Should the time come and amendments are potentially moved, I know that the government will resist them. It will resist them for no good reason other than the fact that it can because might makes right, numbers tell the story, and it can do what it wants. Let it come to that if it will.

I would hope, though, that the government—perhaps those lions of the caucus room, who are lambs in this chamber—nevertheless get in contact with the Attorney and the Premier during the debate today and say, “Perhaps we should pull back from this. Perhaps this is not the highest priority. Perhaps this establishes a precedent that compromises the outcome that we purport to deliver.” I think we are known by what we do but also by what we can do but we do not. The rule at the moment, whether it relates to the silencing of regional communities through the reduction in upper house members in country regions or to the speaking times that non-government members are permitted to have, seems to be that if the government can get away with it, it will. What is absent from any of this is any narrative, any reasonable justification, as to why the government is conducting these activities and is conducting them in this manner. In an attempt to tease out some of the details and background, again, members on this side of the chamber, whether they be from the Liberal Party, Nationals WA, the Daylight Saving Party, the Greens or the Legalise Cannabis Party, are treated with contempt and given non-answers to questions.

My other problem with this bill is its practical implementation and the precedent the government is establishing, not necessarily for reasons of principle, which I have already outlined, but for the effective application of the bill that it is trying to ram through today and elevate beyond any other concern facing Western Australians today. This is more important than fixing the health system, fixing the mental health system, coming to grips with homelessness or any of those problems. This is the most important order of business. Nevertheless, as the government brings this business forward, we ask questions along the way.

Bearing in mind Mr McKechnie’s long career and without any insight into his personal circumstances, and also bearing in mind his own stated claim that he is the only person to have fulfilled a full tenure, one might ask what happens if Mr McKechnie is unable to fulfil each of those five years of his appointment? Perhaps there will be a change of personal circumstance or what have you. According to the uncorrected proof *Hansard*, I put this question through the Parliamentary Secretary to the Attorney General on Tuesday, 22 June —

I refer to the Corruption, Crime and Misconduct Amendment Bill 2021. Will the government continue with the precedent of appointment that it is establishing by way of this bill and seek to introduce a further bill or bills naming a replacement commissioner to the Corruption and Crime Commission should the position become vacant for any reason before the conclusion of Mr McKechnie’s five-year term?

The answer was —

The government would only consider similar legislation to the Corruption, Crime and Misconduct Amendment Bill 2021 if the outstanding candidate, as chosen by the independent nominating committee chaired by the Chief Justice of Western Australia, was not able to be appointed by the method under the Corruption, Crime and Misconduct Act 2003. The Department of Justice is currently conducting a full review of the act, which includes the appointment process set out under section 9. This is being done with a view to Parliament having the opportunity to debate reforms to the current section 9 process, which has been the subject of multiple calls for amendment, including by Hon Nick Goiran as Chair of the Joint Standing Committee on the Corruption and Crime Commission in the thirty-ninth Parliament and Gail Archer, Senior Counsel, in her statutory review of the act.

Even within a single paragraph, the Attorney General can convey an alternative sense of reality. Truly it is a gift. Having young children, I have taken to watching young children’s movies and I am reminded of Princess Elsa using her magic and its danger. I think the Attorney General deals in dangerous magic almost on a daily basis and reveals that in the quality and substance of the answers he provides to questions asked in this place. Today I asked him—

Deputy President; Hon Nick Goiran; Hon Wilson Tucker; Hon Brian Walker; Hon Brad Pettitt; Hon Neil Thomson; Hon Peter Collier; Hon Donna Faragher; Hon Darren West; Hon Martin Aldridge; Hon Tjorn Sibma

I will get the answer back, hopefully—to what degree does that independent nominating committee chaired by the Chief Justice of Western Australia effectively choose the candidate? To the best of my understanding, having followed these issues for some time now and listened to the contributions of learned people, that committee does no choosing. “This is my preferred candidate. What do you think?” I am deeply interested in the intricacies of that process. There are many problems with that statement. How can the Attorney General provide that as an answer and say that this is an independent person chosen in an independent way when, lo and behold, that person just happens to be the candidate whom Labor pledged to deliver at the election? Labor cannot have it both ways.

I will commence my concluding remarks. I do not think that any individual is irreplaceable. I would like to think that I am, but I know that I am not.

Hon Alannah MacTiernan: I think you are.

Hon TJORN SIBMA: Thank you very much. That fundamental law of nature applies to each of us and if someone has been the custodian of a perennial institution such as the CCC, I think that person should go into and out of that task with a measure of humility. Humility has not been demonstrated by the proposed appointee and it is absolutely a human quality that is not possessed by either the Premier nor the Attorney General. It was certainly not conveyed in any meaningful sense in their public remarks. I might conclude on this point. Ex-colleagues of mine in the Liberal Party have stood up for process and principle in the full knowledge that their reputations would be sullied and impugned for doing the right thing. Our opposition to the bill is not predicated upon some fundamental political misapprehension of how this plays out in the public. The easiest thing in the world would have been for the Liberal Party and the Nationals WA, but particularly the Liberal Party, to just roll over and say, “You know what, have it your way.” There is always a temptation to go the easy and cowardly route, but that is not the temptation that we have yielded to. We have done so in the face of absolutely contemptible vitriolic attacks by the Premier and the Attorney General.

Members opposite might find some of the language used by each of those individuals as particularly risible, or humorous and lighthearted. I suppose when you are winning the temptation is to feel that way and to laugh along at the joke. I am sad to say that at the end of the day the joke will be on the government. Despite having all the powers of state, this Premier will never be a statesman. He does not have the moral fortitude or the intellectual capacity to do that, irrespective of his popularity now. I say that because he has taken, with his partner the Attorney General, cheap shots at people no longer in this chamber who cannot defend themselves; as indeed I must say with some measure of reservation, the former Corruption and Crime Commissioner, with what has become an increasingly salacious brace of reports issued under his leadership.

I encourage the government to play the ball rather than the man, if it indeed has that capacity. It does have that capacity; it is up to the government to choose. It is clearly demonstrated that it has chosen wrongly, but before the end of this day it is not too late to pull back, and I urge it to do so.

The PRESIDENT: Perfectly timed, honourable member. Noting the time, I will leave the chair until the ringing of the bells. I note that Hon Sophia Moermond has sought the call.

Debate interrupted, pursuant to standing orders.

[Continued on page 2020.]

Sitting suspended from 4.15 to 4.30 pm