

**CORRUPTION, CRIME AND MISCONDUCT AMENDMENT BILL 2021**

*Remaining Stages — Standing Orders Suspension — Motion*

**MR D.A. TEMPLEMAN (Mandurah — Leader of the House)** [12.12 pm]: I move —

That so much of the standing orders be suspended as is necessary to enable the Corruption, Crime and Misconduct Amendment Bill 2021 to proceed through all remaining stages without delay between the stages.

**MR R.S. LOVE (Moore — Deputy Leader of the Opposition)** [12.13 pm]: I want to speak very briefly to this motion moved by the government to suspend standing orders. Yesterday, a bill that was declared urgent went through this house. We know it was urgent because the confidential information of Western Australians was at risk of being used in a way in which it was never intended to be used. That situation, which the government had allowed to develop, had to be rectified as quickly as possible. We understood the urgency, even though at a briefing we had at five o'clock last night information was promised to be provided to us. Some of that information has not yet been provided, and the bill has already progressed through this chamber. Some of these matters were raised during consideration in detail last night. No satisfactory answers were given. We were given an undertaking that information would be provided. That information has not yet been provided. The information has not been provided to the opposition parties as a whole. It is my understanding that action will soon be taken to push that legislation through the other place. I doubt that that information will be provided to us before then. Having said that, we supported that bill because we knew that the situation was urgent.

We now have a situation involving an employment position, which has been open for 14 months, I think, in a functioning organisation, that being the Corruption and Crime Commission. A very fine acting commissioner has been in charge and doing the job. Many investigative officers and support staff in that organisation have been going about their work as normal. The normal oversight of that organisation through the Parliamentary Inspector of the Corruption and Crime Commission et cetera that Parliament has in place is functioning. This legislation does not need to be pushed through Parliament in a matter of hours; it could be put through the normal processes of Parliament, through which the bill would be introduced, sit on the table for three calendar weeks and then be discussed in the house in the normal manner. Instead, we have been told that this bill has to be pushed through by tonight. There has been absolutely no indication from the government why that is necessary, other than a desire for the government to fill that position, which it sees as being important. Yes, it is an important position, but there is a difference between importance and urgency.

If this chamber, this house and this Parliament are going to have any effect as a check, if you like, on the power of the executive, we should not be seeing situations of this type in which the executive makes a decision, reaches an outcome, uses suspensions of standing orders to push things through in hours instead of days and weeks and gets to claim an outcome without going through normal scrutiny. We know that the other place no longer provides the same level of effectiveness as a check and balance because we are also seeing its processes rushed in the same way. There is a lack of review and a lack of consideration.

On the face of it, this bill will have some extraordinary implications, and a particular appointment will be made. This is something that should be considered at great length. It is a very weighty matter. It is not something that should be rushed through in an hour or two; it should be considered, judged and discussed with stakeholders and the community, and we should come to a reasonable outcome only after full consideration.

The Parliament is now just seen as an inconvenience. We have a government that is just paying lip-service to the conventions of Parliament. A new situation normal has developed, whereby important, but not urgent, matters are rushed through this place on a weekly, if not daily, basis. It is not something that we support. We do not support this suspension of standing orders. I am not talking about the bill; I am talking about the suspension and the urgency around this matter. The opposition does not support this motion. We want it on the record that we think the government is acting in a reckless manner and is showing scant regard for the processes of Parliament.

**DR D.J. HONEY (Cottesloe — Leader of the Liberal Party)** [12.18 pm]: I also rise to oppose the suspension of standing orders. In this Parliament, we are witnessing an extraordinary event in the history of the state of Western Australia, and it is something that I think will go down as a shameful event for this government so early in its second term.

In relation to this suspension motion, there is no urgency for this matter to be dealt with. The appointment of the Corruption and Crime Commissioner has been set aside for 14 months. The government has had time to deal with it during that time. It chose not to do so. We are again seeing chaotic management of the legislative program in this house by the Labor government—a government that has been in power for four years. It has multiple offices with dozens of electoral staff in them. The Attorney General has many staff in his own office and in his department as well, yet yesterday we saw that this bill would be introduced as an urgent bill today, with no justification whatsoever for why it is so urgent.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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As was elegantly pointed out by the Deputy Leader of the Opposition, the Corruption and Crime Commission has been operating for the past 14 months with an acting head. There is no reason why this legislation could not have come to this Parliament in the normal way.

What we are seeing—we have seen it continually, and I saw it yesterday in this chamber—is the Premier, who should be acting with dignity and composure, mocking us about the numbers on this side of the house and holding up his fingers and saying, “There are only two of you” and so on. That is exactly what I spoke about in my contribution to the Address-in-Reply. What we are seeing, and we are seeing it exemplified now, is arrogance and hubris by the Premier, the Attorney General and this government. Yes, the government has ascendant numbers, but it is incumbent on all government members to follow proper process.

As was pointed out, there was an urgent bill yesterday. The Attorney General put forward a reasoned argument for why that bill was urgent, and that was that as soon as possible he wanted to guarantee the protection of the privacy of individuals. We supported that argument. We did not support the guillotine that was applied to the debate at the end of the evening because it did not allow us to have proper scrutiny and we did not get back all the information from the department that we asked for. We supported that process because we recognised that it was a genuine urgency that this Parliament should protect the privacy of individuals in this state.

In the case of this bill, there is no urgency whatsoever. This agency has operated perfectly correctly for the last 14 months, with a fine head acting as the head of that commission. All we are seeing is the flexing of the government’s muscles and the arrogance and hubris of this government, which is about to embark on something that I believe will go down as probably the most shameful act of a Labor government probably in the history of Labor governments in this Parliament. I am utterly opposed to this suspension motion. It is wrong. The government should not be doing it. There is no justification for it.

**MR J.R. QUIGLEY (Butler — Attorney General)** [12.21 pm]: I would like to speak briefly on the motion. What I have heard is just incredible. We have heard the Deputy Leader of the Opposition, the member for Moore, say that there is no urgency in this. There is a statutory procedure for the appointment of the Corruption and Crime Commissioner and that involves it going to an independent nominating committee headed by the Chief Justice of Western Australia and upon which sits the Chief Judge of the District Court of Western Australia and an eminent person nominated by the Governor. It put forward a candidate whom they identified as the outstanding candidate, Mr McKechnie, QC, to fill the role. The Premier accepted that nomination and sent it to a committee upon which sits the Deputy Leader of the Opposition, the member for Moore, whom we know voted against the nomination in the committee. The member for Moore did not want Mr McKechnie appointed, and we know that because the Premier got a response saying that bipartisanship could not be achieved in the committee. Bipartisanship is defined in the legislation as being the vote of a member of the party of the Leader of the Opposition, and that is the member for Moore. He did not want Mr McKechnie reappointed as the Corruption and Crime Commissioner, and, by inference, because there was not a majority, nor did the Leader of the Liberal Party in the Legislative Council, Hon Dr Steve Thomas. That is a necessary deduction we can make. They wanted to keep Mr McKechnie from getting back into the chair as the Corruption and Crime Commissioner.

We know that this position has been vacant for 15 months, and it has been vacant for 15 months because the person who was identified back in February 2020 as the outstanding person to fill the position, identified as such by the Chief Justice of Western Australia and his independent nominating committee, was held back from being reappointed by conservative members of the opposition and people in the “Black Hand Gang” in the Legislative Council who said that there would be no agreement to reappoint Mr McKechnie to the position. It was not because he is not worthy of the appointment. I will read from *Hansard* of 14 May 2020, because that is how long ago we are talking about. The now Leader of the Opposition said this about Mr McKechnie —

I note that he was deemed suitably qualified to be appointed to the role of commissioner in 2015 under the then Liberal–National government. His qualifications have been well canvassed in a number of debates, in both the public sphere and this place. Mr McKechnie is a Queen’s Counsel. He joined the then Crown Law Department, he was the first state Director of Public Prosecutions, he joined the Supreme Court, —

Appointed by a Liberal government —

... and in 2015 he was appointed as the Corruption and Crime Commissioner.

By a Liberal government —

He is eminently and suitably qualified ...

That is what the Leader of the Opposition stated.

*Point of Order*

**Mr R.S. LOVE:** We are actually discussing the urgency of this matter, not the merits of the proposed appointee.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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**The ACTING SPEAKER (Ms K.E. Giddens):** Thank you, Deputy Leader of the Opposition. There is no point of order. You may continue, Attorney General.

*Debate Resumed*

**Mr J.R. QUIGLEY:** The Leader of the Opposition went on to say —

He is eminently and suitably qualified—that has been stated over and over by the Premier, those who have spoken in public and the Leader of the Opposition. I do not think there is any question about Mr McKechnie and his qualifications.

That is what the Leader of the Opposition stated, but the Deputy Leader of the Opposition voted against his reappointment the week before last in the committee, notwithstanding the high regard in which he is held by the Leader of the Opposition. On 28 May 2020, the other half of the Liberal Party in this chamber, the member for Vasse, said —

We have already heard in this place of the high esteem in which Mr McKechnie is held by the Premier, the Leader of the Opposition and many members of this place. John McKechnie, QC, began his five-year appointment as Western Australia’s Corruption and Crime Commissioner in April 2015 under the previous Liberal–National government. He has a distinguished career of over 30 years as the state’s Director of Public Prosecutions, as a justice of the Supreme Court, and, more recently, in his role overseeing the commission, when I understand he oversaw ... some of the biggest public sector corruption scandals, including within the Department of Communities and the North Metropolitan Health Service. It is also understood that up until the conclusion of his tenure, Mr McKechnie was involved in a number of investigations that were of significant public interest. I am not referring to the matters associated with former members of Parliament and the management of their electoral allowance, but to other work of the commission, which is understood to be of greater significance.

We can all clearly see Mr McKechnie’s achievements in the role of commissioner, but we have not been provided with any balancing arguments for why he should not be reappointed.

The member for Moore will have the opportunity today to say why he voted against him —

This lack of transparency or openness about the decision-making process of the JSCCCC is, in my view, unacceptable in this circumstance.

This is what the member for Vasse said, member for Moore —

It is clear that there is great public interest in the matter, and the community has a right to understand why committees of this Parliament make the decisions that they do. The bill the Premier is proposing is unprecedented, but so is this situation.

Member for Cottesloe, this was said by the other half of the Liberal Party —

I am aware that many in the community are disgusted by the secrecy surrounding the matter —

This is the secrecy surrounding the no vote, member for Moore —

and dismayed by the impasse we are now facing. It is clear that this current situation is not acceptable to the people of Western Australia. This is why I believe —

This is the member for Vasse, the other half of the Liberal Party —

efforts must be made to ensure Mr McKechnie is able to continue to complete the inquiries he is currently conducting, with the extension of his tenure for another term. This is why I will not be opposing the bill.

That is what the member for Vasse said.

The Premier then went into the debate with Mr Kirkup during the election campaign and said that as soon as possible after the re-election of the government, it would proceed with the proper steps to reappoint Mr McKechnie. What the Liberal Party conservatives do not want at any cost—save and except for the honestly spoken views of the member for Vasse—is a continuation by Mr McKechnie of the investigation into the “Black Hand Gang”. They will take any measures to slow it down, to stop it, to frustrate it, and to frustrate his appointment.

Finally, without revealing any personal circumstances, there has been a change of personnel within the Corruption and Crime Commission. There are personal circumstances involving ill health within the CCC, and a permanent commissioner is urgently required. This government will not be frustrated by people who vote in secrecy against his reappointment. The member for Moore will have every opportunity this afternoon —

*Point of Order*

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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**Mr R.S. LOVE:** I believe the Attorney General is impugning me in his comments, when I am doing nothing other than maintaining the normal confidentiality of a committee's proceedings.

**The ACTING SPEAKER (Ms K.E. Giddens):** Attorney General, I will just ask that you direct your comments to the motion more closely, please.

*Debate Resumed*

**Mr J.R. QUIGLEY:** I think I have well made out the reason this chamber should deal with this bill as a matter of urgency.

Question put and passed.

*Introduction and First Reading*

Bill introduced, on motion by **Mr J.R. Quigley (Attorney General)**, and read a first time.

Explanatory memorandum presented by the Attorney General.

*Second Reading*

**MR J.R. QUIGLEY (Butler — Attorney General)** [12.32 pm]: I move —

That the bill be now read a second time.

The Corruption, Crime and Misconduct Amendment Bill 2021 is steeped in the public interest. It seeks to restore Hon John McKechnie, QC, the best corruption fighter Western Australia has ever had, as Corruption and Crime Commissioner. This reappointment is in line with the election commitment the McGowan Labor government took to the state election on 13 March 2021, which resulted in an overwhelming mandate from the people of Western Australia to implement its agenda.

John McKechnie, QC, clearly has the support of the people of Western Australia as Corruption and Crime Commissioner. 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. The CCC, after all, exists to protect the public from both organised crime and the insidious scourge of public sector corruption, which robs the public of hard-earned tax dollars and confidence in decision-making by public officials, including elected representatives.

Mr McKechnie, QC, has a 45-year record of public service to Western Australia, including 30 years occupying high legal offices after rising to the position of Chief Crown Prosecutor. Since then he has been consistently promoted and appointed by governments of either stripe. He was appointed as the state's first Director of Public Prosecutions by a Labor government; reappointed DPP by a Liberal government; appointed as a Supreme Court judge by a Liberal government; and appointed as Corruption and Crime Commissioner by a Liberal government, with the concurrence of the Joint Standing Committee on the Corruption and Crime Commission, then chaired by a Liberal, Hon Nick Goiran, MLC.

His appointment as Corruption and Crime Commissioner in 2015 came after he was recommended by the former Chief Justice of Western Australia, Hon Wayne Martin, AC, QC, in his capacity as chair of the nominating committee set out under section 9 of the Corruption, Crime and Misconduct Act 2003. The former Premier and member for Cottesloe, Hon Colin Barnett, MLA, duly submitted Mr McKechnie, QC, to the Joint Standing Committee on the Corruption and Crime Commission in the thirty-ninth Parliament—chaired, as I have mentioned, by the Liberal MLC Hon Nick Goiran—and the nomination received bipartisan and majority support at that time.

Of the CCC's four commissioners since its inception, Mr McKechnie, QC, is the only one to have served a full term and the first to seek reappointment. He also substantially reorganised and refocused the commission. This included establishing an operations committee reviewing all aspects of the agency's work, reducing the backlog of investigations and assessments, making the commission more transparent and public facing, working with agencies to help them understand misconduct risks and requiring agencies to report on progress in implementing recommendations. This is in addition to taking on increased functions by way of unexplained wealth examinations, all within existing budget allocations.

It is a matter of public record that, under the stewardship of Mr McKechnie, QC, the CCC achieved significant successes in combating corruption in Western Australia. To name but a recent few cases: inquiries into the North Metropolitan Health Service procurement, which uncovered the fact that senior bureaucrat John Fullerton billed taxpayers \$170 000 for home renovations while accepting \$200 000 worth of travel and hospitality from companies in return for millions of dollars' worth of public contracts; the former trade commissioner to Japan, Craig Peacock, who fleeced taxpayers of more than \$500 000 by double-dipping his cost-of-living allowance,

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
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amongst other fraudulent claims; the activities of former Sir Charles Gairdner Hospital clinical trials manager Judith Innes-Rowe who, at the estimate of the State Solicitor's Office, owed taxpayers more than \$1 million in false representations of overtime and unauthorised work absences; and the shocking siphoning by Paul Whyte, over many years, of funds meant for Western Australia's most disadvantaged citizens. It is to this state's shame that the theft from the Department of Communities and former agencies of an estimated \$22 million stands as the biggest single act of public sector corruption in Australian history. 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.

In recent years, the Parliament has been diminished in the eyes of the public over revelations made in the course of the Corruption and Crime Commission's Operation Betelgeuse. As part of that operation, the CCC investigated allegations of serious misconduct by certain former Liberal members of Parliament and, in December 2019, issued a report into the misuse of taxpayer-funded entitlements. In that report entitled *Misconduct risks in electorate allowances for members of Parliament*, the CCC delivered an opinion of serious misconduct in relation to former Liberal MLC Phil Edman over his misuse of his parliamentary allowances. The report also brought to the public's awareness the existence of a grouping of upper house Liberal parliamentarians called the "Black Hand Gang", which used taxpayer money to fund its functions at restaurants. Liberal members of Parliament have since publicly clarified that the "Black Hand Gang" consists of all Liberal members of the Legislative Council. The report concluded with a warning that it was an interim report and that "Operation Betelgeuse is ongoing".

It was against that backdrop that, prior to his five-year term expiring in April 2020, the McGowan government sought to reappoint Mr McKechnie for a further five years. Under section 9 of the Corruption, Crime and Misconduct Act, the Chief Justice of Western Australia is the chair of a nominating committee, which also includes the Chief Judge of the District Court and a community representative nominated by the Governor. The nominating committee must submit the names of three eligible nominees to the Premier of the day. The Premier can recommend that the Governor appoint a preferred nominee as commissioner only if that nominee has the bipartisan and majority support of the Joint Standing Committee on the Corruption and Crime Commission.

Bipartisan support is defined in the act as —

... the support of —

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

In current circumstances that means the member for Moore.

Majority support is not defined in the act, but can be taken to have its ordinary meaning as "most" of the joint standing committee, which under section 216A(1) must have an equal number of members appointed by each house. As members know, despite Mr McKechnie being described as the "outstanding nominee" by the nominating committee chaired by Chief Justice Peter Quinlan, SC, the joint standing committee in March 2020 was unable to reach bipartisan and majority support for his reappointment. I point out that at that stage, the member for Moore was not on the committee. The member of the opposition party who was on the committee was Mr Jim Chown, MLC, a member of the "Black Hand Gang" that was being investigated by Mr McKechnie, QC.

On the recommendation of the then Leader of the Opposition, the former member for Scarborough, the Premier resubmitted the nomination of Mr McKechnie, QC, to the joint standing committee in April 2020 with her letter of "unequivocal support". The Liberal Leader of the Opposition sent a letter to the joint standing committee expressing unequivocal support for the reappointment of Mr McKechnie, only for the committee to again reach a deadlock. This indicated that the only Liberal member of the then joint standing committee, Jim Chown, a member of the "Black Hand Gang", did not support the return of Mr McKechnie, QC.

The inability to reappoint Mr McKechnie was met with public dismay and scepticism. I read from the opinion pages of *The Sunday Times* dated 12 April 2020 —

WA parliamentarians—all of them—will look like they are engaging in a cover-up if John McKechnie is not reappointed as CCC boss with an investigation into the possible misuse of politicians' \$78,000-plus parliamentary allowances ongoing.

An almost identical version of this bill was introduced to the Legislative Assembly on 16 April 2020, but lapsed on prorogation. The Liberal and National Parties opposed the Corruption, Crime and Misconduct Amendment Bill 2020 in the Legislative Assembly. This was despite the now Leader of the Opposition, Hon Mia Davies, MLA, describing Mr McKechnie in the following terms —

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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I note that he was deemed suitably qualified to be appointed to the role of commissioner in 2015 under the then Liberal–National government. His qualifications have been well canvassed in a number of debates, in both the public sphere and this place. Mr McKechnie is a Queen’s Counsel. He joined the then Crown Law Department, he was the first state Director of Public Prosecutions, he joined the Supreme Court, and in 2015 he was appointed as the Corruption and Crime Commissioner. He is eminently and suitably qualified—that has been stated over and over by the Premier, those who have spoken in public and the Leader of the Opposition. I do not think there is any question about Mr McKechnie and his qualifications.

In addition, when the debate resumed on 28 May 2020, the member for Vasse said this of Hon John McKechnie, QC —

We have already heard in this place of the high esteem in which Mr McKechnie is held by the Premier, the Leader of the Opposition and many members of this place. John McKechnie, QC, began his five-year appointment as Western Australia’s Corruption and Crime Commissioner in April 2015 under the previous Liberal–National government. He has a distinguished career of over 30 years as the state’s Director of Public Prosecutions, as a justice of the Supreme Court, and, more recently, in his role overseeing the commission, when I understand he oversaw a number of significant investigations. During Mr McKechnie’s time as commissioner, the CCC has uncovered some of the biggest public sector corruption scandals, including within the Department of Communities and the North Metropolitan Health Service. It is also understood that up until the conclusion of his tenure, Mr McKechnie was involved in a number of investigations that were of significant public interest. I am not referring to the matters associated with former members of Parliament and the management of their electoral allowance, but to other work of the commission, which is understood to be of greater significance.

We can all clearly see Mr McKechnie’s achievements in the role of commissioner, but we have not been provided with any balancing arguments for why he should not be reappointed. This lack of transparency or openness about the decision-making process of the JSCCCC is, in my view, unacceptable in this circumstance. It is clear that there is great public interest in the matter, and the community has a right to understand why committees of this Parliament make the decisions that they do. The bill the Premier is proposing is unprecedented, but so is this situation. I am aware that many in the community are disgusted by the secrecy surrounding the matter and dismayed by the impasse we are now facing. It is clear that this current situation is not acceptable to the people of Western Australia. This is why I believe efforts must be made to ensure Mr McKechnie is able to continue to complete the inquiries he is currently conducting, with the extension of his tenure for another term. This is why I will not be opposing the bill.

That is what the member for Vasse said.

The Corruption, Crime and Misconduct Amendment Bill 2020 did not progress to the Legislative Council, in which the government did not have a working majority in the fortieth Parliament. WA Labor went to the March election promising to restore Mr McKechnie, QC, as commissioner. After the election, on advice, it was determined that the best way to proceed would be to recommence the appointment process under section 9. The position was nationally advertised by the nominating committee on 27 March 2021. By letter dated 7 May, the nominating committee wrote to the Premier advising that Mr McKechnie was the outstanding candidate, as he had been when the section 9 process was performed last year, and the committee was not aware of any matter that would adversely affect the suitability of Mr McKechnie, QC, for appointment. Furthermore, an opinion was obtained from the Solicitor-General, Mr Joshua Thomson, SC, as to the eligibility of Mr McKechnie, QC. The Solicitor-General advised that Mr McKechnie, QC, was eligible to be appointed for a full five-year term under the Corruption Crime and Misconduct Act 2003 and its schedules. In addition, under section 9(3a), the nominating committee can only submit candidates to the Premier who are eligible for appointment. Mr McKechnie, QC, was submitted to the Premier by the nominating committee, which includes the Chief Justice and Chief Judge. Ergo, he is eligible for appointment. There can be no question about the eligibility of Mr McKechnie, QC, as Corruption and Crime Commissioner.

As we all know, as the public knows and as the committee well knew when it deliberated the week before last, Mr McKechnie, QC, also received support from the Commissioner of Police, Mr Chris Dawson, APM, praising the crime fighting credentials of Mr McKechnie, QC, and endorsing him “as a person of unquestioned integrity, tenacity and strength to perform the role in leading the CCC”. The Premier subsequently wrote to the new joint standing committee, shortly after it was appointed, recommending that Mr McKechnie, QC, be reappointed. Whereas the previous joint standing committee consisted of two Labor MPs, a Green MP and a Liberal MP, the current committee comprises two Labor MPs and a representative from the Liberal Party, being the personage of Hon Dr Steve Thomas, and the Nationals WA, which is the party of the current Leader of the Opposition, in the personage of the member for Moore, Mr Shane Love. 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. I say that, notwithstanding the high support given

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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to Mr McKechnie by the now Leader of the Opposition—that is, the member for Central Wheatbelt—in the last Parliament, and by the then Leader of the Opposition, the member for Scarborough.

The Premier made it clear before the election that if opposition members of the Joint Standing Committee were again unable to endorse the appointment, the government would introduce legislation to fulfil its election commitment. To that end, this bill introduces a single amendment to the process for the appointment of a commissioner, set out under section 9 of the act. This bill proposes the inclusion of a new provision, numbered section 9(4B), which states that “John Roderick McKechnie is reappointed as Commissioner for a period of 5 years”. The appointment will take effect the day after the bill receives the royal assent.

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. I ask members to consider what messages this Parliament would be sending should it fail to reappoint Mr McKechnie, QC. The state’s 145 000 hardworking public servants, who have gotten us through the pandemic, would be entitled to conclude that Parliament is content for the steely glare of the CCC to be trained on them, but not on us. It would indicate that a track record steering the biggest and most successful corruption investigations in the nation is not enough to overcome our own narrow interests. What future Corruption and Crime Commissioner would be bold enough to investigate politicians in Western Australia, as Parliament intended, knowing that the last officeholder to do so was sent into early retirement?

The CCC’s recent report titled *Report on electorate allowances and management of electorate offices*, dated 26 November 2020, which found serious misconduct on the part of former Liberal MLCs, only heightened the public’s suspicion that members of Parliament have much to fear from the CCC. It has been argued that the publication of that and other reports demonstrates that the CCC can perform well enough without Mr McKechnie, QC. I invite members to refer to the CCC’s most recent annual report. I quote acting commissioner Scott Ellis —

The current lack of a full time Commissioner is regrettable. It creates uncertainty for the Commission.

Commissioner McKechnie was a very effective and highly respected Corruption and Crime Commissioner.

The section 9 appointment process is clearly broken. A committee that by law can only have an even number of members is tasked with coming up with majority decisions on appointments, with no capacity under the act to break deadlocks. It was never the intent of Parliament for one member, such as the member for Moore, to have a power of veto over appointments. Members last year argued that the government should enact a wholesale overhaul of the act and it will. The Department of Justice is currently undertaking a major review of the act, including the appointment process. In the meantime, this bill seeks to return the public’s preferred Corruption and Crime Commissioner, restore the CCC’s strategic direction, give the Western Australia Police Force back its preferred crime fighting partner and remove the taint hanging over this Parliament.

I commend the bill to the house.

**MS M.J. DAVIES (Central Wheatbelt — Leader of the Opposition)** [12.59 pm]: I rise to put the opposition’s position on the Corruption, Crime and Misconduct Amendment Bill 2021. Before I get to the substantive contribution, I want to address some of the remarks the Attorney General made during the suspension of standing orders motion to get us to this point and also in the second reading speech. I will address in particular the attack on the member for Moore. Those remarkable comments calling on the member for Moore to reflect on the deliberations of a committee of which he is a member were wholly inappropriate, and the Attorney General knows this. Anybody who has been in the house for longer than five minutes knows this. His accusations that we, as an opposition, seek to impede the Corruption and Crime Commission and its important work are grubby and untrue. The CCC has continued to function and investigate serious matters.

The Attorney General touched on the fact that Mr McKechnie has been the first commissioner to serve a full term. He served that term and is required under the Corruption, Crime and Misconduct Act to be reappointed. That reappointment process is laid out very clearly in the act. There is a process in place to conduct this appropriately, but that process has not delivered the outcome that the Attorney General and the Premier desired. We understand this very, very clearly. The process that the Joint Standing Committee on the Corruption and Crime Commission adheres to requires the consideration of matters to be conducted under the same rules that all our committees of Parliament operate under. We do not reveal our deliberations or reflect on those deliberations. There is a reason for that, which is to ensure that those deliberations are conducted in confidence and that we get an outcome. The process in this house is usually highly combative and partisan, but our committee system allows for witnesses to be heard and deliberations to be held among members of Parliament to progress issues of importance on behalf of the state. The Attorney General is entirely wrong to reflect on how members of Parliament may or may not have voted in this particular committee. He may have made an educated guess. I think he is assuming how people have voted, but he should not know how any individual MP cast their vote as part of that committee.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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**Mr J.R. Quigley:** Yes, I can. We do know.

**Ms M.J. DAVIES:** The Attorney General should not know.

This whole affair started back in May when we saw the Premier try to muscle this through while the state was in the midst of a pandemic and dealing with its response at that time. Regardless of how we have come to this point, we have come to the point once more whereby the government has decided that it does not like the rules and will simply nominate the person it thinks is best for the job, thereby ignoring the process set out in the act. Neither I nor the Attorney General is a member of the Joint Standing Committee on the Corruption and Crime Commission. We were not part of those deliberations or privy to that information. All I can assume is that as a result of the committee's deliberations, the government has been provided with a form of words that is probably fairly standard that the committee could not reach bipartisan or majority agreement.

**Mr J.R. Quigley:** Correct.

**Ms M.J. DAVIES:** That is right. It does not reflect on how people voted in the committee.

**Mr J.R. Quigley:** It necessarily does.

**Ms M.J. DAVIES:** I disagree with the Attorney General, and I did not interrupt him.

I will not make the same mistake that the Attorney General made by reflecting on the votes of committee members. I think that is a dangerous pathway to go down. We had this debate the last time we talked about this matter, after the extraordinary contribution by the member for Kalamunda.

The process that is in place allows for the appointment of a commissioner. Very clearly, this government has decided that it does not like the process, and instead of going about changing the process and doing it methodically and paying due deference to this very important institution, it is actually setting a dangerous precedent and tainting the independence of Mr McKechnie and his ability to carry out his job. We are considering what I consider a very crude amendment so that the Premier, Attorney General and the government of the day can get their own way without the checks and balances that have been built into the Corruption, Crime and Misconduct Act. If they want to change the act, that is fine. Bring it into this place, but do not bring it in under the guise of it being urgent and make us deal with it in a very shortened time frame. Bring it in and have a proper debate in which we have the opportunity and are given the courtesy of seeking advice from those who are learned in this area so that we can do our job as the opposition. That is not what is happening. Just like back in May last year, in the middle of the pandemic, we are now being asked to pass this through with some degree of urgency. Of course, no matter what happens after our contribution today, we know very well that the government will push this legislation through this house and that it will sail through the Legislative Council.

The opposition does not support the government's amendment. That should not come as a surprise, because when we were last asked to consider this proposition in the last Parliament, as I said, at the height of the pandemic, we held the same view. Certainly, I, as the Leader of the Nationals WA, held the same view. We held the view that this method of appointing someone to lead the CCC, to be the head of the most important of commissions, was a crude, unacceptable method of appointing the commissioner and it tainted the government and the person the government sought to represent. Much has been said about Mr McKechnie and his qualifications. I have had my words read back to me in this house, and I am absolutely comfortable with that. The government is not scoring any points on me on that front. Mr McKechnie is eminently qualified. No-one can argue with the service that he has provided and the qualifications that he brings to the role. He was one of a number of people considered by the nominating committee. As the Attorney General pointed out, Mr McKechnie was deemed suitably qualified to be appointed to the role of commissioner in 2015 under a then Liberal-National government. His qualifications include being a Queen's Counsel and he has held positions at the crown law office, was the first state Director of Public Prosecutions, was appointed to the Supreme Court and is a former Corruption and Crime Commissioner. The government speaks to that experience, but that is not the crux of this debate, although the Premier and the Attorney General undoubtedly seek to make it so. The crux of the debate is the way in which a person with Mr McKechnie's experience and qualifications is appointed—the way this person is appointed.

I go back to 2003, prior to my time in this place, when Parliament was first contemplating the CCC and Hon Jim McGinty was the Attorney General at the time. When he introduced the bill to replace the process that we had at the time, which was the Anti-Corruption Commission, he said that Western Australians deserve a police service and a public sector free from the scourge of corruption, and we do. The community has the right to expect that a commission with these powers has integrity, and that at the heart of its business the CCC seeks to ensure that the community has confidence in our public servants. That truism, that statement Jim McGinty made back then, stands today just as it did back in 2007. When the then Attorney General brought to Parliament the legislation that we are now amending—again, I say, in the crudest way, because it is being done this way instead of by changing the process, given that the Attorney General, the Premier and other members of the government have outlined that they do not



Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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believe it is serving our state in the way they believe it should—he outlined 10 principle ways in which the CCC was an improvement on the existing body, the Anti-Corruption Commission. The first principle concerns accountability. The then Attorney General said that a new structure would be created with one commissioner and with provision for an acting commissioner and a parliamentary inspector, and that there would be continued monitoring by a parliamentary committee. The role of that parliamentary committee was mentioned in the first principle for the new body that was to be created and which was to become the most powerful corruption body in the nation at that time. For the sake of brevity, I will not go through the full 10 principles, but the role of that parliamentary committee and the process of that appointment were important enough to mention in that very first principle. It was clearly laid out at the time and Parliament debated at length the importance of having all those elements to ensure that we had a Corruption and Crime Commission whose operation gave the people of Western Australia confidence that there was oversight of our public service. The Parliament and the Labor government at the time clearly understood the importance of having checks and balances in the appointment process of the commissioner and in the oversight of this commission.

Where the government came unstuck in the last Parliament was that it sought to manipulate the appointments on the Joint Standing Committee on the Corruption and Crime Commission. The challenge that the government faced with the appointment was largely due to its politicking at the time. The government alone is responsible for the outcomes that lead to it seeking to amend the Corruption, Crime and Misconduct Act 2003, similar to what it is trying to do today with the Corruption, Crime and Misconduct Amendment Bill 2021.

For the benefit of those members who were not in the house or not here when the government sought to amend the act in May 2020, as part of that process the Premier wrote to me as the Leader of the Nationals WA. To my understanding, at that time I had absolutely no role to play in the appointment because we were not the official opposition, yet the Premier sought the Nationals' support for the government's proposed amendment. I responded to the Premier; I said that I did not agree that the matter needed to be debated at that time. I read my response into Parliament during the debate. I also outlined the reason that we disagreed that we needed to deal with the matter at that point, which was May 2020, was that we were in the midst of the COVID-19 pandemic and we were debating legislation to ensure that the state government could respond appropriately. We were operating under a state of emergency declaration and seeking to make sure that legislation passed through Parliament as swiftly as possible to put in place the measures that were needed to allow us to respond to the emerging pandemic. In our minds, the matter that the Premier and Attorney General were seeking to pursue was not related to COVID-19 and, therefore, there was no cause for us to deal with it under the temporary standing orders under which we were operating in the spirit of bipartisanship to progress legislation.

The second reason that we did not support the legislation, nor it being debated, is the same reason that we do not support the government's first approach. I outlined that in a letter to the Premier, an excerpt of which reads —

In addition, the precedent set by a Government amending the Corruption, Crime and Misconduct Act 2003 to specifically name and appoint a Commissioner is unwelcome and unwise. The Act is very specific about how the Commissioner should be appointed to avoid any perceived or real notion of bias or conflict and your proposed action could potentially overshadow the Commissioner's role and any future contribution.

The Government of the day overriding provisions of the Act is a significant step, especially when there are other avenues available to resolve this. Our Party understands the importance of the Corruption and Crime Commission and the role of the Commissioner, however, we do not believe this is a prudent way to resolve the issue.

Frankly, the Premier's decision to push through such a significant change in the process, in the middle of a pandemic when there was great anxiety in our community, raised alarm bells with us. The overreach that we saw then was just a preview to what we are experiencing in this Parliament. Given the introduction of this bill, along with the electoral reform agenda and the way that the government treats this Parliament by bringing in legislation at short notice and demanding that it gets pushed through, we can make no other conclusion that this is what we are going to experience for the next three years; a Premier who is drunk on the power of the government's huge majority. That is what is happening today. The way the Premier has chosen to manage this situation, both then and now, makes it untenable for Mr McKechnie to be reappointed—for us, it is as simple as that. If the Attorney General and Premier are unhappy with the process of appointing a commissioner, they should bring legislation to the house and we can have an honest and open debate about an alternative. Today, we are not debating the merits of a process; we are debating a name, and the government is setting a very dangerous precedent. The Attorney General may well argue that the bill before us changes the process, but I would argue that it is a basic and dishonest interpretation of what we are considering. The opposition believes that it is a dangerous and unwelcome precedent to name a person in the bill. We would object to this political manoeuvring whether or not the person put forward was Mr McKechnie or any other eminent and suitably qualified candidate. I want to say that again: we would object to this political manoeuvring whether or not the person put forward was Mr McKechnie or any other eminent and suitably qualified candidate. Our refusal to support this bill is based on our objection to the precedent that the Premier and Attorney General are willing to set to get their own way.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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Let us go through the process, which was outlined in the Attorney General's second reading speech. During the briefing, we asked where the position was advertised and the requirements for nomination. I think we saw it in *The West Australian* and it may well have been in *The Australian* and there may have been other processes. It is important for people to understand how we canvass suitable applicants. The nomination committee considers the nomination. I understand that the name of the preferred candidate is sent to the Premier, and the Premier refers that nomination to the Joint Standing Committee on the Corruption and Crime Commission. As a result, the joint standing committee of the CCC considers the matter and, on this occasion, it was not able to reach bipartisan and majority support. At that point—the time line is a little foggy—the Attorney General and the Premier decided to go back to what they tried in May 2020 and fall back on the same claim that the government has a mandate, which has been boosted by the election. I can promise members that not one person went to a polling booth thinking, "I'm going to support the Labor government because they're going to reappoint Mr McKechnie." They absolutely did not, and I do not think even the Attorney General believes that; indeed, I cannot believe it was part of his second reading speech and the narrative in the government's talking points. It is remarkable. Undoubtedly, the reason the government was able to elicit enormous support at the election was a result of its management of the COVID-19 pandemic. We have acknowledged that in this place on a number of occasions. It is dishonest to reflect that this issue was at the top of anyone's mind at the election thereby giving the government its mandate.

The opposition says that the way the commissioner is appointed is as important as who the commissioner is. The commissioner's integrity has to be protected through the appointment process. The checks and balances are there for a reason. The public needs to know that whoever is appointed is not seen to be aligned with the government and executive of the government, and not pursuing agendas on the government's behalf. The Premier and Attorney General cast that shadow themselves—it was not Mr McKechnie—by overriding the appointment process.

When we last debated this flawed bill in May 2020, or the version of it back then, I looked at the reports that were specifically written about the efficiency and timeliness of the appointment process of commissioners. To my knowledge, no additional work has been done on that, but I will re-enter on the record a number of reports about the way that appointments have been made and the opportunities to change how the appointments are made. The government had opportunities to pursue change, but to my understanding that was not done. In May last year, I noted that the Joint Standing Committee on the Corruption and Crime Commission had completed a number of reports into the efficiency and timeliness of the current appointment process for commissioners and parliamentary inspectors of the CCC. The first report is dated November 2016; it was completed in the term of the previous Liberal–National government. When Parliament was prorogued, the findings of the committee could not be responded to by the minister of the day. After the 2017 election, the first report of the committee, dated September 2017, was completed and tabled under the Labor government and the Attorney General was required to respond—the government is required to respond to all committee reports—to those recommendations and findings.

If we turn to the reports that were completed by the committee under the Labor government, which was chaired by the member for Girrawheen, finding 2 of each report refers to the definition of "bipartisan support". In their consideration of this matter, neither committee found that the definition had proved to be of concern. Both reports canvassed the appropriateness of the current appointment process of commissioners and parliamentary inspectors. The report referred to the creation of a deputy commissioner role and reviewed the appointment processes in the jurisdictions of New South Wales, Victoria and South Australia. It canvassed quite significantly the role of the nominating committee, not the parliamentary committee, in supplying to the executive a list of suitable candidates to fill the roles of inspector and commissioner for its anti-corruption agency.

Recommendation 2 of the report was that the Attorney General prepare an amendment to the Corruption, Crime and Misconduct Act 2003 to remove the role of the nominating committee in the appointment process for commissioners and parliamentary inspectors. Correspondence by individuals from the judiciary has been tabled in relation to that. The second part of the recommendation was that in lieu of that, the legislation mandate that the Premier propose one name from a list of three people to the committee for its bipartisan and majority support. Those recommendations were made in the report dated December 2017.

The Attorney General of the day, the current Attorney General, replied dutifully on 13 March 2018 providing the government response, as he is required to do. His response was —

In relation to recommendation 2, the Government will consider a proposal to amend the appointment process so as to remove the nominating committee from the appointment process given the support that this proposal has received.

The Attorney General referred to four items from the findings and recommendations, but I cannot find, and I could not find back in May, in any of the committee's recommendations or in the response of the government of the day any recommendation calling for the government to simply insert its pick into the act. I could not find that. I also could not find any recommendation to change what "bipartisan support" means, or a requirement for that to occur.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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I could not find any recommendation for changing the process for appointment. In fact, the report states that the committee was happy with the process as it stood. The committee considered that issue in the previous term of this Labor government. The fact of the matter is that that process was put in place to protect the integrity of the person in the role of commissioner and the work of the CCC. If the government was really trying to make sure that we had a process that could stand on its own two feet, it would go down the path of bringing in legislation to amend it. The Attorney General has foreshadowed that, but that is not what we are debating today. What we are debating today is the captain's pick. That is incredibly disappointing.

What has changed between when we debated this matter in this house last May and now is that we have a new Parliament. However, just as the Legislative Council was changing over its membership, the sixty-first report of the Standing Committee on Procedure and Privileges was tabled. That committee was chaired by Hon Kate Doust. I have a bit of a time line. This is new information to add to the argument that we put forward in May. Let us go through that time line so that I can get it on the record. On 16 April 2020, the Corruption, Crime and Misconduct Amendment Bill 2020 was introduced. On 28 April, my understanding is that Commissioner McKechnie's term expired. On 13 May 2021, the sixty-first report of the Standing Committee on Procedure and Privileges was tabled. On 25 May 2021, the Premier wrote to me notifying me that Mr McKechnie was the preferred candidate of the nominating committee for the commissioner role. On 26 May 2021, the appointment of members to the Joint Standing Committee on the CCC was formalised by the Parliament. On 27 May, the Premier issued a media statement saying that the reappointment process had recommenced.

In the Attorney General's second reading speech, he referred to the date on which the nominating committee wrote to the Premier. I think that was before that report from the PPC was tabled. We were trying to determine whether the information that was provided, which I think would be material to the consideration of the appointment, was considered by the nominating committee. If I have got my time line right, I am not sure that the nominating committee could have considered that report. Again, we are being asked to deal with this matter in a pretty contracted situation in terms of time and our ability to piece this all together. A question that was asked in the briefing was: did the nominating committee have access to or was it privy to the information in the PPC report; had it been tabled at that time; and what was the time line? That is pertinent information that this house should be given so that we can understand whether the matters that were canvassed in that report were considered by the people who were recommending Mr McKechnie.

We ask this because matters of concern were raised in the report. That includes evidence provided by the Attorney General's chief of staff in hearings conducted by the PPC that showed that there was quite frequent and direct communication between the Attorney General and Commissioner McKechnie. It would not be unusual, in the course of the role of the Attorney General, for him to have contact, and I am not suggesting that there was anything untoward about that. However, it does seem to be highly irregular for messages to be exchanged, as outlined in part of the report, between the commissioner and the Attorney General about an ongoing investigation. I am not a lawyer. We cannot prevent someone from sending a text message, and I am not suggesting that the Attorney General invited it, but there is a question about how close that relationship is. Again, it goes to the fact that this has emerged since the debate that we had in May last year, in which we raised our concerns about the process. New information had come to light. I am not sure whether the nominating committee had the ability to consider that matter, and I am also not sure whether the JSCCCC had the opportunity to consider that matter, because I am not privy to the deliberations of that committee. But I would think that would be material to making sure that the appointment is indeed appropriate.

I think this government is behaving as though that PPC report does not exist. The report certainly has not been raised. It has not been talked about by the Premier or the Attorney General. In the meantime, the former President of the Legislative Council has been moved on. The previous Chair of the Joint Standing Committee on the CCC has also been moved on. The Premier and the Attorney General have made the decision to override the process that is laid out in the act and to appoint the commissioner by using the vote of the majority of the members of this house.

I take great offence at the commentary that has come from the Attorney General. The Attorney General has impugned the reputation of opposition members by suggesting that we are protecting members of Parliament who have been subject to investigation, and that we would condone or support corrupt behaviour. There are things that need to be discussed and canvassed as part of this that, once again, cast a shadow over the appointment of Mr McKechnie. That is of the government's own doing. It did not take very long for the Attorney General to go directly to those personal attacks. It does not surprise me that the debate descended very quickly into accusations that we are protecting former members of Parliament who are under investigation. I can absolutely and categorically say that that is an absolute load of rubbish. The CCC continues to operate. Those investigations are continuing. The arguments that have been put forth and the imputations that have been made in relation to the member for Moore and also, if we reflect back on the debate that we had on May 2020, members of the opposition at that time, are offensive. The government has resorted to muscling its way through, using the sheer force of numbers. It is not a moral victory,

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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where the government has done the right thing and preserved the importance of the CCC. It is a political victory. It is also an abuse of the power that this government has been afforded by the people of Western Australia.

We are calling into question the impartiality of the appointment through the actions of the Attorney General and the Premier. This bill will set an unwelcome precedent. I believe that the actions of this government will damage the work of the commission. Frankly, I find it hard to understand why Mr McKechnie does not understand how his role will be tainted. I have seen some of the commentary in the media. I do not know Mr McKechnie. I have not met him. My focus has always been that if we have a process that has served us well, we should use that process, particularly when it comes to one of the most important things that we can do in this Parliament, which is to provide confidence to the people of Western Australia that we have a body that oversees the integrity of our public service. The Corruption and Crime Commission, undoubtedly, has done some very good work, and should continue to do that good work, but it should do it unimpeded by the Attorney General and the Premier and without a shadow being cast over it by the appointment of the person who will lead that body. I think that they have tainted that role.

This is substandard legislation at best. All that flows from it will be at the feet of the Attorney General and this government, because the opposition, with the numbers that it has, cannot stop it. If the government wishes to throw away convention, wants to rush in legislation and wants to flex the muscles that it earned at the last election with its numbers—this will be a part of that legacy—that will be a very sad day for Western Australia. We in the opposition cannot stop the government, but we can make sure that our concerns are on the record. We can make sure that we ask questions to ensure that we are not part of what I think is a very poor decision-making process. I urge the Attorney General to reflect on the legislation instead of impugning members of Parliament, and making assumptions about deliberations in committees and making assumptions about our motivations. I do not think that one person in this house has ever given him cause to say that we would be supportive of corrupt behaviour in our public service or in this place. I find it personally offensive that that is the tack that the Attorney General has chosen as a result of bringing this bill back to the house.

We will move on. We asked a number of questions during the briefing on this bill, as the Deputy Leader of the Opposition said during the suspension debate, and we also asked questions in the briefing that we received yesterday on the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill. We did not receive that information and I am not sure whether it will be provided to our colleagues in the Legislative Council before they have an opportunity to debate those bills. We have not received some of the information or answers to the questions that we asked during the briefing. That goes to the point that the member for Moore, the Deputy Leader of the Opposition, made during the debate on the suspension of standing orders motion—that is, this is an important matter, but it is not an urgent matter. If we had had the appropriate time line that is provided when a bill is brought to the house and left to lie on the table and we were allowed to seek a briefing and to do our job, we would not have to stand in this place and say that we have not been provided information on what I think is one the most important changes that this government will make in the next four years. That is a most disappointing statement to be making in the first three months of this government—most disappointing.

It is distressing to me that we have had to come back to this place and have this debate again. I really feel that the government needs to go back to the drawing board. If the government's intention is to change the process, then, by all means, please put that on the table. That is what I said during the debate in May last year: bring it back to the house so that we can consider the merits of the process that the government is putting forward. But simply making a captain's pick and tainting the process, and I think impeding Mr McKechnie from getting on with the job—regardless of what he believes—does a disservice to the commissioner's role and also to the commission.

**DR D.J. HONEY (Cottesloe — Leader of the Liberal Party)** [1.33 pm]: I also rise to oppose the Corruption, Crime and Misconduct Amendment Bill 2021. I start from where the Leader of the Opposition ended her contribution—that is, there is no urgency for this legislation. Not only is there no urgency for this legislation, but there are good reasons the government should wait before moving ahead with this appointment. We have already heard from the Leader of the Opposition that a highly critical report by the Legislative Council has brought into serious question the correspondence and relationship between the Attorney General and Mr McKechnie. That has not yet been answered. But, more importantly, the Supreme Court is still yet to conclude an action between the former President of the Legislative Council and the Corruption and Crime Commission concerning the legality of CCC notices to produce records that were given to the Department of the Premier and Cabinet. There are two aspects to that: one, critically, is that it impacted on the issue of parliamentary privilege, but, more importantly, that decision may also—I do not know—comment on the appropriateness of the actions of Mr McKechnie as head of the CCC. I do not presuppose the outcome of that case, but I find it extremely hard to accept that the government would be pushing forward with its self-nomination—in fact, self-appointment—of the head of the CCC and that named individual when those matters are still outstanding. That is highly improper. That is why, if this decision is to be made in this way—as was eloquently put by the Leader of the Opposition, there are good reasons that that decision should not be made in this way—and even if the government is determined and hell-bent on making the decision in this way, it should not make that decision at this time until those matters have been resolved. Those matters go to the core of this appointment.

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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The contention of this bill is that the CCC would in some way be crippled and could not possibly carry out its functions unless one person in Australia heads it up. The contention of this bill is that of the many, many learned legal minds in Australia who have the capacity to do this job, only one person—a 75-year-old retired judge—has the capacity to do this job. Furthermore, the contention that that organisation is incapable of carrying out any investigations unless that person is there is ludicrous. The Attorney General knows that that is a ludicrous contention. There are many, many good people who could carry out that role. We know, as the Attorney General corrected us, for the past 15 months there has been an acting head of the CCC. It is my assumption that the CCC has been carrying out its work and carrying on investigations, and that it has been doing those things that it has had to do in a proper way. The contention that that organisation can carry out its work if only one person in Australia heads it up is frankly ludicrous. Imagine for a moment—I hope that this does not happen—that some dreadful thing was to befall Mr McKechnie and he was unable for whatever reason to carry out that duty. Would that mean that the CCC would be crippled and could not go on? Would it mean that the CCC could not do its work because that individual, that one human being, was not able to take up that task? That is the contention of the government.

The government had 15 months to seek an alternative. What did it choose to do? This bill is an act of hubris, an act of ego on the part of the Attorney General and the Premier. They have their view. That is seminal to the points made by the Leader of the Opposition. The Attorney General and the Premier have their view about who that person should be and they have made that view clear to everyone. They have made that view clear to the public of Western Australia. They have made that view clear to every single person in Australia and to every single good legal mind who could have done the job as chair of the CCC. The government made it clear to all of them that it does not want them and it will not consider them. The government made it clear to every person, “Don’t bother applying for this job—do not bother—because we have made up our mind about who we want. We want our person in there.”

**Mr J.R. Quigley** interjected.

**Dr D.J. HONEY:** That is the problem, Attorney General; you want your person in there. The greater concern for me is that you, as Attorney General—someone who should have the stature to realise this—do not realise how flawed that is.

As was outlined by the Leader of the Opposition—I will not go through it again in detail—there is a proper process to follow for the selection of the head of the Corruption and Crime Commission. Ultimately, a recommendation goes to a committee that requires both bipartisan and majority support. We know that not once, but twice this nomination has been rejected by that committee. That is the proper process and if the government had followed proper process, it would have asked the committee to reconsider. If the committee was not prepared to reconsider, it would have come forward with other nominations. That is the process that we have developed in this Parliament. It is absolutely critical that we have bipartisan support for that process. Why is that? It is because the CCC itself carries out a number of important roles and, again, I am not going to go through the detailed history of the organisation. The CCC was initially established to investigate organised crime; I might say bikie gangs. I will say as an aside, bikie gangs seem to have blossomed under this period of government. The CCC was there to look at organised crime and to stop organised crime, but following WA Inc—members opposite may remember this—and following the improper behaviour of members of the Labor Party and members of executive in government, the powers of that body were strengthened. This is when we come to the importance of the bipartisanship issue, because the critical process of that body is to investigate not only criminals, but also the behaviour of members of this place. It is, most importantly, there to make sure that the executive of government does not abuse its power or behave improperly or in a corrupt way. That is perhaps one of the most important functions that this body carries out. If the head of this critically important organisation is chosen because they not only are a fine legal mind, but also will carry out their investigation without fear or favour, the perception of that will be dulled if it is a partisan appointment. That is what this is, members. We do not support this. The National Party does not support this. The Liberal Party does not support this process of nomination because the Attorney General—no-one else—by his own action, is creating a perception that this is a partisan appointment, and, indeed, it is, because we on this side do not support it.

The Premier and the Attorney General have made it very clear that Mr McKechnie is the preferred choice and that he is their person to take on this role. I make no reflection on whether Mr McKechnie is suitable or not. I think it is disingenuous for the Attorney General to say that we are framing the debate about the candidacy of Mr McKechnie. We are debating the process that this government has chosen to use that is creating the perception that this is a partisan appointment and how that places a stain on that appointment. That is the improper thing that is happening, and that is the matter that we are debating. As I said, this act that is going on right now by itself has tainted the process. Mr McKechnie may be required to investigate actions by the Premier. Mr McKechnie, if he is selected to this position, may be required to investigate actions of the Attorney General. If he is appointed, Mr McKechnie may be required to investigate actions of members of the Labor Party in this chamber and as we heard from the Attorney General in colourful terms, there is an ongoing investigation of some ex-members of Parliament from the Liberal Party. That is the problem with the perception of a partisan appointment. It does not matter who that person is. When

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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it is a partisan appointment, it risks a perception of influence on the outcome of a decision. It risks whether an investigation is carried out when that decision is ultimately made by the head of the CCC. That is what the Attorney General has created, and that is what has confounded this process. This is more than that. This is an act of abuse of power by this government.

Members here get to hear the excited chatter, and yesterday we saw the unseemly behaviour of the Premier in this chamber boasting about his majority, but what we see here is an abuse of that power. As was outlined by the Leader of the Opposition, there was no mandate whatsoever for the government to do this. I defy any member to contend that the outcome of the election was decided on whether Mr McKechnie would be chosen by direct appointment by this Parliament. We all spent time in our polling booths and not one person mentioned this to me, not one person raised this issue with me and not one person sent an email to me about this matter. The only matter that decided the outcome of the election was COVID-19. As the Leader of the Opposition already said, we have recognised in this place that the Premier was rewarded by the people of Western Australia for the good job he has done managing COVID in this state. I think that all of us on this side of this chamber have recognised, firstly, the job that was done, and, secondly, that the people of Western Australia rewarded the Premier for that good job. That was the sole matter that decided the outcome of this election. To say that the subject of this appointment was a mandate from this election is a complete nonsense. The Attorney General knows he is being disingenuous when he says that.

**Ms S. Winton** interjected.

**The DEPUTY SPEAKER:** Member for Wanneroo!

**Dr D.J. HONEY:** As I said before, two joint standing committees have now rejected this appointment. The reason we have that committee is that it is a critical check and balance. The reason that it carries out getting its evidence in confidence is that it is critical to ensuring that, firstly, people are not afraid to come forward and raise issues, and, secondly, it can make its decision without fear or favour. Of course, we saw that this government definitely wants you to fear—and that is the Labor Party members.

I refer to an excellent article by Paul Murray that was published in *The West Australian* of Saturday, 12 June. Mr Murray has not always been kind to me, but I respect him as a journalist who is reflective and highly regarded by, I would say, all people in the media as someone who is judiciously analytical but also very fair-minded. The article is headed, “Quasi-judicial agencies created by governments to fight corruption should remain above scandal”. I will quote some passages; I think this is a well thought out article. It states —

It should go without saying that quasi-judicial agencies created by governments to fight corruption must not become mired in controversy or blighted with the stain of partisan politics.

As is the case with the police and the courts, the public has the right to expect that these powerful investigative bodies are independent and above scandal.

Later in the article, talking about the CCC committee, it states —

This committee is vitally important as a democratic check on the formidable powers of the CCC to interfere in the basic rights of citizens.

The McGowan Government last week installed as chair of the CCC’s oversight body a man who the Opposition previously tried to censure for breaching the same committee’s secrecy obligations.

This is where the bullying behaviour comes in. This is where we see the thuggery against their own members by the Attorney General and the Premier. The article goes on —

Former chair, Labor’s Margaret Quirk—the most experienced of the previous bunch —

*Point of Order*

**Mr J.R. QUIGLEY:** The member cannot cast aspersions on the character of a member of this chamber. He has just referred to the conduct of the Premier as thuggery. It is shameful for the member to use this word; he used it against me as well, but I am standing up in defence of the Premier and saying that, under the standing orders, the member cannot use this language and accuse the Premier of thuggery.

**The DEPUTY SPEAKER:** There is no point of order, but, member, please stay away from personal attacks and stick to the motion at hand.

*Debate Resumed*

**Dr D.J. HONEY:** Thank you very much, Deputy Speaker. I will be interested to see question time today.

[Member’s time extended.]

**Dr D.J. HONEY:** The article goes on to say —

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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Former chair, Labor's Margaret Quirk—the most experienced of the previous bunch—has been banished for not toeing the party line and the two previous Upper House members, Liberal Jim Chown and Alison Xamon from the Greens, are no longer in the Parliament.

...

Instead of giving the committee a fresh start the Government has ensured that it will go into the selection process for a new head of the CCC riven by political tensions and with a very big cloud over its head.

...

So, given that Hughes remains one of the committee's obligatory two Labor members, the Government has effectively replaced the 20-year parliamentary veteran Quirk, a former National Crime Authority lawyer who first served on the CCC oversight body in 2005, with a freshman MP holding an arts degree in history and politics.

In relation to and associated with this matter, what did we see in the upper house? Hon Kate Doust is someone that I, and I believe everyone in the upper house and I am certain the great majority of members in this chamber, hold in the highest regard, both as a person and as a parliamentarian. We may not agree on everything politically, but I absolutely admire the work that she did. She is someone who fiercely stood up for this Parliament and fiercely defended the right of privilege in this Parliament, which is something that we often do not think about but is utterly crucial for all that we do in this place so that we can carry out our work. Because she had the temerity to try to defend the privilege of this Parliament, she was sacked from her job; she was removed. A most remarkable parliamentarian, a most remarkable person, was removed from her job because she stood up against the Attorney General and the Premier on a matter relating to the appointment of the CCC commissioner. Because she had the temerity to stand up against them, she was banished from her position. That is a disgrace and something that both the Premier and the Attorney General should be embarrassed by. The article goes on to say —

When Hughes created his reckless Facebook post he made a series of serious errors which should preclude him from being chair of the committee. In my book his worst mistake was that he failed to mention that two of his fellow committee members had blocked McKechnie instead targeting only the Liberal. That made his breach of the committee's secrecy provisions a highly political act.

...

This is important because Hughes' comments backed into a ridiculous story that both McGowan and Attorney-General ... were selling about the Liberals blocking McKechnie to stymie a CCC inquiry. The committee released a statement repudiating that assertion.

Several members interjected.

**Dr D.J. HONEY:** It continues —

It was a dishonest tactic —

**Mr P. Papalia** interjected.

**The DEPUTY SPEAKER:** Minister for Police!

**Dr D.J. HONEY:** It continues —

by the Government. It ignored the truthful version that Xamon also voted against McKechnie.

Several members interjected.

**The DEPUTY SPEAKER:** Ministers!

**Dr D.J. HONEY:** I am glad you have become animated, members, because if you think that the sacking of the former President of the Legislative Council was appropriate, then shame on you as well!

**Ms S. Winton** interjected.

**The DEPUTY SPEAKER:** Member for Wanneroo!

**Mr D.J. Kelly** interjected.

**The DEPUTY SPEAKER:** Minister for Water!

**Dr D.J. HONEY:** We do not know —

*Point of Order*

**Mr R.S. LOVE:** We are actually discussing a matter that the government feels is of the utmost urgency.

**The DEPUTY SPEAKER:** What is the point of order, please?

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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**Mr R.S. LOVE:** Mr Deputy Speaker, the government has suspended standing orders and you are allowing members on that side to constantly interject and hold up the house.

**The DEPUTY SPEAKER:** There is no point of order. Please do not abuse the point of order process in the future. Carry on, Leader of the Liberal Party.

*Debate Resumed*

**Dr D.J. HONEY:** Thank you very much, Mr Deputy Speaker.

We do not know why the committee made its recommendations. In the Attorney General's speech in this place — this is the grubby part, as was mentioned by the Leader of the Opposition —

Several members interjected.

**The DEPUTY SPEAKER:** Ministers!

**Dr D.J. HONEY:** There is this idea that because we oppose this utterly improper process, somehow that is in the guise of protecting individuals or perhaps stopping an investigation.

**Ms A. Sanderson** interjected.

**The DEPUTY SPEAKER:** Minister for Environment!

**Mr P. Papalia** interjected.

**The DEPUTY SPEAKER:** Minister for Police!

**Mr J.R. Quigley** interjected.

**The DEPUTY SPEAKER:** Attorney General!

Several members interjected.

**The DEPUTY SPEAKER:** Members, we have five minutes to go before question time. If anyone continues to interject, I will start to call them. Carry on, please.

**Dr D.J. HONEY:** Thank you very much, Mr Deputy Speaker; I welcome your protection.

**Ms S. Winton** interjected.

**The DEPUTY SPEAKER:** Member for Wanneroo, this is your first call.

**Dr D.J. HONEY:** As I said, we have seen the grubbiness of this debate and members alluding to some sort of cover-up. What a disgraceful argument on the part of the Attorney General! As we have said, this debate is about the inappropriateness of this process. That is the only thing this debate is about. If members of this place, on any side—any members opposite or any members on this side—behave corruptly, I welcome that being exposed. I hope that that is exposed. I would encourage the CCC to carry out its investigation in full and to prosecute those individuals. I would welcome that, because this place and the actions of its members need to be beyond repute. I accept that. In fact, I welcome it. I champion it. As I outlined before, it is one of the roles of the CCC—that is, to hold to account not only criminals and criminal organisations, but also members of Parliament and, in particular, the executive of government for any corrupt behaviour. I welcome that.

As I outlined before, the contention by the Attorney General that the matters he referred to can be investigated by only one person in Australia, and that that organisation is otherwise completely incapable of carrying out its role, is incomprehensible.

**Mr D.J. Kelly** interjected.

**The DEPUTY SPEAKER:** Minister for Water, I call you for the first time.

**Dr D.J. HONEY:** The government is simply using its numbers to bully through utterly inappropriate action to get its way in this matter. This is not a debate about Mr McKechnie. We have not sought to debate whether Mr McKechnie is appropriate. This is a debate about a proper process that preserves the perception of independence of this important office. It is not a debate about a candidate. The proposed process will stain both the appointment and the government, which is only a few months into its second term. This government will go down in history for using its sheer weight of numbers to make a partisan selection of the head of the most important semi-judicial commission in this state, being the CCC. The government should be ashamed of that forever. That the Premier and the Attorney General would want their names associated with this is, frankly, completely dumbfounding. This is the wrong process to follow. As the Leader of the Opposition pointed out, there are proper processes to follow, including the government changing the act. The government should follow those processes and not use this process, which is based on ego and hubris rather than logic and reason, to get the government's appointment to this critical position.



**Extract from *Hansard***

[ASSEMBLY — Wednesday, 16 June 2021]

p1522c-1538a

Mr David Templeman; Mr Shane Love; Dr David Honey; Mr John Quigley; Acting Speaker; Ms Mia Davies;  
Deputy Speaker; Mr Peter Rundle

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**MR P.J. RUNDLE (Roe)** [1.59 pm]: I would like to add a couple of brief comments. I must say I am very disappointed at the way this has played out. I back the Leader of the Opposition in speaking against the Corruption, Crime and Misconduct Amendment Bill 2021. This is an unprecedented attempt by the Attorney General to bypass the proper processes. As the member for Cottesloe pointed out, we are not here to talk about Mr McKechnie; we are talking about the bypassing of the proper processes. I had real concerns when I saw what happened to the President of the Legislative Council. That showed that if you push back against the government and do the right thing, you will be suddenly demoted. The President of the Legislative Council is gone.

Debate interrupted, pursuant to standing orders.

[Continued on page 1547.]