

**CORRUPTION, CRIME AND MISCONDUCT AMENDMENT BILL 2020**

*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)** [12.33 pm]: I move —

That the bill be now read a second time.

The position of Corruption and Crime Commissioner is critical to the proper administration of public life in Western Australia. The current commissioner's term expires in but 12 days' time. The position was advertised nationally in January. The process for the appointment of commissioner is set out in section 9 of the Corruption, Crime and Misconduct Act 2003. Section 9(3) provides that the commissioner is to be appointed by the Governor on recommendation of the Premier. Section 9(3a)(a) requires that the person recommended by the Premier appear on a list of three eligible persons submitted to the Premier by the nominating committee. If there is a standing committee, the person recommended by the Premier must have received the majority support and bipartisan support of the members of that committee, pursuant to the requirements of section 9(3a)(b).

The act also provides, under section 9(4)(b), that when there is no standing committee, the Premier should then consult with the Leader of the Opposition and the leader of any party in Parliament with at least five members. As there is a standing committee, the Joint Standing Committee on the Corruption and Crime Commission—the joint standing committee—this last circumstance is irrelevant. The nominating committee, as defined under section 3 of the act, was convened, and in accordance with section 9(3b), an advertisement calling for expressions of interest was published nationally in January 2020. On 23 February 2020, the Chief Justice of Western Australia, as chair of the nominating committee, wrote to the Premier submitting three candidates. As required by section 10(1) of the act, all three nominees submitted by the nominating committee have the requisite qualifications to hold the position of commissioner; that is —

A person is qualified for appointment as the Commissioner if the person has served as, or is qualified for appointment as, a judge of the Supreme Court of Western Australia or another State or Territory, the High Court of Australia or the Federal Court of Australia.

Mr McKechnie, QC, was described as the “outstanding nominee for the position” in the view of the nominating committee.

The Chief Justice also reported that Mr McKechnie had “extensive experience and a demonstrated capacity in the role, which he has carried out independently and with great integrity. Indeed, this appointment is required only because of Mr McKechnie's current term expiring. His reappointment will also provide continuity in the position.” In accordance with the provisions of section 9, on 5 March 2020, the Premier wrote to the chair of the joint standing committee and in doing so enclosed the Chief Justice's letter setting out the view of the nominating committee. The Premier advised the joint standing committee that he agreed with the nominating committee's view and asked whether Mr McKechnie had the bipartisan support and majority support of the joint standing committee. Bipartisan support is defined in the CCM 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;

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 presently consists of two members of the Australian Labor Party, one member of the Liberal Party, and one member of the Greens WA. On 25 March 2020, the chair of the joint standing committee replied to the Premier, advising that the committee had been unable to achieve bipartisan and majority support for the Premier's recommendation. The government's intention to reappoint Mr McKechnie, QC, as commissioner has received the support of the Leader of the Opposition, who wrote to the Premier on Tuesday, 14 April 2020 describing Mr McKechnie, QC, in her view, as “an outstanding candidate to continue in the role of commissioner”. 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 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. In introducing this bill, it is the government's intention to break the gridlock that has beset this process.

The Corruption, Crime and Misconduct Amendment Bill 2020 is a brief bill. Its sole amendment is to section 9 of the act, which sets out the process for the appointment of commissioner, as follows —

After section 9(4a) insert:

- (4B) Despite subsection (3), John Roderick McKechnie is reappointed as Commissioner for a period of 5 years commencing on 28 April 2020.

The effect of the amendment is to ensure John McKechnie, QC, is permitted to serve a second five-year term after the first term expires on 28 April 2020. The legislation has not been required before because, until now, each nomination for the position of permanent commissioner made by the Premier to the joint standing committee under section 9(3a), selected from three provided by the nominating committee, has received the bipartisan support and majority support of the joint standing committee. This includes Mr McKechnie, QC, on his initial appointment in 2015. At that time, Mr McKechnie was recommended for appointment by the nominating committee chaired by the then Chief Justice of Western Australia, Wayne Martin, AC, QC. The former Premier and member for Cottesloe submitted Mr McKechnie's nomination for the bipartisan support and majority support of the joint standing committee. The nomination received the majority and bipartisan support of the joint standing committee, which at that time was chaired by the Liberal member Hon Nick Goiran, MLC.

In view of the crucial importance of the role, the fact that the commissioner's term expires at close of business in 12 days' time, the fact that the commission is currently undertaking major corruption inquiries in Western Australia and that the commission is operating with up to 88 per cent of its staff working remotely due to the COVID-19 crisis, it is imperative that the commission have, in the words of both the Chief Justice and the Leader of the Opposition, the "outstanding nominee" of the nominating committee reappointed in his position.

I commend the bill to the house.

Debate adjourned, on motion by **Mr A. Krsticevic**.