

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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**JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION**

*Consideration in Detail — Appointment of Members — Amendment to Motion*

Resumed from 13 June on the following motion moved by Mr D.A. Templeman (Leader of the House) —

That the member for Girrawheen and the member for Kalamunda be appointed as members of the Joint Standing Committee on the Corruption and Crime Commission and that the Legislative Council be acquainted accordingly.

to which the following amendment was moved by Mr S.K. L'Estrange —

To delete “Kalamunda” and substitute —

South Perth

**Mr S.K. L'ESTRANGE:** I am glad we have brought this motion back to the house relatively quickly for continued debate because it is quite a serious issue for the Parliament of Western Australia to be looking very closely at how a parliamentary committee with oversight of the Corruption and Crime Commission is formed, and its roles and responsibilities. I would like to highlight to people why it is so important that we, as the opposition as defined under the Corruption, Crime and Misconduct Act and the word “bipartisan”—I will read that in a moment—have more than one member on this committee. I will step members through it now, if I can. First of all, I think what happened in the upper house was a mistake. I think the Leader of the Government in the Legislative Council did not nominate a Labor member; instead, she nominated a Greens member. This is nothing against the Greens member of Parliament; this is not about that at all. It is about the functioning of the act.

**Mr D.A. Templeman:** Yes, but that’s not what some of you said about the Greens member in the debate.

**Mr D.C. Nalder:** No, we didn’t.

**Mr S.K. L'ESTRANGE:** No, I never said anything. No, if the Leader of the House checks *Hansard* —

**Mr D.A. Templeman:** I think you will find you did.

**Mr S.K. L'ESTRANGE:** Somebody else might have, but if the Leader of the House checks *Hansard*, I was very clear —

**Mr D.A. Templeman:** I think members of the opposition may in fact have impugned her under standing order 92.

**Mr S.K. L'ESTRANGE:** No, member, I was very clear that the leader of the government in the upper house had her nominee and the Leader of the Opposition in the upper house had his nominee. I think it was a mistake for the leader of the government in the upper house not to nominate a member of the government side—the Labor Party—to that committee in the upper house. I think that was a mistake, and that is why I think we find ourselves here today having to move this amendment. The Labor Party, or government, has decided to try to somehow counterbalance what occurred in the upper house. It is saying no to a Liberal and a Labor member from the Legislative Assembly, and it is saying that it wants two Labor members from the Legislative Assembly. We are saying that cannot enable the functioning of the actual overwatch committee to work. I will tell members why.

Section 216A(3) of the Corruption, Crime and Misconduct Act, under “Standing committee of Houses of Parliament”, reads —

- (a) carry on the functions conferred on the Standing Committee under this Act; and

So it is the functions conferred on that standing committee. One of those functions—a very important and significant function—is detailed in division 1 of part 2, under section 9(3a)(b), which reads that the person to be nominated must be someone —

who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.

This notion of bipartisan support is very significant as it exists in the act. If members go to the definition of “bipartisan support” in section 3 of the act, it reads —

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

To us it is very clear that part of the functioning of the act is to be able to appoint the commissioner—Section 14(2a) refers to the appointment of acting commissioners. That section again states that bipartisan support is required.

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The same also applies in other parts of the act that refer to the Parliamentary Inspector of the Corruption and Crime Commission; it also requires bipartisan support. It is very clear that the act cannot function by having only one member of the opposition on the committee.

**Mr D.C. NALDER:** I would like to hear further from the member.

**Mr S.K. L'ESTRANGE:** By having only one member of the opposition on the committee, we are not allowing the act to function because it means the committee cannot be in a bipartisan position to carry out these very important roles that it has to for the actual operations of the Corruption and Crime Commission. This is of serious concern to us, and that is why we have moved this amendment that will enable the member for South Perth to be on this committee. We could then have one Liberal member from the upper house, Hon Jim Chown, and one member from this place, the member for South Perth, as the two opposition representatives on this committee. That would satisfy the definition of "bipartisan", and therefore enable the act to function as it should. That is just the functioning of the act, which is serious in itself. How will that committee be able to conduct these important tasks if the act states it cannot because the notion of bipartisan support, as defined, cannot be achieved? That in itself is a very serious matter that we are very concerned about.

But taking it a bit further: we could try to get some lawyer, State Counsel or Queen's Counsel to advise on exactly what the plural "members", as it appears in the act, means—it reads "members", so plural; clearly it implies plural—the government could say, "Oh yes, but we can try to get an interpretation from the Interpretation Act to mean that, yes, it's a plural meaning, but you can interpret that to be singular." The government could go down that route and try to be tricky and sneaky with these words to try to get around this problem, which, as I said at start, I think was a mistake. I will give the government the benefit of the doubt. I think it made a mistake in the other place. It is trying to work out what to do with this mistake and it has itself wrapped around axles. To put that to one side, if the government tries to get tricky with this definition of clearly "members", plural, I would suggest that members only need look at convention that has existed since this act was created and since this committee was created, because the convention has been, since that time, that there are two members of government and two members of the opposition as defined in the act. That has been the case from the start. It has never varied from that. It has always been two members of the government and two members of the opposition, as defined in the act.

We find ourselves in a very difficult position now, or the government finds itself in a very difficult position. For us as an opposition, we are very much concerned about how this committee can function. We think the people of Western Australia are owed an explanation of how the government is going to untangle this and get it so that we can have the function under the act occurring as it should and so that we have at least two members of the opposition on this committee. That is what is required, we believe, in the act, and that is what the convention has been since this committee was created in, I think, 2004.

That has been the situation, and that is why, to satisfy our responsibility of ensuring that the act is followed, we are moving this amendment. It has been moved so that we have two members of the opposition on this committee as we should, and as defined in the act. That is what we are doing. I urge all members in this place to make sure that they think about this very seriously, and vote yes—vote with us—on this amendment, to ensure that the member for South Perth is put on this committee so that the functioning from the opposition side, under the act, can occur.

**Mr A. KRSTICEVIC:** The manager of opposition business has done a great job in outlining the case. He mentioned convention in terms of the interpretation of "members". It is not just convention, but the application of the Interpretation Act 1984. Section 3 reads —

- (1) The provisions of this Act apply to every written law, whether the law was enacted, passed, made, or issued before or after the commencement of this Act, unless in relation to a particular written law —

...

- (b) in the case of an Act, —

In this case, the Corruption, Crime and Misconduct Act —

the intent and object of the Act or something in the subject or context of the Act is inconsistent with such application; or

Not only does convention back up the opposition's amendment, but also the Interpretation Act 1984 says that plural-single does not apply in the event that it is referred to in another act where it is specifically indicated.

The other thing is that we have the opportunity for adverse consequences. Remember, this is a committee of the Parliament. Imagine when this committee reports back to this house, we will have only the view of the two Labor members telling us what the committee has decided, and what its view, application and intent was. We will get

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only their view; we will not get a balanced view in the Legislative Assembly. It will only be the view of Labor members on that committee. That is a real travesty of justice and would not be allowed in any other democratic government in the world. It is an absolute disgrace from that point of view. There are adverse consequences. There is that interpretation. It is a pretty obvious convention and the legislation itself says it needs members from both houses. I think that point has been made and the amendment needs to be supported.

**Dr M.D. NAHAN:** This is a really important issue. When we had this debate on the amendment last time, the question I asked was: Why is the government doing this? Why is it mucking about with one of our most delicate standing committees and issues? It is the Joint Standing Committee on the Corruption and Crime Commission that has oversight—independent oversight of this Parliament and many other issues around the state. We hear it is going to go into organised crime. It is a very important committee. Similar groups and organisations have played a very important although controversial role in our body politic around Australia. Why is the government mucking with it? Our hypothesis now is that it was an error in the upper house committed by the leader of government business in the upper house. It might not have been—I do not know, but we are giving the government the benefit of the doubt there. As the opposition, we nominated Hon Jim Chown in discussion with the leader of business in the upper house. For some reason, the government nominated a person other than a member of the government. We were surprised at that. Why did it? I do not know why the government did that, but it did. It was the government's nominee. You are the government; it is your nominee. We had no problem with the person. We were surprised you nominated them.

**Mr D.A. Templeman:** I think that you did. You made some inappropriate comments about Hon Alison Xamon.

**Dr M.D. NAHAN:** We did not—just find evidence!

**Mr D.A. Templeman:** She's upset with you. I can tell you. She's appalled by your comments about her.

**Dr M.D. NAHAN:** I am puzzled by your action. Anyway, you nominated her and we nominated Hon Jim Chown.

*Point of Order*

**Mr S.K. L'ESTRANGE:** There is constant interjection from the Leader of the House. I ask you to enable the speaker, the Leader of the Opposition, to be heard in silence.

**The ACTING SPEAKER (Ms S.E. Winton):** May I say, if you put the discussion through me, it might assist you.

*Debate Resumed*

**Dr M.D. NAHAN:** We acted in good faith, consistent with convention and with the interpretation of the act, and consistent with good policy. That is, we nominated a person from the opposition, an opposition defined under the conventions of the Parliament as the Liberal Party. We nominated Hon Jim Chown as our person on that committee. We did this across a range of committees and, with one exception, our nominations were accepted—except this one. We were puzzled why the government did this, but it is the government. I think it did not look at the act. I think it was an error, not perhaps in the appointee. I am not saying anything about their appointee or her qualities—not at all, never did—but I do not think the government put a lot of thought into this because it is a contravention of the intent, if not the detail, of the act.

**Ms A. Sanderson:** No, it is not and it is not in the standing orders either.

**Dr M.D. NAHAN:** By our interpretation and that is the advice: the government has to have at least two—make it plural—people on the committee from the government, defined this time as “Labor”, and two from the opposition, defined as “Liberal”, but right now we do not have that. That is a problem of the government's making. We thought the government would accept our recommendation, as it did with all the other committees, but it chose to deviate on one committee and that is the Corruption and Crime Commission oversight body. Why would the government do that? Why would it do that? We think it was a mess-up. We are giving the government the benefit of the doubt, if there was a mess-up in the upper house. It might not be. I might add that we can look to the history.

Several members interjected.

**The ACTING SPEAKER:** Member for Mandurah and member for Churchlands! Members, please, not across the chamber.

**Dr M.D. NAHAN:** If that is not the explanation, then this will be hard to fix.

*Quorum*

**Ms L. METTAM:** Can I draw your attention to the state of the house.

**The ACTING SPEAKER:** I believe there is a quorum present.

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*Debate Resumed*

**Dr M.D. NAHAN:** What other interpretation is there? Was there an error in the upper house? We were not privy to those conversations, but I can guarantee that the manager of opposition business in the upper house was—not miffed, but puzzled by the decision.

**Mr D.A. Templeman:** You should have voted against it!

**Dr M.D. NAHAN:** No; it did not go to a vote.

**Mr D.A. Templeman:** No, because it was supported by your leader.

**Dr M.D. NAHAN:** No, it was not. It was a decision by the government to put forward its nominee.

**Mr S.K. L'ESTRANGE:** I would like to hear more from the Leader of the Opposition.

**Dr M.D. NAHAN:** What other explanation would there be? I might add, we should look at the history in this state and this Parliament about the importance of the Corruption and Crime Commission. Also this week the Premier thought it was necessary to come out and, verbally at least, warn his ministers to stay away from Brian Burke. That is what he did. As I said earlier, I do not think it was necessary but I can understand why he did it. We have gone through a number of waves of corruption in this state. Back in the 1990s, I was a public servant and I saw political parachutists go into the public sector and politicise it, which led to terrible actions in this state.

**Ms M.M. Quirk** interjected.

**Dr M.D. NAHAN:** It is not funny! There were parachutists in the public sector. As Treasurer, I had to deal with the Bell Group debt—the Bell Group money. Then, last decade, it happened again. One of the great things about Western Australia—if we look at Transparency International, I think—is that we have a low level of corruption in our body politics. That is what this body is set to oversee and stop. Why would anybody—why would a government with the majority that it has and a track record, let us be honest; I know they do not like it but that is it—want to stack it? Why would it?

**Mr D.A. Templeman:** In what way is it stacked? Do we have a majority? No, we do not.

**Dr M.D. NAHAN:** Yes, you do have a majority. If you have two Labor, one Green and one Liberal, you have the majority!

**Mr D.A. Templeman:** The Green is not a member of the Labor Party. Get it through your thick head!

**Dr M.D. NAHAN:** Why would you do this? You have the majority. Why would you do this?

Several members interjected.

**The ACTING SPEAKER:** Members!

**Ms M.M. Quirk** interjected.

**The ACTING SPEAKER:** Member for Girrawheen, I am on my feet. Members, could we please hear the member in silence.

**Dr M.D. NAHAN:** I would like to summarise the problem we have here. From our interpretation, if the government does not accept our amendment, the oversight body will not be able to function. It will not meet the definition of impartiality in the Corruption, Crime and Misconduct Act 2003. Without that impartiality, it will not be able to function and be bipartisan. It will not be able to do certain things that are essential to the functioning of the Corruption and Crime Commission, such as select the commissioner, the deputy commissioner and others. With that interpretation, what does the government want us to do? Just accept its error? It is basically asking us to accept a recommendation that breaches the act; that is what the government is saying. We cannot do that. The government has the numbers to do it, but it will be on its head. Going back to the purpose of this—it is to select the Corruption and Crime Commissioner and deputy commissioner. The act states that that is the overall primary function of the oversight body. It has to do that with bipartisan support. Bipartisan support is defined as plural from government and opposition. The government's nomination does not achieve that. It is asking us to accept its nomination knowing full well that it will nullify the functioning of the oversight body.

**Mr D.A. Templeman:** We simply don't agree with your interpretation.

**Dr M.D. NAHAN:** Read it. Does the government have legal advice otherwise? I am sure that the government could get some legal advice but, as the member for Churchlands indicated, we know what the purpose was because we had a convention on this for a decade.

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**Mr W.R. Marmion:** Why break it?

**Dr M.D. NAHAN:** Why break it? Now cop it sweet. You made an error. Let us go. We can move on. We suggested a solution last time. We are open to that. We want this to function. We do not want controversy about the oversight of the CCC; it is too important. We want this to function; we want oversight. If it was an error, errors happen—that is what it is. We will look at trying to rectify this. But if the government overrides us, it will be on its head. Our interpretation is that the government is asking us to accept a nomination that will nullify the functioning of the oversight body. It will be on its head if it does not do it.

**Mr D.T. REDMAN:** I want to make a couple of comments from the National Party in support of what the Liberal Party has put up as amendments. I will take a slightly different tack from what has been pushed. Some technical issues have been raised and a very strong argument has been put by the leader of opposition business. The issue of perception of conflict of interest is a significant issue. Former ministers—there are a bunch of former ministers in the house now—and ministers of government declare the interests that they have. The issue of perception of conflict of interest comes to the fore all the time. It is a particularly high bar. We have seen the history. There would not be too many people in this house now who were around when the Carpenter government was in play. I was one of those. I was an opposition backbencher at the time—I sat just up there. I remember being on the Public Accounts Committee with Norm Marlborough; I was on there with him. He was one of the people who got wrapped up in the sort of issues that we probably will not see happen again in this place. I remember the occasion when Julian Grill was brought to the Bar to apologise. Fred Riebeling was in the Chair. It was absolutely unique. Once again, I would be surprised if we saw that happen again. There are some substantial issues. I do not think for a minute that the government today wants to be a part of any of that. It wants to have itself, quite rightly, separated from it. This is an issue that has historically dogged the Labor Party—the perception of its integrity by the people of Western Australia. I would have thought that the Premier would want to distance himself as far as he possibly could from those issues and start the game running with integrity and the perception of integrity—all the things that are important—to get rid of that history and make sure that it is not even going to be something that anyone raises. Yet, we find ourselves with something that appears to be in conflict with that perception. I thought it was the right move.

A question was asked by the member for Dawesville: has the Premier issued any instructions to his ministers or backbenchers about Brian Burke? He has; he has told them not to talk to Brian Burke. He could not say anything else. In my view, that is setting a high bar. It is consistent with the position that the Premier has taken when coming into government. But this issue is not consistent. The very reason that there has been a convention regarding the CCC in place in response to the history that we have seen in this place means that if the government were to follow that convention, it would be keeping itself distant from those issues. The perception of conflict is as big an issue as the actual issue of conflict. The perception of conflict is a substantial issue; it is a high bar. I would have thought that the Premier would have wanted to set that standard right from the outset. We have a situation in which there is an inconsistency about the points that the leader of opposition business has made. There is what the opposition would argue is a dominance of the Labor Party on the CCC committee. In my view, that can only mean one of three things. The first is that the Premier got rolled in caucus. That is one way. Caucus discussed what they were going to do and this is what it rolled out. That is one potential solution. The other solution is that he got rolled by the Attorney General. The Attorney General may have said, “I don’t like this. I want to have a position where we’ve got a bit of charge on this.” The third solution is that the Premier genuinely believes that this actually passes the pub test. A third possible issue here is that the Premier genuinely believes that the position the Labor Party has taken on appointment to this committee is that it passes the pub test. It smells, Madam Acting Speaker.

*Point of Order*

**Ms M.M. QUIRK:** I have sat here and listened to this debate—not only this today, but previously—and I have to say I believe that a lot of members of the opposition are falling foul of standing order 92, in relation to imputations of improper motives, personal reflections on members of the Assembly or the Council and they are disorderly. If the opposition wants to infer that there are improper motives, improper conduct or lack of integrity, it needs to move a substantive motion.

**The ACTING SPEAKER (Ms S.E. Winton):** I do not think that that is a point of order. I think that the members of the opposition are speaking in general terms. I will let it continue.

*Debate Resumed*

**Mr D.T. REDMAN:** I think that there are two remaining issues. There is the issue of perception of conflict of interest, which is a high bar and one that I would have thought that the Premier would have wanted to absolutely ensure being covered off on to distance himself from those issues. The other issue is the technical aspects raised

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by the leader of opposition business in terms of the legal aspects of the fulfilment of the committee and the functions that it is able to carry out.

**Mr C.J. BARNETT:** I agree with what has been said so far in this debate. I want to add a couple of observations and restate what the member for Churchlands said in the previous debate. When the Corruption and Crime Commission was established, the role of the parliamentary oversight committee was clearly important. The intent of legislation—I remind members that it was Labor Party legislation—was that there be bipartisan support on that committee. The mere fact is that the definitional section of the act, as pointed out previously, defines bipartisan support and refers specifically and only to members of a party of which the Premier is a member and a member of the party of which the Leader of the Opposition is a member. This legislation is black and white. It is very clear that the intent is that the membership is to be made up by the government of the day and the opposition of the day as defined; that is clear. That was the intent and it has been the practice of this Parliament ever since this legislation came into place. It has been respected—until now—by successive governments of both persuasions. It is quite sensible: two houses of Parliament, two members from each house on this committee—one Liberal and one Labor, because that is generally the government and the opposition. That is the way that it should be. The Leader of the Opposition is a far more generous person than I am. He has described this as a mistake in the upper house. I do not believe it is a mistake. I believe it was a considered position by the Labor government. Indeed, the fact that so many members opposite are interjecting even in this debate shows that they have some prior knowledge.

**Ms M.M. Quirk:** This is absurd!

**Mr C.J. BARNETT:** The member should tell us: was it a mistake or was it a predetermined policy of the Labor government? Tell us.

**Ms M.M. Quirk:** I'm a mere backbencher. I'm not privy to these matters.

**Mr C.J. BARNETT:** It is a simple question. Was it a mistake? Did one of the government's members in the upper house make a mistake?

**Ms M.M. Quirk:** I don't know. That's the honest answer.

**Mr C.J. BARNETT:** Well, it seems very strange to me that so many government members seem to have opinions about and knowledge of this. That does not smack of a mistake to me.

**Ms M.M. Quirk** interjected.

**The ACTING SPEAKER (Ms S.E. Winton):** Member for Girrawheen, I call you to order. Please let the member for Cottesloe continue.

**Mr C.J. BARNETT:** If the Premier or whoever has made decisions about this has made a mistake, they should stand up and admit it and we will help to correct that mistake. But I do not think it was a mistake. I think the government went in with a strategy, which we are seeing. In the upper house, yes, a Liberal member, Hon Jim Chown, has been nominated. Obviously, that is the opposition nomination and we are happy he has been endorsed. With respect to the other nomination, a Green, it was the Labor Party's choice to forgo its normal position of having a Labor Party member from the upper house on this committee and to give that position to a Green. I think it was a silly thing to do, but Labor did it as a government, and presumably it did that deliberately. That left the scenario, when it got to the lower house, that the only two members on the committee from the Legislative Assembly would be Labor members. As the member for Warren–Blackwood has said, that does smack of a conflict of interest. I agree with what he said. It also happens to be the case that the Attorney General is in this house. There he sits. We now have an Attorney General who himself has been subject to investigation and inquiries by the Corruption and Crime Commission. That is a fact. It is in the records and publications of the CCC.

**Mr D.A. Templeman:** And it's a fact that your nominee has also been of the same circumstance.

**Mr C.J. BARNETT:** I make the point that the member opposite is the Attorney General.

**Mr D.A. Templeman:** It doesn't matter; it's the same circumstance.

**Mr C.J. BARNETT:** It is the Attorney General who has oversight of the CCC as a minister.

**Mr D.A. Templeman** interjected.

**The ACTING SPEAKER:** Member for Mandurah, please stop interjecting. Let the member for Cottesloe continue.

**Mr C.J. BARNETT:** If the Attorney General is a member of this house, surely the two lower house representatives on the standing committee should not be Labor members. It should be one Labor and one Liberal. Has that got something to do with it? Is the Attorney General actually trying to avoid scrutiny? Is he trying to avoid scrutiny

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by not having an opposition representative on that joint standing committee from the house in which he is a member? He is the Attorney General, he is a member of cabinet, he has ministerial responsibility for the CCC and he—and I think it is him and solely him—is denying scrutiny. This is the government's first major error in accountability and integrity. I say for the third time in this Parliament: do not forget that the Attorney General has been the subject of CCC inquiries. For that reason alone, one would think that the government would ensure that it does not compromise the oversight committee and indeed the integrity of oversight of the Corruption and Crime Commission. The government will probably have its way today. Government members are all upset and intent about it because they have all been involved in it. History will show.

**Mr S.K. L'ESTRANGE:** I would like to hear more from the member for Cottesloe.

**Mr C.J. BARNETT:** I made a speech a couple of weeks ago. The media got all upset and intense about it; a bit too much for my liking. It was a bit touchy, I thought. However, here we are just a couple of weeks later and we have the first tangible sign of Labor compromising on integrity and accountability. This will be a little moment in the story of this government. It is making a serious mistake in the intent of the act that was introduced by a Labor government. It is making a serious mistake in simply overruling and ignoring a convention that has been honoured by successive governments. The Attorney General is making a mistake in his role as Attorney General, and indeed the Premier is making a serious mistake given his responsibility to provide leadership and standards to cabinet.

**Mrs L.M. HARVEY:** In looking over this issue I went back and had a look at some of the reports of the previous iterations of the Joint Standing Committee on the Corruption and Crime Commission that have been tabled in this place. It is really important that the government articulate why it is choosing to not have two members of the opposition on this committee and why it is using its balance of power in this place to ensure that the representation of the opposition is diminished. Between 2005 and 2008 this committee tabled numerous reports; in fact, 31 reports were tabled. One of those was a report on legislative and procedural matters arising from the parliamentary inspector's investigation and review of the acts and proceedings of the CCC concerning Mr John D'Orazio. The third report of this committee was an inquiry into legislative amendments to the Corruption and Crime Commission Act 2003. This committee makes recommendations to the government about changes to the Corruption and Crime Commission Act, which is a very, very important role. That is the power of this committee. That is why it is important that it has bipartisan representation, meaning representation of the opposition party, which is the Liberal Party. The twenty-first report was a report on the release of records pertaining to the Joint Standing Committee on the Corruption and Crime Commission and its predecessor.

The 2008 to 2013 period is even more interesting. A report was tabled on whether the exceptional powers of the CCC should be revoked, which are the powers to compel witnesses to give evidence. There was a parliamentary inspector's report concerning telecommunication interceptions and legal professional privilege—really important stuff that this committee is required to investigate to inform the Parliament and the people of Western Australia, and to require the government to respond. The eighth report of this committee was headed “Corruption and Crime Commission Report on the Investigation of Alleged Public Sector Misconduct in Relation to the Activities of an Associate to a Judge of the District Court of Western Australia”. Why on earth would the government deny the opposition what has traditionally been 50 per cent representation on a committee with an important role such as this? There was also a report by the committee headed “Corruption and Crime Commission's Response to the Select Committee into the Police Raid on *The Sunday Times* Report No 1”. Members might remember that police raid. There was a question at the time about whether the government of the day had ordered the police raid on *The Sunday Times* to try to find the source of a leak of something that was embarrassing to the government. The CCC committee, the committee of this Parliament, held an investigation and inquiry into that using all the powers available to those committee members of this place to ensure that they could get to the truth of that matter and to understand whether there had been improper actions on behalf of the government of the day, the police of the day, or whoever else may have been involved in that raid on *The Sunday Times*, the purpose of which was to interrogate the source of a journalist's leak from government, as I understand it. It is up to the government to explain to us and the community why it thinks that the opposition party of government, whose role is to hold the government to account, should be denied representation on this committee.

Looking at the activities of this committee from the last Parliament—2013 to 2017—there was a recent report on the ability of the Corruption and Crime Commission to charge and prosecute. Do we give the Corruption and Crime Commission additional powers to charge and prosecute or do we wind them back? The committee investigated that. It made a recommendation to government.

The Attorney General would have the responsibility of amendments to this very important piece of legislation that holds the public sector and the government to account with respect to corruption and misconduct, and not to mention the police.

**Dr M.D. NAHAN:** I would really like to hear some more from the member for Scarborough.

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**Mrs L.M. HARVEY:** In its twenty-eighth report, this parliamentary committee looked at the activities of the Corruption and Crime Commission itself. That report reported on the outcome of allegations of misconduct made against officers of the Corruption and Crime Commission. Why on earth would the government deny the protocol that has applied since the inception of the Joint Standing Committee on the Corruption and Crime Commission of having two members from the opposition of the day and two members from the government of the day? I also thought the twenty-first report of the committee, “Recent amendments to the Corruption and Crime Commission Act 2003: Some implications for Western Australia’s integrity framework”, was really interesting. That is what this committee did: it looked into the implications of amendments to the Corruption and Crime Commission Act for Western Australia’s integrity framework. Nothing is more important to the community of Western Australia than the accountability and the integrity of the government. That is what this committee does, that is what the Corruption and Crime Commission does, and that is why it is so important that the opposition, which is here to hold the government to account, has 50 per cent representation on that committee, as it has done from the get-go— from when it started. That tradition was set by a Labor government. I do not understand the position of the government on this issue. I do not understand why it is being so pigheaded about this. I do not understand why it wants to turn years of the successful operation of this very important parliamentary committee on its head, at a time when it has experienced a massive swing. The government has a massive number of members in this Parliament. It has made history. Why would it wind back the only integrity oversight committee of Parliament, and hold back those members of the opposition who choose to take on that very important role in ensuring that the CCC is carrying out its job to hold the police, the state, the government of the state and the public sector of the state accountable for corruption and misconduct?

I encourage members to go online and have a look at the previous committees that have been formed on the Corruption and Crime Commission, and see the incredible work that they have done. The committee of the previous Parliament was very active indeed. It had an inquiry into the CCC’s interaction with the state’s Integrity Coordinating Group. This is really important stuff. I am not going to say any more. I have said a lot on this already. I concur with everything that members on this side have said about this. The risk of a government watering down the integrity framework and the oversight committee of our integrity watchdog is extreme. Every single taxpayer in Western Australia, every single police officer, every single individual whom those police officers interact with, and every journalist who might find themselves the subject of a potentially improper action of the police, as a result of their activities, should be concerned about this. This goes to the heart of integrity in this state. It was set up for a purpose, which was to ensure that crime, corruption and misconduct could be weeded out. That is why the CCC has the investigative and coercive powers that this Parliament has granted it, and why it was set up with a parliamentary inspector and a parliamentary oversight committee that included two members of the opposition that holds the government to account in the Parliament, and two members of the government of the day. This issue is the most important test for this new government. Will it be arrogant and cocky and use its numbers to water down the integrity framework in this state, or will it run with convention, run with the status quo, and ensure that the Liberal opposition has proper, 50 per cent representation on the most important committee of this Parliament?

**Mr P.A. KATSAMBANIS:** I have listened intently to this debate. As someone who has been on parliamentary committees on and off for over 20 years, I have experienced the work of committees, and I recognise that the best committees operate on a bipartisan basis. Sometimes when they are doing the committee work, it is impossible to tell which party each person belongs to. That is when committees do their best work. To kick off any committee at the start of a new Parliament with a debate about its composition clouds the ability of that committee to work in a bipartisan manner. It clouds the ability of a committee to set forth and do its work in as apolitical a manner as it can, given the circumstances, and the fact that we are political people who are appointed to these committees. This is why I listened to the debate intently. However, when it comes to a committee that is the Joint Standing Committee on the Corruption and Crime Commission, it elevates my concerns to an even more significant level. As the Deputy Leader of the Opposition so eloquently put it, it goes to the heart of the operation of the integrity framework in this state. Of course, I am concerned, and I share the concerns that have been expressed by my colleagues in the opposition and the National Party.

However, I want to shed a slightly different light onto this that could possibly elevate my concerns to an even higher level. Members talk about this committee being an oversight committee, and that is an important part of its role, and we use that oversight as a bit of a shorthand for the committee, but it is more than an oversight committee. It is actually a committee that has an integral, legislated role under the Corruption, Crime and Misconduct Act 2003 in the appointment of the Corruption and Crime Commissioner, as well as any acting commissioner and the Parliamentary Inspector of the Corruption and Crime Commission. Its role in the appointment of people to those three positions is identical in the legislation for the appointment of each. It requires the person who fills that office to have the support of the majority of the standing committee, and bipartisan support. Interestingly, it does not

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require unanimity, and I think that is important. It envisages a time when a committee may not necessarily be able to reach a unanimous view, but it also talks about bipartisan support. All of us can have our own definition of bipartisan support, but the primary act—that is important, too, because we are not relying on some other act to interpret this—defines bipartisan support in section 3 as meaning —

(a) members —

I stress the plural —

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;

It uses the plural in both cases. It could have chosen to use the terms, “at least one member of the party of which the Premier is a member”, and analogously “at least one member of the party of which the Leader of the Opposition is a member”, but it did not. The framers of this legislation, the Parliament that passed this legislation, clearly envisaged that that was not good enough.

**Dr M.D. NAHAN:** I would like to hear more from the member for Hillarys.

**Mr P.A. KATSAMBANIS:** They clearly said that we needed more than one member of each of those two parties to agree to form the majority required in the case of the Corruption and Crime Commissioner himself, in section 9(3)(a), and analogous provisions for the acting commissioner or parliamentary inspector. Envisage when there might not be unanimity and there is only a majority, but it requires more than one person from the Premier’s party and more than one person from the Leader of the Opposition’s party to support that appointment so that it can be valid and legal. This is where my concern comes. Appointing a committee made up of the members and their representative parties that the government has brought to this house runs the serious risk that the appointment of a commissioner, any acting commissioner or the parliamentary inspector may be brought into question at the outset—ab initio, as people in the law like to say.

Who would want to bring those appointments into question and perhaps go to court and say that the Corruption and Crime Commission can claim it has all the powers it wants, but it cannot apply them because the commissioner is not validly appointed because the committee that had a role in the appointment of the commissioner was not properly constituted? Who would want to do that? Someone who would want to avoid the commission’s scrutiny or someone who may not want the Corruption and Crime Commission to shine a light on their activity—the very people whom the Corruption and Crime Commission was established to go after in the best interests of all Western Australians. When we move to vote on the motion brought forward by the government and on the amendment, we need to consider whether we as a Parliament are creating a window of opportunity for somebody or some persons who want to avoid scrutiny in the future by bringing into question the very composition of the commission and the position of the commissioner in the first place. That is the real risk this government runs by bringing this motion to the house, which is why the manager of opposition business has, rightly, moved that we partly correct it.

Based on the analysis I put forward today, even if we partly correct it in this house, because of what happened in the other place, that risk would remain because, if the opposition’s motion succeeded, there would not be two government members on the committee either, so there would not be plurality of members of the Premier’s party as envisaged by the Corruption, Crime and Misconduct Act. This is a real mess.

**Ms M.M. Quirk** interjected.

**The ACTING SPEAKER:** Member for Girrawheen!

**Mr P.A. KATSAMBANIS:** Someone on the other side could raise an argument to nuance what I have said or argue against it. We can do that in here and we can all then decide that argument on the numbers. But it is a legal argument that will need to be determined by a court and whether or not someone else’s position is right will not necessarily matter.

**Ms M.M. Quirk** interjected.

**The ACTING SPEAKER:** Thank you!

**Dr M.D. NAHAN:** I would like to hear more from the member for Hillarys.

**Mr P.A. KATSAMBANIS:** Thank you. It will not be my opinion, that of the member for Girrawheen or of the Attorney General if he chooses to offer one in this debate—that is up to him. It will be a court’s opinion that will determine in the end whether what we do today or when we come to vote on these motions was valid. However,

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make no mistake: we are giving that court the opportunity to interpret the legislation in the same way as I have discussed in the house today at the great expense of the protection of the public, at serious risk of allowing someone who wants to avoid proper scrutiny and proper investigation by the commission of so avoiding it by questioning the appointment of a commissioner, acting commissioner or parliamentary inspector. That is an even bigger error for us to make than simply breaking the convention that has been practised for the last seven years by clearly breaching the legislative intent demonstrated at that time in 2003 when this act was brought into force and the body of knowledge or the activities of this Parliament that have gone on since. I do not think we should allow that. I think the government should go away and have another think. I cannot speak for the other members of the opposition but they can have a conversation with us—with me; with the Leader of the Opposition, I am sure; or the leader of government business. Let us work our way through this because the pursuit of corruption should not be hobbled by an innocent mistake or something motivated by any other reason that we do today. It is too important for the reasons everyone else has outlined.

I am not imparting nefarious motives on anyone in this. In fact, I do not think anyone in this place wants the Corruption and Crime Commission to be hobbled in its work and I do not think anyone in this place wants to stop a properly constituted standing committee of this Parliament from properly scrutinising, overseeing or doing all the other things it needs to do under the act to assist the Corruption and Crime Commission's work. We have reached this stage by innocent mistake, by omission or because people did not consider the totality of what they were doing at the time, but we should not let it go any further; we should fix it. We should work towards fixing it rather than perpetuating the mistake because the real risk we run is twofold. It is the risk that all the other members have talked about in not having appropriate oversight. But it is that other risk that someone who wants to avoid the scrutiny of the commission may be able to get away with it simply because an interpretation I put today might be later affirmed in a court of competent jurisdiction. I do not think we should be looking at this on a Liberal versus Labor versus Nationals point of view but on a parliamentary point of view, going away and fixing it.

**Mr W.R. MARMION:** I was not going to speak on this, and I do not want to delay the house too much, but this is something I feel very strongly about. Governance is paramount in how Parliament works. The Joint Standing Committee on the Corruption and Crime Commission is probably the most important committee of this Parliament. What the government is trying to do is wrong. It is simply wrong and members opposite should know that through the arguments that have been put on this side. The government might legally be able to do it. I think we have argued that it cannot, but let us say that the Attorney General thinks that legally the government can. It is then a case of legality versus ethics. I think what the government is doing is unethical. Unfortunately, I had to teach ethics to first-year engineers, and ethics are difficult to define. Ethics depend on where the bar is put. Everyone has a different view on ethics. I think that if the government pushes this through, its bar for ethics is very, very low. In fact, the member for Warren–Blackwood said that the best way to define ethics is to ask whether we would like to see what we are doing on the front page of *The West Australian*. If I was sitting on the government side and listening to the opposition, I would have given in. I would have said that the Corruption and Crime Commission is so important that there cannot be a perception that there is a problem with it. If we want to have two opposition members on the oversight committee, as the act says we can, we should have two members of the opposition. If the government wants to have two of its members on the committee, it can put two government members on it. As the member for Hillarys has said, if there has been a problem in the other house, the government should go back and sort it out. Perhaps this motion should be deferred so that a solution can be reached. I notice that only two ministers are in the house; they have all run away. They have left the Attorney General after telling him to get this motion through with the numbers. It is very disappointing, in a debate on an issue as important as this—the essence of governance in the whole state and a watchdog on corruption—that over there everyone has gone home. I want to put on the record that the member for Nedlands does not support what the government is trying to do.

**Mr Z.R.F. KIRKUP:** It gives me great pleasure to rise this afternoon to speak to this motion. I am glad that I have had a bit of a stay since question time after the blistering attack from the Attorney General. I am surprised that I can still stand after that vicious burn he gave me this afternoon. In the process of that, he has signed himself up to another 50 questions over the weekend; I look forward to that!

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

**The ACTING SPEAKER:** Member for Butler, I am on my feet. I call you to order.

**Mr Z.R.F. KIRKUP:** I will move on quickly to escape the second blistering attack from the Attorney General!

Many members on this side of the house have spoken about the need for bipartisanship on this issue. I think it is pertinent for us to refer to a former chair of the Joint Standing Committee on the Corruption and Crime Commission, the former member for Perth, who in 2005 said that members of the parliamentary committees that

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oversee corruption and crime commissions are perhaps more aware than other members of Parliament of the need for bipartisanship.

The motion moved by the government today to put two Labor Party members, one Greens member and one Liberal party member on the committee raises more questions for this house than it answers. Members opposite have said at length that this is not necessarily against the law and that it has simply been convention that has guided them through, and they are happy to break it. But why break convention on this committee in particular? There are 12 other committees that could have been reconstituted in a way that is more desirable for the government of the day, but it chose this committee. I stand with the member for Cottesloe. I think this decision is not a mistake. I think it is the decision of a calculating and cunning government. I think it has deliberately decided in this case to do all it can to reduce the oversight of the CCC because we all know in this place that when the Labor Party is in government, it has form when it comes to the CCC. It has had plenty of incursions of ministers being hauled towards the CCC that I look forward to getting to later on. Many people have asked why this matters. Why does it matter that there is only one Liberal member and there is a Greens member? Again, the Leader of the Opposition made the point that he is not in any way attacking or reflecting poorly on the Greens member that the upper house has nominated. It matters because in this place here, this chamber, when a CCC report is handed down, there will simply be no Liberal member to speak to it. By the move of this government, it is choosing to try to mute us from having any say on any reports that will be delivered. In this chamber of the Attorney General, I would find it very improper, and all should find it improper, that there will be no opposition member who can speak to the reports that are handed down.

This decision is not a mistake. This is a calculated and cunning decision. We know it is because the Labor Party in government has a dark legacy when it comes to the CCC; it has form on this matter. It had Norm Marlborough thrown out or sacked over his connections with Brian Burke; John Bowler was sacked because he leaked a parliamentary report; Tony McRae was sacked as a minister over the financial benefits that he may have gained; and, of course, there is the legacy of the late John D'Orazio. We know of numerous links of the Labor Party with former Premier Brian Burke—a shady figure in Western Australian politics. As the Attorney General inferred today in regard to my young age, Brian Burke was around far before I was even in my primary school shorts, as the Attorney put it, but we all know here that he has a dark legacy with the Labor Party. Indeed, the member for Warren–Blackwood raised the fact that the thirtieth Premier has verbally advised his ministers not to have contact with Brian Burke, but that is distinctly different from the operations of the twenty-seventh Premier, Geoff Gallop. Geoff Gallop issued a directive to his cabinet that was mutually agreed to—a binding directive to his cabinet to have no contact with Brian Burke. In stark contrast, this Premier has decided to verbally advise his ministers. There was a binding directive from Geoff Gallop that was mutually agreed to in cabinet, and in this case verbal advice was given by the Premier of the day. Yet again this motion raises many more questions than it answers. I think it is simply that the Premier of the day wants an insurance policy to ensure that history, in case it repeats itself, does not implicate him further. He does not want to end up with the same mess that former Premier Carpenter had with his ministers.

**Dr M.D. NAHAN:** I would really like to hear more from the member for Dawesville.

**Mr Z.R.F. KIRKUP:** I thank the Leader of the Opposition for his support.

I think today the Premier is making a cunning and calculated decision, because he wants to ensure that there is an insurance policy. He wants to ensure that there is a structural weakness in the oversight committee of the CCC and that in the event that one of his ministers gets tied up in some sort of shady decision-making and once again the Labor Party ministers are hauled towards the CCC, there is reduced oversight in this chamber with this Attorney General. We know that there is a history here and, moreover, we know that some prospective decisions might have to be made by this government going forward that might perhaps raise the ire of the CCC at some point. We know, for example, that the Labor Party previously stood against some buffer zones in the south metropolitan area, but after receiving fresh donations from a property developer, it changed its decision. It will be interesting to see whether that changes with planning structures coming forward and whether decisions that this government makes going forward might benefit donors such as that. There will be plenty of incursions, I think, as the member for Cottesloe has alluded to, whereby this party in government might find itself going towards the CCC. I think it is important and incumbent upon all members of this place to ensure that they stand on the right side of this argument and that they stand to protect the important democratic institutions that we all hold dear.

I believe that today the Labor Party is seeking to remove the strong independent oversight of this government by preventing a Liberal Party member of this chamber from being a member of the CCC oversight committee. I think this is a dark day for Western Australia's democracy. I stand with the member for Cottesloe in suggesting that this is the beginning of the end of the McGowan government's gold standard of transparency, and all those who vote in favour of this motion today, who vote in favour of what the government has put today are, I believe, complicit

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in another dark day of our democracy. In all reality, a little bit of Western Australia's democracy will die today if the government's motion is passed.

**Mr A. KRSTICEVIC:** Just going on from the member for Dawesville, I want to say very quickly that I think members need to be very careful here. We are talking about a piece of legislation, the Corruption, Crime and Misconduct Act 2003, that went through this Parliament. We are legislators. We put laws through Parliament and what members are saying today—each and every one of them—is that we do not care what the law states. I guarantee that no members have even read it. Members should bear in mind that they are telling the people of Western Australia that they can ignore the law because they are ignoring the law as well. Members should bear that in mind.

**Mr J.R. QUIGLEY:** To date, there are a lot of misconceptions, not just about the law, but about the operation of the Corruption and Crime Commission. I want to preface my comments this afternoon by addressing a couple of slight slurs directed in my direction. They were that as the Attorney General I have been the subject of investigation by the Corruption and Crime Commission. That is a matter of not only public record but also public notoriety because those investigations were televised live. I have before me the CCC report on one of the investigations. At paragraph 709 of the report, dated 7 October 2008, the Commissioner stated —

Before concluding the Report it is desirable and proper for the Commission to acknowledge and pay tribute to the efforts of those who believed in the innocence of Andrew Mallard and who by their time and efforts secured his freedom and ultimate vindication. Those persons whose efforts were particularly significant were Ms Colleen Egan —

She is my current chief of staff —

... John Quigley MLA, Mr Malcolm McCusker QC, and Clayton Utz solicitors, who all acted without remuneration. Without their respective efforts and expertise, Andrew Mallard would still be in prison, convicted of a wilful murder he did not commit.

There has never been a time when the CCC has made one criticism of my conduct.

**Mr C.J. Barnett:** Did they investigate you?

**Mr J.R. QUIGLEY:** That is a vindication.

There has never been a time when the CCC has made one criticism of my conduct. I recall that the former Premier of Western Australia, who was the minister responsible for the CCC during the previous term of government, was himself the subject of a couple of investigations. One of them was over allegations of corruption in helping his son who was helping a guy called Creasy in a company that had a residence called "The Cliffe" in Peppermint Grove, as I think the address was. The Premier was investigated and no criticism was made. He was not vindicated, but no criticism was made. I recall another time when the former Premier of Western Australia was referred to the CCC by the former member for Fremantle, Ms Adele Carles, over an allegation of corruption over the allocation of resources. On that occasion, no criticism was made of the Premier of Western Australia. Neither of those circumstances would have warranted the Premier stepping aside. No criticism was made against him. He was not commended by the CCC like I was, but no adverse comment was made against him.

Let us go to the next stage, which is my role as the Attorney General. The Corruption, Crime and Misconduct Act comes under the basket of legislation that falls within the portfolio of responsibilities of the Attorney General, me. As to the nominations for this committee, I wish to assure the house, the Parliament and the public of Western Australia that I played no part in the nomination or the advancement of any name to that committee. In fact, prior to today or yesterday, I was unaware of who was being nominated for the committee, apart from the nomination of the member for Girrawheen. As an independent oversight committee, I, as Attorney General, played no hand in its composition or anything. I was aware that Ms Quirk would be nominated as the chair of that committee.

Next, I note the role of the oversight of the committee itself. The committee has an overview function of the CCC and it performs the function as described by the member for Churchlands.

**Mr D.R. MICHAEL:** I would like to hear more from the Attorney General, please.

**Mr J.R. QUIGLEY:** As described by the member for Churchlands, section 9 of the legislation describes participating in the nomination of the person who would be the chair of the CCC. The committee plays no role in the oversight of the conduct of individual members of Parliament. That is the function of the CCC. The committee plays no part in supervising, overseeing or investigating members of this chamber or the other chamber. That is the function of the commission and it is completely independent of this Parliament. I will say more on that in

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a moment because something happened that led to the newspaper having that big headline, “The untouchables”. They became untouchables by dint of an amendment brought to the CCC’s legislation by the former Premier, which excluded members of this Parliament from investigation. I will come to that in a moment. The committee does not have an oversight function of members of this chamber. For the member for Dawesville, the member for Carine, the member for Churchlands, the member for Scarborough and the member for Cottesloe in particular to say that the constitution of this committee and the way it was proposed by this Parliament diminishes the oversight of the members of this chamber and the other chamber is a total misbegotten conception. It has nothing to do with our oversight. That is to do with Mr McKechnie, QC, who is the Corruption and Crime Commissioner.

The member for Churchlands was quite right about the legislation itself in saying that section 216A legislates that there will be a joint standing committee made up of two members of each house. It is silent as to the composition of the committee party-wise. It is absolutely silent on the constitution of the committee party-wise. The only concept of bipartisanship comes in the definitions section that states —

*bipartisan support* means the support of —

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

Why is this relevant? Section 9 of the act, as the member for Churchlands, the member for Cottesloe, the member for Carine and others have pointed out, states that in the appointment process —

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

The member for Churchlands asked whether we were going to be sneaky and rely on the legislation of this Parliament, which specifically sets out in the Interpretation Act that in the interpretation of legislation, the plural refers to the singular and conversely, the singular refers to the plural. The very structure of section 9(3a)(b) contemplates that there could be a majority of the committee who do not comprise an opposition member, because there is the conjunctive word “and”, and “bipartisan support”. It cannot be just a majority of the committee.

**Mrs J.M.C. Stojkovski:** I would like to hear more from the Attorney General, please.

**Mr C.J. Barnett:** Good contribution.

**Mr J.R. QUIGLEY:** It cannot be a simple majority of the committee; it has to have bipartisan support. It has to have the two things. The legislation contemplates that there might be a majority that does not include someone from the opposition party, so the safety is that there has to be someone from a party led by the Leader of the Opposition. I find it curious that the National Party would advance that it could never, ever sit on the Corruption and Crime Commission oversight committee, because the National Party’s position is that two members have to come from the party led by the Leader of the Opposition. That will forever exclude any member of the National Party, or any other minor party, from ever sitting on this committee. That would be a very serious step for this Parliament to take.

**Mr S.K. L’Estrange:** That’s actually not true.

**Mr J.R. QUIGLEY:** That would be very serious step for this Parliament to take, and it would have to be expressly spelt out in the legislation.

**Mr S.K. L’Estrange:** No, it just requires a change of standing orders, member. You know that.

**Mr J.R. QUIGLEY:** It would have to be spelt out in the legislation.

**Mr S.K. L’Estrange:** No, it does not.

**Mr J.R. QUIGLEY:** The argument of the National Party —

Several members interjected.

**Mr J.R. QUIGLEY:** — as advanced this afternoon —

**Mr S.K. L’Estrange:** You’re misleading the house. You know that’s wrong.

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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**Mr J.R. QUIGLEY:** Could I seek your protection, Mr Speaker? I sat here in silence.

**The SPEAKER:** Members, you have had the opportunity to speak. Now let the member have the opportunity to speak in silence, please.

**Mr J.R. QUIGLEY:** The argument of the National Party is that there has to be two members of the party of the Leader of the Opposition, which means —

*Point of Order*

**Mr S.K. L'ESTRANGE:** Through you, Mr Speaker. I have the act in front of me: he is actually misleading the house.

**The SPEAKER:** What is the point of order?

**Mr S.K. L'ESTRANGE:** The point of order is that he seems to be interpreting the act —

**Mrs M.H. Roberts:** You're debating!

**The SPEAKER:** There is no point of order.

*Debate Resumed*

**Mr J.R. QUIGLEY:** Thank you, Mr Speaker.

I find that curious. Just as to the diminution of the function of the Corruption and Crime Commission and overlooking this body politic—the Parliament of Western Australia, its officers and others—I would like for a moment to address the headline that was carried on the front page of *The West Australian* on the first day I attended cabinet. It was a banner headline—“Untouchables”. It reported a speech given at Murdoch University by Mr McKechnie, QC, the commissioner, who said that by reason of the interpretation of the legislation, he felt he could no longer investigate members of this chamber.

I attended upon both Mr McKechnie, QC, and the Solicitor-General of Western Australia to get to the bottom of this. He has been dealt out of the play of investigating members of Parliament, not members of cabinet, by reason of an amendment that the former Premier introduced into this chamber. During consideration in detail of the bill that amended the CCC legislation, removing from the CCC the jurisdiction to look into minor misconduct and taking that over to the Public Sector Commission, the member for Cottesloe, when sitting on this side of the house as Premier, sought leave of the Chair to read a considered statement on parliamentary privilege and what the CCC could look at. I did not realise it at the time, but the Premier's amendment significantly hobbled the CCC's oversight of members of this chamber. It allowed the CCC to continue to investigate members of cabinet because they were officeholders of the state, but as to members of Parliament, the CCC, by taking out of the reference “exclusively the province of the privileges committee” and just leaving in “privileges”, it meant that because the Parliamentary Privileges Act gave the parliamentary privileges committee jurisdiction—the member for Cottesloe laughs; this is the exact concern expressed to me by the Solicitor-General and the commissioner of the CCC, Mr McKechnie, QC, when I attended upon him —

**Mrs M.H. ROBERTS:** Mr Speaker, I would like to hear more from the minister, thank you.

*Point of Order*

**Mr C.J. BARNETT:** I do not dispute your decision, but as to the minister who then got the call, the time had not elapsed. There were still 11 seconds on the clock. I just make the point.

**The SPEAKER:** Thank you. I take your point.

*Debate Resumed*

**Mr J.R. QUIGLEY:** The commissioner pointed out that because the Parliamentary Privileges Act 1987 gave the committee the power to look at allegations of corruption and bribery against members of this chamber, he could no longer look at it because it was no longer confined to matters that were exclusively within the province of the privileges committee. Before the amendments were moved by the member for Cottesloe, the CCC could look at matters and conduct of members of Parliament—serious allegations against members of Parliament—generally. But as soon as the word “exclusively” was taken out, it broadened the protection of the Parliamentary Privileges Act, prohibiting the commissioner from investigating backbenchers for misconduct. It is something that the Labor Party will correct. I am not attributing, by way of a slur, like the member for Cottesloe sort of inferred against me —

**Mr C.J. Barnett:** What about you mentioning my son?

**Mr J.R. QUIGLEY:** It was mischievous.

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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**Mr C.J. Barnett:** How does that go down for a slur?

**The SPEAKER:** Members!

**Mr J.R. QUIGLEY:** I said, member for Cottesloe, that was the allegation made against you; it was not sustained. Because it was not sustained, there is no reason why the member should not have continued as Premier. No allegation has ever been sustained against me, but the member for Cottesloe came close to inferring that perhaps there is something wrong with me being Attorney General. However, the member for Cottesloe hedged his bets and went on to say, of the Attorney General —

I do not criticise him other than to remind people of the history.

I am not saying the Premier came in here to amend the legislation with the deliberate intent of protecting his backbench from scrutiny by the CCC, but that is exactly the effect of the former Premier's amendments. That is what led to the speech made by the commissioner, and that is what led to the headline in *The West Australian* that read "Untouchables". As a result of the amendments moved and passed by the former government, the CCC was outed from investigating members of Parliament, other than members of cabinet. Then the former government comes in here, dripping with hypocrisy, saying, "This is the first stage of the McGowan government hiding from transparency." Nothing could be further from the truth.

What is going to happen is that we are going to effect that amendment; we will change it back to what the definition was before, and all members will be equally subject to scrutiny by the Corruption and Crime Commission, not just the cabinet. Would the member for Warren–Blackwood agree that that is what should happen? He agrees! We will get rid of this headline. I will correct this mess that the previous government made. I am not saying that it was by mal-intent, but it comes close because the Premier at the time sought leave of the Chair—go back and read the *Hansard*—to read a statement to protect parliamentary privilege, and it had the effect of outing the CCC from investigating ordinary members of Parliament other than members of the cabinet.

I come back to the situation at hand.

**Mrs L.M. Harvey:** Thank you!

**Mr J.R. QUIGLEY:** We had to address this nonsense proposition. I had to put to the spear, one, that this was some plan by the Attorney General to control —

**Mr C.J. BARNETT:** Mr Speaker —

**The SPEAKER:** There is still time to go.

**Mrs M.H. ROBERTS:** Mr Speaker, given the time has elapsed, I seek the call to ask if the Attorney General can continue his remarks.

**The SPEAKER:** No, the member for Cottesloe was on his feet.

**Mr C.J. BARNETT:** I will be very brief. I want, again, to reflect on a little bit of history. It is good to see all the new members of Parliament in here listening. Sitting here watching, I had a great sense of *deja vu*. I am not going to restate the history of the four ministers under Alan Carpenter as Premier who were forced to resign because of investigations of the Corruption and Crime Commission. What reminded me, looking at your faces now, is when these issues of the lobbyists started to become prominent in parliamentary debate and in the media. That was not during Alan Carpenter's time as Premier; that was during Geoff Gallop's time as Premier—this speech, the Fortescue Metals Group legislation and other matters. Indeed, of those four ministers who were sacked or forced to resign, two were ministers in the Gallop government and the other two were parliamentary secretaries in that government; they were officeholders. Do not think this thing, whatever it might develop into, will not come to light; it takes time. Government members are sitting here now, and if this goes the wrong way—as I think it is going to—they, by implication, are compromised, as were those four ministers who became compromised during the Gallop years and it came to light subsequently. That is the reality.

As to the Attorney General, yes, I did refer to the fact that he has been subject to inquiries by the CCC, referred by the Legal Practice Board, and also there was a serious issue about divulging the identity of an undercover police officer. That investigation, I might say, was instigated, to the best of my knowledge, by the CCC. The Legal Practice Board also referred the issue relating to the Attorney General to the Corruption and Crime Commission. The point I make, Attorney General, is that I, as Leader of the Opposition for part of that time and as an opposition member, certainly never referred a member of Parliament to the CCC. I never sought to use the CCC for political purposes. The Attorney General thinks it is perhaps a smokescreen to make imputations, I guess, that I have somehow been investigated by the CCC, and he referred to two cases. One was the case of a heritage building,

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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The Cliffe, in Peppermint Grove, which Mr Creasy wanted to redevelop. As his local member of Parliament, I certainly tried to assist him in getting a resolution of that issue. The allegation was repeated here today that somehow my son was involved. That is not the first time that my children have been brought into public debate by the Labor Party. My son immediately came to see me—he was a young adult at that stage—and he said, “I have never actually met Mr Creasy. During my stockbroking days I may have spoken to him, because he was a client in a company on share transactions.” Do members know who was promoting the issue of Mr Creasy and the heritage listing of The Cliffe and opposing me? It was The Triffids, the rock group! When I told the media that this was all coming from a Triffids’ groupie who lived in Sydney, the media ridiculed me, as they are prone to do, until finally it came out that it was all about The Triffids and nostalgia for a pop group—a very good pop group. Was the song “Long Road” or something like that? I cannot remember the song. That is how trivial that was.

The other matter was a parliamentary issue about staffing resources referred to the CCC by Eric Ripper. I can tell members—I do not know how many days it was—that in that situation, I immediately got a reply from the then CCC commissioner that this had nothing to do with the CCC; it was a parliamentary issue and the CCC was not even going to look at it. Yes, you can get referred to the CCC when it is done politically, as the Labor Party did. In your case, Attorney General—I am not saying you are guilty of anything—you were subject to investigation by the CCC. It was not referred by the Liberal Party—it was not a political stunt—but by outside parties. The mere fact that that happened, I think, puts the Attorney General in a difficult position. If he were genuine in talking about integrity and respecting process, he would be on our side of this debate. He would be arguing for one Liberal and one Labor member from this chamber, and then we would not have a case for criticising him. For all of you sitting in the back sneering and giggling, you will rue this day!

**Mr J.R. QUIGLEY:** Mr Speaker —

**Mr C.J. Barnett** interjected.

**The SPEAKER:** And I am calling you to order, member for Cottesloe.

**Mr J.R. QUIGLEY:** Now I go back to section 9 of the Corruption, Crime and Misconduct Act 2003. The bill was debated in this chamber on 5 June 2003. At that time, the Attorney General was Hon Jim McGinty and his shadow was Hon Cheryl Edwardes. This can be found in *Hansard* on 5 June 2003 at pages 8288c–8305a. Some of us in this chamber can remember Hon Cheryl Edwardes; she used to sit where the member for Scarborough is currently sitting. She was diligent. In discussing this clause, this proposition that the opposition had to have two people on there never arose. It had to have someone from the opposition on there, because there had to be a member of the opposition on there to satisfy the requirements of section 9.

**Mr A. Krsticevic** interjected.

**The SPEAKER:** Member for Carine, I know you are a legal genius, but can we just hear what the member is saying. I call you to order for the third time.

**Mr J.R. QUIGLEY:** The matter was then discussed further on 5 June 2003 when, during debate, Mr John Hyde, who was Parliamentary Secretary to the Attorney General and subsequently the inaugural chairman of the joint standing committee, was asked by Hon Cheryl Edwardes, at pages 8316b–8338a —

Mrs C.L. EDWARDES: I pick up on something that the member for Perth said, and was raised earlier by the member for Churchlands: The standing committee, or whatever we ultimately appoint, must be a joint standing committee. It must comprise equal numbers among the parties and work in a bipartisan manner—it has been established in this manner for some time.

Mr J.N. HYDE: That is a different issue from the legislation.

Mrs C.L. Edwardes: Do you agree?

The Parliamentary Secretary to the Attorney General responded —

Mr J.N. HYDE: No. It is a separate issue. The Parliament should decide such matters and it should be separate from the legislation.

He stated that it was separate from the legislation and that the legislation not have in it a requirement for two members of the opposition. I repeat —

Mr J.N. HYDE: No. It is a separate issue. The Parliament should decide such matters and it should be separate from the legislation.

The debate continued —

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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Mrs C.L. EDWARDES: I put it clearly on the record that the standing committee should be a joint standing committee. It should have equal representation among the parties and operate in a truly bipartisan way. It is a very important body.

Mr J.N. HYDE: I remind the member that the existing Joint Standing Committee on the Anti-Corruption Commission did not reach a position on this very issue. The fit and proper way to proceed is that Parliament decides under its standing orders whether our existing committee should be audited. It is up to Parliament to audit the committee. If we are happy with the current situation, it will proceed. Alternatives can be considered at that stage. The legislation should proceed without reference to that issue. I have an open mind on whether we should proceed with the committee or alternative arrangements. However, this legislation is not the place to make that determination.

This question was raised right from the outset, and right from the outset it was determined by the government that it would not be in the legislation; it would be subject to a vote of this Parliament. I repeat: as the Attorney General, apart from the knowledge about who was to be nominated as the chair of the committee, I had no say, took no interest and advanced nobody's name.

A very valid point has been made by the member for Hillarys; that is, if the opinion that I am advancing to the chamber this afternoon is wrong, or if the member for Hillarys' opinion is correct or wrong, that is a justiciable issue. We know that from Attorney General (WA) v Marquet. That is a matter that can be determined by the courts. I think it will be given quite short shrift in the courts—that is my opinion.

**Mrs M.H. ROBERTS:** I would like to hear more argument from the Attorney General.

**Mr J.R. QUIGLEY:** This is a justiciable issue. If the opposition thinks this is going against the legislation, it can take it to the court and say that this has not complied with the legislation. I am not the person nominating these members to the committee. As I said, I have taken no part in that. This is an independent committee. However the committee is constituted, the member for Dawesville is plainly wrong—it has no part in the oversight of any member of this chamber. It only plays a part in the oversight of the Corruption and Crime Commission itself. The commission itself is the body that will oversee members of this chamber; not the committee. I repeat: by reason of an amendment brought to this Parliament by the Barnett government, the commission was hobbled from looking at members of this Parliament, apart from the cabinet, which led to the headline “The Untouchables”. As the Attorney General, that is something I intend to correct. I will correct this mistake of the Barnett government and open up the transparency so that all members will come within the ambit of transparency. I will stand the argument on its head that says that what the government is doing this afternoon will hobble transparency and will cover up and go on a slippery slope. The slippery slope was when the former Premier brought into the chamber the screed that he was given to read out on parliamentary privilege and how important it was for this Parliament to maintain jurisdiction over its members. The word “exclusively” was taken out—exclusively the domain of the parliamentary privileges committee. It was opened up so that the protection applied to everything that the parliamentary privileges committee could look at, and that ousted the jurisdiction of the CCC. The Labor government will correct that, and *The West Australian* in due course will note that it was the Labor government and me as the Attorney General who set matters right and who corrected the error of the previous government, to whom I give the benefit of the doubt and say that the government did not know what it was doing at the time.

It has been explained to me by the Corruption and Crime Commissioner and by the Solicitor-General, and we will fix up the Liberal's government error. We will increase the scrutiny of members of this Parliament by the CCC. To say that the government's nomination of members onto this committee will diminish the CCC's oversight of members of this chamber is errant nonsense.

**Mr S.K. L'ESTRANGE:** This is a serious matter. It is not a matter that should bring into the debate other issues that the Attorney General may want to bring to this place in the future in and around changes on his ministerial agenda. This is a very simple issue that the government has made complex. The simple issue is this: standing orders say that the committee that oversees the Corruption and Crime Commission will have two members from the Legislative Assembly and two members from the Legislative Council. That is what the standing orders say. That is not in dispute. It was good to hear the Attorney General finally understand that.

When the Attorney General gave us bits of information earlier, he said that the Corruption, Crime and Misconduct Act itself said the Joint Standing Committee on the Corruption and Crime Commission had to comprise two members from each house. That is incorrect. The act says “an equal number of members appointed by each House”. That is not in dispute. It is just the standing orders that say two and two. The opposition actually agrees with parts of what he said. The standing orders say two and two; the act says equal numbers. We get that. Section 9 of the

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act actually requires, when the committee makes a recommendation to the Premier to appoint a commissioner, an acting commissioner, a deputy commissioner or a parliamentary inspector —

*Point of Order*

**Mrs L.M. HARVEY:** I am two seats away from the member yet I cannot hear what he is saying because of the noise from back there.

**The SPEAKER:** Members, if you want to have a meeting, go outside, please.

*Debate Resumed*

**Mr S.K. L'ESTRANGE:** The act went so far as to define what “bipartisan” means. I forewarned the chamber when I started this debate today that the Attorney General may try to rely on the interpretation legislation to be sneaky with the word “members”. I forewarned members that he would do that, and he did that. He has clearly done that.

**The SPEAKER:** Member, can you talk through the Chair, please.

**Mr S.K. L'ESTRANGE:** Looking at the act, the Attorney General is now deciding that the intent of this standing committee as defined by standing orders, as defined in the act, and as “bipartisan” was defined in the act, that members will comprise equal numbers from the opposition and from the government. That is in the standing orders. The Attorney General went on to say that the Nationals could never have somebody on this committee by virtue of the act. That is incorrect, Attorney General, because the act simply states “equal number”. What is required to get the Nationals involved is a change to the standing orders of this place to accept more than two members from the government and two members from the opposition, and accept another member from this chamber so that the composition is increased to three. If there were three members from this place and three members from the other place, so long as the opposition has two members and so long as the government has two members on that committee, the act is being followed. That is the solution. Instead, the Attorney General is sending us off on some wild turkey shoot or chase somewhere with a lot of other issues, but the opposition is quite serious about this issue that we are debating today. This issue is that the integrity of the Joint Standing Committee on the Corruption and Crime Commission must be maintained and the integrity of this committee that oversees the most important integrity function of government—the Corruption and Crime Commission. The integrity of the construct of the corruption, crime and misconduct arena is so critical to the Parliament of Western Australia to hold senior public officeholders accountable for their conduct. It is so important that to just mess with this committee by mucking about with it and trying to politicise it and make this debate political is not doing this Parliament any favours at all. The solution is there for all of us. A mistake was made. Some members have argued that this was done intentionally. Some members have argued that this was a mistake.

**Mr D.C. NALDER:** I would like to hear more from the member.

**Mr S.K. L'ESTRANGE:** It is up to members to decide whether they think the government did this intentionally or not. I am going to take the view that we just need to fix it. We need to fix the problem that has been created by deviating from the intent of the act and the conventions of this Parliament that have been followed since the Corruption and Crime Commission and the oversight committee were created. That is all we are saying: follow the conventions. The conventions are that we must have more than one member of the opposition on that committee, and there must be more than one member of the government on that committee. It is that simple. If the government has made a mistake in the upper house and put someone on the committee who was not from the government and not, by definition, of the opposition, that is a problem that was created in the other place. The government can argue ad infinitum and decide who was responsible for that, but the fact is that it happened. We are here to fix the problem with an integrity committee that is incredibly important to the democracy of this state, and the people of Western Australia will be looking at all of us to fix it. If members try to play politics with this, they are going down the wrong path. This needs to be solved, and it needs to be solved carefully, so that the integrity of this committee is maintained. It is good to see that the Premier has entered the chamber, because it is very important that, as an opposition, we get an opportunity to listen to the Premier’s point of view on this. The Premier knows that the opposition has offered an olive branch. We have offered the government the opportunity to adjourn this debate, and go away and look at how we can change standing orders so that the government can get its two members from this place onto the committee and the opposition can get its single member of this place on this committee, so that the committee is satisfied that it has plural members of the opposition and the government and can still function with equal representation from both chambers. The committee can then conduct the functions of the act that it is there to do, and they are important functions. A solution can be found here. This

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does not need to be politicised and made ridiculous. It needs to be fixed, and I urge the government to take this seriously and help fix the problem.

**Mr J.R. QUIGLEY:** In closing for the government, I just want to say this. We are pleased that the opposition has now moved its ground, by reason of the speech just made by the member for Churchlands; that is, that the constitution of this committee has nothing to do with the oversight of members of this chamber or the other chamber. That is the function of the commission. The constitution of this committee looks only at how the CCC itself is operating. The only error that has been made in the oversight of members of Parliament was in the amendments made by the previous government, which led to Mr McKechnie's paper which stated that, as a result, he could no longer look at members of Parliament. This government will correct that. This government will dispense with the community concerns that were agitated by the headline in *The West Australian* about the "untouchables".

Several members interjected.

**The SPEAKER:** Members, please, it is getting to the end of the day, and so is my patience. I am sure the Attorney General is getting to the end of his speech.

**Mr J.R. QUIGLEY:** Backbenchers and ordinary members of Parliament will be brought back under the umbrella of scrutiny of the CCC when the government moves to correct the error of the previous government. What is before the chamber at the moment in no way diminishes the oversight of any member of the Parliament of Western Australia.

*Division*

Amendment put and a division taken with the following result —

Ayes (13)

Mr C.J. Barnett	Mr A. Krsticevic	Mr J.E. McGrath	Ms L. Mettam ( <i>Teller</i> )
Mrs L.M. Harvey	Mr S.K. L'Estrange	Dr M.D. Nahan	
Mr P. Katsambanis	Mr R.S. Love	Mr D.C. Nalder	
Mr Z.R.F. Kirkup	Mr W.R. Marmion	Mr D.T. Redman	

Noes (36)

Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr D.J. Kelly	Mr S.J. Price	Mr C.J. Tallentire
Mrs R.M.J. Clarke	Mr F.M. Logan	Mr D.T. Punch	Mr D.A. Templeman
Mr R.H. Cook	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr M.J. Folkard	Ms S.F. McGurk	Ms M.M. Quirk	Mr B. Urban
Ms J.M. Freeman	Mr S.A. Millman	Mrs M.H. Roberts	Mr R.R. Whitby
Ms E. Hamilton	Mr Y. Mubarakai	Ms R. Saffioti	Ms S.E. Winton
Mr T.J. Healy	Mr M.P. Murray	Ms A. Sanderson	Mr B.S. Wyatt
Mr M. Hughes	Mrs L.M. O'Malley	Ms J.J. Shaw	Mr D.R. Michael ( <i>Teller</i> )

Pairs

Mr I.C. Blayney	Mr K.J.J. Michel
Ms M.J. Davies	Dr A.D. Buti

**Amendment thus negatived.**

*Motion Resumed*

**Mr R.S. LOVE:** Here we are; we are at a situation in which —

**Ms M.M. Quirk** interjected.

**Mr R.S. LOVE:** I beg your pardon.

Several members interjected.

**Mr R.S. LOVE:** I do not know where Pelago is. I represent an area that does not have any apartment buildings, so do not ask me about that. Members are chewing up everyone's time, so if they want to get home I suggest they be quiet.

**Mrs M.H. Roberts** interjected.

**Mr R.S. LOVE:** No; I am doing my job.

**The SPEAKER:** Member for Moore, speak through the Chair. Member for Girrawheen, do not interject.

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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**Mr R.S. LOVE:** Thank you very much.

As we have heard this afternoon, throughout this debate a situation seems to have developed because the other place did not appoint a Liberal and Labor representative on the Joint Standing Committee on the Corruption and Crime Commission. As the leader of the government said, that has led to some difficulties. Legally speaking, we need an equal number of persons from both the Assembly and the Council, and that can easily be satisfied. However, what cannot easily be satisfied is the requirement that bipartisan support be achieved. I heard the Attorney General, and I give him his due; he is a lawyer and lawyers know all about words and semantics, but this is not about just semantics. As my colleague the member for Warren–Blackwood pointed out, it is also a lot to do with perception. Perception is equally important in this case. If we are to decide the composition of this committee based upon a he said–she said analysis on the value of the “s” that appears after the word “member”, in the definition of bipartisan support under the Corruption, Crime and Misconduct Act, the public will not have confidence in the committee that is formed. I point out also that as a member of the National Party—the leader of the government said it, whether by interjection or debate—it is unfair that a member of the Nationals cannot sit on this committee and allow it to perform its functions properly. I agree; it is very unfair, so it is time that was changed.

Given the lateness of the hour, I will not move to suspend standing orders and seek to refer the motion to a committee or anything like that. I am sure my colleagues in the National Party have planes to catch or must leave due to other commitments. It is at the end of the day and members opposite are not in the mood to properly consider this very important matter. I very much support the Leader of the Opposition’s view that more time should be taken to discuss this matter. I am not suggesting the government is deliberately trying to put in place a committee that does not have proper oversight, but a mistake has been made. As a National I would like it if a member of the Greens in the upper house and a member of the Nationals in this house could be on the Joint Standing Committee on the Corruption and Crime Commission and we could achieve bipartisan support as laid out by the Corruption, Crime and Misconduct Act. I am asking—the Premier is here, as is the leader of the government and the Attorney General—all three to consider adjourning this debate here and now to allow proper consideration of the many conflicts, the perception that there may not be proper oversight through this committee; the difficulties of this committee, in my view; achieving some of the committee’s aims and carrying out some of its functions. We should also consider that cross benchers and second parties in opposition et cetera are effectively barred by the interpretation of many, including some on this side of the house, from participating in the committee. I think that is wrong. I think all members of the house should be given an opportunity to put their name forward for that. I would very much appreciate the government considering adjourning debate on this matter and going away for the weekend and thinking about what can be done to solve this problem. In my view, the standing orders of this house may well need to be adjusted to allow for fairness so that members of the Nationals, Greens and others can sit on this committee.

**Mr D.T. REDMAN:** I would be delighted to hear more comments from the member for Moore.

**Mr R.S. LOVE:** There are a number of ways forward. There could be a change to the act, but that would take some time. There also could be a change to the standing orders. I am not a lawyer. I do not pretend to know about this sort of stuff. I am just a farmer; what would I know? Lawyers in this house seem to have different views. People who have training in this matter have different views. It really is not much good going out to the public with a committee in which there is no confidence from this house that it has been properly formed and can carry out its functions. How can we expect the community to have the same, or any, level of confidence in both this committee and any of the functions of Parliament?

We would all do well to consider that some complex matters need to be thought through. It could be that eventually the standing orders could be changed by the house. That would be easy enough to do. The proper course of action also could be to refer it to, say, the Procedure and Privileges Committee of the Assembly, which could look at the standing orders, make recommendations on changes to the standing orders and perhaps make further recommendations about the act. All those matters are complex. None of them should be solved at five minutes to six, when everybody understandably wants to go home, including me because I have a bit of driving to do to get to my next appointment.

This is something that we do not need to rush. I believe that we certainly need to seek government support to adjourn this matter. I am asking the government to consider that now—consider adjourning this matter, not putting it to a vote tonight, going away and at least having a think about what has been said and coming back with some thoughts about how we can make this a fairer situation, including for members of small parties. In that way, everybody in the community would have confidence in the committee going forward. I am not casting any aspersions on members of the government or saying that there is any ill-intent here. I do not care whether a mistake was made in the other place or whether it intended to do that. I think we can fix this problem, but I do not think it

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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will be fixed to the satisfaction of all members of this place and the community by ramming it through at three minutes to six on a Thursday afternoon.

*Adjournment of Debate*

**MR D.T. REDMAN (Warren–Blackwood)** [5.57 pm]: I move —

That the debate be adjourned.

*Division*

Question put and a division taken with the following result —

Ayes (13)			
Mr C.J. Barnett	Mr A. Krsticevic	Mr J.E. McGrath	Ms L. Mettam ( <i>Teller</i> )
Mrs L.M. Harvey	Mr S.K. L'Estrange	Dr M.D. Nahan	
Mr P. Katsambanis	Mr R.S. Love	Mr D.C. Nalder	
Mr Z.R.F. Kirkup	Mr W.R. Marmion	Mr D.T. Redman	
Noes (36)			
Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr D.J. Kelly	Mr S.J. Price	Mr C.J. Tallentire
Mrs R.M.J. Clarke	Mr F.M. Logan	Mr D.T. Punch	Mr D.A. Templeman
Mr R.H. Cook	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr M.J. Folkard	Ms S.F. McGurk	Ms M.M. Quirk	Mr B. Urban
Ms J.M. Freeman	Mr S.A. Millman	Mrs M.H. Roberts	Mr R.R. Whitby
Ms E. Hamilton	Mr Y. Mubarakai	Ms R. Saffioti	Ms S.E. Winton
Mr T.J. Healy	Mr M.P. Murray	Ms A. Sanderson	Mr B.S. Wyatt
Mr M. Hughes	Mrs L.M. O'Malley	Ms J.J. Shaw	Mr D.R. Michael ( <i>Teller</i> )

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Pairs

Mr I.C. Blayney	Mr K.J.J. Michel
Ms M.J. Davies	Dr A.D. Buti

Question thus negatived.

*Consideration in Detail — Motion Resumed*

**Mr D.A. TEMPLEMAN:** Further to the debate on this matter —

**Mrs L.M. Harvey:** You're going to gag it.

**Mr D.A. TEMPLEMAN:** If I was going to gag it, I would have done it earlier.

I want to report to the house a debate that has been held in the upper house. I do not have *Hansard*, so I cannot quote from it, but I want to highlight to the house a debate that was just had in the other place. This is what the debate related to: it is my understanding that Hon Alison Xamon stood in that place to clearly refute that she was a government member, as has been an accusation in the earlier part of this debate and during consideration. I want to highlight to the house that the Leader of the Liberal Party —

Several members interjected.

**The SPEAKER:** Come on, members; not long to go, hopefully!

**Mr D.A. TEMPLEMAN:** I want to highlight to this house the comments by the Leader of the Liberal Party in that place, Hon Peter Collier. I will relate his response to Hon Alison Xamon standing in that place. He said that he supported there being a Greens member on the committee—yes, he did! It was a decision of that house, supported by the Liberal leader in the upper house. There is already one Liberal member in the upper house on that committee. The motion was moved in the other place. We do not control —

**The SPEAKER:** Minister, get back into your chair!

Several members interjected.

**Mr D.A. TEMPLEMAN:** I will get back in my cage!

We do not control the goings-on of that place over there. But it is important to make the point that the decision was made, and the Leader of the Liberal Party in the other place had no problem with that.

Several members interjected.

**Mr D.A. TEMPLEMAN:** The fact of the matter is that members opposite have kept arguing in this place about the legitimacy and the demand to have two members of the Liberal Party on that committee. The fact is that their

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leader in the other place stood up less than 10 minutes ago and said that he stands by his decision to support the motion. Members need to remember that when this motion to appoint the members was passed in the upper house, it was passed unanimously. There was no dissent. Remember, the other place now —

Several members interjected.

**The SPEAKER:** Minister, through the Chair.

**Mr D.A. TEMPLEMAN:** Yes, through the Chair, Mr Speaker. There are not as many people over there! There are a lot more over here. However, I understand, Mr Speaker, that you wish to see a more appropriate vista.

The fact of the matter is that the Leader of the Liberal Party in the other place—the official Leader of the Opposition in that place—has just made that statement. Hon Alison Xamon has already made comment about the accusations and imputations made against her by the Leader of the Opposition in this place.

**Dr M.D. Nahan:** What?

**Mr D.A. TEMPLEMAN:** Yes, she has. I think she said—I cannot say it, because I would not have used those words, being a short man myself —

**Dr M.D. Nahan:** You're misleading Parliament!

**Mr D.A. TEMPLEMAN:** Have a look at what she said! She was offended because the Leader of the Opposition in this place continued to make the imputation that she was siding with the Labor Party or was in an alliance with the Labor Party. She is not. She was a nomination of the upper house, and that was carried unanimously—without dissent. The other house has determined that it is happy with the composition of the committee. We have a motion before this house, which we stand by and that we will be voting on when this debate is concluded.

**Dr M.D. NAHAN:** The facts are these: the leader of government business in the upper house had a discussion with the Liberal Party members of the Legislative Council, and each party, as per the norm, put forward a nomination. Unbeknown to us, the Labor Party put forward a Greens nominee. Fact. We put forward, as is the norm, a Liberal nominee. Those nominees were put to the Legislative Council, and it voted unanimously. We voted on the nomination of the government and of the opposition. Fact. Why the government put forward Hon Alison Xamon, I do not know; we do not know. The Labor Party knows. That is its issue. We put forward our nominee, and the Labor Party put forward its nominee, just as we have done in this house. Whether this was an error or a plot, I do not know, and I really do not care. That is the fact. Now the Labor Party has come in here, and whether it is a mistake or a plot to get control or dominance of that committee, that is what it is trying to do. We then approached the Labor Party —

Several members interjected.

**Dr M.D. NAHAN:** Those are the facts. The Labor Party sought advice from us about the composition or nominees for the committee. We put forward the member for South Perth. The government then put forward two of its members and did not propose to include the member for South Perth, which went against convention. Not only that, it brought into question the effective operations of the oversight committee itself because, according to the act, two people from the government and two people from the opposition—the Liberal Party is the opposition—are needed to select the senior staff of the Corruption and Crime Commission. It is strange. I listened to the Attorney General and he said, “The courts will decide that.” We have reasonable evidence that we are making an error in law and the Attorney General said, “That’s all right! Let the courts decide that down that track.” That is not how we should operate here—to see a potential error and let the courts resolve it. We have come to this place to try to resolve this issue.

There are a number of issues. The first is the government’s decision to put forward a member of the Greens, who is not a member of the government—that is why we are here. I did not denigrate her and say she is a member of the Labor Party, but that is the whole problem. Whether she said anything negative about me or not, the member who said that has walked out the door and he said he had no *Hansard*, so where did it come from? It is probably made up. We went into this debate constructively. We worked with the government. We put forward our submissions as per the norm. We expected the government to reciprocate in kind. We had no indication before we came here that the government had changed its mind. We had no proposal to do anything other than accept the government’s nomination in the upper house. It went through that and we expected to do so here. We then saw there was an anomaly and we proposed to alter it and perhaps expand or change the standing orders to increase the number of people on the committee and legitimately bring in minor or crossbench parties, potentially from both the upper and lower houses. It would also meet the requirements of having two people from the government and two people from the opposition on the committee. That is all reasonable.

Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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We are not dealing with just an ordinary committee. We are dealing with the oversight committee for the Corruption and Crime Commission of Western Australia. This whole debate today has been unnecessary. Perhaps the government likes doing this, but I doubt if it likes it at this time of day, because it had no legislative agenda. This is fundamental. Again, if we go back to what we said, there were two issues today that the government would rue the day for. The first was the decision to go against the City Beach high school. We will see that down the track, but this is more serious. The government is undermining confidence in this Parliament and in the community in the oversight of the Corruption and Crime Commission and it is doing it explicitly, in a calculated manner.

**Mrs L.M. HARVEY:** Mr Speaker, I would like to hear more from the Leader of the Opposition.

**Dr M.D. NAHAN:** Members opposite have been warned. It might lead to situations down the track in which the oversight committee makes an appointment—let us say the Corruption and Crime Commissioner—and it is overturned. As the member for Hillarys said, imagine the ramifications if the Corruption and Crime Commission appoints a person and that commissioner makes decisions, perhaps in the future about organised crime, and a crim gets pinged and put in jail and gets out because we in this house said we wanted to appoint the oversight committee improperly. That is what we are dealing with. The ramifications of this are profound, in this house, for the government as a whole, and more widely for the police and organised crime. Essentially, the government is saying, “We don’t care! We have the numbers. We won overwhelmingly and we don’t care about convention, the act or the ramifications. Cop it sweet!” The government will rue the day that it ever made this decision.

**MRS L.M. HARVEY:** I will not speak for long but I just want to summarise, particularly for new members in this place, what has actually happened. Despite the smokescreen that the Attorney General has put forward about the Joint Standing Committee on the Corruption and Crime Commission and the Corruption and Crime Commission having oversight of members of Parliament, the fact remains that the decisions of a government are made by the cabinet, and the CCC committee has oversight of cabinet ministers and their decisions of government. New members who are part of the parliamentary committee process and have not yet tabled or spoken to a report of a committee in this Parliament may not understand this, but being subject and party to committee deliberations gives the members of those committees a really good, sound understanding of what is being interrogated. They get to interview the witnesses and they are part of the deliberation on the findings and the recommendations of the committee. In addition, when that report is tabled in this Parliament those members of the committee will speak to the report: they will speak to what they learnt, to the findings and to the recommendations. The Premier and his members have effectively silenced the members of the Liberal opposition from being a party to the committee deliberations on the committee.

Several government members interjected.

**Mrs L.M. HARVEY:** Let me clarify that: government members have silenced the Liberal opposition members in the Legislative Assembly from participating in the deliberations of the parliamentary committee that provides oversight to the CCC. None of us will be party to the deliberations and investigations of that committee. Everybody who has been on a parliamentary committee knows that during that committee process members are not permitted to talk to any other person about the deliberations of that committee. Hon Jim Chown will be on that committee. He cannot tell one of us about any single matter being discussed by that committee until the report is tabled, and only then can he speak to the report. That is what this government has done. It has said that no Liberal member in the Legislative Assembly can be on the oversight committee of the CCC. We will have two members aligned to the government and none of us will understand about the deliberations of that committee. We will have one voice in Western Australia speaking for the Liberal opposition—Hon Jim Chown in the other place. We had no problem with Hon Alison Xamon being on the committee. She is a fine individual with a very fine mind, but what we wanted in this place was for a member of the Liberal opposition to be part of this very important oversight committee. The Premier is walking out of the house while we are talking on this matter because he does not care. The most disgraceful thing for me to see in this Parliament over the last eight years was the members of this cabinet slapping each other on the back and laughing when they won that vote with their numbers—good work. You have made sure that none of us can be part of the deliberations of the CCC committee. That is what you have done. I hope you are proud of yourselves—it’s disgraceful!

Several members interjected.

**The SPEAKER:** I’m calling you to order. You don’t talk across the chamber. Deputy Leader of the Opposition, that is your third call to order today.

**MR S.K. L’ESTRANGE:** This is a very disappointing day for democracy in this place. I heard the member for Bassendean start to interject. He might not have heard some of the explanations in this debate that ensued earlier. It is very important to understand that the Corruption, Crime and Misconduct Act 2003 is clear. The act defines that bipartisanship is an important component of this oversight committee into the CCC. It defines it and it

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basically says members of the opposition, as defined in the act, and members of the government, as defined in the act. It does not stipulate the numbers in the act—that is true. The standing orders of this place define the numbers that make up this committee. We have simply put an olive branch out there to say that a mistake has been made. Some people say it has been done on purpose and others say it is a mistake, but I will give members the benefit of the doubt and say that a mistake has been made. We have ended up in this situation in which the government is not complying with the intent of the act by allowing only one opposition member on this committee. That is in the Corruption, Crime and Misconduct Act 2003. So, when the member for Bassendean talks about other crossbenchers, the act does not mention crossbenchers. It is very clear in its definition of bipartisanship. The standing orders could be altered to allow for crossbenchers to come in, but it is up to this Parliament and this place to do that. We know that.

This is a serious matter. We have heard much debate on it, and it is so serious that I think we need to hear from the Premier. We need to get the Premier's point of view on what we are trying to achieve for the Parliament; that is, that the act is being adhered to so that the functions of this committee can continue, as they have done since this committee was created. Every committee of this Parliament that oversees the Corruption and Crime Commission has been formed with the convention outlined in the act. It has not deviated from that since this CCC committee was created. If the government continues down the path I think it is going today, it will be the first time it has deviated from that convention and the first time it has interpreted the act differently from every other Parliament that has interpreted it. It is leaving itself wide open for criticism down the track. I put it to the Premier that, firstly, he give us his point of view on this very important matter; and, secondly, that he strongly consider adjourning this debate so that a solution can be found that satisfies the act and the needs of Parliament.

**Mrs L.M. Harvey:** The Premier is not speaking?

*Division*

Question put and a division called for.

Bells rung and the house divided.

**The SPEAKER:** Deputy Leader of the Opposition, you are on three calls. Do you want to go home five minutes earlier than everyone else?

**Mrs L.M. Harvey:** I thought we were allowed to talk.

**The SPEAKER:** No, you are not!

**Mrs L.M. Harvey:** Are we supposed to sit in silence?

**The SPEAKER:** It does not matter; you are still in the chamber. If you want to query my ruling, you can.

**Mrs L.M. Harvey:** I am not; I am seeking clarification. I do not understand. We have always done it.

**The SPEAKER:** I know that you are.

**Mrs L.M. Harvey** interjected.

**The SPEAKER:** If you keep talking, Deputy Leader of the Opposition.

*Division Resumed*

The division resulted as follows —

Ayes (36)

Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr D.J. Kelly	Mr S.J. Price	Mr C.J. Tallentire
Mrs R.M.J. Clarke	Mr F.M. Logan	Mr D.T. Punch	Mr D.A. Templeman
Mr R.H. Cook	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr M.J. Folkard	Ms S.F. McGurk	Ms M.M. Quirk	Mr B. Urban
Ms J.M. Freeman	Mr S.A. Millman	Mrs M.H. Roberts	Mr R.R. Whitby
Ms E. Hamilton	Mr Y. Mubarakai	Ms R. Saffioti	Ms S.E. Winton
Mr T.J. Healy	Mr M.P. Murray	Ms A. Sanderson	Mr B.S. Wyatt
Mr M. Hughes	Mrs L.M. O'Malley	Ms J.J. Shaw	Mr D.R. Michael ( <i>Teller</i> )

**Extract from *Hansard***  
[ASSEMBLY — Thursday, 15 June 2017]  
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Mr Sean L'Estrange; Mr Tony Krsticevic; Dr Mike Nahan; Mr Terry Redman; Mr Colin Barnett; Mrs Liza Harvey; Mr Peter Katsambanis; Mr Bill Marmion; Mr Zak Kirkup; Mr John Quigley; Mr Shane Love; Mr David Templeman

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Noes (13)

Mr C.J. Barnett  
Mrs L.M. Harvey  
Mr P. Katsambanis  
Mr Z.R.F. Kirkup

Mr A. Krsticevic  
Mr S.K. L'Estrange  
Mr R.S. Love  
Mr W.R. Marmion

Mr J.E. McGrath  
Dr M.D. Nahan  
Mr D.C. Nalder  
Mr D.T. Redman

Ms L. Mettam (*Teller*)

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Pairs

Dr A.D. Buti  
Mr K.J.J. Michel

Ms M.J. Davies  
Mr I.C. Blayney

**Question thus passed.**

**The Council acquainted accordingly.**

*House adjourned at 6.25 pm*

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