

CORRUPTION AND CRIME COMMISSION*Matter of Public Interest*

THE DEPUTY SPEAKER (Mrs D.J. Guise): Members, today I received within the prescribed time a letter from the Leader of the Opposition in the following terms -

Mr Speaker

I propose that the following Matter of Public Interest be submitted in the Legislative Assembly today for discussion -

That this House and the public has lost confidence in the Crime and Corruption Commission and the processes in the legislative framework.

MATT BIRNEY MLA
Leader of the Opposition

It appears to me that the matter is in order. If at least five members are prepared to stand in support of the matter being discussed, the matter can proceed.

[At least five members rose in their places.]

MR M.J. BIRNEY (Kalgoorlie - Leader of the Opposition) [3.44 pm]: I so move that motion. In doing so, I recognise that there has been a slight drafting error, as pointed out by the Leader of the House. In fact, it should read "the Corruption and Crime Commission".

Mr J.C. Kobelke: Seek leave to amend that, and we will agree.

Mr M.J. BIRNEY: There are a number of things that we do not know about this issue, and there are some things that we do know. We do know that the former Clerk of the Legislative Council was under investigation for alleged offences relating to theft and also, as I understand it, some alleged drug offences. We know that the acting crime commissioner with the CCC, Ms Moira Rayner, has certainly jeopardised that investigation by contacting the former Clerk of the Legislative Council and advising him of some of the methods that are often employed by the CCC in the investigatory process.

Ms Rayner said that she went to visit the former Clerk of the Legislative Council in a hospice, where I understand he is now, as he is suffering from an illness. During that meeting she told him that he should not use his mobile phone, given that the CCC might in fact be bugging that mobile phone. I am not a lawyer and I do not profess to have as good an understanding of the law as do some people. However, as I look at that action, I say to myself, "If that is not illegal and if that is not criminal behaviour, then it damn well should be." I find it appalling that somebody in Ms Rayner's position, that being the equivalent of a judge, would have any kind of discussion with a person of interest to the Corruption and Crime Commission.

Mr J.A. McGinty: We agree completely with you on that. There is no argument about that.

Mr M.J. BIRNEY: There is no doubt that if this incident is subsequently found to not involve any criminal behaviour, it is very urgent and very necessary that the legislation be amended to ensure that this kind of behaviour is in future at least recognised as being criminal behaviour of the highest order.

The public is losing confidence in the Corruption and Crime Commission almost on a daily basis. We have seen a number of different newspaper articles that are cause for concern. Certainly, the article on the front page of *The West Australian* a couple of days ago was cause for concern, albeit the member for Perth has put forward somewhat of an explanation for that article. Also cause for concern arising from that article is the fact that the former Clerk of the upper house actually telephoned somebody to get information about the investigation being undertaken by the CCC.

Mr J.N. Hyde: No, you misread it. It says the officer -

Mr M.J. BIRNEY: We know from the report that the former Clerk made a telephone call about these matters. We do not know to whom he made the telephone call, and we do not know exactly what he said in that telephone call. However, we know that the CCC operatives who were listening in to that telephone call were very concerned about the nature of that call. Once again, I believe this is an issue that needs to be looked into. Who did the Clerk telephone and why, and what was discussed? More importantly, why were the CCC operatives concerned about that telephone call? That is a real worry for me, and it should be a real worry for members of this house. Everybody is shaking their head in disbelief at the fact that an acting corruption and crime commissioner, no less, would even engage in discussions with a suspect, let alone give that suspect an indication of the kind of methodology that is used by that organisation to bring about prosecutions. Clearly, if this is not criminal behaviour, it most certainly should be. I welcome the Attorney General's contribution to this debate in so much as I would expect a statement from him to the effect that if it is found that this is not corrupt behaviour, he will amend the act to ensure that in the future it will be.

This scandal, if I can put it that way and I do not think I am overstating it, should have been referred to the police. The Attorney General initially would not refer it to the Director of Public Prosecution. Initially, the member for Perth, the

chairman of the Joint Standing Committee on the Corruption and Crime Commission, refused to table Mr McCusker's report. We know that the chairman of the committee also said that neither he, on behalf of the committee, nor the parliamentary inspector would be speaking about this matter further. Subsequently, he did a backflip and, of course, we now know that the next day he was prepared to speak about it. Also, we know that the Attorney General did a backflip after saying, and I might stand corrected, words to the effect that it would be ridiculous or silly to refer this issue to the DPP.

Mr J.A. McGinty: For investigation.

Mr M.J. BIRNEY: This is a measure of this man, the Attorney General; he plays on words. Clearly, the inference was that this matter should be referred to the DPP for further legal opinion on whether any criminal behaviour had taken place. Obviously, the Attorney General sat down with his spin doctors and said, "How can I get out of this? I thought this issue would go away. I thought it would be a one or two-day story and then we would get over it." He very quickly worked out that the issue would not be over in one or two days. Then, having gone on the record saying it would be a ridiculous idea to refer it to the DPP, he tried to find a way to explain that kind of behaviour. He then came up with the phrase "for investigation". He did not want to refer it to the DPP for investigation. The Attorney General knows that the DPP is not an investigatory body and under no circumstances would it have carried out an investigation. It would have looked at the facts and arrived at the view that criminal behaviour had or had not occurred. Yet, in the first instance, the Attorney General steadfastly refused to send the matter to the DPP.

Mr J.A. McGinty: To be fair, the report had not been made public at that stage.

Mr M.J. BIRNEY: Why did not the Attorney General say that the report had not been made public and he did not know anything about it? Why did he not say that, instead of saying it was a ridiculous proposition to send it to the DPP. All of a sudden he realised the gravity of the situation and that the public would perceive that the Labor Attorney General was looking after someone who had very close links to the Labor Party; therefore, he did a backflip and decided to refer it to the DPP.

Why did he not refer it to the police for investigation? There are lots of police officers at the ready to investigate this matter. I have heard through the grapevine that there are some very senior police officers who think perhaps a prima facie case may well be established if they had an opportunity to look at it. If we talk about "for investigation", to use the Attorney General's words, why does he not send it to the police for investigation? That investigation may find that no criminal behaviour took place.

This is such an important matter that goes right to the very heart of government that every single member of this house, be they in opposition or government or an Independent member, has to be satisfied that everything that has happened has been open and transparent. That is the gravity of this situation. If someone who is essentially in a position equivalent to that of a judge discusses matters with a suspect and, more importantly, gives that suspect tips about how he might avoid being charged, one must be of the opinion that the entire system is rotten; therefore, everything that happens from that point onward must be transparent. That has not been the case.

For the member of Perth, in his role as chairman of the CCC committee, to finish off his statement with words to the effect that neither he, the committee nor the parliamentary inspector will be speaking further about this matter, is an absolute joke. For the member for Perth to drop this bombshell at the very end of the day, without considering whether the opposition might actually want to debate it and get more information, is equally an absolute joke. For the Attorney General to say that he was not referring this to the DPP because it is ridiculous is an absolute joke. For the Attorney General to explain his actions by saying that he was asked to refer it to the DPP for investigation is an absolute joke.

The CCC is the pre-eminent corruption fighting organisation in Western Australia. It is the one organisation that ensures that we have an open, transparent and, importantly honest government. My confidence in that organisation has been severely undermined.

I will pause for a minute to reflect on Commissioner Hammond. Commissioner Hammond has acted with the highest level of integrity. Certainly, I do not question the integrity of the commissioner. I think he has acted appropriately and he has done what is necessary. That does not mean that everyone else in that organisation has done the same thing. We know for a fact that the acting commissioner has not. We know for a fact that there is other information in the public domain that may well have come from the CCC. We do not know whether it has come from Ms Rayner or other people in the CCC. I am not totally convinced that the CCC is an organisation that is worthy of my support here and now. I have been led to that view by the shenanigans that have taken place inside and outside this Parliament by members of the Labor Party, in particular the Attorney General and the member for Perth, as the standing committee chairman.

Mr J.C. Kobelke: What shenanigans?

Mr M.J. BIRNEY: Has the Leader of the House not been listening?

Dr G.I. Gallop: He has intervened as chairman of the committee on which there are members of both parties.

Mr J.A. McGinty: Why not sack the Liberal Party members on that committee if you think they're doing a bad job?

Mr M.J. BIRNEY: That report should have been tabled in the first instance. It was worked out after that - it should have been tabled in the first instance. Interestingly, why did the chief law officer in Western Australia refuse to get

another opinion on a matter that is so serious that it undermines the state's number one corruption fighter? Why did he do that? Is it because he has close links to this person, Ms Rayner? Is it because she has some links to the Labor Party? These questions remain unanswered. I would like the Attorney General to explain to the house the qualifications Ms Rayner brought to that job. He may give us a clear understanding of what special qualifications she had that enabled her to carry out that job. Clearly, she was not a fit person to hold that job.

Interestingly, when we attempted to debate this matter earlier by way of a suspension of standing orders, the government did something that is extraordinary and reflects very poorly on the Premier; that is, the government gagged the motion to suspend standing orders to deal with what is probably the most serious issue to come before this Parliament to date. It is an issue that has undermined the public confidence not only in the CCC, but also the government of the day that stands behind the CCC. We sought to suspend standing orders so that our motion relating to this matter could be dealt with without any time constraints, and the government used its numbers to force a gag motion. This is the same fellow who went to the last election, the Premier of Western Australia, and said: "I will be an open and accountable Premier." He said it ad nauseam in the previous election as well. We have been bitterly disappointed by the Premier's actions. Also, I would like to know what level of discussion, if any, the member of Perth, in his capacity as the committee chairman, had with the Attorney General and the Premier prior to tabling his report in this house on Thursday. I am sure the Attorney General will deal with that matter when he gets to his feet. If he does not, I would be very surprised indeed.

The recommendation from the parliamentary inspector that all existing and future officers of the Corruption and Crime Commission be warned that it is inappropriate to give information to suspects was probably not strong enough. That should go without saying, but nonetheless they could probably be warned not to tip off suspects to the fact that some kind of investigation is going on. However, the recommendation should be a lot stronger than that. It should be that actions of this nature constitute criminal offences. If we accept the recommendation that the commissioner warn all existing and future CCC operatives that it is inappropriate to warn suspects, they could end up facing serious misconduct charges at most. However, tipping somebody off to the fact that he is being investigated and giving him the tools with which to avoid being charged as a result of that investigation should be considered criminal behaviour. The recommendation from that report should be that this kind of action should constitute criminal conduct.

In conclusion, nothing less than an open, transparent and accountable government will be accepted in this case. Members of the public cannot believe it; they are shaking their heads. Most members on both sides of the house are shaking their heads at the fact that an acting CCC commissioner should engage in this kind of behaviour. The only thing that would allow us to learn from this matter and move on is an open, transparent and accountable government. To date the government has been lacking in that respect.

DR G.I. GALLOP (Victoria Park - Premier) [4.02 pm]: This motion is indicative of the immaturity of the Leader of the Opposition in dealing with issues of this nature. In effect, all he said in his speech was that the behaviour of Moira Rayner was reprehensible and appalling. That is agreed by both sides of the house and by the broader community. In debating the motion, which deals with the Corruption and Crime Commission and the legal framework under which it is set up, the Leader of the Opposition has been absolutely deficient in both his argument and in providing evidence that this house should support such a view.

The Corruption and Crime Commission was set up by this Parliament to do a job on behalf of the Parliament and, more importantly, on behalf of the people of Western Australia. When the legislation went through the Parliament, it was said to be up to scratch, and was considered world class in addressing two issues: to combat and reduce the incidence of organised crime and to reduce the incidence of misconduct in the public sector. Most people agree that it was excellent legislation. It replaced highly deficient legislation that had been passed by the previous Liberal government, creating an Anti-Corruption Commission that was simply unable to do the job expected of it. There is no doubt that the legislative framework under which the CCC was set up was the best available, and this was acknowledged at the time. It was very important that the CCC be set up as an agency of the Parliament, not of the executive. It was to be overseen by a joint standing committee of the Parliament. We know that the member for Perth is the chairman of that committee. The previous committee, overseeing the work of the Anti-Corruption Commission, was chaired by Hon Derrick Tomlinson, who was on the other side of politics. The CCC is also overseen by a parliamentary inspector. The whole aim of the exercise is to take the Corruption and Crime Commission out of the purview of the executive, and give it the legislative power and resources to do the job properly.

On this side of the house we have confidence in Mr Hammond as the commissioner. We have great confidence in him as a person and great confidence in the institution he heads. We have ensured that he has the powers and resources to perform his task properly. The only group in the community that has questioned that is the opposition, which has advocated a reduction in the resources given to the Corruption and Crime Commission to do its job. I will refer to comments made by the member for Nedlands about the resources that have been allocated in the budget to the Corruption and Crime Commission. What has happened is simply that one of the acting commissioners, Moira Rayner, has behaved in an appalling and reprehensible manner. Her behaviour has been exposed, and she has gone; she is no longer a corruption and crime commissioner in Western Australia. Of course, her behaviour is also now subject to investigation by the Director of Public Prosecutions to ascertain whether charges should be laid.

The Leader of the Opposition has said that Moira Rayner should not have been appointed. I will remind the Leader of the Opposition of the process that was followed in Ms Rayner's appointment. On 31 January and 1 February 2004, the position of acting commissioner was advertised. A nominating committee comprising the Chief Justice, the Chief Judge of the District Court and a community representative listed her as the preferred candidate for the position. On 17 June 2004, I wrote to the parliamentary committee recommending that she be appointed and seeking the committee's support for the appointment, as is required by section 9(4) of the Corruption and Crime Commission Act. On 23 June 2004, the parliamentary committee responded to my letter advising of its support for the appointment. We cannot rewrite history; that appointment was agreed to by the joint standing committee of this Parliament, representing both sides of politics.

Mr M.J. Birney: Which appointment was that?

Dr G.I. GALLOP: That of Moira Rayner. It was approved by both sides of the Parliament. That is the process, and it was followed properly. I will put it in absolutely simple terms. Moira Rayner has let down the people of Western Australia with her behaviour; it is as simple as that. She was given an important job to do and she has let down the people of Western Australia in the way she has carried out her functions.

Mr M.J. Birney: Was she technically appointed by you or by the committee? Did you appoint her and then advise the committee?

Dr G.I. GALLOP: First of all she was recommended by the nominating committee, which included the Chief Justice and the Chief Judge of the District Court. They made the recommendation. I took the recommendation to the parliamentary committee, which wrote back to me. I have the letter here, signed by Hon Derrick Tomlinson. It reads -

The Joint Standing Committee on the Corruption and Crime Commission (JSCACC) met on 21 June 2004 in accordance with Section 9(4) of the *Corruption and Crime Commission Act 2003* to consider the appointment of the nominating committee's preferred candidate, Ms Moira Rayner. In compliance with section 9(3a)(b) of the Act, more particularly the definition of "bipartisan support", all members were present and unanimous support was provided for the appointment of Ms Rayner as Acting Commissioner.

The Committee is well acquainted with Ms Rayner as former Commissioner, Anti-Corruption Commission and therefore finds on this occasion the information provided to be sufficient to deliberate on the candidate's capacity to fulfil the requirements of the position. This may not always be the case and therefore the Committee indicates that on future occasions a curriculum vitae and other relevant documentation may be required, enabling a full assessment of the candidate's suitability for appointment.

Mr M.J. Birney: Did you interview Ms Rayner before you made that recommendation to the committee?

Dr G.I. GALLOP: A process was set up by which a person was to be appointed to this position. We followed that process, and I was perfectly happy with all the recommendations that came forward.

Mr M.J. Birney: Did you interview her?

Dr G.I. GALLOP: I did not interview Ms Rayner.

Mr M.J. Birney: Have you ever met her?

Dr G.I. GALLOP: Yes, I have met Ms Rayner. She was the Acting Commissioner for Equal Opportunity.

Mr J.A. McGinty: Yes.

Dr G.I. GALLOP: She was involved on the antiracism task force for some time. Under that framework, I had occasion to meet her. She was recommended by the Chief Justice and others. That recommendation went to the parliamentary committee, which was chaired by Hon Derrick Tomlinson, who is a member of the Liberal Party. The parliamentary committee unanimously supported the recommendation. Do not try to rewrite history, Leader of the Opposition.

Mr M.J. Birney interjected.

Dr G.I. GALLOP: The Leader of the Opposition should read the letter.

Mr M.J. Birney: Can you clarify that? Did it say that in future it wanted to see a CV?

Dr G.I. GALLOP: It says -

The Committee is well acquainted with Ms Rayner as former Commissioner, Anti-Corruption Commission and therefore finds on this occasion the information provided to be sufficient to deliberate on the candidate's capacity to fulfil the requirements of the position.

Mr M.J. Birney: What does it say about the CV?

Dr G.I. GALLOP: It says also -

This may not always be the case and therefore the Committee indicates that on future occasions a curriculum vitae and other relevant documentation may be required . . .

The Leader of the Opposition is out of his depth on many issues in Western Australian politics, and this is one of them. The fact that he would come into this Parliament and question the work Mr Kevin Hammond has done and question the legislation that has passed through this Parliament indicates from where he is coming. He lacks the capacity required to carry out the functions given to him as Leader of the Opposition. Ms Rayner is no longer a commissioner. Her behaviour is now subject to analysis by the Director of Public Prosecutions, as it should be. I am pleased that the Corruption and Crime Commission is doing very good things for the people of Western Australia on matters relating to organised crime and misconduct in the public sector.

MR M.W. TRENORDEN (Avon) [4.11 pm]: I have only a few minutes to speak in this debate. I will put on record my concern about some of the issues. One issue about which I am not concerned is the administration of the Corruption and Crime Commission. In the five minutes allocated to me, I will not have an opportunity to speak about all the matters I wish to speak about. Therefore, I will speak on one issue.

We are confronted with a set of remarkable circumstances that I believe no other Australian Parliament has been confronted with. A former officer of the Parliament has been charged with 55 offences. What this chamber and the other chamber have done about that process raises a thousand issues. I saw the President this morning, who told me that he had issued to members of the Legislative Council a press release outlining some of his concerns about the actions of the previous Clerk of the Parliaments. I do not have time to read it. This chamber has done nothing. The Speaker has not notified members about the current events. This is not the Premier's issue. Members of this chamber have not been notified of a solitary issue. It might as well not have happened. The press has been notified, but no member of this chamber has been notified about any of the processes regarding what may have happened in the other chamber.

I would like to talk about a raft of things regarding the relationship between this chamber and the other chamber and the committees that work between them. However, I do not have the opportunity to do so. A thousand questions need to be asked about why we have not been informed about this outrageous act and about the lack of trust we now have in a person who was held in high esteem. That has been shattered. Last Thursday a very remarkable event happened. It has not happened in the past 20 years during which I have been a member. The Leader of the House moved a motion to suspend standing orders so that the chairperson of the Joint Standing Committee on the Corruption and Crime Commission could speak. Members of the committee did not speak. The committee did not report last Thursday; the chairman did. That is unprecedented. It is clear from *Hansard* of 25 August that the chairman was speaking for himself rather than for the committee. That is unacceptable. The chairman can shake his head as much as he likes. It will be clear to anyone who reads *Hansard* that the Leader of the House moved a motion that only the chairman could speak for 10 minutes. Only one other member in this chamber is on the committee, and that member was not allowed to speak; she was gagged from speaking. That is unacceptable.

Mr J.N. Hyde interjected.

Mr M.W. TRENORDEN: I have only a few minutes to speak. That is unacceptable. At no stage in his address to this chamber did the chairman of that committee say that he was speaking for the committee. When reading *Hansard*, it is clear that he was speaking for himself. That is totally unacceptable. A report on the activities of the committee that met at 1.30 pm or 1.45 pm on Thursday is available on the Internet. It decided to not table its report in this chamber. What happened between Thursday and Friday? What miraculous thing occurred? The parliamentary inspector's report was not to be presented to the people of Western Australia on Thursday, yet suddenly on Friday morning it was. That begs a thousand questions. It is a sniff of the 1980s.

Mr J.A. McGinty: Cut it out.

Mr M.W. TRENORDEN: Be fair. The Premier and the Attorney General might not have done it, but it smells of a process that happened behind closed doors in which we were not involved. We have an outrageous situation, which is not the chairman's responsibility. He and the member for Girrawheen are the only two members in this chamber on the Joint Standing Committee on the CCC. That is totally unrepresentative. The Premier should be damned for that. The Premier approved the setting up of the committee on which two ALP members only can report to this chamber. It should never be the case that a chairman of a committee can make statements in this chamber that are not balanced by a statement from a member of the opposition, if the opposition member considers it necessary to make a statement. That is part of the accountability process. However, it is totally absent. The question must be asked: why is that the case?

A few minutes ago the chairman said it was not a conspiracy. Why should we not jump to the conclusion that it is a conspiracy? Answer the question. A raft of issues are lining up one after the other. Members opposite want to dismiss conspiracy theories. We have seen it before. I am the father of the house. I have been here for 20 years. I watched Premier Brian Burke when it was said that he could not be corrupt. Was he? Yes, he was. I would like to say that members opposite are not corrupt. However, their track record suggests that they must be questioned. Members of the opposition must have the ability to question government members. The Premier must be held accountable. Even members of the Labor Party would have to admit that the processes that have occurred since last Thursday, and the

President's statement today, are unacceptable. Those processes are outside the normal practices and processes of this chamber. They should not have occurred. The events of last Thursday in particular should not have occurred. It should not be the case that a report is not tabled in this chamber regarding the actions of a former Clerk of the Parliaments. That is the case.

I have run out of time. Unless the government is prepared to answer questions, it is reasonable for people to ask what are the associations between Ms Rayner and a raft of Labor Party people. That is what is being asked. I have received telephone calls from very senior Western Australians asking about that relationship. We need to find out what is the relationship between the government and Ms Rayner.

Mr J.A. McGinty: Ask questions.

Mr M.W. TRENORDEN: That is what we were trying to do earlier when the government gagged the debate.

Mr J.A. McGinty: You have not asked a single question in the time you have been on your feet. It is rhetoric.

Mr M.W. TRENORDEN: I have been given only five minutes to debate this matter. We should have had an open debate this morning.

DR E. CONSTABLE (Churchlands) [4.19 pm]: This motion seriously misses the mark. The debate should not be about whether the house has confidence in the Corruption and Crime Commission. I certainly have confidence in the CCC. I do not think any evidence before us indicates any loss of confidence in the CCC. Indeed, the report of Mr McCusker, the parliamentary inspector, indicates that the Commissioner of the Corruption and Crime Commission behaved impeccably in the matter relating to Moira Rayner. As the previous member stated, members of the government should explain their behaviour between last Thursday and Friday afternoons, when all sorts of questions arose.

What we have before us to examine and analyse is the statement made in this house by the Chairman of the Joint Standing Committee on the Corruption and Crime Commission, which he presented last Thursday at 5.09 pm. We also have the transcript of the committee hearing when the committee met with Mr Malcolm McCusker on Thursday. Originally the meeting was in closed session, and then the transcript was released publicly on Friday. That transcript should be required reading for every member of this Parliament because it tells us a story about the behaviour of the committee and an amazing story about Mr McCusker's inquiry into Ms Rayner's conduct. Everybody should have that as required reading and be examined on it tomorrow. It is very important. We also have a copy of Mr McCusker's report to the committee, which also should be required reading.

I want to look firstly at the tabling of the report. At first, the committee decided that it would not release the report. The reason was that it might prejudice an ongoing investigation or the court case involving Mr Marquet. However, less than 24 hours after that announcement to the house, the report was released. What happened in the intervening 21 hours? Why was there a change of heart? Why did the committee decide to release the report? What conversations went on between members of the committee and members of the government and ministers? Maybe there were none but there may have been some. These are questions that should be asked. What happened? I found it amazing to listen to the radio and watch television on Friday to witness the evolving response of the Attorney General. It evolved during the day depending on what was said on radio. The Attorney General should read those transcripts. Why was this behaviour going on? Why was this not seen as a fairly clear, straightforward set of circumstances that could be answered in a straightforward way? Instead, people were running around in ever decreasing circles chasing their tails. Why was that the case? What do we not know? Maybe that is just the way people respond to such things. However, there may be questions which have not yet been answered and which have to be asked, but there is not enough time this afternoon to ask them all. All that reading the reports has done for me is to raise more questions. What transpired between Thursday afternoon at 5.09 pm and 2.30 pm on Friday that caused a change of heart by the committee and the evolving behaviour of the Attorney General in his response?

I have tried to analyse these documents, of which I obtained copies today. One interesting example concerns misconduct and whether Ms Rayner was guilty of misconduct. In the chairman's report to Parliament on Thursday last week, he stated -

The parliamentary inspector has made a finding of misuse of information by Ms Rayner. However, he has not made any finding of serious misconduct on her behalf . . .

Mr J.N. Hyde: "Serious".

Dr E. CONSTABLE: Yes, but the member did not go on to say that he made a finding of misconduct!

Several members interjected.

Dr E. CONSTABLE: What a playing with words! The member can play with words as much as he likes, but this is misleading!

The ACTING SPEAKER (Mr P.B. Watson): Order, members! I am sure the member for Churchlands wants to get her point across. However, if she encourages interjections, she will get interjections.

Dr E. CONSTABLE: An analysis shows quite clearly that the parliamentary inspector found that misconduct had occurred. That is not made clear in the chairman's report.

I found the last two pages of the transcript of last Thursday's meeting very interesting. I cannot remember being involved in a discussion like that in any committee of which I have been a member. Again, it is very much required reading.

MS S.E. WALKER (Nedlands) [4.24 pm]: I support the motion. I am interested in the comments made by the member for Churchlands because she was on the parliamentary committee of the former Anti-Corruption Commission prior to the Corruption and Crime Commission committee being established. However, I do not agree with her comments that there is no loss of confidence in the Corruption and Crime Commission. I will say shortly what I believe happened on Friday. One of the reasons I think I know what happened is that I feel I know what Commissioner Hammond would be thinking. In my view, he is a man of impeccable integrity, and so was Terry O'Connor, but that did not mean that the public did not lose confidence in the Anti-Corruption Commission. It was partly because of the undermining by the then member for Innaloo and the current Attorney General. The Liberal Party is not attacking Commissioner Hammond in any way whatsoever. In fact, the sad thing about this, in my view, is that Commissioner Hammond has to now - having dealt in the judicial realm for years - deal in the political realm. He is discovering what it is all about.

We read on the front page of *The West Australian* on Friday that there was a sting operation. That was after the bombshell had hit Parliament. I think the sting was to Parliament and the media. It was very cosily set up that the parliamentary inspector's report would not be tabled; a statement would be issued by the member for Perth. I agree entirely with the comments made by the member for Churchlands about the way in which the statement was written. It was set up to be confusing, and the Attorney General went along with it. I will tell the house what I think happened on Friday. The Attorney General was happy to see everyone remain quiet, but what went terribly wrong was that Ms Rayner told a lie in the story on the front page of *The West Australian*. I do not know Commissioner Hammond personally, but I have known him for years as a judge. He is highly regarded and very on the ball. I thought that if he read that and it was not right, he would say something. He did. I asked a question today of the Attorney General. I referred to his comments made on radio on Friday, 26 August, at 8.50 am, that he had been briefed by Kevin Hammond.

The Attorney General was briefed by Kevin Hammond on 17 August. He knew what Ms Rayner said; he knew the facts. He should not stand in this Parliament and say that he did not read the front page of *The West Australian* that morning. He had the opportunity on that program to say that the facts in the case were wrong, but he said nothing. He could have said something. He should not sit there and smile. I know why he did a backflip on the issue in the afternoon. I thought that if Mr McCusker and Mr Hammond are the men I know them to be, they will say something. At 9.37 am on 26 August, as documented in the paper just tabled by the member for Perth, Commissioner Hammond wrote to Mr Malcolm McCusker and the member for Perth. He stated -

In this morning's "West" in Robert Taylor's report the following appears:-

"Ms Rayner said that the day after her visit to Mr Marquet she informed Mr Hammond of what she had said to Mr Marquet. Mr Hammond then called in the CCC's parliamentary inspector, Malcolm McCusker QC, who immediately launched an investigation."

This report is incorrect.

He brought it to the attention of the member for Perth, and the Attorney General knew that the game was up. He knew that he had to do something because it was all going pear shaped.

I have absolute confidence in the integrity of my colleagues on the committee. When the house debates this tomorrow I will look closely at the statement by the member for Perth and the inspector's report. The member for Perth's conduct leaves a lot to be desired. As the member for Churchlands said, he spoke about the misuse of information. The Attorney General spoke about Ms Rayner's "misbehaviour". If the Attorney General consults the provision about perverting the course of justice under section 143 of the Criminal Code, he will see that it has two elements, one of which is intent. I encourage every member of the chamber to read what Ms Rayner has said since this story broke. She always talked about what was in her mind - she intended to do this or do that.

Mr J.N. Hyde: Have you given Mr Cock this information?

Ms S.E. WALKER: No. I do not need to give Mr Cock this information. He is a very intelligent and bright man. It is in the reports, and he will be getting them.

Mr J.N. Hyde interjected.

Ms S.E. WALKER: It is my view, after looking at the transcript of the closed session, that the member for Perth was seeking at every opportunity to defend Ms Rayner.

Mr J.N. Hyde: Show us the evidence!

Ms S.E. WALKER: I will go through it tomorrow.

Mr J.N. Hyde interjected.

Ms S.E. WALKER: The member for Perth is a disgrace to this Parliament.

Mr J.N. Hyde: You can't produce the evidence.

The ACTING SPEAKER (Mr P.B. Watson): Order! I call the member for Perth to order for the first time.

Ms S.E. WALKER: I thoroughly support supporting the integrity of the CCC, and of Commissioner Hammond and Parliamentary Inspector McCusker, but I do not trust the Attorney General and the member for Perth. We now have an example of how this matter has unfolded. They have held this Parliament in contempt - it is not the first time they have done it - and they have held the public of Western Australia in contempt. That is why we will get up time and again this week and put them to the test. The parliamentary inspector's office was created because of the need for accountability. It was created also to restore confidence in the CCC. In this matter the Attorney General has put his loyalty to the Labor Party before his loyalty to the public of Western Australia. The Attorney General is the first law officer of this state. In my view, the Attorney General has never come up to the mark as Attorney General -

Mr J.N. Hyde: Envy!

Ms S.E. WALKER: It is not envy at all. I have never aspired to be Attorney General.

Mr J.A. McGinty: You are never likely to be either.

Ms S.E. WALKER: I am probably never likely to be. I am responding to what the member for Perth has said. However, while I am in this job as shadow Attorney General, I will not have my integrity impugned by someone like the Attorney General. The way this debate has unfolded is disgraceful. The Attorney General, who is so keen for the community to have confidence in the CCC, has undermined the commission by his actions and his failure to ensure that both he and the member for Perth were full and frank in relation to the report before the committee.

MR J.A. MCGINTY (Fremantle - Attorney General) [4.32 pm]: I am very pleased we did not agree to suspend standing orders today. The opposition has had, through its various speakers, plenty of opportunity to outline a case, provide new information and pose questions. However, one after the other, members opposite have just banged on about nothing in particular, or about the latest conspiracy theory that they have been fantasising about. The opposition has always been resentful of the great success that the Corruption and Crime Commission has been. That is why the member for Nedlands and the Leader of the Opposition have been advocating a \$10 million cut in the budget of the CCC. I will tell members why they have been advocating that. I will also tell members why they have now moved the motion "That this House and the public has lost confidence in the Crime and Corruption Commission". Notwithstanding the fact that the member for Nedlands has just said that she has great confidence in the commission and the commissioner -

Ms S.E. Walker: I do.

Mr J.A. MCGINTY: Then the member should cross the floor and vote with us!

The predecessor of the CCC was cobbled together hastily after the demise of the Official Corruption Commission, which was often described as being no more than a postbox for complaints about official corruption. It never had the power to do the job, and it did not do the job. One of the things we were determined to do when we came into government in 2001 was to hold a royal commission into the Police Service and make sure that a proper anticorruption body was in place in Western Australia. We actually made that part of our election platform.

Ms S.E. Walker interjected.

The ACTING SPEAKER: Order, member for Nedlands!

Mr J.A. MCGINTY: We have honoured that commitment. The Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers recommended this model for a corruption commission. Some minor variations were made to the model that we proposed as it went through the parliamentary process, particularly as it was amended in the Legislative Council. However, notwithstanding that, in its short 20-month existence, the CCC has been kicking goals by nailing corrupt public sector officers in this state.

Mr M.J. Cowper: It has nailed 47.

Mr J.A. MCGINTY: It has nailed 47, has it?

Mr R.F. Johnson: Including their own.

Mr J.A. MCGINTY: Including their own?

Mr R.F. Johnson: But there are more!

Mr J.A. McGINTY: Every one person whom it nails is one more than the ACC was ever capable of doing in the 1990s under the then Liberal government. Members of the Liberal Party in this place have had a seething resentment of the success of the CCC. It is clear from the report tabled today and the discussion over the past few days that it was the Corruption and Crime Commission -

Ms S.E. Walker interjected.

The ACTING SPEAKER: Order! I call the member for Nedlands to order for the second time.

Mr J.A. McGINTY: - that blew the whistle on Moira Rayner and then made sure -

Ms S.E. Walker interjected.

The ACTING SPEAKER: Order! I call the member for Nedlands to order for the third time. I will not put up with it again. I gave the member for Nedlands protection when she was speaking. The member should have the same respect for the other speaker.

Mr J.A. McGINTY: It is abundantly clear that it was the Corruption and Crime Commission that had the strength to nail one of its own. Moira Rayner, who as an acting commissioner was called upon as required to deal with matters, in my view behaved totally inappropriately. That behaviour was uncovered by the actions of Kevin Hammond, the head of the CCC. He then referred the matter to Malcolm McCusker, QC, in order to -

Mr D.F. Barron-Sullivan interjected.

The ACTING SPEAKER: Order, members! I want to hear what the Attorney General is saying, and I am sure opposition members do too. However, I cannot hear what he is saying. If there are any more interjections, I will call the member to order.

Mr J.A. McGINTY: Moira Rayner behaved in an appalling fashion. Probably even today no-one can believe what she did. It was appalling behaviour on her part to tip off someone who was a person of interest to the CCC and who has now been charged with serious corruption as a public officer and Clerk of the Parliaments. We all condemn what Moira Rayner has done. There is no question about that. There is no difference between us on that issue. Not long before that, the CCC had laid charges against the Clerk of the Parliaments, Laurie Marquet. The former Leader of the National Party has said that this is unprecedented. I suspect it is. However, it was the CCC that did the very good work of nailing and laying charges against the corrupt Clerk of the Parliaments. Other public sector officers, ranging from chiefs of staff in ministers' offices to public sector employees employed by both state and local governments, have also had their corrupt behaviour exposed and charges laid against them. That is a very good record. I believe it will act as a great deterrent against corrupt behaviour if people in the public sector know that this state has a powerful and effective body in the CCC. Moira Rayner has done a lot to destroy that. She has behaved totally inappropriately. I would like to use the word "corruptly" in this debate, but I cannot, for a very simple reason. Malcolm McCusker, who is entrusted by this Parliament with investigating allegations of misbehaviour by people in the CCC, has found that her conduct does not constitute corruption. That is the problem with this matter.

Mr R.F. Johnson interjected.

Mr J.A. McGINTY: I have only a few minutes left. I want to make a few points.

Mr M.W. Trenorden: Will you take an interjection? Would he change his view today, though? Having written the report on Thursday of last week, and having now been given the report from Mr Kevin Hammond to the Parliament, would he change his view?

Mr J.A. McGINTY: I have no idea.

Mr M.W. Trenorden: He probably would call her corrupt.

Mr J.A. McGINTY: I have not spoken to Malcolm McCusker at all about this matter. Although I regard Malcolm McCusker very highly and see him from time to time in a variety of different contexts, generally speaking to do with the law and some mutual friends, I have not spoken to him about this matter. His view was that Ms Rayner's conduct did not amount to criminal behaviour. That is crystal clear. He made the finding that her behaviour did not amount to that. I might have wished it was different from that. However, that is not the point. The point is that the person whom we have entrusted to investigate this matter, who is arguably the most experienced criminal lawyer in Western Australia, has found that her behaviour does not constitute criminal behaviour such that charges could be laid. I made it clear to everyone on Friday that if charges could be laid, they would be laid. There is no preferential treatment. There is no differential law being applied. It is exactly the same law as applies to police officers and everyone else. If people pervert the course of justice and behave corruptly, the Criminal Code applies to their conduct. The question then is: can charges be sustained? We are relying on experts to do exactly that for us.

Moira Rayner has behaved in a reprehensible fashion in two respects. Firstly, she tipped off Laurie Marquet. Her behaviour is absolutely unbelievable given the trust that we had placed in her with her appointment. When I say "we", I am referring to the Chief Justice of Western Australia, David Malcolm; the Chief Judge of the District Court, Antoinette

Kennedy; and Audrey Jackson, an eminent member of the community, a former principal of, I think, St Mary's Anglican Girls' School and the Executive Director of the Independent Schools Association of Western Australia, who was appointed to represent the broader interests of the community. They voted unanimously in favour of Moira Rayner's appointment to the position of acting commissioner. The Premier passed that on to the Joint Standing Committee on the Corruption and Crime Commission, then chaired by Hon Derrick Tomlinson and comprising two Liberal and two Labor members, including former Attorney General Cheryl Edwardes. Members have heard the response from Hon Derrick Tomlinson that warmly endorsed Moira Rayner's appointment for this position. I am sure that, in retrospect, everybody would happily put their hands on their hearts and acknowledge that they appointed her with the best of intentions - but it went bad; it is as simple as that.

Moira Rayner has behaved in a reprehensible fashion that deserves to be condemned. However, at the time of her appointment, we did not know that she would behave in that way. At the time, based on all reports, she appeared to be a perfect appointment to that position.

Mr R.F. Johnson: Did she ever have conversations with you when she was on the ACC?

Mr J.A. McGINTY: Not to the best of my recollection. That was some years ago. She is not someone with whom I associate. I have known Moira Rayner for some time, as I suspect have many members of this house, but we have not had a friendship.

Ms S.E. Walker: Did she used to tip you off?

Mr J.A. McGINTY: That is really clever, member for Nedlands!

Mr R.F. Johnson: Can I ask you another question?

Mr J.A. McGINTY: If members want to ask drivel, as the member for Nedlands just did, I am not interested. However, if members have serious questions, I will listen.

Mr R.F. Johnson: If a police officer tips off someone who is suspected of drug dealing that his phones are being bugged, is that any different from what happened between Moira Rayner and the former Clerk of the Legislative Council? The police officer would be charged with perverting the course of justice. Surely the same must apply to Moira Rayner - even more so, because she held a higher position.

Mr J.A. McGINTY: I think police officers hold a position of trust. Any police officer who behaves corruptly should have the book thrown at him. Given Moira Rayner's position, if, based on the best legal advice a charge can be laid, it should be laid. Exactly the same law applies in both cases.

Mr R.F. Johnson: They are both the same.

Mr J.A. McGINTY: As the member for Hillarys knows, cases are not all the same. Every case turns on its own facts - the evidence, questions of intent and questions of benefit. The relevant provisions of the Criminal Code must be considered to determine whether a case can be made. There is no point arguing with me. Malcolm McCusker has said that he has examined all the evidence. I have not seen the evidence - the transcripts of the interviews or anything like that. I did not see the parliamentary inspector's report in either draft form or final form until Friday afternoon, when the committee made it available. The member for Hillarys should ask Malcolm McCusker that question. He is very well versed in these matters. The same law applies to the police, public servants and Moira Rayner. He has come to the conclusion that on the evidence he has seen - at this stage he is the only person who has seen it - a criminal charge cannot be made against Moira Rayner.

When the issue was posed on the Paul Murray program last Friday morning, the report was not in the public arena. I had not seen it and neither had anyone else. However, calls were being made to get the Director of Public Prosecutions to investigate this matter. Frankly, to suggest that the DPP undertake his own investigation of the matters - in other words, doubling up on the work done by Malcolm McCusker - is a nonsense. The DPP does not have investigators on his staff; he does not conduct those investigations. He is provided with a brief to determine whether a matter should be prosecuted. Some members have been a little excited about this issue.

On the Paul Murray program that day, the member for Nedlands made the point that there should be an independent investigation into this matter. That was what I responded to. It was not a matter of being cute. I said quite clearly that the DPP prosecutes; he does not conduct investigations, and, in any event, the Parliament had instructed that Malcolm McCusker conduct this investigation. He called in Moira Rayner and took evidence from her; her evidence was recorded and a transcript of it was made. I am not sure of the extent of the rest of his investigation. He has come down with a finding that no criminal behaviour occurred. If something indicates that criminal behaviour might have occurred or did occur, that should be referred to the DPP for investigation. I made that point. The transcript of my conversation with Paul Murray reads -

MURRAY

What happens to that report now?

MCGINTY

It will be tabled in the Parliament, but the ... and I understand this was the decision of the parliamentary committee on the recommendation of Malcolm McCusker, that it not be tabled at this stage because it could prejudice the trial of Laurie Marquet, and I think that's a sensible thing to do, and it's not uncommon in legal circles.

MURRAY

So that's the end of the matter as far as you're concerned?

MCGINTY

Well, no, I'll wait till I see the final report, which will hopefully be made public in the not too distant future.

It is now a matter of public record that the report was released on Friday afternoon. I rang Robert Cock, QC, the Director of Public Prosecutions, and asked him to provide me with a second opinion on the matter, to look at the report and to determine whether McCusker's finding was correct; namely, that no criminal charges could be laid. That is the proper way to handle this matter and that is exactly what we have done.

Mr M.J. Birney: Did the member for Perth consult with you about this matter prior to tabling his own report on Thursday afternoon?

Mr J.A. McGINTY: No. I have been here long enough to know that parliamentary committees have their own life. A range of conspiracy theories have been maliciously and falsely circulated, particularly by the member for Nedlands, about how things were stage-managed. If people think they can stage-manage the member for Perth, particularly when a media opportunity is involved, they are completely wrong. He was not going to give anyone a chance to upstage him on this occasion. I do not think he would argue with that, would he?

Mr J.N. Hyde: No, not at all. Can I add this point? The letter I tabled today from Mr McCusker states categorically that there is no recording or intercept of Ms Rayner advising Mr Marquet of a possible tap on his phone. He states that he became aware of Ms Rayner's actions when Ms Rayner told him that she had advised Mr Marquet of a possible phone tap.

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr P.B. Watson): The member for Nedlands is on very thin ice.

Mr J.N. Hyde: If there is evidence anywhere of a criminal action, the only hearsay evidence or whatever that we have is Ms Rayner saying, "I probably told him about this."

Mr J.A. McGINTY: I am running out of time.

Moira Rayner's behaviour is to be condemned. She has undermined a very important institution in this state. If there is evidence of criminal behaviour, that evidence should be prosecuted to the fullest. The ideas that have been suggested as part of a fishing expedition by members opposite have no foundation whatsoever. That is the other reason I am particularly pleased that standing orders were not suspended today. Members opposite would have gone out with their rod and tackle when there is no fish whatsoever left in the ocean to catch. They did not raise a single new issue in this debate. At best, they had a general rant and rave about something on which we all agree; namely, that Moira Rayner offended the people of this state in two ways: firstly, by tipping off Laurie Marquet and, secondly, by lying about it in order to paint herself in the best possible light.

Mr R.F. Johnson: It is an offence.

Mr J.A. McGINTY: Put it this way: her initial action and then her effort to put her own gloss on it have been exploded today. However, it was in fact quite clear on Friday, as the story unfolded during the day, that Moira Rayner had not been honest with her description of events. She was pinged by the CCC, but not because, as she tried to portray in the media, she had realised the error of her ways and fessed up.

Mr M.J. Birney: When were you told that she had resigned?

Mr J.A. McGINTY: The member for Kalgoorlie should have listened in question time, because the Premier answered that question, as did I. If the member listens and takes a note, he will be fully aware -

Mr M.J. Birney: Would you just tell us again?

Mr J.A. McGINTY: No, I will not. The Leader of the Opposition can look it up himself. He should not waste time when we are moving towards the end of the time that is available to us.

Several members interjected.

Mr J.A. McGINTY: Because Malcolm McCusker was continuing his investigation. I was aware that he was doing that. I did not want to do as Moira Rayner had done and tip off people about what was going on. I make the point that

when Kevin Hammond briefed me on Wednesday, 17 August, I said, "I think this is something that I should appropriately tell the Premier about", for the very simple reason that the process of appointing Mr Shanahan was at that stage, to the best of my knowledge, still being progressed, and an appointment needed to be made to replace Ms Rayner. I spoke with the Premier and advised him in general terms, as Commissioner Hammond authorised me to do. Quite expressly, Commissioner Hammond said to me, "Yes, inform the Premier of this matter." I did that on the Wednesday afternoon. The two of us were aware of that matter from that time onwards, in anticipation that Malcolm McCusker would report in the not too distant future through the proper channels and then the matter would be made public. However, it was important that Malcolm McCusker be given the opportunity to complete his report and whatever investigations he had under way, because all I was aware of at that stage was that he had interviewed Moira Rayner and obtained her side of the story. I was not aware of what else he might be doing in compiling his report for presentation to the Parliament.

Inventive conspiracy theories are without foundation. We can talk about things being stage-managed, notwithstanding the impossibility of doing that when the member for Perth is involved. We can talk about all those sorts of things. However, it would be a lot better and a lot more helpful if members opposite came up with some cold, hard facts. Members opposite have tried to slur Chris Shanahan, SC, the new acting commissioner of the Corruption and Crime Commission. However, that has been shown today, by the answer that the Premier gave to the question from the former Leader of the National Party, to be completely without foundation. The appointment of Mr Shanahan began a year ago, in September 2004.

Ms S.E. Walker: We know that.

Mr J.A. McGINTY: Why was the member for Nedlands suggesting there was something improper in his appointment?

Ms S.E. Walker: No, I wasn't.

Mr J.A. McGINTY: Yes, the member was.

Ms S.E. Walker: You're making it up.

Mr J.A. McGINTY: I have the transcript of what the member for Nedlands said to the media. I make it quite clear to everyone that the member is not pure in this matter. She has been out there spreading stories and making innuendos.

I will make a final point on the extent to which Paul Murray was misled by the member for Nedlands. In an extract from his program, Paul Murray stated -

Jim McGinty appears to have sole power to appoint the acting commissioner. Now having made a substantial blue, which he now owns up to, in appointing Moira Rayner, he's gone and once again appointed an acting commissioner off his own bat, shouldn't these appointments be vetted, even, perhaps, by the parliamentary oversight committee?

The member for Nedlands should accept some responsibility for that misleading comment by Paul Murray, because it is completely false.

Standing Orders Suspension

MR D.F. BARRON-SULLIVAN (Leschenault) [4.53 pm] - without notice: I move -

That so much of standing orders be suspended as would enable debate on today's matter of public interest to continue for up to two hours.

I say to government members that that is an entirely reasonable request.

Mr J.A. McGinty: It is not. You have come up with drivel during the course of this debate. You are just banging on with no purpose.

Mr D.F. BARRON-SULLIVAN: The motion needs very little explanation. Even the Attorney General has said over the past 20 minutes that he has not had time to deal with matters. When the member for Perth interjected to try to explain a matter, the Attorney General expressed his dissatisfaction and said, "Let's get on with things." Even the Attorney General has indicated that there has been insufficient time. That was certainly the inference that came across. A number of times the Attorney made it quite clear that he was unable to deal with questions from this side of the chamber, and the clear inference was that he did not have sufficient time to do so. A number of questions and a number of matters have not been resolved during the last one hour of debate. For all the reasons that were put forward earlier, this matter deserves to be debated to the full extent.

Mr J.A. McGinty: Raise an issue then. Raise an issue in contention.

Mr D.F. BARRON-SULLIVAN: We have raised matters. There are matters that still need to be resolved.

Mr J.A. McGinty: Like what?

Mr J.C. Kobelke: Name one!

Mr D.F. BARRON-SULLIVAN: I will name one. Because they have asked, I will name one to demonstrate the importance of this matter. The Attorney has still not fully explained why, when he was advised on Friday morning by Kevin Hammond about the situation regarding Moira Rayner's advice -

Mr J.A. McGinty: He didn't speak to me on Friday morning.

Mr D.F. BARRON-SULLIVAN: The Attorney General indicated previously publicly that he was briefed on that. He has not indicated fully why he changed his position on the whole matter. We have not had an explanation from the Attorney General of why he said one thing to the media at 8.50 am, and yet Kevin Hammond, 47 minutes later, signed a letter correcting the lies that Ms Rayner had actually perpetuated earlier. It is quite clear that the Attorney General is closer to this than he wants to give up to this Parliament. It is quite clear that there has been an attempt today to divert attention from the Corruption and Crime Commission. It was pointed out earlier - very strongly, I might add - that the person who had leaked information to *The West Australian* was not from within the CCC. We do not know what else is happening within the CCC. The CCC was in charge of that investigative action, and whether it is someone who was brought in from outside or whether it is someone from within the CCC who leaks and provides that information to the newspaper, it says that something is fundamentally wrong with what is going on in the CCC at the moment; yet the Attorney General, the member for Perth and the Premier are saying that we can have confidence in the CCC. Sure, we can read about what it is doing on the front page of *The West Australian*; sure, people can jeopardise investigations that are under way; sure, someone can pervert the course of justice, but the government does not have the guts to do anything about it to ensure they are charged. Sure, it will send the matter off to the Director of Public Prosecutions; yet the Attorney has said today that the DPP is not the appropriate person. He said that the DPP does not have investigative powers and that he does not have the resources to carry out an investigation. Therefore, why did the Attorney not send the matter to the police? He has not answered that question. These matters are yet to be resolved. We have not heard an explanation. Why did the Attorney not send this matter to the police? What is going on in the CCC? Who is being protected? How far up the line does this go? Are there members of Parliament whose necks may be on the chopping block if people are not silenced?

Moira Rayner went to see Laurie Marquet. It is interesting, because the evidence shows that she was aware of this investigation two weeks before that. If she was such a close friend, why did she not go and see him then? Why did she not go and advise him that he needed to take legal advice? Until we see all the transcripts and until we know exactly why she went there and who she was trying to protect, I suggest that this debate needs to go on in this forum for some time, because it strikes me, as just one observer, that perhaps she was not going there just to protect Laurie Marquet, a dear friend. Perhaps she was trying to protect someone else. Therefore, we must ask: why is the Attorney General not providing full, open and honest information about this? Who is the Attorney General trying to protect? Why has the Attorney General not sent this matter to the police for a full and open investigation?

They are just some of the matters that need to be debated. I will not hold up debate any more on the suspension of standing orders. We have made our point. The Leader of the House is about to jump up and gag debate. I will make one point. At least we got some time to talk about the last suspension of standing orders. However, the point is that this matter has gone on for some time. It has dominated the media. Why? Because it is a matter of fundamental importance to the community. In other words, it is a matter of great public interest. This is extremely important. As the Attorney General said, the CCC is the principal body that handles matters of crime and corruption within the public sector. If we are to have confidence in that organisation, if we are to have confidence in the chairman of the parliamentary body that provides some degree of accountability for that organisation, and if we are to have confidence in the first officer of the law in this state and his Premier, for goodness sake this debate must go on.

Question to be Put

MR J.C. KOBELKE (Balcatta - Leader of the House) [5.00 pm]: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (25)

Mr P.W. Andrews	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr N.R. Marlborough	Mr M.P. Whitely
Dr J.M. Edwards	Mr F.M. Logan	Mr M.P. Murray	Mr D.A. Templeman (<i>Teller</i>)
Mrs D.J. Guise	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mr S.R. Hill	Mr J.A. McGinty	Ms M.M. Quirk	
Mrs J. Hughes	Mr M. McGowan	Ms J.A. Radisich	

Noes (21)

Mr C.J. Barnett	Mr M.J. Cowper	Mr D.T. Redman	Mr G.A. Woodhams
Mr D.F. Barron-Sullivan	Mr J.H.D. Day	Mr T.R. Sprigg	Dr J.M. Woollard
Mr M.J. Birney	Dr K.D. Hames	Dr S.C. Thomas	Dr G.G. Jacobs (<i>Teller</i>)
Mr T.R. Buswell	Ms K. Hodson-Thomas	Mr M.W. Trenorden	
Mr G.M. Castrilli	Mr R.F. Johnson	Mr T.K. Waldron	
Dr E. Constable	Mr J.E. McGrath	Ms S.E. Walker	

Pairs

Mr J.R. Quigley	Mr G. Snook
Mr J.J.M. Bowler	Mr P.D. Omodei
Mr T.G. Stephens	Mr B.J. Grylls
Dr G.I. Gallop	Mr A.J. Simpson

Question thus passed.

Standing Orders Suspension Resumed

The ACTING SPEAKER (Mr P.B. Watson): The question is that standing orders be suspended. To be passed, this motion requires the concurrence of an absolute majority.

Question put.

The ACTING SPEAKER: There being a dissentient voice, it is necessary for the house to divide.

Division taken with the following result -

Ayes (20)

Mr C.J. Barnett	Mr M.J. Cowper	Mr J.E. McGrath	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.H.D. Day	Mr D.T. Redman	Ms S.E. Walker
Mr M.J. Birney	Dr K.D. Hames	Mr T.R. Sprigg	Mr G.A. Woodhams
Mr T.R. Buswell	Ms K. Hodson-Thomas	Dr S.C. Thomas	Dr J.M. Woollard
Mr G.M. Castrilli	Mr R.F. Johnson	Mr M.W. Trenorden	Dr G.G. Jacobs (<i>Teller</i>)

Noes (26)

Mr P.W. Andrews	Mrs J. Hughes	Mr M. McGowan	Ms J.A. Radisich
Mr A.J. Carpenter	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Dr E. Constable	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr N.R. Marlborough	Mr M.P. Whitely
Dr J.M. Edwards	Mr F.M. Logan	Mr M.P. Murray	Mr D.A. Templeman (<i>Teller</i>)
Mrs D.J. Guise	Ms A.J. MacTiernan	Mr A.P. O'Gorman	
Mr S.R. Hill	Mr J.A. McGinty	Ms M.M. Quirk	

Pairs

Mr P.D. Omodei	Mr J.J.M. Bowler
Mr B.J. Grylls	Mr T.G. Stephens
Mr G. Snook	Mr J.R. Quigley
Dr G.I. Gallop	Dr G.I. Gallop

Question thus negatived.

Matter of Public Interest Resumed

Question put and a division taken with the following result -

Ayes (20)

Mr C.J. Barnett	Mr M.J. Cowper	Mr J.E. McGrath	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.H.D. Day	Mr D.T. Redman	Ms S.E. Walker
Mr M.J. Birney	Dr K.D. Hames	Mr T.R. Sprigg	Mr G.A. Woodhams
Mr T.R. Buswell	Ms K. Hodson-Thomas	Dr S.C. Thomas	Dr J.M. Woollard
Mr G.M. Castrilli	Mr R.F. Johnson	Mr M.W. Trenorden	Dr G.G. Jacobs (<i>Teller</i>)

Noes (26)

Mr P.W. Andrews	Mrs J. Hughes	Mr M. McGowan	Ms J.A. Radisich
Mr A.J. Carpenter	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Dr E. Constable	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr N.R. Marlborough	Mr M.P. Whitely
Dr J.M. Edwards	Mr F.M. Logan	Mr M.P. Murray	Mr D.A. Templeman (<i>Teller</i>)
Mrs D.J. Guise	Ms A.J.G. MacTiernan	Mr A.P. O'Gorman	
Mr S.R. Hill	Mr J.A. McGinty	Ms M.M. Quirk	

Pairs

Mr G. Snook	Mr J.R. Quigley
Mr A.J. Simpson	Dr G.I. Gallop
Mr B.J. Grylls	Mr T.G. Stephens
Mr P.D. Omodei	Mr J.J.M. Bowler

Question thus negatived.

WORKERS' COMPENSATION LEGISLATION AMENDMENT BILL 2005

Second Reading

Resumed from 17 August.

MR T.R. BUSWELL (Vasse) [5.13 pm]: As indicated in the minister's second reading speech, this bill has been introduced to rectify a number of issues that have emerged from the implementation of the government's workers' compensation reform legislation, which passed through this house last year; in particular, the impact on the capacity of working directors to obtain workers' compensation cover under what has been termed the statutory scheme. The opposition will support elements of this bill, but will oppose one significant element - clause 13, which inserts section 175AA in the act.

It important to acknowledge, as the minister has done, that, in the lead-up to the introduction of the 2004 reform bill, a major issue arose about the coverage of working directors under the statutory workers' compensation scheme in Western Australia. It emerged that a number of insurers were arguing, when claims were being made, that working directors were not classified as workers of a company and, accordingly, were not to be covered by the statutory scheme. This position was unfortunately being supported by an increasing body of legal precedent, and it was quite clear that something needed to be done to address the situation. Thousands of Western Australian small businesses had for many years been paying workers' compensation premiums, expecting to have cover when they called on it. It was unfortunate that, despite paying premiums for many years, the cover they expected was increasingly being denied to them by insurance companies, and that position was being supported by a growing number of legal cases. The response of the government to this situation was quite interesting. It was simply to remove working directors from the statutory scheme. The government proposed to force working directors to seek cover from alternative insurance products, such as income protection insurance.

I was surprised, when reviewing the second reading speeches for the workers' compensation reform package of last year, to discover that this change attracted very little attention and comment. I suspect the reason was that it was a very complex piece of legislation covering a variety of aspects of the workers' compensation arrangements in Western Australia. I was surprised because, as we have had time to consider the changes that were passed last year, it has become obvious that the consequences for working directors, many of whom, I hasten to add, work in small businesses or for themselves, would be quite disastrous. A number of those people, particularly a lot of older workers, found that they had great difficulty in obtaining the alternative insurance cover suggested by the government, and others found that the cover that they were able to obtain was quite expensive. For many people, particularly small contractors, the combination of their age and the costs may be very difficult. In fact there was a situation in Western Australia in which a large number of working directors would be effectively forced to work without any workers' compensation cover.

In reviewing the bill before the house, and the legislative process that led to it, I was forced to ask myself what would have made the government place thousands of Western Australian small business owners, who often are working directors, in a seemingly impossible situation. The answer lies in the fact that, as is often the case with the government's policy directions in industrial relations, a deeper, nastier ideological agenda was driving the changes. This ideology has been widely espoused by the Western Australian union movement for some time, and was acknowledged by the minister in his second reading speech on the previous legislation and is again acknowledged in the second reading speech supporting the bill before the house; that is, there is an objection from the government and the trade union movement, not only in Western Australia but across the Labor-held states of Australia, to workers becoming self-employed private contractors, and effectively moving into a style of labour relations well beyond the sphere of influence of the trade union movement.