

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

*Fifth Report — “Current Committee Confirmed:
Clarifying the legal composition and powers of the Committee” — Tabling*

MS M.M. QUIRK (Girrawheen) [9.57 am]: I present for tabling the fifth report of the Joint Standing Committee on the Corruption and Crime Commission, titled “Current Committee Confirmed: Clarifying the legal composition and powers of the Committee”.

[See paper 890.]

Ms M.M. QUIRK: At the outset, I thank for their conscientious efforts and diligence, the committee’s research staff: principal research officer, Alison Sharpe, and research officer, Vanessa Beckingham. I also appreciate the efforts and commitment of committee members: deputy chair, Hon Jim Chown, MLC; and members Matthew Hughes, MLA, the member for Kalamunda, and Hon Alison Xamon, MLC. I remark that our work is not hampered by base partisanship, but proceeds with amicable cooperation and a mutual desire to use our best endeavours to undertake quality work that will stand up to close scrutiny.

Upon the commencement of the fortieth Parliament, the nomination of committee members for the joint standing committee caused a level of hysteria and controversy. It was argued that the appointment of two members of the government from the Legislative Assembly, and a member of the opposition and a member of the Greens party from the Legislative Council, was contrary to legislation and defied established conventions. In raising these objections, the opposition unwisely decided to single out for denigration Hon Alison Xamon, MLC.

Several members interjected.

Ms M.M. QUIRK: She is a member of the Greens party in the Legislative Council. This was unseemly, given that the objection was ostensibly a matter of high principle.

Several members interjected.

Ms M.M. QUIRK: Such an approach was unworthy and undermined the credibility of the objections.

Mrs L.M. Harvey interjected.

The ACTING SPEAKER: Deputy leader!

Ms M.M. QUIRK: Mr Acting Speaker, I seek your protection. This was unseemly, given that the objection was ostensibly a matter of high principle. Such an approach was unworthy, undermined the credibility of the objections and served to reveal a more venal political motive.

The position asserted ad nauseam was that there needed to be an opposition committee member appointed from the Legislative Assembly. This was not a view with which the government concurred. Reliance by the opposition was selectively placed on some provisions in the Corruption and Crime Commission Act itself and also on past practice and convention.

As late as last week, the member for Carine felt it necessary to reiterate the argument. I quote in part what he said on Thursday, 12 October —

We have had a lot of discussion in this fortieth Parliament about the membership of the Joint Standing Committee on the Corruption and Crime Commission and whether the committee has been formed properly and legally. Obviously, the Labor Party has the numbers in this place so it can do what it likes. It is interesting that a week or two after the committee was formed, a highly accredited academic gave members a speech about how to interpret legislation. She said that Parliament makes the legislation and the judiciary interprets and applies that legislation. In the formation of the Joint Standing Committee on the Corruption and Crime Commission, the Parliament both made the legislation and interpreted and applied it. I am concerned that if in the future a new commissioner was appointed and there was not bipartisan support, someone might decide to challenge that in the Supreme Court or the High Court. They might look at the legislation, the conventions under which the committee has been formed in the past, the debate in the Parliament and the influence of the politics of the day. It would not take a knowledgeable lawyer long to pull that together and say that is very different from past conventions. From my perspective, the Corruption, Crime and Misconduct Act 2003 is pretty straightforward. I am not a lawyer, so I read these words at a very basic level in terms of what they say, not how they can be twisted or turned around. Our bible for interpretation is, of course, the Interpretation Act. That act states that if the legislation covers a certain point, the Interpretation Act does not need to be looked at.

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Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

I am concerned about the politics around the way in which we have set up the Joint Standing Committee on the Corruption and Crime Commission. I would hate to think that if a new commissioner was appointed, a tricky lawyer might be able to use the processes around the formation of this committee to get a lot of people off their prosecutions. I would hope the chair of the committee has made inquiries at the highest levels into the complications of that political decision. I would hate to think that the way in which Parliament has interpreted the legislation might impact on the ability of the Corruption and Crime Commission to charge and prosecute. The role of this Parliament is to apply the legislation. The government should have gone to the State Solicitor or another higher authority and said, "We are doing this for political reasons. We want to stack the committee in a certain way." The government could be doing that as a favour to the Greens, or because it wants to put another member on the committee so they can get their extra allowance. The government should —

Mrs L.M. Harvey: What a load of rubbish!

Ms M.M. QUIRK: This is what the member for Carine said in this place last week! It is so the government can get its extra allowance!

Dr M.D. Nahan interjected.

The ACTING SPEAKER (Ms J.M. Freeman): Members! The member should be heard in silence. It is a committee report.

Ms M.M. QUIRK: I have never heard such objection to quoting directly from *Hansard*. It is quite extraordinary. The member for Carine continued —

The government should be honest with the State Solicitor about its —

Mrs L.M. Harvey interjected.

The ACTING SPEAKER: Member for Scarborough, I will call you if you do it again.

Ms M.M. QUIRK: The member for Carine continued —

The government should be honest with the State Solicitor about its reasons for doing that.

As the member for Carine was saying that last week, I was thinking that he would be very pleased with the report we are presenting this week. In fact, we were in the process of seeking legal opinion from a senior counsel. Before I go into the content of that opinion, I have to say that the raising of these objections initially had the effect of delaying the establishment of the committee and its work. It also created an unacceptable level of uncertainty about the legal competence of committee members. Out of an abundance of caution, the committee resolved to seek the opinion of Senior Counsel to resolve the matter once and for all. Given that a legal opinion has now been sought and tabled, I know that the member for Carine, for one, will welcome its tabling. I will canvass the findings shortly.

The choice of Senior Counsel to provide an independent opinion for the committee and Parliament was undertaken by the Clerk of the Assembly alone and the committee was advised only after the selection was made. Mr Pettit is eminently qualified to undertake this task. His background, expertise and qualifications were detailed by former Chief Justice David Malcolm in 2002 at the time of Mr Pettit's appointment as Senior Counsel. I quote —

Kenneth Malcolm Pettit was born on 5 May 1948 and educated at Governor Stirling High School and the University of Western Australia. He first qualified as a Pharmacist in 1969 and became a member of the Pharmaceutical Society in 1970. He subsequently graduated with a BA in Philosophy in 1977 and a LLB in 1987.

He was admitted to practise in Western Australia on 23 December 1988. He was employed with the then Crown Law Department from 1985–87 on a part-time basis whilst he was studying his LLB. From 1988–95, he worked full time at the Crown Law Department mainly in matters dealing in constitutional, administrative, industrial, commercial and criminal law. From 1994, he also dealt with matters in relation to Native Title.

In July 1995, Mr Pettit commenced practice at the Independent Bar and joined the Western Australian Bar Association. He has practised widely in large commercial matters, administrative and constitutional law, public sector inquiries and investigations, some criminal prosecutions, industrial law and native title litigation. He has also recently been appointed Counsel Assisting the Royal Commission into whether there has been any corrupt or criminal conduct by Western Australian police officers.

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

Mr Pettit is a member of Western Australia Bar Association and in 1998 was a member of the Bar Council. He is a member of the Law Society of WA, the Australian Institute of Administrative Law and the Western Australian Industrial Relations Society. He is also a Board Member for the Diabetes Research Foundation.

Mr Pettit has also served on various company and government boards. I note that the previous government appointed him on the Pilbara Ports Authority. Mr Pettit is thanked for his prompt consideration of the issues raised and his unequivocal conclusions will ensure that the highest level of certainty prevails in the future.

The following findings were made, as stated in the committee report —

Finding 1

The current composition of the Joint Standing Committee of the Corruption and Crime Commission, being two Labor members, one Liberal member, and one Greens member, is compliant with the *Corruption, Crime and Misconduct Act 2003*.

Finding 2

Achieving “bipartisan support” would require both Labor members’ support as well as the Liberal member’s support.

Finding 3

The definition of “bipartisan support” in the *Corruption, Crime and Misconduct Act 2003* does not mean nor imply equal numbers of members from the major parties. It means only that there must be no dissent by any member of the Joint Standing Committee on the Corruption and Crime Commission who is a member of one of the two major parties.

Finding 4

The definition of “bipartisan support” in the *Corruption, Crime and Misconduct Act 2003* implies that the Joint Standing Committee on the Corruption and Crime Commission may have one or more members who are not from the two major parties. If the Act intended that only members of the two major parties could be members of the Committee, there would be no need to require *majority* support in addition to *bipartisan* support.

Finding 5

The *Corruption, Crime and Misconduct Act 2003* does not require the Joint Standing Committee on the Corruption and Crime Commission’s membership to be bipartisan; it only requires certain functions to have bipartisan support within the Committee.

Finding 6

No member of the Committee, including the Greens member, is precluded from any function of the Committee under the Act.

Finding 7

The Committee reiterates that specific legislative requirements take precedence over perceived past conventional practice.

Finally, there was some contention as to what we should call the report. In the end we opted for the bland if alliterative “Current Committee Confirmed”. I momentarily considered a title more descriptive of the saga that has evolved over the past months. I thought that something like “Statute’s Words Beat the Vibe Hands-Down!” would have been in order. However, I was overruled.

We now look forward to concentrating on substantive issues in our future deliberations.

MR M. HUGHES (Kalamunda) [10.08 am]: I have a few comments to make but, before I do, I also would like to emphasise the harmonious way in which this currently composed committee is setting about its business.

Mr C.J. Barnett: It’s a disgrace and you know it.

Mr M. HUGHES: The member for Cottesloe —
Several members interjected.

Mr M. HUGHES: Member for Cottesloe, give me the opportunity to voice —

Point of Order

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

Mr D.A. TEMPLEMAN: As per the standing orders, the report is being tabled and spoken to by the members. They need the respect of the house in terms of their capacity.

The ACTING SPEAKER (Ms J.M. Freeman): I do not think that is a point of order.

Debate Resumed

Mr M. HUGHES: Member for Cottesloe, I have copious notes on this but maybe I will just freewheel a bit.

Point of Order

Mr S.K. L'ESTRANGE: Madam Acting Speaker, can the member please stick to the report that he is to address and not start relating to members of the opposition.

The ACTING SPEAKER (Ms J.M. Freeman): I am not sure that that is a point of order either, member for Churchlands.

Several members interjected.

The ACTING SPEAKER: Members! I am now speaking, so you will all be quiet. Member for Kalamunda, stick to the report. That will be great.

Mr A. Krsticevic interjected.

The ACTING SPEAKER: Member for Carine, I am perfectly capable. Can we all be quiet. I am not averse to calling you. We are a long way from question time.

Debate Resumed

Mr M. HUGHES: As I was saying, the current committee, despite the controversy about its composition, is working very effectively.

I am pleased to report to the house, just to ensure that we can go into the future of this Parliament in confidence, that legal opinion was taken and provided by an eminent member of the legal profession, nominated not by the committee but by the Clerk of this house, in order to assure the house that the decision that the house took on the composition of this committee was lawful.

Mr C.J. Barnett interjected.

The ACTING SPEAKER: Member for Cottesloe!

Mr M. HUGHES: Notwithstanding the fact that —

Several members interjected.

The ACTING SPEAKER: Just speak to me, member for Kalamunda, and I will talk over the top of them.

Mr M. HUGHES: Right from the outset, the genesis for the doubt that was cast upon the composition of this committee emanated from the member for Cottesloe. In that respect, it would be pertinent for me to make reference to the sweeping statement that the member for Cottesloe made in this direction, stirring the cold ashes of WA Inc about the decision that had been taken by this house as a direct consequence of the decisions that had been taken in the upper house. I take a great deal of joy in the decision that this house made, acknowledging the fact that the composition of this Parliament has interests other than the two major parties. The legislation requires that we have equal representation from both houses of Parliament. It does not imply that both houses of Parliament, in relation to their members, have equal numbers from the government benches and the opposition benches. That has been confirmed by the legal opinion, members opposite, member for Cottesloe. This infers that if it chose to, this house could have one member from the government benches and one member from the opposition benches or not. It does not really matter. What matters —

Several members interjected.

The ACTING SPEAKER: Take a deep breath. Member for Kalamunda.

Mr M. HUGHES: I am trying to give voice to my opinions but members opposite are more than happy to shout down anyone who does not agree with their fettered opinions about the way in which they see this government as intent on corrupt practices. That is their mantra. That was their motive. The first time I heard the member for Cottesloe speak in this house, he was sullyng the reputation of the members opposite in this government and also the member in the upper house. He is a disgrace. The member for Cottesloe is yesterday's man. He needs to get used to the idea that he led a failed government and we have a government that is prepared to govern this state in the interests of the people of this state rather than the sectional interests that he represents in this Parliament.

Mr C.J. Barnett: What a joke this has become.

Ms A. Sanderson: You're a joke.

The ACTING SPEAKER: Member for Morley, I am on my feet. Member for Kalamunda, I am still on my feet.

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

Mr M. HUGHES: I am eager to get back —

The ACTING SPEAKER: I am still on my feet, and you do not speak when I am on my feet. We are all going to calm down if for no other reason than Hansard needs to take notes and we are going to respect the people who are employed in this place, even if we do not respect the people who are elected to this place.

Mr M. HUGHES: Madam Acting Speaker, I apologise for raising my voice but the clamour from the opposition benches —

The ACTING SPEAKER: Member, speak on the report.

Mr M. HUGHES: I intend to do that. The opinion provided by —
Several members interjected.

The ACTING SPEAKER: Members, stop it.

Mr M. HUGHES: — Mr K.M. Pettit is clearly an indication of what is required, with this notion of bipartisanship and specific functions of the appointed officers—the Corruption and Crime Commissioner, the acting commissioner and the Parliamentary Inspector of the Corruption and Crime Commission. There needs to be bipartisan support. There could be no clearer indication that that is what bipartisanship means. There is an implication that when making these determinations, the committee needs to make a majority decision, which is an indication that it makes way for the possibility that the membership of that committee is made up of members other than members of either the government benches or the opposition benches. I applaud that interpretation of the act because it provides the opportunity for minor parties to be involved in the process of the Corruption and Crime Commission committee. It exposes the work of that committee to an even greater sense of the democratic processes than the narrow interpretation that was placed upon it by the previous government—those on the opposition benches currently.

Several members interjected.

The ACTING SPEAKER: Members, I have a 21-year-old son and I do not have to tell him off in the same manner. I get that you are upset. I get that it is controversial. I am happy to call you to try to make you have respect for the speaker and respect for Hansard. I now ask you again to have respect and stop your constant interjections. We have got it. You are upset. Please stop interjecting. Let the speaker speak and then you will have your opportunity.

Mr C.J. Barnett interjected.

The ACTING SPEAKER: I am going to start calling people, member for Cottesloe. You know the standing orders.

Mr M. HUGHES: It is very difficult to maintain one's train of thought. However, in the opinion provided, Mr K.M. Pettit, SC, states —

I have noted from the debate on 13 May 2004 that the Parliamentary Committee considered that the former Joint Standing Committee should have even numbers in order to allow a balance between membership from the ruling party and membership from non-governing parties. That is a matter for the Parliament.

Parliament has decided on that.

It is not required by the Act, notwithstanding its obvious merit.

What is of interest to me is the conflation that we would simply limit the membership of the committee to two from the opposition benches and two from the government benches when, in fact, a broader interpretation of the act permits the membership of that committee to have membership from other parties, hence the reference to a majority and bipartisan position in certain decisions of the committee.

Mr Z.R.F. Kirkup interjected.

The ACTING SPEAKER: Member for Dawesville, I call you.

Mr M. HUGHES: Therefore, it is with great pleasure that we present a unanimous report from the committee on the findings of counsel.

MR P.A. KATSAMBANIS (Hillarys) [10.19 am]: Madam Acting Speaker, I seek leave to speak on this report.

Mr M. Hughes: No, you can't.

The ACTING SPEAKER: Is leave given?

Mr D.A. Templeman: Yes.

Leave granted.

Mr P.A. KATSAMBANIS: I hear some dissenting voices coming from the government benches. I thought that after the shemozzle that was the appointment of this committee, I would not see a more partisan political process

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

in this place in relation to this committee during the rest of the term of the Parliament. Unfortunately, after what I have witnessed this morning, it is clear that the path that was set on the appointment of this committee will continue, at least through the tabling of this report and, unfortunately for the people of Western Australia, probably into the future. I will get on to what has happened today in a minute, but first I will talk substantively to the fact that here is the first report of the Joint Standing Committee on the Corruption and Crime Commission to be tabled in this Parliament by the new committee and not one member of the opposition bench has the opportunity to properly stand up in this chamber and explain what went on in the committee or what is in the report, because the first time any member of the opposition in this chamber has seen this report, has had any input into this report or has known anything about this report is a few minutes ago when it was tabled in this chamber. A few short months ago, the Labor Party in government chose to use its numbers to overturn every single convention since this very important committee to oversee the Corruption and Crime Commission, the body charged with fighting corruption and crime in this state, was first established. The Labor Party chose not to allow any opposition member to have a say on this committee. It did not allow a Liberal member of this chamber to be on the committee and it did not allow a National Party member to be on this committee. The only members of this chamber who are on this committee are Labor Party members—government members—which was done by the sheer exercise of the weight of numbers of the governing party, the Labor Party. Labor Party members know how to stack. They are experts at stacking. That is what they have done with this committee. This committee may very well —

A government member interjected.

The ACTING SPEAKER: Member for Kalamunda, you are not in your seat. If you are going to interject, go back to your seat. Members, I very purposely tried to protect the members of the committee and I will do the same now. Please listen to the member in silence and then we can move on.

Mr P.A. KATSAMBANIS: The composition of the committee may very well be legal. There will be opinions of the legality of the committee obtained from all sorts of counsel, including the eminent counsel whose opinion has been sought. It may very well be legal, but it is still improper. I will get onto that in a minute. It is improper because, apart from being a legal process, it is a parliamentary process of parliamentary scrutiny.

Ms M.M. Quirk interjected.

Mr P.A. KATSAMBANIS: The chair of the committee has had her go; let me have a go! She came in here and smeared all of us!

Several members interjected.

The ACTING SPEAKER: Member for Kalamunda, member for Girrawheen and member for Bunbury, it is not for you to make commentary; it is for the speaker on their feet. The standing orders say that you do not interject. Member for Girrawheen, I am on my feet. Let us all take a deep breath. We are going to start again and let the member for Hillarys continue.

Mr P.A. KATSAMBANIS: Thank you, Madam Acting Speaker. It is improper to avoid parliamentary scrutiny. A parliamentary committee ought to be scrutinised in this chamber, not in a court of law and not by obtaining legal opinion from an eminent silk. I have no doubt that Mr K.M. Pettit, SC, is an eminent silk. I am sure his opinion is valid. I have not had a chance to read it, because it has just been tabled. Not one member of my party has had a chance to read it. Not one member of the National Party has had a chance to read it.

Several members interjected.

The ACTING SPEAKER: Member for Kalamunda, if you interject out of your seat again, I will call you!

Mr Z.R.F. Kirkup interjected.

The ACTING SPEAKER: Member for Dawesville, you are on one! Do not push me.

Mr P.A. KATSAMBANIS: I note the first line of the advice, where it states —

Instructions

By letter dated 6 September 2017 from the Chair of the Joint Standing Committee ... I have been asked to advise on these issues:

I am not sure that that is what the member for Girrawheen told this house a few minutes ago. I think she told the house that it was the Clerk who sought the opinion.

Ms M.M. Quirk: I signed the letter.

Mr P.A. KATSAMBANIS: Evidently, the member signed the letter. Here we go already—the very first line of the opinion and we are not actually sure whether what the member told the house is correct. We have not had the

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

chance to properly scrutinise any of this. Yes, there is one member of the opposition from the other chamber who is a member of this committee. We know that members of the committee are not authorised to discuss committee deliberations with other members of Parliament. We know the extreme penalties that have applied to members who have breached that standing order in the past by communicating determinations of the committee outside of the committee. Even if there is a member of the other chamber who is a member of the committee, they do not have the opportunity to let us know. The opportunity of a member is to get up in this chamber and let the chamber and the public know of any concerns or any differences of opinion, because although it may well be a unanimous report—there are no dissenting findings—there are always nuances in each of the individual committee members' views. All members who have served on committees know that. We know that at the end of the day we come to a compromise position or finding, but everyone has their own nuances and opinions on that subject. In this case, in such a critical committee—the Joint Standing Committee on the Corruption and Crime Commission—the opposition has been silenced in this place. We have been disenfranchised. That does not just silence and disenfranchise us; it does a lot of other far more important things than just denying us a voice.

Mr M. Hughes: Well, list them.

Mr P.A. KATSAMBANIS: I will. First of all, it is an improper abuse of parliamentary process and an improper interpretation of the conventions that have applied to this committee. Secondly, it denies the public of Western Australia appropriate scrutiny. Most importantly of all, it denies the committee total bipartisanship and of being seen to be above reproach. That is clearly required when it is a committee overseeing the Corruption and Crime Commission.

In the short time available to me, let me talk also about what happened in this chamber today. The chair of the committee tabled this report and went on a smear campaign against every member of the opposition bench in here—every member of the Liberal Party and every member of the National Party—by suggesting that in some way we had impugned the character, reputation or motives of a fine member of the other place, Hon Alison Xamon, who is a Greens member. We have never done any such thing. She is a good member of Parliament. I may not agree with her political beliefs, but she is a good and upstanding member of Parliament who does her job well. She would scrutinise the Corruption and Crime Commission fine.

Mr W.R. Marmion: She is hardworking.

Mr P.A. KATSAMBANIS: She is hardworking, as the member for Nedlands points out. We have done no such thing. They are words that the member for Girrawheen put into our mouths today. She is continuing to politicise the already politicised committee that ought to be above reproach. The government did not learn from the process of appointment that we went through in this chamber. It did not learn from the fact that the establishment of the committee created a stench about this committee. The member for Girrawheen came in here today and added to the stench. I will not even deign to give the member for Kalamunda's contribution any consideration, because it was appalling. If it shows the standard of the people whom the Labor Party—the government—wants on this important committee, my goodness gracious me. The public of Western Australia deserves a hell of a lot better than what they are getting.

Where do we go from here? I do not know because this committee has obviously chosen to keep opposition members away from its deliberations and away from its thoughts. I make it clear: I do not cast any aspersions whatsoever on the legal opinion provided by Mr Pettit. I would have hoped that I or at least some other member of my party or an opposition member in this chamber would be given an opportunity to analyse this report before it was brought to the chamber for debate by being a member of the committee. That is what I am objecting to and that is what the opposition has objected to. Unfortunately, today, rather than coming in here and showing that the committee would work in a bipartisan way, the member for Girrawheen, the chair of this committee, has further politicised this committee, casting further doubts and further aspersions on what this committee will do in the future.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [10.30 am] — by leave: I find it extraordinary that any member on the government bench would seek to silence members of the opposition from speaking to a committee report. I would find it extraordinary to hear one member on the government side of the chamber say “No, you're not allowed to speak to this report”, when it is by its nature so controversial.

Several members interjected.

The ACTING SPEAKER: Member for Girrawheen, can we listen to the member for Scarborough in silence. Let her speak for her 10 minutes in silence.

Mrs L.M. HARVEY: That is the arrogance we get from the government.

Point of Order

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

Ms M.M. QUIRK: Leave was given to speak to the report, not to cast aspersions on members on this side of the house. I ask Madam Acting Speaker to counsel the member to speak to the report or otherwise sit her down.

Several members interjected.

The ACTING SPEAKER (Ms J.M. Freeman): Member for Scarborough, as much as the sentiment was said in that way, the actual point or order is correct. Leave was sought to speak on the report. Speaking on the report is what I would appreciate so that I can ensure that you have the opportunity to be heard in silence.

Debate Resumed

Mrs L.M. HARVEY: That is the case in point. The report has just been tabled in this place. This report is 11 pages. It has some legal interpretation.

Ms M.M. Quirk: Not enough pictures for you?

The ACTING SPEAKER: Member for Girrawheen! One more and I will call you.

Mrs L.M. HARVEY: What did you say? It does not have enough pictures in it?

The ACTING SPEAKER: Member for Scarborough, direct your comments to me. Talk to me.

Withdrawal of Remark

Ms M.M. QUIRK: I withdraw that remark.

The ACTING SPEAKER: Member for Scarborough, it is withdrawn.

Debate Resumed

Mrs L.M. HARVEY: This is extraordinary. Not only has the government used its numbers to stack the composition of this committee to ensure for the first time ever since the initial formation of this committee there is not a person occupying the opposition bench in the Legislative Assembly on this important committee that has oversight of the Corruption and Crime Commission—the first time in the history of the committee. When the government used its numbers to put two government members on the committee, the point we made during that controversy is playing out today. Not one member on the opposition bench has been privy to deliberations on this committee report. It has just been tabled. The legal opinion in the report apparently justifies the government's position to use its numbers to stack the committee to ensure that not one opposition voice could form part of the deliberations of the very important committee that has oversight of the Corruption and Crime Commission. Although the committee might be legally constituted, there is legal constitution and there is also the ethical decision a government can make to allow bipartisan support and a voice from the opposition bench on the parliamentary committee that has oversight of the CCC. The government could have made that ethical choice.

Rather than getting on with the job of overseeing the CCC, the very first report tabled in this Parliament is accompanied by a speech from the chair of the committee in which she said we ruined her reputation. The member for Girrawheen ruined her reputation today with that atrocious speech. She came in here and as part of her speech—as part of a bipartisan approach to oversight of the CCC—picked off members of the opposition and used her time to criticise members of the opposition. Then we got the same from the member for Kalamunda. He used his speech to criticise the member for Cottesloe. How earth can that be construed as a bipartisan committee effort? It is not bipartisan. We have seen form from the member for Girrawheen. We now know that the member for Girrawheen is going to use this committee politically because her very first act as chair of the committee was to come into this place and politicise the deliberations of that committee. She has used it!

Point of Order

Mr F.M. LOGAN: Madam Acting Speaker has already directed the member for Scarborough to talk to the report and she is deliberately ignoring that direction to talk to the report. She has gone back to attacking the member for Girrawheen and attacking the member for Kalamunda.

Dr M.D. Nahan interjected.

Mr F.M. LOGAN: I am on my feet. That is in direct contradiction of what she was asked to do.

The ACTING SPEAKER: Shush! Member, the advice I have from the Clerk is that whilst we are looking at the report—that is certainly the case—I would ask that the member keep to the report. There is also the speech for the tabling of the report and the member can refer to the speech for the tabling of the report.

Debate Resumed

Mrs L.M. HARVEY: Thank you, Acting Speaker.

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

One of the great things about the Parliament of Western Australia is that it is a debating chamber and members are given the opportunity to respond to scurrilous accusations and to put on the record their views when they feel parliamentary convention has been turned utterly on its head by an arrogant government that having been swept to the government bench in a landslide victory thinks that it can put the jackboots on and stomp over parliamentary convention because it has the numbers. That has happened with this CCC committee. Every member of the Liberal opposition supports Alison Xamon's appointment by the upper house.

Mr F.M. Logan: What about Jim Chown?

Mrs L.M. HARVEY: We support Hon Jim Chown. We have no problem with those individuals being part of the committee. Indeed, Hon Alison Xamon was nominated by the Leader of the House in the Legislative Council, Hon Sue Ellery, as the appointment from the government bench to the committee. The Liberal opposition, consistent with convention in the other place, appointed Hon Jim Chown. The agreement was that there would be a nomination from the government and opposition benches in the Assembly, but in a mad flat panic, the Premier, Hon Mark McGowan, determined that he would not have the balance of power in the committee and two Labor members were appointed to the committee.

The ACTING SPEAKER: Member, I know this will be controversial. I understand that you can talk about some of the comments, but you do need to keep to the report.

Mrs L.M. HARVEY: The report is on the composition of the committee, Acting Speaker, and that is what I am talking to.

Here we have it, and for the next four years of this Parliament every time the CCC committee deliberates on any matter—the CCC committee can look at police investigations, the actions of individual police officers and the conduct of officers who might be in an undercover operation, it can appoint the Parliamentary Inspector of the Corruption and Crime Commission and the Corruption and Crime Commissioner—and whenever any of those actions are taken or a committee report is tabled in this place, the opposition will get the duration of the chair's and the member for Kalamunda's speeches to read through a very important report tabled by the CCC committee to try to formulate a view and express with the Leader of the House that view on what has been tabled as part of that report. That is the only insight that the opposition will have into the deliberations of the committee in the Legislative Assembly. It is an appalling state of affairs and, in fact, the first time since the formation of the committee that members of both major parties in the Legislative Assembly have not been part of the Joint Standing Committee on the Corruption and Crime Commission.

As to the substance of the report, sadly, I have not had time to go through and read it all. I cannot give a considered opinion or contribute to a debate on the content of the report, because it has only just been handed to me, as it has with every member of the opposition. Whether we agree or disagree with the legal opinion put forward by Mr Pettit, we cannot form a view on that. We have not had time to look at the legal opinion, deliberate on it or seek advice ourselves. We cannot say whether that legal opinion is accurate or not. I have no dispute with the qualifications of Mr Pettit, but anyone involved legal deliberations will know that in a court of law, where there are legal counsel on both sides of an issue, each of those individual lawyers will put a completely different view to the court, depending on the parties who have employed them. Every single action in court has two legal opinions prosecuting completely different views on behalf of the clients. We have one opinion in this report. We do not have a cross opinion, and we have not had the opportunity to have that opinion examined or counter examined by any other individual.

It is really disappointing that the chair of the committee has used this as an opportunity to bag, belittle and undermine members of the opposition who hoped they might have an opportunity to be part of the committee. That is not an act of bipartisanship, and it certainly does not set the tone for future deliberations of the committee, when the two members from the government benches use their first speeches on a report being tabled in this house to quite controversially single out members of the opposition. It proves that there was never any intention of this government for the Joint Standing Committee on the Corruption and Crime Commission to be bipartisan and to have an impartial view of the operations of the Corruption and Crime Commission. I do not know what that means for this government, but without a good corruption watchdog looking at the activities of the government, and without an oversight committee —

[Member's time expired.]

MR A. KRSTICEVIC (Carine) [10.43 am] — by leave: The chair of the committee read out part of the speech I gave on this issue the other week. The only part she missed out was where the member for Armadale made a comment about the quality of the speech, and how he thought that I made a very good argument about my concerns. I know that we all have a very high opinion of the member for Armadale, his legal opinion and expertise in that field, but I was disappointed when the government did not take up the other offer I made in that speech

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
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about tabling a report in one sitting week and then doing the speeches in the following sitting week, to allow members of the opposition to read the report, and get some information and background, to be able to make intelligent comments about that report. That would have added to the proper process by which this Parliament operates. It would have given some recognition to elected officials, and the fact that we all have a right to represent our constituents in this democracy.

Shutting us out and not allowing us to participate in this debate in an informed way sends the wrong message to the people of Western Australia. Although the Labor Party had an emphatic victory at the last state election—it has 41 members in this house—and can do what it likes, it should not do what is wrong. The way this committee was set up is wrong on so many levels. I guarantee that over the next four years, as we debate every single report that comes into this Parliament on this issue, the regret will grow from week to week that this was not done in a proper and professional manner.

The Deputy Leader of the Opposition mentioned that two different lawyers—two different silks—can have two different opinions, and they can, but guess what. The judge can actually have a third opinion. He may not even go with the opinions of the two silks; he may come up with something completely different.

The ACTING SPEAKER: Or she.

Mr A. KRSTICEVIC: Or she, sorry. They may come up with something completely different. It was interesting that the member for Kalamunda, in his wisdom, said that this report is law—this is it; there is no other arbitrator. I am not sure what he has done with the judiciary. Maybe the Premier has other plans for the judiciary. Maybe it does not have a role to play in our society anymore.

The ACTING SPEAKER: Speak to the report.

Mr A. KRSTICEVIC: I do not know what the underlying message is from the member for Kalamunda, but I just want to tell the member that this report is not law. This report is one opinion, and there are many opinions. We have many lawyers in this Parliament, and they all have different opinions. The chair of the committee is a very eminent lawyer, and she obviously did not have a strong belief in what the right outcome was, which is why this report was commissioned, and why a silk was employed to give some guidance to the chair of the committee on the validity of the process, which she obviously had concerns about, otherwise she would not be tabling this report, and tabling this opinion. That just adds to the confusion about the validity of anything and everything that this committee does. It is a serious concern, and I implore the Premier to disband this committee and reform it. This has been done in completely the wrong way. It would send a good message to the people of Western Australia that the Premier, when he makes mistakes, is happy to step up and say that he has made a mistake, stopped democracy in this Parliament and stopped the opposition from having a voice on a committee, on which convention, history and the CCC act of 2003, allows the opposition to have a say. For the first time in the history of this Parliament, the government has stopped that, and the only reason it has stopped it is because it has the numbers, and it could not be bothered letting the opposition be on the committee.

Mr S.K. L'Estrange: Ignoring convention.

Mr A. KRSTICEVIC: It is not just ignoring convention, it is ignoring the legislation. We have one opinion, but when this goes to court and a judge looks at this—I have spoken to lawyers, and they say that judges look at the intent of the legislation, the second reading speeches, the laws, the conventions and what people in this Parliament are saying—they will say that the opposition does not agree with this. The opposition says this is wrong. This has never been the case, and it has only been done for political reasons. I am sure that when silks go to court and start reading through this and start talking to the judge about whether this committee has been composed properly, I do not think the judge will agree, because the people who make the laws do not think it has been done properly. They made this law, and they are saying this has been done in the wrong way. This has compromised this committee, and every single decision of the CCC, and this needs to be fixed up. When they have that debate, I am sure the judge will take all of those things into consideration.

I am sure that decisions and prosecutions will be compromised. That is a disgrace, and we should not allow it. It is our place in Parliament to make sure that the laws are upheld and that criminals are prosecuted and go to jail. I think that the composition of this committee may well stop criminals from being prosecuted, and may well stop people from being put into jail. Not only does this committee appoint the parliamentary inspector, it also appoints the CCC commissioner. If the CCC commissioner has been appointed illegally in the context of the law, or judges are able to say that the proper process in the legislation was not followed, would it not follow that every single decision of the CCC does not have the weight of the legislation and the intent of the Parliament behind it? I really think that we need to go back and review this.

The ACTING SPEAKER: Member, I caution you to speak to the report.

Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
Mrs Liza Harvey; Hon Fran Logan; Mr Tony Krsticevic; Dr Mike Nahan

Mr A. KRSTICEVIC: I am. I am talking about the composition of the committee.

The ACTING SPEAKER: I caution you that you have leave to speak to the report.

Mr A. KRSTICEVIC: The member for Kalamunda talked about minor parties being involved. If the government wanted minor parties to be involved, why was the National Party not given the opportunity to provide one of the members?

Mr F.M. Logan: What is wrong with the Greens?

Mr A. KRSTICEVIC: The Greens are on the committee. We could have had someone from the National Party, the Liberal Party and the Greens. We could have had someone from four parties. It could have been really bipartisan by allowing four different parties.

Mr F.M. Logan: It is bipartisan.

Mr A. KRSTICEVIC: The National Party is not on there and it is the third biggest party in this Parliament. The Assembly has no representation. I know that the member for Cockburn says that we should sort it out with the upper house, but let us not forget that the Labor Party nominated —

Mr F.M. Logan interjected.

The ACTING SPEAKER: Minister!

Mr A. KRSTICEVIC: The Labor Party nominated Hon Alison Xamon for this committee. I have no problem with that; she is fantastic. She is holding the government to account. She is making decisions in the Assembly that the Labor Party regrets and does not like. I think she is a great member. I have no issues at all with her being on the committee. However, I do not think anybody in this house, including every member of the Labor Party, would disagree that if the Labor Party had been excluded from this committee, it would have been the end of the world—no member from the Labor Party on this committee! I have no doubt about that and I would agree with them. That would be inappropriate. In this Parliament we should never lower ourselves to that level and compromise the composition of the Joint Standing Committee on the Corruption and Crime Commission. We should never lower ourselves to that level and fill the committee in that way.

The ACTING SPEAKER: Member!

Mr W.J. Johnston: What's up?

The ACTING SPEAKER: If you do, I will call you.

Mr A. KRSTICEVIC: I would support the Labor Party if it wanted to go back and review the composition of this committee and I am sure that everybody on this side of the house would support it. We sometimes lower our debate to what I think is an inappropriate level in this Parliament. Unfortunately, we need to raise our standards. We are all guilty of that. At the end of the day, the community is sick and tired of us bickering and throwing mud at each other. The community wants us to govern for the benefit of the people of Western Australia. I have no doubt that some members of the Labor Party agree that our committees should all be appropriately filled with representation from both parties. The Labor Party believes that it should be on all committees, as do we. In the Assembly we, unfortunately, cannot contribute to this debate in an informed way because we do not get a chance to look at this committee's report until it has been tabled. We have no idea of what has happened behind closed doors. We have no-one representing us in this house to speak on our behalf and possibly with a different view, as the member for Kalamunda and the member for Girrawheen represent the Labor Party. I can guarantee members opposite that our view would not be that this is law. Our view is that the judiciary is the law. This is just opinion. We need to take a serious look at what has happened here, step back, take the politics out of it and fix this up.

DR M.D. NAHAN (Riverton — Leader of the Opposition) [10.54 am] — by leave: I just want to make a brief comment on this report. We have had many discussions on this over time. Let me make it clear that the Liberal Party's position is that this is a misuse of power and this is an incorrect statement. The Liberal Party expresses a lack of confidence in the Joint Standing Committee on the Corruption and Crime Commission. We know that the Labor Party went against convention and the intent of the legislation when it —

The ACTING SPEAKER: Leader of the Opposition, you need to speak on the report.

Dr M.D. NAHAN: — purposely left out a member from the party of the Leader of the Opposition. The legislation and the committee was set up with the intent to have bipartisan support.

The ACTING SPEAKER: Leader of the Opposition, you need to speak to the report.

Dr M.D. NAHAN: Yes, I am. The issue is the legal composition and powers of the committee. I state quite clearly that we have a legal interpretation. As other people have argued, members could get legal interpretations on both

Extract from *Hansard*

[ASSEMBLY — Thursday, 19 October 2017]

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Ms Margaret Quirk; Mr Matthew Hughes; Mr David Templeman; Mr Sean L'Estrange; Mr Peter Katsambanis;
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sides. We do not know if the debate in the committee about the terms of reference was rigorous or whether the Labor Party chose alternative opinions and this is just one of them. We do not know that because we have been excluded from it. One issue is the legal interpretation of the black letter law. Clearly, the intent of the legislation, the second reading speech, and the precedent to date was that the committee would have bipartisan support in both houses, specifically from the opposition and the government of the day. The opposition in this case is the Liberal Party. The government knew that and purposely left it out.

The Labor Party has come in here and besmirched the reputation of people on this side. The chairman of the committee and the other Labor member of the Legislative Assembly on this committee have shown that they have politicised the committee. I emphasise that this is the Joint Standing Committee on the Corruption and Crime Commission. It oversees one of the most important and powerful commissions in the state. It oversees crime and corruption, particularly in the public sector. This state has had two waves of corruption, which undermined the state's standing and still cast a pall over the administration of the state. The first report by the services committee set up by the government argued that the administration of public services in the state is not up to scratch and that it is slow, tired and turgid. The reason for that is that the pall of WA Inc still haunts the administration of the state. This committee was set up to oversee the Corruption and Crime Commission. The government has gone against the intent of the legislation that set up a committee, the precedents, the position of the opposition and stacked it with two Labor members from this house. It excluded us but expects to have our support for this. On behalf of the opposition, I express in clear terms that we will be sceptical of every report that is released in the Assembly by this committee because of the way the government set up and argued for the committee. This report, how it was formed, and the arguments of the chairman of the committee and the other committee member from this house, show that their major intent is to politicise this committee and use it to attack us. That is a misuse of the committee's powers that goes against the precedents and standards of this committee. It is quite a disgrace and it will come back to haunt the government. It will! Why would the government politicise the committee that oversees the Corruption and Crime Commission? Why would it purposely exclude the opposition from this house, where government is formed, from participating in that committee? Why would the government do it? Only a few conclusions can be come to. One is that the government has something to hide; and number two is that it might have something to hide in the future. Those are the only conclusions we can come to. Nonetheless, the government made the decision and on behalf of the Liberal Party in the Legislative Assembly I express a loss of confidence in the chairman and in this committee.