

*Joint Standing Committee on the Corruption and Crime Commission — Sixth Report — The Corruption and Crime Commission's unexplained wealth function: The review by the Honourable Peter Martino — Motion*

Resumed from 12 October 2022 on the following motion moved by Hon Dr Steve Thomas —

That the report be noted.

**Hon PIERRE YANG:** On 21 September 2022, we spent about an hour on this report. I was very much looking forward to the opportunity today to continue my remarks on this very important report. In that debate, a number of members here made contributions: Hon Dr Steve Thomas, Hon Klara Andric, and I. Today I want to continue in relation to two aspects. The first one is on page 16 of the report. The report itself is not very long. It contains two pages signed by the chair, my friend the member for Kalamunda, Mr Matthew Hughes. Attached to it is the review that was conducted and written by the Honourable Peter Martino on the unexplained wealth function of the Corruption and Crime Commission. Page 16 of the report, which is page 12 of the review, talks about the number of referrals for potential unexplained wealth matters. Paragraph 3.36 states —

During 2018–19 the CCC received 41 referrals of potential unexplained wealth matters. Nine of those were from the general public, 20 were from Western Australian public authorities and 12 were from other agencies. In that year the CCC generated a further six potential unexplained wealth targets, so there were a total of 47 potential unexplained wealth matters.

It continues in paragraph 3.37 for the next financial year —

During 2019–20 the CCC received 28 referrals of potential unexplained wealth matters. Sixteen of those were from the general public, 11 were from Western Australian public authorities and one was from a federal agency. In that year the CCC generated a further nine unexplained wealth matters, so there were a total of 37 unexplained wealth matters. As at 30 June 2020, the CCC had instituted Supreme Court proceedings in four matters, leading to freezing orders over in excess of \$10 million in assets.

That is a huge amount of money. At the conclusion of my last contribution I talked about people who are living a lavish lifestyle and who could have benefited from investing in cryptocurrency. I want to add a condition to that: they should probably have invested in cryptocurrency in 2022 because, as we know, all cryptocurrencies suffered big losses in the past calendar year. That is in itself a development of technology and blockchains was a hot topic in the past few years. As we have heard, the new artificial intelligence platform ChatGPT is everyone's new favourite topic. I think I agree with Hon Dan Caddy in his response to the speeches we heard earlier today. I used that AI for some translation work last week. The result was pretty impressive compared with Google translate—some human intervention was still required—nonetheless, it has a tendency to make things up when you ask it factual questions. It is fascinating to read the answers. If you know the answer yourself, you can pinpoint where it went wrong. Users should beware if they ask the AI a question about a subject they are not familiar with. However, if they have a question about the unexplained wealth function, the CCC is definitely the place to go.

Paragraph 3.49 states —

At 30 September 2020, —

That is three months after the date mentioned in paragraph 3.37.

the CCC had received 93 referrals from Commonwealth and State agencies, WA Police Force, the public and from the CCC's own activities.

The next paragraph states —

In October 2020 there were \$13-15 million in assets which were subject to Supreme Court freezing orders obtained on the application of the CCC, relating to eight investigations underway.

The Honourable Peter Martino expressed his view, and I quote —

**In my view the success of the CCC's operations in the exercise of its functions under the CPC Act —**

That is, the Criminal Property Confiscation Act 2000 —

**in the three years since the Amendment Act was passed demonstrates that the CCC has been effective in using its powers in the exercise of those functions.**

It is very important for us to note that the CCC has taken this job very seriously—that is, the new functions and powers given to it by the state—and it has carried out its duties with a great degree of success.

I turn to another matter that is contained on page 21 of the review that is part of the report. It relates to the potential for a national scheme. Comparative studies have been done on the effectiveness of the confiscation of proceeds of crime legislation in a number of states, including WA, New South Wales and Queensland. Members may not be familiar with the criminal system in Western Australia. When I was a law student in the early 2000s, we learnt that

the Criminal Code in Western Australia was initially used in Queensland. There are a lot of similarities between the roots of the criminal law system in Western Australia and the criminal law system in Queensland. Obviously, to fast forward many decades, there are differences as they currently stand. They are generally mirrors when looking at national schemes, but there are issues as identified by the review in this report. I may not be able to go through this in detail, but I note that the reviewer is of the view that until those issues are resolved, the current system is probably a better one to be maintained. I was a member of the Standing Committee on Uniform Legislation and Statutes Review in the last Parliament and there are certain contributions I would like to make when I have the opportunity next, drawing on my experience from that committee.

**Hon NICK GOIRAN:** Thank you, deputy chair; I have three quotes for you. The first is —

“... for those people who have garnered assets and have no visible means of support, the CCC front doors will become the gates of hell because they will have to go in there and explain how they obtained these luxury items with no visible means of support.

Quote number 2 —

“These people have traded in poison, destroying their customers with ice and destroying families and Labor is going to take them head on.”

Quote number 3 —

“We’re going after the wealth of the Mr Bigs, and as the police have said, their money is their soft underbelly,” ...

“These syndicates are evil serpents in our community and we intend to cut their heads off.”

Those three quotes were made by Hon John Quigley, the Attorney General of Western Australia, on or around 28 April 2017. That is the genesis of the matter that is before us today in this report. In 2017, shortly after assuming power, the McGowan Labor government, through its Attorney General, indicated that it would implement a recommendation that arose from the Joint Standing Committee on the Corruption and Crime Commission in the previous Parliament, of which I was the chair. That committee said that this was one thing the CCC might be asked to do. Mr Quigley took up the report, authored by me and three other members of Parliament, and said he would implement that. In his truly typical flamboyant fashion, he proceeded to tell everybody that these people would be subject to the gates of hell because, of course, he and the mighty McGowan government would be taking them head on. That was six years ago. Now we have the benefit of six years of lived experience of this regime under the McGowan Labor government. How has it fared? Very interestingly, the report before us is essentially a review by Hon Peter Martino into the effectiveness of the scheme. Those who have had the opportunity to read this will know that what he says is that the scheme works but—there is a massive “but” at the end of it—it needs to be resourced. That is not news to those of us who have been following this matter for the best part of a decade. That includes six years ago when the debate took place in this chamber. At that time, some of us said to the government that it has our support for this regime—not the least because of the fact that it was a recommendation that had arisen from our committee—but it needs to make sure that it is resourced adequately, otherwise it will not work. The reason for the “but” in the Martino report is, of course, that the Corruption and Crime Commission will need to be adequately resourced if it is to do the task that Parliament has asked it to do.

It is interesting that only last week, if I recall correctly, the Corruption and Crime Commission’s *Annual report 2021–22* was tabled in this Parliament. This annual report gives us the latest statistics on the use of the Corruption and Crime Commission’s unexplained wealth function. It states that 53 unexplained wealth matters have been identified. Members will appreciate that it is one thing to identify an unexplained wealth matter; it is another thing to do something about it. We are told also that that has resulted in the conducting of eight initial investigations and nine investigations that were more extensive. I wonder whether any of the government advocates here this afternoon would be in a position to let us know what has happened to the other 36 unexplained wealth matters that have been identified. A bit of work has been done on eight of those matters, but no more extensive investigations have been conducted. The report is silent on what has happened with those other 36 matters.

We are told also that there has been \$1.7 million in confiscation orders. Again, this is an opportunity for the government to correct the record if anything that has been stated is incorrect. It appears that that \$1.7 million in confiscation orders relates to one single matter. The Supreme Court reference in the annual report is CIV 1911/2021, CCC v Young & Anor. If members get the opportunity to peruse the CCC annual report on the issue of unexplained wealth, they will see at page 42 the heading “Significant Issues”. If members cannot be bothered to read the whole of that annual report, presumably they will spend a moment to at least turn to the significant issues. The CCC has kindly brought to our attention and highlighted that one of the significant issues is the funding that the CCC will need to enable it to exercise this function into the future. In fact, the report notes that the funding that was provided in the 2022–23 budget will only be enough to enable the CCC to maintain its function at its existing level of effort. If this is the lived experience after six years, can we expect that the funding of the CCC at the current level will

continue to result in only one confiscation order a year, when 53 unexplained wealth matters have been identified? Six years ago, the Attorney General said that the government would be going after the Mr Bigs—plural—and would bring them to the gates of hell at the CCC. The annual report notes that the CCC has spent \$600 000 above its most recent budget to enable it to continue the delivery of its unexplained wealth function. It appears from the data that the CCC is using its best endeavours to realise this function. However, it is being hampered by the fact that the McGowan Labor government is not resourcing it sufficiently to enable it to take on the Mr Bigs and bring them to the gates of hell. That has been identified not only by Hon Peter Martino in the sixth report of the Joint Standing Committee on the Corruption and Crime Commission but also in more recent times in the CCC's *Annual report 2021–22* tabled last week.

Hon Pierre Yang, who kindly led off the debate, quite rightly brought to our attention that we had the opportunity to touch on this matter briefly in September of last year. According to my notes, we might also have had an opportunity to touch on this the following month. The question that then arises is: what has been done in the last five or six months to address this problem? It is all well and good for members of the Legislative Council to spend an hour and a half on a Wednesday afternoon considering the sixth report of the Joint Standing Committee on the Corruption and Crime Commission and identifying that resourcing is an issue, as was also identified five or six months ago. However, there has been no change and no response. It is no wonder that over the last five or six years we have not had a flamboyant media release from the Attorney General saying that the McGowan Labor government is going to take on the Mr Bigs and bring them to the gates of hell. That is because we have now had a few years of data and lived experience that confirms that what has been done about unexplained wealth confiscation has been anything but that.

I would not for one moment want anyone to misconstrue what I am saying and think that I am not supportive of the CCC having this function—if I have said that once, I have said it a thousand times. The need for this function originated from a report that came from the Joint Standing Committee on the Corruption and Crime Commission a few years ago when I was chair of that committee. Someone needs to take on this function. I am utterly ambivalent about whether that is the Director of Public Prosecutions or the CCC. I do not care who is given the function to go after people who have unexplained wealth. I care about the fact that the two organisations that currently have some capacity in this space need to be resourced properly. If they are not properly resourced, it will be an entire waste of time and the so-called Mr Bigs will continue to get away with it.

**Hon KLARA ANDRIC:** I, too, welcome the opportunity to speak on the sixth report of the Joint Standing Committee on the Corruption and Crime Commission. I note that Hon Nick Goiran commenced his comments with some quotes. I feel reassured that he does indeed support the unexplained wealth function of the CCC. However, I will point out that according to some studies contained in the report by Hon Peter Martino, during the period between 2010 and 2015, prior to when the CCC was appointed with this power, there were no unexplained wealth confiscations in Western Australia. Obviously, since 2018 this function has achieved some significant results. It is certainly a step forward compared with previous years, as noted in the report. I would like to add that I do not think there is any disagreement that the report from Hon Peter Martino has made a recommendation that greater funding be given to the Corruption and Crime Commission for the expansion—I think that is how he refers to it—of its work in the unexplained wealth area. We could possibly agree to disagree on that. I do not believe for one moment that anyone in this chamber is ignoring or not making reference to that, but I wanted to point out those issues to the honourable member.

As mentioned in the title of the sixth report, since 2018 the Corruption and Crime Commission has had a function to reduce the profitability of crime and criminal activity in our state. In May 2021, the commission engaged Hon Peter Martino to consider and report on the effectiveness of the commission's process in contributing to the aims of the referral powers under the Criminal Property Confiscation Act, and also with regard to any changes to policy, procedure or legislation that may be required to improve the effectiveness and efficiency of the commission's work under the CPC act.

As outlined in the report, in February 2022 the Joint Standing Committee on the Corruption and Crime Commission was provided with a copy of the report by Hon Peter Martino on his review of the commission's use of unexplained wealth powers, and the sixth report contains his findings. The law seeks to deter organised crime by reducing the profitability of illegal activities. It reverses the burden of proof and requires a person living beyond their apparent means to contradict the presumption that property has been acquired or is in fact obtained from criminal activity. The Corruption and Crime Commission's objective in the use of its unexplained wealth functions is to not only disrupt, but also dismantle crime, corruption and illegal activity by removing the very core and motivation for a lot of these crimes, which is financial. By doing this, it in turn reduces the harm and damage caused to the Western Australian community.

In the four and a half years since this power has been provided—though in the report it is noted as three years—the CCC has developed strategies to maximise both the efficiency and effectiveness of these powers. An example of some of the strategies used to maximise the mentioned areas includes restraining property as soon as possible in an investigation. This is undertaken as efficiently as possible so that assets can be identified and restrained before

they are moved beyond the reach of any form of law enforcement. In turn, this mitigates the risk of losing evidence and enhances the effectiveness of the CCC's investigations. Other strategies utilised in the deployment of the CCC's specialist resources are physical and technical surveillance, digital forensics and human source management. That has reduced the need for the more traditional very resource intensive and time consuming methods otherwise used for investigations.

Both the investigation of unexplained wealth and the recovery of property in use of the unexplained wealth functions are complicated and resource intensive. This is mainly due to them requiring very fast action and response, specialist financial skills and also knowledge, simply because unexplained wealth matters entail very highly complex investigations of those individuals. Since being granted unexplained wealth functions under the CPC act, the CCC has made use of these functions by employing its current resources. It achieves this by redirecting resources from across the CCC, most significantly from the operations and legal service directorates. The contribution to the unexplained wealth function by the operations directorate has in fact been considerable, as noted in the report. With the operation directorate's resources, the financial investigation team has increased in size since the function was given to the CCC. As of August 2021, the team comprises seven FTEs, which includes two graduate officers from the office of the Attorney General for a total of 12 months at a cost to the CCC, and an investigator from the Western Australia Police Force, the cost of which was shared by the WA Police Force and the CCC. There was considerable draw from the legal services directorate to assist in establishing the function. The use of the two acts by the CCC has required the provision of substantial legal advice, which includes the development of policies, procedures and templates for those applications to court.

The work proved vital in assisting the CCC to make the unexplained wealth function fully operational. In turn, that means that future matters will be processed with much greater efficiency. Legally, unexplained wealth and criminal benefit matters prove to be much more resource intensive than the CCC's serious misconduct matters, and as a result, half of the CCC's legal team is occupied with unexplained wealth functions. It also observed in the report that the CCC surveillance capabilities, both technical and physical, have played a significant part in a number of investigations relating to the unexplained wealth function, in particular, relating to the early stages of the investigation to gather intelligence about a target that further assists investigators and lawyers to plan out their investigative strategies. No legal work is required to be briefed to the external counsel, apart from the management of a deceased estate, which in turn saves important financial resources and has led to the development of in-house expertise in unexplained wealth and criminal benefits law.

**Hon SHELLEY PAYNE:** It is great to have the opportunity to stand and say a few words about the sixth report of the Joint Standing Committee on the Corruption and Crime Commission, *The Corruption and Crime Commission's unexplained wealth function: The review by the Honourable Peter Martino*. I want to note first of all that since September 2018, the commission has had the power to investigate unexplained wealth and criminal benefits and initiate and conduct confiscation proceedings. I am pleased that there has been a review of the way that this function is working. In May 2021, the commission engaged Hon Peter Martino to consider and report on both the effectiveness of the commission's processes in contributing to the aims of the referral powers under the Criminal Property Confiscation Act 2000, and also what, if any, changes are required to policy, procedure or legislation to improve the effectiveness and efficiency of the commissioner's work under the CPC act.

This is an interesting report. I did not know a lot about this function, so it was quite interesting for me to look at this in more detail. I want to go through a few of the conclusions from Hon Peter Martino. It is very encouraging that the Corruption and Crime Commission is doing a great job with this role. He talks about how in undertaking this review he reached the following conclusions. First of all, the approach that the CCC has taken to the allocation of its resources in the exercise of its criminal property confiscation powers has been appropriate. It has endeavoured to ensure both that the powers are used effectively, and that skills are developed within the CCC to maintain and improve its capacity to pursue criminal property. He also talks about the CCC having appropriate policies in place for the exercise of its functions under the CPC act. He talks about the success of the CCC's operations and the exercise of its functions under the CPC act, and that the three years since the amendment act was passed demonstrate that the CCC has been effective in using its powers in the exercise of those functions. He then talks about the CCC's policy for negotiating the settlement of its civil proceedings and practices. Negotiating those settlements is appropriate. The benefits in the timely resolution of proceedings by negotiation for all parties, including the courts and the public interest, are recognised. Settlements are negotiated in a manner that is consistent with the aim of disrupting corruption and crime. He goes on to say, which is the point Hon Nick Goiran was making —

- it cannot be assumed that the CCC will continue to be able to exercise its functions under the CPC Act effectively in the future without additional resources;

I wanted to note what our government has done. The government has approved \$9 million of additional recurrent appropriations, which actually includes an additional 16 full-time equivalents over the next three years for the CCC to fund the unexplained wealth function over the financial years 2023–24 and 2025–26. The funding model supported by the government has ensured that the commission has the required capacity and capability to perform

all aspects of its unexplained wealth matters, including the necessary expertise of investigators, forensic accounts analysis, digital forensics, surveillance officers and lawyers—all the specialist staff that the CCC needs in order to carry out this unexplained wealth function. This will further improve the commission's capacity to simultaneously undertake a large number of routine unexplained wealth investigations whilst undertaking a small number of complex or protracted matters. It is interesting to note that to date the commission has contributed over \$6 million into the confiscation of proceeds account from investigations conducted under the unexplained wealth functions and it has currently frozen a total of over \$10 million in assets. This includes the seizure of high-value assets such as property, luxury vehicles, superannuation and other luxury items.

The commission's investigations have demonstrated that using the Criminal Property Confiscation Act to its full potential can cause significant disruption to a target's lifestyle and is a deterrent to others who are either involved in, or are tempted to be involved in, similar criminal conduct. The outcomes also validate the effectiveness of the commission's operating model, which, prior to receiving additional funding, had functioned with limited resources.

I want to say a few words about the unexplained wealth function because it is one of the commission's main purposes under the Corruption and Crime Commission Act. The functions include investigating unexplained wealth and criminal benefits as well as conducting civil or criminal proceedings under the Criminal Property Confiscation Act. The commission works hard to identify and target people who have acquired unexplained wealth or gained criminal benefits through unlawful means, including those who are suspected of involvement in organised crime. The commission's objective is to disrupt crime and those who commit corruption and associated illicit activities by removing the financial motivation, and thereby reducing harm to the Western Australian community. The commission may decide to exercise its unexplained wealth functions on the basis of consultations and investigations from other actions taken either by itself or in cooperation with other agencies, or from information that could happen to be provided to it. In exercising its function, the commission may make such use as it thinks fit of information obtained by it under the Corruption, Crime and Misconduct Act.

I was just going to say a few words about what happens to all the money when it gets collected and where it goes. I am really pleased that the government has the criminal property confiscation grant program. This has been a really beneficial program. The Criminal Property Confiscation Act actually provides for the confiscation of property, as we talked about, but it also makes provision for how we can redistribute those confiscated funds and proceeds of the sale of confiscated property, for a number of purposes, including the development and administration of programs or activities. It is designed to provide support services and other assistance to victims of crime, to prevent or reduce drug-related criminal activity and the use of prohibited drugs, or for any other purpose in the aid of law enforcement focused on community safety and crime prevention. In 2021, six grants totalling over \$1 million were made to non-profit groups to run projects in Perth and also regional and remote Western Australia. It is a really fantastic outcome that the money that has been confiscated is going to various community groups. For example, in 2021, the WA Country Football League received \$200 000; Rural Lifesaving Western Australia received \$143 000; the City of Greater Geraldton received \$77 000; Glass Jar Australia received funding; and Ruah Community Services received \$200 000. This is a really great grant program. Last year, in 2022, the same grant program funded six projects for \$983 000. The Gosnells Community Legal Centre received over \$100 000 for its Armadale holistic family and domestic violence outreach service; the Shire of Carnarvon received \$110 000 for its Future is Me program; the Wadjak Northside Aboriginal Community Group received \$180 000 for its Wadjak pathways for female Aboriginal youth program; Ruah Community Services received another grant of \$194 000 for breaking the cycle of family and domestic violence intervention program; the City of Swan received \$200 000 for its Ballajura youth outreach program; and, finally, Parkerville Children and Youth Care received \$190 000 to support children, young people and families impacted by homicide. Members can see that the CCC's unexplained wealth function is having positive flow-on effects into our community. It is really great to see the way the McGowan government is managing this program.

**HON PETER FOSTER:** I rise today to make some comments on the Joint Standing Committee on the Corruption and Crime Commission's sixth report, *The Corruption and Crime Commission's unexplained wealth function: The review by the Honourable Peter Martino*. As has been noted today, this report has come before the chamber on a number of occasions—I believe in September and October of last year—and a number of members spoke on those occasions. It has come up for debate today and this is my first opportunity to get up to speak on this report today. I have read this report, which was very interesting.

As we know, the report was tabled by the member for Kalamunda in the other place and in this house, the Leader of the Opposition tabled the report way back in March 2022. Before I go into the report in more detail, I would like to acknowledge the hardworking committee that has put this report together, that being the chair, the member for Kalamunda; the deputy chair, the Leader of the Opposition, Hon Dr Steve Thomas; and the members of the joint standing committee, the member for Moore, Shane Love, and also Hon Klara Andric, who has also made a contribution to the report today. I acknowledge Hon Klara Andric's contribution because for someone who is not very familiar with the work of this committee, I listened to her contributions with great interest to get a better

flavour for just how much great work goes on in that committee. I would also like to acknowledge the staff. I am also on a committee myself. We would not be able to do the great work that we do in this house without the support of the staff. I would like to acknowledge the principal research officer, Suzanne Veletta, and the research officer, Jovita Hogan, for their good work.

This report is the result of a review of the work of Hon Steve Martino—sorry, Peter Martino.

**Hon Nick Goiran** interjected.

**Hon PETER FOSTER:** There are too many honourable Steves!

I would also like to acknowledge the particular way in which he has gone about the report, outlining where the powers come from and how the powers are used, and in his opinion, where to from here. As a few of the members have highlighted already, it sounds like the CCC is doing some great work. Most members in this house have commented that, on balance, the report is very favourable, and I think that really needs to be highlighted and acknowledged. As we have discovered today, the report refers to the unexplained wealth function, and it was interesting to learn that the unexplained wealth function was as a result of an amendment to an act of Parliament, which I have clearly forgotten, that was done during the first term of the McGowan government. That bill received royal assent on 13 July 2018, which I believe is in the first term of the McGowan government, and it came into effect on 1 September. Therefore, a lot of the material and the powers that we are talking about today are as a result of the legislation that our government put in place. Here it is: the CCC was given the functions under the Criminal Property Confiscation Act by an amendment bill. I believe that the unexplained wealth function is an important function, and a few members have talked about the fact that it enables us to identify corruption and organised crime when it occurs. I think we can all agree, on both sides of the house, that that is a scourge in our society and we should be doing everything we can to combat organised crime.

As it says in the report, the CCC works to identify and target persons who have accumulated wealth through unlawful means. The unexplained wealth law requires a person who lives beyond their apparent means to justify the legitimacy of their circumstances. I think that is very important to point out. If someone is living the high life but we really do not know where they are getting their funds from, we really should be asking the question: how?

I will just go off on a tangent. Prior to moving to WA, I worked for Centrelink, over in New South Wales, in the compliance team, and one of the jobs that I did was to look at people who were living beyond their means and try to understand why that was the case. Therefore, I show my appreciation to everybody who works for not only Centrelink, but also our state government, the CCC or the Western Australia Police Force. This is important work because we obviously want to stamp out organised crime and related activities.

I was a bit unsure as to the definition of “unexplained wealth” and I know that a couple of members have gone through that. I went about it a little bit differently. I jumped on the CCC’s website and found it to be quite informative. The CCC’s website says that some characteristics of someone having unexplained wealth include —

- the accumulation of assets not proportionate with the persons lawfully acquired income;
- frequent purchases of luxury goods or services, including travel, without the apparent lawful means to support those purchases;
- regularly performing large financial transactions in cash, including deposits or withdrawals to or from bank accounts; and
- storing large amounts of cash at a residential address.

I would not have thought that storing large amounts of cash at a residential address is something that most people do and obviously that is a sign that something may be up. The CCC’s website goes on to describe how someone may accumulate unexplained wealth. It continues —

- dealing or trafficking in illicit drugs or substances —

We all know the effect that illicit drug dealing is having on our society —

- corruption;
- money laundering;
- theft or fraud;
- blackmail or extortion;
- bribery, collusion or kickbacks; and
- tax evasion.

We can all agree that these powers are very important so we can stamp out those crimes.

Why is this so important? Its importance is explained here in the report, on page 8, “Part III: Review of the CCC”, paragraph 3.1, which states —

Drug related and other organised crime are of considerable risk to the Western Australian economy, to the safety of Western Australians and to Western Australian society generally. The confiscation of the proceeds of crime can deter and prevent crime, provide resources to be used in policing and crime prevention and provide compensation to the victims of crime.

Prior to my contribution, Hon Shelley Payne talked a little bit about the proceeds of crime and how some of that money is being used. I do not think that people fully respect or understand that the proceeds of crime can go back into the system. I know that some of the funding is used for graffiti. When I was a counsellor with the Shire of Ashburton, we often applied for funding because we had a lot of graffiti in town, unfortunately; and, we applied for some of that funding to remove that graffiti. We also looked at ways to create a graffiti wall so that all the graffiti artists in town could go to one particular place, which would prevent the other walls from being graffitied.

Page 11 of the report states —

... the CPC Act is an important tool in the fight against crime because confiscating the proceeds of crime can deter and prevent crime, provide resources to be used in policing and crime prevention and provide compensation ...

I think the Hon Klara Andric, who is away on urgent parliamentary business, in her earlier contribution talked about some of the powers under the act. One of the powers under the act is that an order can be issued to freeze assets. The question was asked: if someone’s money and assets are frozen, how can they pay for their legal expenses? That point is addressed in the report on page 22, which states —

The CPC Act makes no provision for the payment of legal expenses of a person whose property has been frozen. However, the High Court has held that when making or varying a freezing order under the CPC Act a court may exempt some of the property from the freezing order on condition that it be spent for legal expenses.

There is a lot of really great material in this report, but I am running out of time. We learn from this report that the commission is doing fantastic work, and a number of members in this place have made that comment. It was interesting to learn from the report that the commission’s total cost of service was nearly \$28 million and that it employed 116.5 full-time equivalent staff, which is a substantial number of staff working for the CCC in this particular area.

In conclusion, I note the report before us. I thank the Leader of the Opposition, Hon Dr Steve Thomas, for moving that the report be noted. I would like to thank the committee members for their great work and also thank Hon Peter Martino for the forensic way in which he has put this report together to be considered in this place.

**Hon MARTIN PRITCHARD:** Sorry, Deputy Chair (Hon Dr Brian Walker); I stood up late because I thought that some different people from the opposition may wish to speak on this particular report. I note that, in the past, there was a suggestion that all members in this place should read all the reports and that they should be encouraged to make a contribution. I note that in the last few weeks there does not seem to have been a lot of contribution from the opposition, apart from one honourable member, who makes very good contributions. But it would be good to see other opposition members read the reports, which I am sure they do, and make a contribution. I think that would be invaluable to the best running of this place. Considering that there are no other opposition members who wish to make a contribution, or do not seem to wish to make a contribution, I thought I should make a contribution.

The report that we are looking at is the sixth report of the Joint Standing Committee on the Corruption and Crime Commission, *The Corruption and Crime Commission’s unexplained wealth function: The review by The Honourable Peter Martino*. I want to thank the committee and make special mention that both members of the committee from this place have made a contribution. Hon Dr Steve Thomas made an invaluable contribution. I was wondering whether we would hear more, but, obviously, he has raised all the concerns that he wished to. I move on.

I look at the chair’s foreword of the report, which states —

Since September 2018 the commission has had the power to investigate unexplained wealth and criminal benefits, and initiate and conduct confiscation proceedings.

Later in the report, I note that Hon Peter Martino indicates that there are five kinds of confiscable property provisions under the Criminal Property Confiscation Act. One is the unexplained wealth function, which is the what I will focus on. The other provisions are: criminal benefits, crime-used property, crime-derived property and drug-trafficker property. These are all very important parts. The report was commissioned by the CCC. With no disrespect to Hon Peter Martino, if I wanted more funding, I would commission a report. If that report suggested more funding be allocated, I would obviously present that finding to the government. That is what I would do if I were writing an episode of *Yes, Minister*. That is a classic case: if an organisation wants more funding, it can

commission an independent report that it can lay on the table that says it is underfunded. It may very well be the case and it may very well not be the case. I will not make a determination on that. That is something for the government to decide at an appropriate time.

The other part of the chair's foreword states —

The commission has made a submission to government for funding over the next 5 years to expand its capacity to undertake this function.

The CCC has been undertaking this function, particularly with regard to unexplained wealth, for the last couple of years and has been doing an extremely good job. The whole concept of being able to confiscate property and wealth, unexplained and other, was a very good initiative by this government in the last term, and continues in this term.

The foreword goes on to say —

The effective use of the commission's unexplained wealth powers requires significant resources.

I presume that means funding. It continues —

The commission should be appropriately funded to undertake its functions.

I wish to focus on that last line. I cannot disagree with that. It does not necessarily mean that the funding should be increased or decreased; that is a determination of government.

When we look at the contents of the report, basically, we see that it focuses on the review that was commissioned by Hon Peter Martino. I move to the report itself. It states —

Since September 2018 the commission has had the power to investigate unexplained wealth and criminal benefits, and initiate and conduct civil confiscation proceedings in court under the *Criminal Property Confiscation Act 2000* ...

I wanted to focus on the section of the report that relates to unexplained wealth. I have a lot of sympathy with parts of this report. I will go to those parts, without going through all of them because I want to leave a bit of time for other members to make a contribution. There is one part about which I had some sympathy. The reverse onus of proof should be used only very sparingly. In this case, I agree that it should be used. The review identified the concern that a person who has been charged and has had their assets frozen then has to try to put together a case to demonstrate their innocence while their assets are frozen. That is a concern for me. As a matter of principle, I agree that a person should be able to access some assets to put together a credible case to prove their point of view.

The other point that was made that I have some sympathy with is that at the moment I believe there is only one deputy commissioner or acting commissioner. The report states that it is "highly desirable" that the commissioner who is considering an application for an exemption order has not been involved in earlier decisions about the use of the CCC's investigative powers in the same matter. I also have some sympathy for that. Again, it is something that has to be reviewed and determined. I think the CCC has powers to determine how it will spend its money. If it decides the best way it can spend its money is through the unexplained wealth provisions, that is a decision it can make. Apparently, the CCC is not able to operate on the basis that the security arrangements that it had in place prior to exercising its functions under the CCC act are adequate for the safety of its staff and the integrity of its investigations. Again, this is a management decision that has to be made. It is a real concern if the CCC has compromised the security of its own staff in the exercise of its duties.

As I said, these provisions are very important. The CCC has proven its worth in a number of cases, including a couple of high-profile cases, and it should be resourced. My concern is that it is a classic case of a department proposing to try to increase the money that is provided by government.

Finally, I want to thank the committee. The reason I stood—I was not going to stand—is that it seems to me that there is an expectation that every member of the government makes a contribution to these committee reports. The reports can be debated for four hours. All of the reports seem to have been debated for four hours. Some reports definitely require that amount of time but I do not think it is the best use of this chamber if we are reporting for no particular reason.

**Consideration of report postponed, pursuant to standing orders.**

**Progress reported and leave granted to sit again, pursuant to standing orders.**