Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Tuesday, 4 December 2018

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 1.00 pm, read prayers and acknowledged country.

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Inquiry into Public Sector Procurement of Goods and Services and its Vulnerability to Corrupt Practice — Extension of Reporting Date — Statement by President

THE PRESIDENT (Hon Kate Doust): Members, I have a letter from the Joint Standing Committee on the Corruption and Crime Commission, which reads —

> Dear Madam President
>
> **Report tabling date**
>
> The Joint Standing Committee on the Corruption and Crime Commission resolved on Monday, 26 November 2018 to amend the date for the tabling of a report on its inquiry into public sector procurement of goods and services and its vulnerability to corrupt practice.
>
> The Committee will now report on the inquiry by Thursday, 16 May 2019.

It is signed by Margaret Quirk, MLA, Chair of the Joint Standing Committee on the Corruption and Crime Commission.

ABORIGINAL RANGER PROGRAM

Statement by Minister for Environment

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [1.03 pm]: I take this opportunity to update members on the McGowan government's very successful Aboriginal ranger program, for which round 2 expressions of interest are now open. This program was a key election commitment of the McGowan government. In the first round, 13 Aboriginal groups shared in $8.45 million in funding. This resulted in the creation of 85 new jobs and 80 training positions for Aboriginal people, including 47 female ranger positions.

I have spent time with many of the groups that have received Aboriginal ranger program funding and have seen firsthand the positive impact that providing jobs and training on country can have. This program provides a pathway for Aboriginal people to forge a career in land and sea management and create long-term cultural, conservation and tourism opportunities. It is helping to build stronger, more resilient communities by creating more jobs and leadership roles for people on country, which in turn has significant environmental, economic and social benefits. Importantly, the projects support cross-cultural engagement, traditional knowledge transfer, capacity building and business development opportunities.

It was so encouraging to see almost 60 Aboriginal groups apply in the first round of funding. I hope that many of these organisations, and others that did not apply, will put in an expression of interest for the second round. In this round, $9 million will be available for Aboriginal organisations to employ and train rangers and carry out land and sea management and tourism activities across a range of tenures in remote and regional Western Australia.

I very much look forward to announcing the round two recipients next year, and keeping members updated on the outcomes being delivered both on the ground and more broadly across regional and remote Aboriginal communities in WA.

LIVE EXPORT — NORTHERN SUMMER MORATORIUM

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [1.05 pm]: Today, the Australian Livestock Exporters' Council announced that its members have endorsed a three-month moratorium on live sheep exports to the Middle East during the Northern Hemisphere summer. The McGowan government welcomes this decision, which essentially adopts the position put forward by our government in April this year.

It has been well documented that the Northern Hemisphere summer poses an unacceptable heat stress risk to live sheep coming from the southern ports of Australia. Our government proposed a northern summer pause as a way to ensure that the industry would not see a repeat of the conditions exposed on *60 Minutes* earlier this

year. Industry rejected the proposal at the time and, in my view, this late coming to a commonsense decision has put the industry on the back foot and made it more difficult to retain its credibility. However, we welcome ALEC and the Western Australian Livestock Exporters' Association taking this important step to ensure better animal welfare outcomes and restore public confidence and community licence. The moratorium will apply to vessels travelling through the Arabian Sea beyond the latitude of the eleventh parallel north from 1 June 2019.

The council is also introducing a code of conduct to drive cultural change and earn community trust. These decisions, alongside the recommendations of the Moss review and upcoming strengthening of the Australian Standards for the Export of Livestock, will put industry on a more stable footing and show a recognition to work to restore public confidence in the live trade.

WORLD AIDS DAY

Statement by Parliamentary Secretary

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [1.07 pm]: Members may have noticed a red ribbon on their desks today to mark World AIDS Day, which was on Saturday, 1 December. World AIDS Day is a day to mourn the loss of those who have passed away; they and their loved ones are in our thoughts. It is also a day to recognise progress and reflect on what further needs to be done to halt the advance of this disease.

Indeed, there has been much progress. New HIV notifications in WA are at a 10-year low. This marks a 29 per cent decrease compared with the previous five-year average. We are on track to eliminate HIV in the not-too-distant future. Our success comes down to three key strategies. The first is education and outreach. The WA AIDS Council has been working in our communities every day, delivering a powerful message promoting safe sex and personal responsibility. Just last week this government was pleased to provide a Lotterywest grant of $315 000 to the WA AIDS Council so that it can continue its lifesaving work.

The second is early diagnosis and more support for people living with HIV. Better coordination among health services and treatment providers has ensured that those who have acquired the disease receive the support and care they need to live a normal life and to prevent further transmission.

The third is HIV pre-exposure prophylaxis, or PrEP. Our government made this drug available just over a year ago. There is no doubt that its use has prevented the spread of HIV and contributed to the low numbers of new notifications we are now seeing. The biggest decline in these notifications is found among men who have sex with men, while the notifications among heterosexual males have remained steady. This means that more work is needed to target those people who still incorrectly believe that HIV and AIDS affect only homosexual men. They do not and the figures bear this out. HIV and AIDS affect people from all walks of life and it is incumbent on us all to contribute if we are going to achieve our goal and eliminate this disease.

I commend everyone involved in preventing and combating this disease for their tireless efforts to inform and empower Western Australians to be responsible and live healthy lives.

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Fifty-fourth Report — "Standing Order 6(3): Recalling the Council" — Tabling

THE PRESIDENT (Hon Kate Doust) presented the fifty-fourth report of the Standing Committee on Procedure and Privileges, entitled "Standing Order 6(3): Recalling the Council".

[See paper 2275.]

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendments 2 to 6, 9 to 14, 16 to 20 and 24, and had disagreed to amendments 1, 7, 8, 15, 21, 22 and 23.

Motion

On motion without notice by **Hon Sue Ellery (Leader of the House)**, resolved —

> That Legislative Assembly message 109 be made an order of the day for consideration of the Committee of the Whole House at a later stage of this day's sitting.

BETTING TAX BILL 2018
BETTING TAX ASSESSMENT BILL 2018

Second Reading — Cognate Debate

Resumed from 27 November.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [1.13 pm] — in reply: I thank those members who made a contribution to the debate on the Betting Tax Bill 2018 and the Betting Tax Assessment Bill 2018 when we last sat—namely, Hon Dr Steve Thomas, Hon Robin Chapple, Hon Colin Holt and Hon Alison Xamon. I have some extensive comments to make in reply. I hope that I will answer all members' questions.

I refer to the allocation of revenue. Over the period from 2018–19 to 2021–22, the point-of-consumption tax is expected to raise total revenue of $279.6 million. Of that, the replacement of current taxes accounts for $88.6 million; racing industry funding is $83.9 million; and $12.9 million will go into the sports wagering account. That leaves about $94 million to flow into the consolidated account. The money flowing to the consolidated account is not tied to any particular initiatives. The additional revenue comes about because the point-of-consumption tax broadens the base of wagering taxation by capturing all wagering activity conducted in Western Australia, as was the intent when wagering taxes were introduced.

A number of members asked questions about the sports wagering account and the government's commitment in that space. The sports wagering account provides grants to community sport and recreation organisations. These grants are determined on an annual basis by the Minister for Sport and Recreation in accordance with the Gaming and Wagering Commission Act. The government funding replaces the 25 per cent after-tax contribution from the WA TAB. This contribution averaged around $3.6 million over the past five years, with $4 million provided in 2013–14; $4.2 million in 2014–15; $3.5 million in 2015–16; $2.5 million in 2016–17; and $3.6 million in 2017–18. The payment into the sports wagering account will be $3.7 million in the first full year of operation in 2019–20, and will total $12.9 million from 2018–19 to 2021–22. The amounts will be indexed each year by the Perth consumer price index.

In response to Hon Dr Steve Thomas' comments on the two figures quoted by the Treasurer of $13 million and over $10 million, those figures are both in reference to the same $12.9 million figure. Indexing the contributions by CPI provides for stable growth in funding going forward. In recent years, funding for the sports wagering account has been volatile and has decreased significantly on some occasions, so replacing the contribution with this more stable appropriation will enable the return to multiyear funding agreements, which will assist sport and recreation organisations to develop and realise longer-term strategies. There is no direct link between sports wagering and the demand for funding for community sports. Therefore, the level of funding does not need to reinforce sports betting activity. This approach also represents an important ethical shift that sees the state government funding community sport and recreation as opposed to funding being derived from gambling.

In response to concerns around the tax rate, we do not expect that having a higher rate in Western Australia relative to two other states will have much of an impact on racing activity in Western Australia. The rate was discussed at length between Racing and Wagering Western Australia and the various race codes and I am advised that, in the end, all parties were comfortable with a 15 per cent rate. It is expected that in a highly competitive market such as online betting, operators will quickly fill the void left by any other operator that chooses to decrease the promotion of races in Western Australia. I am further advised that this was the experience in South Australia. Consultation with South Australia suggested that there was only a small and temporary response from a small number of corporate bookmakers following the introduction of a point-of-consumption tax in that state. At that time, South Australia was the only state to have a point-of-consumption tax in place. The risk of such a response from corporate bookmakers would be greatly reduced now that almost all states have introduced, or will soon introduce, a point-of-consumption tax. Further, as Hon Colin Holt pointed out in his contribution, Western Australian racing enjoys an advantage because it is in a different time zone from all other states. This would make it even less likely that corporate bookmakers would seek to reduce the promotion of Western Australian races; that is, punters would be looking for racing events after races in the eastern states have finished, which would make it more difficult for operators not to promote Western Australian races. In a media statement released on 9 October this year, Racing and Wagering Western Australia CEO Richard Burt said, and I quote —

> "The Government's framework for progressing the sale of the WATAB, together with the POC tax commitment is expected to provide a positive outcome for racing."

Hon Robin Chapple and Hon Alison Xamon noted concerns that no additional funding has been provided for problem gambling. I note that this bill does not introduce any additional gambling products, nor is it likely to cause further issues with problem gambling. However, during debate in the other place, the Treasurer committed to look at the issue of problem gambling in the future if required.

Hon Robin Chapple made a number of comments about funding for animal welfare initiatives. Racing and Wagering Western Australia oversees racing in Western Australia and is responsible for ensuring the welfare of

greyhounds and horses involved in racing. RWWA already has a number of initiatives, including the Greyhounds as Pets program, which facilitates the adoption of retired greyhounds, and the Off the Track program, which promotes the placement of retired horses. In 2017–18, a total of $1.015 million was invested in animal welfare initiatives. In 2018–19, this will increase to $1.652 million. Racing and Wagering Western Australia will make additional investments in animal welfare programs, including the following key elements: $200 000 for further rehoming initiatives through Greyhounds as Pets; $250 000 for an expanded track injury rebate scheme to help pay for the cost of surgery; and $500 000 to increase the greyhound trainer subsidy that will be partly used to assist in the cost of maintaining greyhounds before they enter the Greyhounds as Pets program.

Hon Colin Holt requested information relating to the WA TAB tax payments. The following wagering tax revenue was collected in the past: $43 million in 2013–14; $42 million in 2014–15; $42 million in 2015–16; $40 million in 2016–17; and $41 million in 2017–18. As the information underlying the revenue estimates for the point-of-consumption tax was provided on a commercial-in-confidence basis by all betting operators, I am unable to answer Hon Colin Holt's request for information relating to the WA TAB's tax payments going forward.

Hon Colin Holt also asked how agreement on funding arrangements was reached with the racing industry. I am advised that agreement was reached in consultation with the Treasurer, the Minister for Racing and Gaming and Racing and Wagering Western Australia, including its chief executive officer and chairman, as a representative of the racing industry. The Department of Treasury also directly consulted with industry representatives through the greyhound, harness and thoroughbred racing subcommittees. A presentation and a discussion paper were provided to industry representatives, who provided written responses. Among the issues discussed was industry compensation. The Western Australian Trotting Association wrote to the Treasurer, thanking the government for the 30 per cent revenue-sharing arrangement. The 30 per cent of revenue that will be provided to the racing industry goes beyond the level of funding required to make the racing industry no worse off as a result of the point-of-consumption tax. The contribution is larger than the 20 per cent contribution in New South Wales and the 18.75 per cent contribution in Victoria. Other states do not have formal revenue-sharing arrangements. The racing industry currently receives around $150 million each year directly from Racing and Wagering Western Australia. It will receive an additional $24 million from revenue derived from the point-of-consumption tax. It is estimated that this will be about $8 million more each year under a "no worse off" position.

In response to Hon Robin Chapple's questions around how the distribution will work, Racing and Wagering Western Australia will be required to distribute the funds to the three race codes. The proportion provided to each code will be specified in Racing and Wagering Western Australia's strategic development plan, which requires the approval of the Minister for Racing and Gaming with the Treasurer's concurrence. It is also required to include the statement of corporate intent, which must be laid before each house of Parliament.

Hon Colin Holt requested information on how the VIP concession will operate under the point-of-consumption tax. The VIP concession is being removed as part of the introduction of the point-of-consumption tax. This position has been reached with the agreement of Racing and Wagering Western Australia, as the operator of the TAB. Under the point-of-consumption tax, the tax rate paid on a particular customer will be determined by the location of the customer, not the location of the betting operator. This means that bets received by any operator from a VIP customer located in Western Australia, or any other state with a point-of-consumption tax, will attract the same rate of tax regardless of where the operator is based. As a result, the WA TAB will no longer be at a tax disadvantage in attracting VIP customers to its business, and I am advised that the concession will not be required.

Hon Colin Holt asked who would be responsible for identifying the customer location and how compliance would be monitored. Betting operators are responsible for determining where a customer is located at the time of placing a bet. Specific obligations are included within the bill to ensure that each betting operator uses its best efforts to locate its customers. If the betting operator is unable to identify the customer's exact location at the time of placing a bet, for example through GPS, the operator can use the customer's residential address as their location. This position was adopted after consultation with betting operators; they noted that they cannot always determine with certainty a customer's location at the time of placing a bet.

The point-of-consumption tax will be covered by the Taxation Administration Act 2003. This means that the investigation, recovery and enforcement powers contained in that act can be used to protect the integrity of the betting tax regime. This includes powers for the Office of State Revenue to conduct audits of operators and for information sharing and reciprocal rights of investigation with other state revenue offices. The Office of State Revenue will also be able to exchange information with the Department of Local Government, Sport and Cultural Industries. Betting operators must also comply with commonwealth anti–money laundering legislation, which requires them to accurately capture the customer's full name, residential address and date of birth. A betting operator that is found to have avoided its point-of-consumption tax obligations risks losing its licence.

Madam President, with those comments—I hope I have acknowledged the various concerns raised by members—I commend the bill to the house.

Questions put and passed.

Bills read a second time.

BETTING TAX ASSESSMENT BILL 2018

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon COLIN HOLT: It probably does not matter which bill I address these questions to—they probably pertain to the Betting Tax Assessment Bill 2018. I appreciate the minister's response to the second reading debate. I think he answered most of the questions I raised. I wanted to get some of that stuff on the record for the industry so people can understand what these bills will do. I really want to come back to some of the figures and amounts of money raised. I have already heard those figures presented by the minister, but I still have some questions to get some clarity around it. I know that the figures quoted will be raised over the forward estimates, but it gets a bit confusing because there are three and a half years of forward estimates and it changes as we go along. Maybe the minister can break it down to the first full year of operation of this tax. I would like to know how much will be raised in total in the first full year of the tax. I will do this in quick succession so we get it right. I will leave it to the minister.

Hon STEPHEN DAWSON: For 2019–20, the first full year, the total point-of-consumption tax revenue will be $78.4 million.

Hon COLIN HOLT: Of that $78.4 million, the agreed return to the industry is 30 per cent, so we can work out what that is. Is the minister able to tell me how much point-of-consumption tax the WA TAB will pay into the system over that same period?

Hon STEPHEN DAWSON: That is the confidential information that I referred to in my second reading reply. I cannot give it to the member.

Hon COLIN HOLT: I understand the difficulty and I do not agree with it. The government is committing to a 30 per cent return to the operator so that it will be no worse off, but we do not know what no worse off means if those figures are not revealed. The government will give 30 per cent back. In the speech it was stated that it is to compensate the industry over and above and to make sure that the industry and the WA TAB will be no worse off, yet the minister cannot reveal the figure, so we cannot be sure whether they will be no worse off. It is just a leap of faith in the 30 per cent. Does the minister have any comment on that?

Hon STEPHEN DAWSON: The industry would not have agreed to the 30 per cent if it thought it would be worse off as a result. I am advised that the industry is happy with the undertakings given to it by government that it will get its 30 per cent.

Hon COLIN HOLT: I appreciate that but, as I said, and as was reflected in the second reading reply, consultation with the industry was restricted to the CEO and the chair of Racing and Wagering Western Australia and the code committees set up by the CEO and the chair of RWWA. Broad consultation with the industry on what has been agreed to is another matter. If the industry is to broadly endorse the tax, the question of how much better off it will be remains. In his second reading reply, I think the minister responded that it would equate to around $8 million over and above what it would normally have. Can I assume that that $8 million is over and above the cost to industry?

Hon STEPHEN DAWSON: Yes, that is Treasury's estimate. It is extra.

Hon COLIN HOLT: I can work out that 30 per cent of $78.4 million is about $23.6 million or something like that. If I am correct, $8 million above that means that the industry should be costing it at about 15 million bucks. Can the minister reveal that?

Hon STEPHEN DAWSON: I am sorry. I cannot reveal that.

Hon COLIN HOLT: This is the chamber's last chance to endorse a tax on an industry, and we are making some assumptions about how well off the industry will be as a result of the tax and the compensation. Maybe I can tackle it another way. In the second reading reply the minister revealed that the industry has been paying wagering tax to government of about $40 million or $41 million a year. That will be abolished with the introduction of this tax, which will raise $78.4 million, of which about $24 million will go back to industry. Am I right in my assumption that the first year's net tax contribution to the government from this tax, minus the 30 per cent back to industry, will be about $54 million?

Hon STEPHEN DAWSON: I am advised that it is about $53 million.

Hon COLIN HOLT: I thank the minister. There was some byplay around that with the VIP rebate, which I thought would be considered as part of the "no worse off" scenario for industry. Is that $5.4 million considered no worse off for the industry as part of that 30 per cent, or is it some other sort of compensation calculation?

Hon STEPHEN DAWSON: I am told that the VIP rate was taken into consideration when working out the "no worse off" policy.

Hon COLIN TINCKNELL: It has been indicated that somewhere in the region of $150 million is needed to update the industry's infrastructure. From the $24 million that the government will make from this tax, does it plan on putting some of that money into that area?

Hon STEPHEN DAWSON: It could potentially, but I cannot comment on further budget processes. Obviously, we are about to start our next budget process for the next four years. Unfortunately, I cannot tell the member what will be in it for future resourcing of the industry.

Hon COLIN TINCKNELL: What was the rationale and the reasoning behind the 30 per cent? How did the government come to the agreement that 30 per cent would go back to the industry?

Hon STEPHEN DAWSON: It was literally worked out through negotiations between the government and the industry, as I alluded to in the second reading reply. I spoke about the various people who were involved in those negotiations. Multiple conversations were had between the industry and government and that 30 per cent figure was landed on. The member will be aware that that figure is significantly higher than the figure in the two other states that make a contribution back to industry. New South Wales makes a 20 per cent contribution and the figure in Victoria is 18.5 per cent. The other states do not have formal revenue-sharing arrangements. I have a piece of correspondence from John Burt, the president of Gloucester Park Harness Racing. It is a letter to the Treasurer dated 23 October 2018. It states —

> Dear Treasurer
>
> I would like to officially thank you and the Labor Government for your support of the racing Industry regarding the new Point of Consumption (POC) tax.
>
> The 30% return to the WA racing industry for the tax is very much needed when revenue from the TAB is under pressure from Corporate Bookmakers. Gloucester Park Harness Racing (GPHR) is supportive of the tax to create a more level playing field for the WA TAB against competitors that for too long have used the racing industry for profit but returned very little. This revenue from the tax for the racing industry will be a massive boost for the future health of the industry.
>
> Despite this tax being controversial in other states, where the Governments have not supported the industry to the same level your Government has in WA, I am sure that it is well supported here.
>
> GPHR also acknowledges the hard work and knowledge that RWWA provided in working with you to achieve this outcome, especially from CEO Richard Burt.

Hon COLIN TINCKNELL: Other than arriving at that 30 per cent, it is reasonable to assume that when this happened in the eastern states, it did not go that smoothly. There have been a lot of stories about that. What confidence does the minister have that the government's attempts to upgrade this industry are going to be better than the experience witnessed in the eastern states, and why does he have that confidence?

Hon STEPHEN DAWSON: I guess we are getting this confidence from the fact that we are giving more compensation in Western Australia than the other states have. This has been negotiated, essentially, with the industry in Western Australia to get to this outcome. I am advised that industry is supportive of it. Having industry onside, providing more compensation and providing that the industry will be no worse off gives everybody a level of confidence moving forward, so we will not have the same issues that the other states have had.

Hon COLIN TINCKNELL: A lot of constituents are getting back to members of this chamber about the possible effects of this legislation going through. They have seen a general slide in the industry, especially in the areas of trotting and pacing, and with country meets closing down. Obviously, that is a major concern for the racing industry. We would like to see more done in the country areas to keep those meets going. They are very important to income and tourism—everything—in these country areas. Is the minister confident that this will turn the demise of these country meets around?

The CHAIR: If the minister can address that question within the context of the clause 1 debate, if it is relevant to this bill, he should feel free to do so.

Hon STEPHEN DAWSON: I provide this response. I am not the minister for this portfolio area and I am dealing with this bill in a representative capacity. Notwithstanding that, this bill puts the WA TAB on a level playing field. It taxes operators in Western Australia who are not paying tax at the moment and putting the industry at risk, quite frankly. We believe this bill will certainly ensure that we have a better system going forward. I cannot comment on the sustainability of the industry in the future, but we believe that this bill will be helpful for industry, as does industry. I have not had the same level of constituent concerns that the member has had. The only comments I have had about the bill before us have been positive. People see this as the government doing the right thing by industry and trying to make it sustainable moving forward.

Hon COLIN HOLT: I agree with the minister that this is the right approach to support the industry. This tax has been introduced in other states and we fully support it as a way of making corporate bookmakers pay their fair share in the WA industry. I want to concentrate on the 30 per cent return to the industry as compensation. Is that just a policy position? It is not in the bill and there are no regulations. Is it purely a policy position?

Hon STEPHEN DAWSON: It is in the bill, so it will be legislated for.

Hon COLIN HOLT: Will a 30 per cent return be legislated for?

Hon STEPHEN DAWSON: I am advised it was a consideration in detail amendment in the lower house to enshrine it in the legislation.

Clause put and passed.

Clauses 2 to 5 put and passed.

Clause 6: References to WA bets —

Hon Dr STEVE THOMAS: I was nearly going to let the minister get away without too much work, but I thought we might have a quick redefining, if the minister would, of "lay-off bet", the definition of which is found in clause 4. So members are aware, the definition states —

> ***lay-off bet*** means a bet placed with a betting operator, if the bet is placed —
>
> (a) for the purpose of reducing the liability of another betting operator; and
>
> (b) by that other betting operator;

It is effectively a hedging of bets double-insurance process that members who have been around the gambling industry are probably well aware of. If somebody wants to put a massive amount of money on a particular outcome, the gambling operator takes the bet and hedges it against an alternative outcome with another gambling process so they can cover their bets if they have to pay out multimillions of dollars. It is a form of insurance. Can I therefore check something? In my view, clause 6(3) is not obviously related to the intent of the bill. It says —

> When determining if a lay-off bet is a WA bet under subsection (1), it does not matter whether or not the liability the betting operator seeks to reduce by placing the lay-off bet relates to WA bets placed with the betting operator.

It comes across as a little bit like *Yes Minister*. Can we just check to make sure that lay-off bets are effectively to be treated as all other wagers and there is not a differential between a lay-off bet as defined in this bill and a standard bet? If there is, what is the differential set by the legislation?

Hon STEPHEN DAWSON: I am advised that the lay-off bet is treated in exactly the same way as any other bet under this legislation.

Hon Dr STEVE THOMAS: I thank the minister. Can the minister tell us why there was a need to define "lay-off bet"? If every bet is being treated exactly the same, why was there a need to treat the lay-off bet as an individual bet? Is it to prevent people using the lay-off bet as a way of escaping the point-of-consumption tax? If a lay-off bet is treated as any other bet, it seems a bit irrelevant to identify it in the bill and put in a clause that is not easily understood by the layperson. I wonder why it ended up in this form.

Hon STEPHEN DAWSON: I am advised that it was for reasons of clarity. These things already exist, so we wanted to mention them in this legislation before us. It is also to administratively prevent any kind of legal issues.

Hon Dr Steve Thomas: Is it effectively to prevent somebody saying that it is not counted because it is a lay-off bet?

Hon STEPHEN DAWSON: Yes, that is it.

Hon COLIN HOLT: I just seek double clarity on that. Does a lay-off bet attract the 15 per cent point-of-consumption tax?

Hon Stephen Dawson: Yes.

Hon COLIN HOLT: Another bill on the notice paper, the Gaming and Wagering Legislation Amendment Bill 2018, also refers to lay-off bets and bookmakers and how they do not get charged for double dipping on GST in that situation. How is this different so they do not get charged twice for the point-of-consumption tax, or have I got that wrong?

Hon STEPHEN DAWSON: I will give an example while I await further advice. Clause 6(3) clarifies that a lay-off bet is treated in the same way as any other bet. A lay-off bet is a Western Australian bet if the betting operator placing the bet is located in Western Australia, regardless of the location that the related liability was incurred; that is, it does not matter where the person who placed the originating bet with the betting operator is located. For example, if a WA betting operator wants to reduce the risk associated with the bet made by the customer by placing a lay-off bet with a Victorian betting operator, the lay-off bet is a bet taxable in WA regardless of the original customer's location. In this case, the Victorian betting operator would be liable for betting tax for a losing lay-off bet based on a Victorian betting operator's customer, the WA betting operator being located in WA. The original bet has tax paid by the first operator. When that operator lays off a bet, the operator receiving the bet pays tax.

Clause put and passed.

Clauses 7 to 30 put and passed.

Clause 31: *Racing and Wagering Western Australia Tax Act 2003* repealed —

Hon COLIN HOLT: I apologise if I am discussing this under the wrong clause. I assume this is the clause that removes the obligation for the sports wagering account contribution. If this is the wrong clause, that is okay; I am not seeking to amend it, but I am seeking some clarification around it. The sports wagering contribution in the past was 25 per cent of sports betting into a sports wagering account. As the minister indicated in his reply to the second reading debate, it has been averaged over the last four years to be about $3.7 million. Again, I think that is just a policy setting; it is not set in any legislative framework or any regulations. If the minister can confirm that first, that would be good.

Hon STEPHEN DAWSON: The member is correct. That is not set in the any regulation or legislation.

Hon COLIN HOLT: It is just a policy setting. It would be good to know what negotiation or consultation was done around arriving at the decision to abolish it. I know the Department of Local Government, Sport and Cultural Industries quite liked the idea of collecting that to put into its fund. The minister has already said that it is based on a four-year average and it will be indexed by CPI into the future. Is there any provision or any commitment to review that policy in the future, given that sports betting is the growth area for betting and punting, especially among younger members of the public? If we were to keep the sports wagering account, perhaps it would go up and the department of sport and recreation would be underdone by this policy setting. Is there any commitment to reviewing the contribution in the future?

Hon STEPHEN DAWSON: The member is correct. There is no direct link between sports wagering and the demand for funding for community sport; therefore, the level of funding does not need to reference sports betting activity. The member is correct in terms of the figures he used. Government funding will replace the 25 per cent after-tax contribution from the WA TAB. That averaged around $3.6 million over the past five years and will be the $3.7 million that the member referred to. It could be reviewed. The commitment at this stage is that the amounts will be indexed each year by the Perth consumer price index. That is the commitment now. It will not stop other governments in the future from consulting and increasing that figure. It is certainly a commitment by this government that we will allow the $3.7 million, plus CPI, moving forward.

Hon COLIN HOLT: Thank you, I appreciate that.

Hon Stephen Dawson: That amount is included in the budget numbers already.

Hon COLIN HOLT: There was an obligation on the Western Australian TAB to fund the sports wagering account through its mechanism of a 25 per cent contribution. Now that that will be removed, will there be no obligation on the WA TAB to fund that anymore?

Hon STEPHEN DAWSON: I am advised that it will make a very, very small contribution of unclaimed winnings on sports bets. That is the only thing it needs to do.

Hon COLIN HOLT: I was going to ask about unclaimed winnings. It is not a small amount; I think it is something like $7 million a year.

Hon STEPHEN DAWSON: I am advised that it applies only to sports betting, so it is about $400 000 a year. That is still a reasonable amount.

Hon COLIN HOLT: It is unclaimed money only on sports betting itself. Will all the rest—profits or turnover on sports betting done by the WA TAB—now stay with the WA TAB and Racing and Wagering Western Australia?

Hon Stephen Dawson: That is correct.

Clause put and passed.

Clauses 32 to 77 put and passed.

Title put and passed.

BETTING TAX BILL 2018

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon Dr STEVE THOMAS: Will the minister confirm my understanding that no international gambling houses, in effect, can legally operate in Australia? If they are going to operate—I guess this is the first part of the bill—will they have to have an Australian subsidiary to be caught by this legislation and pay tax to Western Australia?

Hon STEPHEN DAWSON: I am told that those that are authorised to operate here can operate here. If they are licensed to operate here, they can operate here.

Hon Dr STEVE THOMAS: Perhaps somewhere down the track we can find out precisely which international companies that are licensed to operate in Australia might be in the Western Australian jurisdiction, if there are any.

Hon STEPHEN DAWSON: We do not have that information with us today. I am very happy to give the member and the chamber an undertaking that I can provide that information at a later stage.

Clause put and passed.

Clauses 2 to 4 put and passed.

Title put and passed.

BETTING TAX BILL 2018
BETTING TAX ASSESSMENT BILL 2018

Report

Bills reported, without amendment, and the reports adopted.

Third Reading

Bills read a third time, on motion by **Hon Stephen Dawson (Minister for Environment)**, and passed.

INDUSTRIAL RELATIONS AMENDMENT BILL 2018

Second Reading

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [2.01 pm]: As the lead speaker for the Liberal opposition on the Industrial Relations Amendment Bill 2018, I rise to indicate our support for the bill. This is quite a lengthy bill. However, I do not intend to delay the house for long on this piece of legislation. The bill basically addresses three areas. The first is the long planned and long hoped for abolition of the position of president of the Western Australian Industrial Relations Commission and essentially the replacement of the president's functions by conferring additional responsibilities on the chief commissioner. The second element is to make some consequential amendments, and to allow for the chief commissioner to be appointed as an arbitrator for the public sector. The third element is to correct some errors that have crept into the act over the several decades during which it has been in operation.

Much of what is canvassed in this bill was the subject of a green bill that had been prepared and issued under the auspices of the then Minister for Commerce, Hon Simon O'Brien, I think towards the end of 2012. That dealt with a number of proposed reforms of the industrial relations regime in Western Australia and also addressed the increasingly redundant role of president of the commission. Since that time, the former president of the Industrial Relations Commission has been appointed to the bench of the Supreme Court of Western Australia, and this bill has been introduced in order to address those discrete areas, and I indicate our support for that.

Many of the issues that were raised by the opposition in the other place were dealt with during the debate on the bill, which itself did not take a great deal of time. However, two particular issues attracted attention. The first was whether the workload of the commission was increasing or decreasing. The second was the professionalism of appointments. In the past, unwritten conventions or practices had developed by which people who had experience in government or private enterprise, or were former industrial advocates or heads of union movements, were appointed as commissioners, allegedly to provide some kind of balance on the bench. Over time, that process has become not only an archaic but also disreputable way of making appointments to the commission. This tribunal, like any other, should be striving to adopt a more professional approach, hence the bias has been towards appointing people who have legal qualifications and are able to act objectively, assess evidence and determine what is relevant and not relevant, rather than people who have ideological sympathies with one side of the employment equation as opposed to the other. That was the process that was engaged in towards the end of the last Barnett government with the appointment of commissioners Toni Emmanuel, a lawyer who had been acting for the Employment Law Centre, and Damian Matthews, a former legal officer at the State Solicitor's Office, both very skilled and accomplished legal practitioners. At that time, the positions were advertised, and the criteria for appointment and the desirable qualifications and experience were advised so that those who applied for the positions could hope that an even-handed, measured and rational approach would be taken and there would be a competitive process to encourage the best applicants to apply for the job.

I had hoped that would have set the standard for the future. However, sadly, that does not appear to be the case. We are assured by the Minister for Commerce and Industrial Relations that the most recent appointments to the commission were made in compliance with the act, and I am sure that is right. However, although the minister recommended to the Governor that two persons be appointed to the commission, there was no advertising of those positions, there were no engagement criteria, and there was no suggestion of the attributes that were necessary or desirable or sought for. In fact, the situation was quite the contrary. According to the answers I have received during question time to my specific questions on this subject, the sole purpose of the appointment was to put

a union person on the bench. I view that with some dismay, given the pretensions of this government to be open and transparent. We have certainly not seen any evidence of that in this appointment. I am not suggesting that Ms Walkington will not do a good job. She may do the job objectively and in an even-handed fashion. She may forget that having a union background and union sympathies is a necessary attribute in order for a person to be appointed to the bench—notwithstanding the minister's aim towards that end—and will approach the task professionally and with regard to her responsibilities as a commissioner in this important and sensitive area. However, it is disappointing that we have not received any account of the qualifications, experience and attributes that the government was looking for in making this appointment, and we still do not know. That is unfortunate. We need to ensure that in the future, this type of appointment method does not bring the system into disrepute and give rise to speculation that appointments are simply a reward for services rendered to whoever may be the government of the day. Nevertheless, the merit of the bill is unarguable.

There is another element on which I would like some information. How does the government see the appeal process by the Full Bench of the Western Australian Industrial Relations Commission operating when it may have to oversee the decisions of industrial magistrates and others, yet legally qualified people do not necessarily sit as commissioners to make those decisions, given that it was not one of the criteria for at least one of the most recent appointees? I would like some information on how the government sees the commission operating, given the importance the minister placed, in his answers, on there being someone on the bench with a union background, and also how someone without any obvious legal qualifications or experience in the area will be able to make decisions on the law in that regard.

Hon Matthew Swinbourn: Are you aware that there is a history of the Western Australian Industrial Relations Commission appointing non-lawyers as commissioners? I believe the former chief commissioner was not a lawyer when he was appointed, and that normally the practice was for only the president to be a lawyer. It is not as if the appointment of a non-lawyer is novel or has presented a particular issue in the past.

Hon MICHAEL MISCHIN: No, that is true, and it is a very good point. That is part of the point I have been making about the changes to the appointment process and the manner in which the then government approached it. It is not simply about picking people who are non-lawyers and it does not necessarily mean that they have to be lawyers, but let us face it: the industrial relations system now is far more complicated, particularly with its interaction with the federal sphere as well, and the law is becoming more complicated all the time. We have gone away from the idea that magistrates ought to be laypeople—they now require legal qualifications. When I first started practice back in the early 1980s, it was not uncommon for non–legally qualified people to be appointed to the magistracy, and many of them did exemplary jobs. They had learned their craft and skills through working in the then crown law department for many years as clerks of court and the like. But it was thought that the professionalism demanded of society, as society evolved, had got to a point where that sort of appointment was no longer consistent with community expectations. I venture to suggest that the industrial relations system has gone beyond simply bargaining union interests against employer interests and the like—it requires the application of objectivity and a great deal of assessment of evidence and the determination of what is relevant or irrelevant to a dispute, and goes beyond simply sympathies on the basis of experience and background. Some ability to analyse evidence, understand and apply the law, and behave objectively is, I think, the minimum that the public would expect nowadays. If that means that can be provided only by people with some legal background and training, so be it.

That was the purpose of the exercise I engaged in as Minister for Commerce, which resulted in the appointment of Ms Emmanuel and Mr Matthews. The position was quite clearly advertised, so it was not a behind-the-door, behind-the-screens process. People knew a position was coming up. It was open to all to apply if they thought they could meet the criteria. The criteria were set out so that people had confidence about what the government was looking for, and they could in due course measure the persons appointed against those criteria and have some confidence that they did display the qualities, experience, objectivity and understanding the community would expect from people in those sorts of positions, who receive remuneration in the order of several hundred thousand dollars and perhaps have the employment and industrial fate of this state in their hands, at least in respect of public servants and those who do not fall within the federal system. As I have just mentioned, it is also highlighted in the question that there may now be a bench of non-lawyers telling industrial magistrates, who may have legal qualifications, where they have gone wrong, and putting their interpretation of the law in place of theirs. Admittedly, there is a check and balance by a further appeal to the Supreme Court, but I hope that is not something that needs to be available. So far as this bill is concerned, I indicate our support for it. I would appreciate the minister's advice on the several areas I have raised. I look forward to the passage of this bill solving this problem.

HON ALISON XAMON (North Metropolitan) [2.15 pm]: I rise as the lead speaker on behalf of the Greens on the Industrial Relations Amendment Bill 2018. I note that the significant change made by this bill is to abolish the position of president of the Western Australian Industrial Relations Commission, and the rest of the bill essentially deals with a series of housekeeping matters. For a long time, there has been a fairly broad, although not universal,

consensus to abolish the position of WAIRC president. It was originally suggested in the 1995 Fielding review and then again in the 2003 Cawley review. I note the 2008 Carpenter government bill and the 2012 Barnett government green bill, which both lapsed when Parliament was prorogued, and also the interim report of the 2018 Ritter review. The final report of the Ritter review is yet to be made public by the government. It is a shame that the government has chosen to not release that report prior to this debate, because it is always helpful for members to be fully informed about whether their views are consistent with the most recent advice. I also note that many, though not all, submissions made following the interim report of the Ritter review supported abolishing the role of the president. The Greens are supportive of this position, particularly because much of the state Industrial Relations Commission's work has been taken over by the Australian Industrial Relations Commission, and it is acknowledged that there simply is not enough work within the state commission to justify continuing with that role.

What I do note, however, is that there has not been consensus on what should happen following the abolition of the role of president, specifically because the president's role includes appellate functions and dealing with enforcement matters and, importantly, questions of law. I note that these are judicial functions exercised within a tribunal. Although the WAIRC is highly valued as a lay tribunal specialising in conciliation and arbitration of industrial relations matters, it nevertheless works within statutory frameworks and is obliged to follow the law. The lack of broad agreement on what should happen following the abolition of the role of president arises from that tension between the Industrial Relations Commission's judicial and lay specialist functions. Under the act at the moment, only the president is required to have legal expertise. Section 9 currently requires the president to be an Australian lawyer with at least five years' experience. In fact, the president has the same status as a judge. I also note that the Industrial Relations Commission's current acting president is a Supreme Court judge. The next most senior person at the Industrial Relations Commission is the chief commissioner, who is not required to have legal expertise. Under section 9, to become chief commissioner a person needs to have obtained either a high level of experience in industrial relations or a degree or similar qualification within the last five years for studies that the Governor considers have substantial relevance to the chief commissioner's duties, and that is not necessarily a law degree. The importance of legal expertise to ensure the proper discharge of judicial functions has nevertheless been broadly acknowledged in the last couple of decades since the Fielding review. It is fair to say that there is also a broad view that the need to have industrial relations expertise is even more important. Having appeared as a representative in the state Industrial Relations Commission, I very strongly concur.

There is also strong resistance to any reform that could make the Western Australian Industrial Relations Commission more formal, complex, overly legalistic or costly, because we want to ensure that the Industrial Relations Commission, as a specialist lay tribunal, remains accessible to workers, and we do not want to reduce its efficiency. It is particularly important that we do not reduce the current focus on conciliation as a means to address matters and have too strong a focus on its judicial determinations. We therefore have an inherent tension in trying to strike the right balance between ensuring that the IRC operates effectively as a semi-judicial body and maintaining its core focus on the conciliation of matters. That is not easy. Reports published over time have shown that tension has never been satisfactorily resolved. Over the last decade, a series of models floated have suggested that we carve out the Industrial Relations Commission's judicial functions and give them to courts; allow non-lawyer members of the Industrial Relations Commission to exercise judicial functions, but I am not sure that I am fine with that; require the chief commissioner, and possibly the other commissioners, to have legal expertise, as well as industrial relations expertise, and there might be something in that; and have a Supreme Court judge assigned to the Industrial Relations Commission on a case-by-case basis—effectively, whenever the Industrial Relations Commission is exercising its judicial functions. None of the proposed models has been met with anywhere near universal acceptance. Right now, the issue is largely academic because four of the five industrial relations commissioners happen to have a law degree, and three also have legal experience. I note that that will not always necessarily be the case. The act has no requirement for any commissioner to have legal expertise.

The Industrial Relations Amendment Bill 2018 takes the path of least resistance, by simply abolishing the role of the president. I note that it retains the Industrial Relations Commission's judicial functions without introducing any requirement for any of the commissioners to have legal expertise, although most of the current industrial relations commissioners have legal expertise. That will be a problem at some time in the future; it will be interesting to see the decisions a future government might make on that. The commissioner appointments of a future government might result in the Industrial Relations Commission not having a single commissioner with enough legal expertise for it to properly exercise its judicial functions. Hopefully, that is unlikely and will not be the case. I urge any future minister to bear that in mind when making future appointments. It needs to be ensured that some level of legal expertise is retained on the Industrial Relations Commission.

In the meantime, section 90 of the act states that an appeal lies to the Industrial Appeal Court from any decision of the full bench, and the commission on a stay application under section 49(11), or the commission in court session. The appeal right is limited to three grounds only: that the matter is not actually an industrial matter, and therefore the decision exceeded the jurisdiction; that the appellant has been denied the right to be heard; and that there has been an error in the construction or interpretation of an act, regulation, award, industrial agreement or

order in the course of making the decision appealed against. My concern lies primarily with that last point, because industrial relations is an increasingly complex area of law and, inadvertently or otherwise, it would be the last ground that commissioners with no legal expertise could potentially fall foul of. Members would be aware that appeals processes are costly and time-consuming, and it would be greatly concerning if merely because we have not ensured that the commission is made up of people who understand how to work within legal frameworks, we end up driving people down this path. That would not be an unlikely occurrence. People who have worked in industrial relations, particularly in the federal system, are aware of a history of quite a number of appointments of people with a very poor understanding of industrial relations law who have repeatedly made appalling decisions that have been subject to appeal over and again. Indeed, I am aware of one commissioner who was notorious for virtually inviting the appeal process to commence as soon as people were aware that a matter was to be considered in front of that particular commissioner, just because we could almost count on the bias of that commissioner ensuring that the law would not be followed. That particular commissioner was appointed from industry, not the union movement.

There has not been any specific consultation on this bill, although, as already noted, the relevant issues have been the subject of considerable discussion for many years. It is clear from those discussions, including some of the submissions provided to the most recent review, that there is some support for the line taken by this bill. However, I again note that the views of the final review of Mr Ritter remain unknown, except potentially by government members, because the government has chosen not to release that final report. I think that is most unfortunate.

Even though there is broad support for the provisions of this bill, I need to put on the record that the Greens are not without reservations about the potential implications of this bill. We would have much preferred a bill that ensured that internal legal expertise at the Industrial Relations Commission was formally maintained in some way to ensure that it would continue to properly exercise its judicial functions. However, we again note that given the current commissioners, this is likely to be achievable, so we will not stand in the way of the bill in its current form.

On the transitional provisions, I have two matters that I would like the minister to confirm on the record. The first relates to the pension and other rights and entitlements of past and present presidents. Following the briefing, I understand that the bill will not change or remove any right or entitlement of a past or current president. I further understand that although clause 19 of the bill removes rights under the Superannuation and Family Benefits Act 1938, no person will be affected by that. I note that this place is currently considering another bill that will have a very substantial effect on existing —

Hon **Alannah MacTiernan**: Member, can I just clarify this? You are clear about the position of the president, but you want to know whether any existing members will be affected by that provision to —

Hon ALISON XAMON: Specifically, I want to know whether the bill changes or moves any right or entitlement that a past or present president currently has. People would be aware that the Greens have very strong views about not changing people's entitlements unilaterally. I seek an assurance from the minister on the record that this bill will not reduce the rights or entitlements of any person in any way. I understand from the briefing that that is the case, and it would be good to get that on the record.

The second matter about transitional provisions, on which I am seeking confirmation, is about the cases that have been partly heard by the acting president or by the full bench, including the acting president, as at 26 December 2018, when current employment is due to expire. It is my understanding, following the briefing, that the Industrial Relations Commission is trying very hard to ensure that all cases that are currently before the acting president, whether alone or on the full bench, will be finalised by 26 December this year; and, if so, my concerns fall away. In the event that that is not the case, will the minister be approving the continuation of the acting president's term, under proposed section 2 of schedule 6, "Transitional provisions", until they have been finalised? I understand that it is the government's intention to ensure that any cases currently being heard by the acting president will not have to, effectively, be re-heard by an entirely new individual. In the event that they are not able to be finalised by the time this position is abolished, I seek an undertaking or at least clarification from the government about what will happen with those particular matters. Those are the two things that I particularly want clarified: how the bill will affect the current case load; and to confirm that it will not retrospectively affect the entitlements of people who have duly earned them. I retain concerns about a future make-up of the Industrial Relations Commission and the need to ensure that there will be legal expertise on the commission so that we do not end up in a situation whereby people are consistently flouting the law simply because of a lack of knowledge. However, I note that that can certainly be dealt with through appropriate appointment. Not everybody who is an industrial relations commissioner needs to be a lawyer, and I note that some of the best industrial relations commissioners are those who have extensive industrial relations history, particularly those who are very skilled at appropriate conciliation functions. I recognise that we are trying to achieve that balance. It is one that we will have to keep a close eye on, particularly around the areas of appointment. We do not want an Industrial Relations Commission that is top-heavy with black-letter lawyers who may have absolutely no clue whatsoever how to resolve a dispute, but we also have to ensure that we do not go down the path whereby people are so consistently getting the law wrong that we are just forcing people into ongoing appeal processes that are time-consuming and expensive.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [2.33 pm] — in reply: I thank members for their contributions and their support for the Industrial Relations Amendment Bill 2018. Both Hon Michael Mischin and Hon Alison Xamon have raised some interesting points that are interrelated, so I will probably deal with those together to some extent. Hon Michael Mischin asked about workload and the change in workload of the commission, particularly for the president and the full bench. I am not sure whether the member has seen it, but I have a chart that sets out the distribution of work from 2002 to 2017. We can clearly see a very considerable reduction in the workload of the commission. When we are finished here, I am happy to table this chart so that the member can see it.

Hon Michael Mischin: I would appreciate that; I think it would be very useful.

Hon ALANNAH MacTIERNAN: I think it is useful. That is why this consensus has been developed that there needs to be a reduction, the position needs to be abolished and we need to have a more cost-effective structure. I am very pleased that the acting president has been appointed to the Supreme Court. I think she will serve with distinction. She will obviously be a lot busier there than she was when she was in the commission alone as the acting president.

It is pretty clear that with the development of federal legislation, the workload of the commission has diminished considerably; we all agree with this. The two questions that Hon Michael Mischin asked were, firstly, about this issue, which we will certainly provide; and, secondly, he expressed concern about the nature of the appointments to the commission. I think Hon Alison Xamon put it very well. It is important that although we want a mix of skills in this tribunal, we do not want the overwhelming focus of the industrial relations tribunal to be on the judicial function. The vast majority of the work that it does includes conciliation, mediation and bringing results to a practical conclusion. It is often the case that people—I can think of many people—who have been appointees to the commission and have brought with them experience from the union movement and the Chamber of Commerce and Industry of Western Australia, who have practical experience in the way that the workforce works and the dynamics of the workplace, really fit the commission much better to the task than necessarily being in possession of legal skills alone. It needs a balance. I acknowledge that during the second term of the last government the minister changed the practice and focused much more on appointments for people with a legal background. The position of our government and Minister Johnston is probably one that has been, one would argue, that of the more enduring perspective of governments of both persuasions, and that is what we want. A mix of skills and that practical experience from the employer and the employee side in resolving industrial matters is incredibly important and is what gives substance to the commission's work.

Hon Michael Mischin: I do not disagree with the philosophy that there has to be a range of experience. Part of my point, though, was that if that is what is truly being sought, why not advertise it and set out those criteria that the government is looking for?

Hon ALANNAH MacTIERNAN: I know that this was done by the minister. I do not think, if I am correct, that was done during the first term of the Barnett government when Hon Michael Mischin became minister.

Hon Michael Mischin: No, I do not know. But I changed it so that it was available to all.

Hon ALANNAH MacTIERNAN: I do not think it was done in that first term, but certainly it is known to the minister who the experienced operators are in that field. This is really, to some extent, not the question before us today, but there is clearly a difference of view. The member's focus was on ensuring that he had people who were legally qualified. That is not the —

Hon Michael Mischin: No, no; you are distorting it. I set that out in the criteria, but the point I am making is that if you are after people with experience in conciliation, arbitration and all those sorts of things, and broad experience in industrial relations work, advertise it and say that they are the sorts of qualities you want.

Hon ALANNAH MacTIERNAN: Not all appointments in our system are subject to advertising. There are many positions—we do not advertise for judges of the Supreme Court.

Hon Michael Mischin: I used to do that for the District Court.

Hon ALANNAH MacTIERNAN: Well, who knows. One day, a miracle might occur and you might be back on this side. It is not our view that it is necessary to do that in this area. What we might call the industrial relations family know the skill sets and the people who are involved on a day-to-day basis in these tribunals. The skills and qualities of these people are known. It is our view that it is appropriate, then, to select a person having overall regard for the composition of the commission that is already there and to think about how we might get a better balance of skills and perspectives. We are unashamed in our view that we need to have people who come from both the union movement and the side of employer advocacy. We think that is very important. When the minister looked at the Western Australian Industrial Relations Commission, he felt that the skills that could be very usefully added to the existing suite of skills possessed by its members were those in relation to practical experience within the union movement.

That is the basis on which the selection was made. I have explained our view. It is nothing that we are hiding from. We looked at the commission and thought about the skill sets we needed to strengthen it. It is not as though the individual position is being determined. We need to look at the weight of skills.

Hon Michael Mischin: So you say, but I asked what skills were being sought and I was told "a union background". You haven't explained anything and neither has the minister; that is my concern about it.

Hon ALANNAH MacTIERNAN: I think it is an explanation. I accept that we find it very difficult to explain to the member things that seem to be understood by everyone else. I accept that. I do not think that is ever going to change. We looked at the commission and the minister said, "What would strengthen the commission at this particular point? What we need here is more experience." A number of people on the commission clearly come from an employer advocacy background and a number of people come from a legal background—one from a large legal firm. What would enhance the commission would be someone who brought very practical knowledge of and skills from the union movement, as well as knowledge and understanding of how the union —

Hon Michael Mischin: What skills? That's what I am asking for. All I've been told is the skill is having a union background. That's not a skill —

Hon ALANNAH MacTIERNAN: Yes, it is. It is actually knowing how industrial disputes are played out from the point of view of the union movement and the knowledge of how the employee side of these disputes come about. Traditionally, there have been many decades of bipartisanship on the notion that the skills we want to be able to have include an employer and employee perspective coming together in the commission to create a tribunal that has a good range of perspectives.

Members reflected upon an area of concern being appeals from the Industrial Magistrates Court. In the last year, for example, there were six appeals. They generally represent less than a quarter of the matters that are dealt with by the president of the commission, with either a full bench or by the president alone. They represent a smaller number of matters. Members have pointed out the practical matter that four of the five members of the commission are legally trained. As I understand it, both the chief commissioner and the senior commissioner have law degrees and are admitted to practice. The skills will always include a reasonable raft of legal skills, being able to operate effectively and having the legal skills to deal competently with appeals from the Industrial Magistrates Court. We believe that will be part of the consideration in the appointment of people to senior positions within the Industrial Relations Commission.

Hon Alison Xamon asked about the transitional provisions regarding the entitlements of past members. The legislation preserves all the existing entitlements, including superannuation entitlements for presidents. The judicial pension entitlements are preserved by clause 66 of the bill under the Judges' Salaries and Pensions Act. That clause continues the operation of sections 20(12) and 20(13). The provisions in sections 20(8c) and (8d) of the Industrial Relations Act do not apply to any former acting president or president. Consequently, no transitional provisions are necessary on the repeal of those provisions by the bill.

Hon Alison Xamon also asked for clarification on what happens to cases that have been partly heard. The full bench has made a commitment that it will continue to deal with those cases, if that is possible, and that the acting president, up until such time as the position is abolished, will seek to bring to fruition as many of those matters as is possible. Given her other duties, the acting president is obviously at some point not going to be able to continue to fulfil that role. Therefore if we did not abolish the position, we would still have to appoint another acting president regardless, so the issue of matters being part heard and having to be re-heard would happen in any event. Although it is an issue, and the current acting president is working very hard to resolve and minimise it, the abolition of this position, in reality, is not going to cause that problem because the acting president's current appointment expires on 26 December. At some point we are going to have to deal with that but, knowing the work ethic of the current acting president —

Hon Alison Xamon: All matters will be resolved—I hope so.

Hon ALANNAH MacTIERNAN: Yes, but, as I said, it is an unavoidable problem, because her appointment expires on 26 December in any event.

Hon Alison Xamon: Is that confirming that it is unlikely that that position might be extended on an acting basis for the purpose of the resolution of any outstanding matters?

Hon ALANNAH MacTIERNAN: Obviously, the workload of being on the Supreme Court is pretty huge, but that will be the subject of discussion with the minister. We are very mindful of not imposing too much of a burden but, as I said, we will be seeking to minimise any disruption and the number of matters that might have to be reheard. There are not a huge number of matters going before the court in any event, but all efforts will be made to minimise the number of matters that might need to be re-heard.

With that, I thank members for their support. I think everyone recognises that it is important for us to abolish this position. The cost of a position that is the equivalent of a Supreme Court judge, I am advised, is in the order of

$700 000 a year, when salary, staff and chambers are taken into account. I gather from the comments in the other place that it is recognised that that is not a wise allocation of resources. I thank members for their support and I look forward to being able to conclude this bill.

The PRESIDENT: Minister, before you sit down, you talked about tabling that document.

Hon ALANNAH MacTIERNAN: Yes. Can I also get a copy of it?

[See paper 2286.]

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)** and passed.

RESERVES (TJUNTJUNTJARA COMMUNITY) BILL 2018

Second Reading

Resumed from 1 November.

HON DONNA FARAGHER (East Metropolitan) [2.54 pm]: I am the lead speaker for the opposition on the Reserves (Tjuntjuntjara Community) Bill 2018.

The PRESIDENT: That is going to be the test, member—to see who can pronounce it correctly before we finish with this bill.

Hon DONNA FARAGHER: I got some positive nods, Madam President, so I am hoping I am heading in the right direction. There are a few more words as well, so I will see how I go by the end.

I say at the outset that the opposition supports this bill. Essentially, the bill provides the ability to excise more than 78 000 hectares from the Great Victoria Desert Nature Reserve to enable tenure to be granted to the Tjuntjuntjara Aboriginal community. This requires parliamentary approval to proceed, given that the nature reserve is a class A reserve. As was noted in the second reading speech, the Tjuntjuntjara community, which is a member of a larger group known as the Spinifex people, has existed on the western extent of the nature reserve since 1988, if not before. Technically, however, it does not have either a registrable land interest or legal access, albeit that the Spinifex people were recognised through a Federal Court of Australia determination in the year 2000 as having non-exclusive native title rights over part of the area of the nature reserve, including the area occupied by the community.

The Paupiyala Tjarutja Aboriginal Corporation—PTAC—acts as the governing body for the Spinifex people. The corporation provides a mechanism to receive and administer funds to develop infrastructure. It also supports other services, including a health service, a women's centre and a community resource centre, as well as other key community infrastructure. It also has responsibility for maintaining facilities, roads and other community services. I think the second reading speech indicated that the corporation was effectively operating as a local government in that sense, albeit that it does not have the specific role as such, but it has that maintenance role. Obviously, the land on which these services and infrastructure are found should align with the land tenure, but in this case, it does not. As a class A reserve, the land is set aside for the primary purpose of conservation, and is vested in the Conservation and Parks Commission. Under this arrangement, the land cannot be leased for a purpose that is inconsistent with its reserve status. This necessarily restricts the ability of the community to expand and to attract infrastructure investment.

The state has worked over many years with PTAC and the Pila Nguru Aboriginal Corporation—PNAC—to sort out the appropriate land tenure arrangements. Through the passage of this legislation, a mechanism is provided to enable a perpetual lease to be granted over the lands occupied by the Tjuntjuntjara community. This will allow PNAC, with the consent of the Minister for Lands, to sublease part of the lease area to PTAC for development purposes, and PTAC, as I understand, can then allow further subleasing if required. An extension of the easement will also be granted to allow legal access to the area.

As I said, the opposition supports this legislation, but one area did spark my interest—that is, clauses 9 and 10. For class A nature reserves, there are specific limitations on the ability to mine land. It can occur only with the consent of the Minister for Mines and Petroleum, who must consult with and gain the concurrence of the Minister for Environment. A resolution by both houses of Parliament giving consent to the granting of a mining lease or a general purpose lease is also required. However, with the excision proposed in this bill, the rules will change. The excision of the land to be leased to the community necessarily means that the protections currently afforded by the Mining Act 1978 for mining on class A reserves will be removed. To partly deal with this, clauses 9 and 10 of the bill provide some level of protection. Effectively, they apply a similar standard as that applying to other non–class A reserves, although it is specifically spelt out in the bill. Essentially, the Minister for Mines and Petroleum will, through the passage of this legislation, have the final say.

The Minister for Environment will no longer have a role with respect to concurrence, as is the case for class A reserves. When I asked the advisory officers whether there have been similar arrangements before for a change of land tenure and the fact that there will still be a nature reserve—part of the reserve is being excised and the arrangements are changing—I was informed, no, this is the first time. However, I think it is anticipated that it may not be an isolated case in the future. The minister representing the Minister for Lands, who also happens to be the Minister for Environment, appreciates why these clauses sparked my interest as a former environment minister, and my understanding of the requirements of the legislation. Notwithstanding the changes to land tenure and the bill's relationship to the Mining Act, I am pleased that clauses 9 and 10 are in the bill. Class A reserves are afforded, effectively, the highest degree of protection. That needs to be recognised in this instance, because, currently, the community sits within a class A nature reserve and although the land tenure will change through an excision process, the reality is that the community is clearly part of an area that has been deemed in previous years to require a high level of protection. It is important that although there is not a concurrence role for the Minister for Environment, or indeed a requirement to present proposals to both houses of Parliament, the Minister for Mines and Petroleum will still have to consult with the Minister for Environment before consent is given. The Minister for Mines and Petroleum may, at the end of the day, choose to ignore the environment minister's advice. I would find that quite outrageous if that were to occur. Notwithstanding that there is now a lower bar insomuch as the mines minister can ignore, if he or she wishes to, the express views of the Minister for Environment, there is still a requirement for consultation, which is provided for in clause 9(5) and clause 10(5). There is also a requirement for consultation with any person holding a Tjuntjuntjara community lease or a person in whom the control and management of the land is vested or placed, or, if relevant, the appropriate minister in the case of unallocated crown land. They are essentially the main elements of the bill.

The bill also corrects an error relating to the technical description of the eastern boundary of the nature reserve. There is also some flexibility in the bill's commencement date. As I understand it, this is in line with the signing of the Indigenous land use agreement. I thank the minister for organising the briefing, although it did happen a little while ago. When I asked about the status of the ILUA, I was told that it has not been signed and therefore it was not registered, but it has been agreed to in principle. I would presume, because I have not seen a government press statement, that it has not moved from that point; the minister might like to confirm that.

Other than that, as I say, notwithstanding the fact that there is a change in the land tenure, the bill is an important step for the community to move forward and, from an economic and social perspective, to have certainty over the status of its land tenure. Although there is now a slightly lower bar with respect to its relationship with the Mining Act, protections will still be afforded to the land. I indicate that we support the legislation. From my point of view, I do not see a necessity to go into Committee of the Whole House. I will leave it to others to indicate their position on that. However, I again thank the advisers for the briefing provided to me. As I said, the opposition supports the bill.

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the Nationals WA) [3.04 pm]: On behalf of the Nationals WA, I rise to also support the Reserves (Tjuntjuntjara Community) Bill 2018. The passage of this bill through the Parliament will create many opportunities for the Tjuntjuntjara people and the traditional owners, the Spinifex people. The community will now have a capacity to grow. For many years the intention has been to take advantage of the work that the traditional owners invested in the Tjuntjuntjara community. They welcome the passage of the bill because it will provide flexibility for investment moving forward.

The intent of the bill has already been described so I will not go over that again; however, it is worth noting that the Tjuntjuntjara community and the Spinifex people originally left their community in the 1950s and 1960s prior to nuclear testing at Maralinga. Their connection to country is so very great that over time the Spinifex people have returned to the Tjuntjuntjara community. To their credit, they have created a really functioning community; it is a really vibrant place and it is fantastic to see the people's ownership of their community. I congratulate the government for this bill. I really look forward to seeing the capacity it will give the Tjuntjuntjara community to move forward because it is really very ready to do that.

As Hon Donna Faragher said, there are some questions around mining and how the Tjuntjuntjara community will participate in the approval process should mining be considered there in the future. It is really important that the government answers questions about how the community will participate in those negotiations. I also note that the former National Party member for Kalgoorlie, also a former member for the Mining and Pastoral Region, Wendy Duncan, is a local. She grew up in and around Kalgoorlie and has been very supportive of this bill. She worked long and hard with the community to see this legislation come forward. I will not delay the house. I think that the bill will stand the community of Tjuntjuntjara in good stead and I look forward to the continued enhancement of that community and how it develops employment, education and economic opportunities moving forward.

HON COLIN TINCKNELL (South West) [3.08 pm]: I want to briefly mention One Nation's support for the Reserves (Tjuntjuntjara Community) Bill 2018. It is not very often that governments get the chance to right a wrong and amend the law so that it can assist a community such as Tjuntjuntjara to be treated in the same way as other communities in our state. People always want to help Aboriginal communities. This bill is a practical

move by the government and I support the government in that. The Tjuntjuntjara community will benefit from this bill. It is a very positive thing. It is obvious that the government consulted the community on this bill. I applaud the government for that. This is an approach that all government agencies and departments need when dealing with remote Indigenous communities. Most Indigenous communities want exactly the same things that we want in life; plus they want to obviously keep alive their own heritage and culture. At certain stages, because of loopholes in the law or certain situations, that does not happen. Once again, I applaud the government on this bill. One Nation supports the bill.

HON ROBIN CHAPPLE (Mining and Pastoral) [3.10 pm]: The Greens will be supporting the Reserves (Tjuntjuntjara Community) Bill 2018. As many members have said, this bill is long overdue. Prior to getting into Parliament in 2001, the conservation movement had been working with the mob out there in support of their application to remove sections of this area from the Great Victoria Desert.

I will provide a bit of history about the Tjuntjuntjara people, also known as the Spinifex people or the Anangu people. "Anangu" means "the people" in Pitjantjatjara. They lived in the Great Victoria Desert long before European settlement in Australia and roamed widely between Yalata and where they are now. There is an interesting story about how they arrived at Tjuntjuntjara but I will not necessarily go into that in great detail. Tjuntjuntjara is about 700 kilometres east of Kalgoorlie. The nearest place with more people in the town is Laverton, which is 460 kilometres away. Tjuntjuntjara is connected to Irrunytju in the north by a dirt track. About 160 people live at Tjuntjuntjara. They speak a southern variety of the Pitjantjatjara language. They identify as belonging to a group of people known as the Pila Nguru, which means from the Spinifex plains; hence the name Spinifex people. Other communities of Pila Nguru people include those from Oak Valley and Yalata, over the border in South Australia. Many years ago I was due to work at Yalata. I went there on behalf of the department only to find I had arrived a year too early and the house had not yet been built! I then moved on to the desert up around the Pilbara.

Tjuntjuntjara is very much connected with South Australia. There is a backwards and forwards interaction through that area. Tjuntjuntjara acts as a service station for many outstations. These outstations are occupied at certain times of the year for hunting and gathering, and ceremonies. The community is governed by a local council. Facilities and services are managed by the Paupiyala Tjarutja Aboriginal Corporation, which is a non-profit organisation in that community. The community has its own health clinic. Of the many communities I have visited over the years, it really is extremely traditional in one sense but also incredibly vibrant. They really have this desire to keep their kids in the community and not let them get away to Kalgoorlie and the evils and the mamu that exists in many of the other centres.

Tjuntjuntjara Remote Community School was opened in 2008. Both the clinic and the school are helped by the federal government. Mail is flown in by plane once a week and a truck delivers food once every two weeks. There is no police station. As far as I am aware, there has never been a need out at Tjuntjuntjara for any police intervention. It is a very good and solid community. As members know, I speak a bit of Pintupi. The language of the Pitjantjatjara people is very similar to Pintupi, Luritja, Warlpiri and Arrente. The central desert languages are like dialects. "Uwa" is "yes" in Pitjantjatjara and in Pintupi. Members will get the inference. It is a really good place for me to go because there is another white fella out there who speaks language and we get on really well and the community really loves interacting with somebody who can speak their language. On a personal level, it is very rewarding to go out there.

The Tjuntjuntjara community is growing. About 40 people lived at Tjuntjuntjara during the 1980s. The 2006 census indicated there were 150 people living there; the 2011 census indicated there were 162 people living in 17 houses. That provides one of the fundamental problems that has been the history of Tjuntjuntjara; that is, it cannot get housing because houses cannot be built in a national park. The excision of this area is really, really important.

I will provide a brief history of the Spinifex people, or the people at Tjuntjuntjara at least. Missionaries started living on the fringes of the Great Victoria Desert in Cundeelee, which is in fact where this mob came from, about two generations ago. Cundeelee Reserve was originally set up in 1939 as a ration depot, principally to draw desert people into that community and away from the Trans Australian rail line. Unfortunately, at that time there was some really bad interaction.

Hon Colin Tincknell: Did they ever have a mission there, like a religious mission?

Hon ROBIN CHAPPLE: Not at Tjuntjuntjara, but they did at Cundeelee. If the member ever goes to Tjuntjuntjara, the people will take him out and show him a truck. The truck had broken down next to the spring at Tjuntjuntjara. The truck is one of those old Second World War square-fronted things. They were trying to get out onto country but that is as far as they got. It is really quite interesting.

By 1952, 130 people had come from the Spinifex homelands into Cundeelee as a result of all of that. Some had come in to obtain food and water, while others were brought in by Cundeelee missionaries and the commonwealth government's native patrol officers. By the early 1960s, many more people had settled in Cundeelee. In many ways it was a difficult place to live. The commonwealth government assumed responsibility for Aboriginal affairs as a result of the 1967 referendum and the transition to a government-funded community began. The biggest

problem at Cundeelee was that there was little or no water. That led many people to start moving away from Cundeelee. Cundeelee still exists. I think it still has one resident. That resident creates some problems in the area but that is another story.

The community was incorporated in 1976 under the name Upurl Upurlila Ngurratja Inc, which is a reference to a sacred rock hole at Cundeelee called Upurl Upurli, named after the Pitjantjatjara name for tadpole, which is interesting. At the time, there were about 250 Spinifex people and 50 Europeans living around Cundeelee. It was a mission area. There was a store, a school, a clinic, a kitchen, an office and some staff houses. Aboriginal people lived to a large degree in bush houses, or what we call humpies, around the settlements. There is still no real housing at Cundeelee, although there are some remnants of houses. Cundeelee was eventually closed due to lack of water in the mid-1980s and people moved to the newly established housing settlement at Coonana. I mentioned previously that somebody remained at Cundeelee; it was actually at Coonana. Coonana is a marginal cattle station. With the exception of a few young people, no-one wanted to go there but there was a lot of pressure to move. The majority wanted to move back into the country but they were kept down in that area to a large degree as a result of the problems at Maralinga and the tests. One of the elders, Yami Lester, who many people know—a blind Aboriginal man, who was actually blinded by the Maralinga tests—became a leader of the Pitjantjatjara people in South Australia. He is still held in very high regard by all of the Pitjantjatjara people. The majority wanted to move back to their country and homelands in the Great Victoria Desert but their wishes were constantly ignored by the federal government. In that regard, the movement of people from Cundeelee back to Spinifex started around 1984, but it was not until the Spinifex traditional owners realised that they would have to return to country on their own with limited government support that the homelands movement gathered. A group of people moved out and camped at Double Pump bore on the Nullarbor Plain. Eventually government support and funding was secured and a bore was established at Yakatunya on the southern edge of Spinifex country. In 1985, a lease of 16 000 hectares was granted over the Yakatunya site, and during 1985–86 the Maralinga Royal Commission into British Nuclear Tests in Australia was conducted and provided the start of some compensation to the Spinifex people.

The Spinifex people put down bores and airstrips at Tjuntjuntjara and Ilkurlka and made a 500-kilometre road from Yakatunya north west through the heart of their country, thereby linking with their kin at Wingellina. It was during this time that they met up with the last family still living nomadically in the desert. A number of people were catching up at that time; they were still out in the desert. When I was out at Papunya back in the early to mid-1970s, we were still meeting people who had had limited year-long contact with wetjala. It was quite interesting that even back then, not that long ago, people were still living in the desert on their own.

By 1989, the Spinifex people had left Yakatunya and settled in Tjuntjuntjara and Ilkurlka. In 1995, the Spinifex people registered a native title claim of over 55 000 square kilometres, or 5.5 million hectares, of Great Victoria Desert. After five years of extensive field work and intensive negotiations with the Western Australian state government, the Federal Court sat near Tjuntjuntjara on 14 November 2000 and granted the Spinifex people a determination of native title. In many regards, this was the largest, strongest and most readily agreed to native title determination because there was an undeniable connection to country. The people had been moved off country because of nuclear testing; it was clear that they had been forcibly removed and went back. The connection was established quite strongly.

Today, the communities of Tjuntjuntjara and Ilkurlka are very successfully run by the Paupiyala Tjarutja and Pila Nguru. Both communities are major cultural centres that are moving towards economic sustainability. Some of the art conducted at Tjuntjuntjara is quite different insomuch as there is a lot of traditional basket weaving and those sorts of things, which is quite unusual because the modern interpretation of Aboriginal culture is in dot paintings, which comes from only one place and that was the school wall at Paupiyala. That was the first dot painting ever.

There are challenges out there. Art is developing, tourism ventures at Ilkurlka are expanding and a civil works operation is running successfully, but they will be enhanced dramatically once this bill passes because housing availability will not be constrained by the Great Victoria Desert environment. There is still the problem of uranyl nitrate out there. A reverse osmosis facility has been put out there, which is working well. But when I visited it for the first time, there was absolutely no due diligence on that facility. When I got there, the thing was damn well leaking. Due diligence testing had not been done on just about every joint. The pumps were corroded by salts. It was very, very poorly constructed. I understand people are on top of it now and it is working quite well, but reverse osmosis is not necessarily suitable for dealing with the problems at Tjuntjuntjara, which are uranyl nitrate, uranium and nitrates in the water. I was very interested in the comments made by Hon Donna Faragher when she referred to clauses 9 and 10 of this bill, because that is quite important and I will come to that in a bit.

The potential of mining out there is quite limited because the area is seven kilometres deep and near Proterozoic sandstone. There is uranium out there, which leached out of the MacDonnell Ranges millions of years ago, but Shell went through there in the 1970s and drilled extensively. There is very little deep artesian water. There is no oil or gas in that area. Therefore, to a large degree, the likelihood of mining ever really occurring in that area is quite remote.

The issue of water generally in the desert remains a significant issue. An article states —

> Dr Christine Jeffries-Stokes released a report in 2013 linking high nitrate levels in drinking water to elevated rates of kidney disease and type 2 diabetes in a number of remote Goldfields communities.
>
> She said she was encouraged to see, after years of research and persistent meetings with Health Minister Roger Cook and Housing Minister Peter Tinley, the Government was "finally taking the issue seriously".
>
> "I increasingly believe the lack of quality drinking water in Tjuntjuntjara and other remote communities is contributing to chronic disease among otherwise healthy people, including children," Dr Jeffries-Stokes said.
>
> As part of the upgrades, all Tjuntjuntjara properties will be connected to a dual water supply fed from the $1.86 million reverse osmosis plant —

That is the one that I have just been talking about, which was put in about a year and a half ago now. It continues —

> The development will double the unit's output from about 20,000 litres per day to 40,000, delivering potable water to homes and processing bore water, which will be directed to toilets.

One of the bores is really high in uranyl nitrate, so we have to shandy it in with some of the other bores to come up with water that is capable of going through the reverse osmosis plant. The article continues —

> "Having the dual water supply back to the houses means the reverse osmosis plant will be maximised to supply good potable water to everywhere …
>
> "It will increase the output of the reverse osmosis unit to take advantage of all the water we've got."

Dr Christine Jeffries-Stokes, and indeed her husband, Geoffrey Stokes, have said that the Tjuntjuntjara community is an important community that has dealt with a number of issues of water and infrastructure in the past, but it is moving forward.

When it comes to the nature of what we are doing with this legislation, I want to diverge slightly. We are taking out of a reserve—in this case, the Great Victoria Desert Nature Reserve—a parcel of land to enable the community to have surety and get the infrastructure it needs. On 21 November this year, I received an email from Clifton Girgirba, the chair of the Parnngurr Aboriginal Corporation, in which he said —

> Martu people in Punmu and Parnngurr want to get these communities out of Karlamilyi national park. We had a big meeting this morning —

That was 20 November —

> with people from Parnngurr and Punmu talking about this. The Government has known that Martu want this since 2007, (when Parliament almost passed an act to give the communities tenure).
>
> Martu in both communities feel very strongly about this. The Government tells them that they can't put any money into building or maintaining houses in these communities because the Martu people don't have any control over the land. That is not Martu people's fault. The houses are old—a lot are twenty years old. There are a lot of things wrong with the houses because they are overcrowded and there has been nobody fixing them for a long time.

Martu know that the Government has fixed up the same problem in Tjuntjuntjarra. Why can't they fix it for Martu?

I bring that message to the house in the debate on this legislation. Clifton Girgirba went on to say —

> It's summer now—it's really hot. The rainy season is coming, when there will be flooding. In winter, it can get really cold.

I can attest and assure members that it is below freezing out in the desert. Clifton continues —

> We need good houses. We can't move away from our country because our people are buried here and because there is land and culture and language here.

I bring that message from the Martu to the chamber in relation to this legislation in the hope that a parallel piece of legislation can be introduced expeditiously into this place to help the Martu people in the same way as we are dealing with this issue in the Reserves (Tjuntjuntjara Community) Bill 2018.

This bill will excise 78 578 hectares from the class A Great Victoria Desert Nature Reserve in the Shire of Menzies and then grant to the Tjuntjuntjara people who occupy the land a perpetual lease over it together with an easement over an existing track within the westernmost part of the nature reserve in order to access it. The excised parcel of land will be described as lot 9 on deposited plan 220992. The purpose of the legislation is to give the community a registrable land interest over lot 9 so they can then seek investment for needed infrastructure such as housing and the expansion of the health clinic. Currently, the granting of a lease for these purposes is inconsistent with the nature reserve's conservation of flora and fauna purpose, hence the need for

the excision. Because the change in tenure is a future act under native title law, that part of the bill will commence on proclamation, not royal assent, to enable the execution and registration of an already drafted Indigenous land use agreement to occur first. Native title is already over the easement area and it is not within the determination area. The tenure changes are not otherwise intended to extinguish or adversely affect native title rights; the parties to the ILUA have agreed that the non-extinguishment principle will apply. If, in the future, the perpetual lease is terminated, lot 9 will become unallocated crown land. Clause 4 of the bill corrects an old error in the technical description of the nature reserve's eastern boundary. This will not affect either the area of the reserve or the determined native title rights and interests.

Hon Donna Faragher mentioned mining, petroleum and geothermal activities. Once lot 9 is excised, the protections that currently apply to it as part of a class A nature reserve under the Mining Act 1978 and the Petroleum and Geothermal Energy Resources Act 1967 will end. Currently, the Mining Act 1978 provides that mining can occur only with the consent of the Minister for Mines and Petroleum, who must consult with and get the concurrence of the responsible minister. In addition, a mining lease, or a general purpose lease, can be granted only if both houses of Parliament pass a resolution consenting to this. Currently, the Petroleum and Geothermal Energy Resources Act 1967 provides that exploration or operations regarding petroleum or geothermal energy resources can occur only with the consent of the Minister for Mines and Petroleum, who can consent subject to conditions and must, before giving consent, consult with the Minister for Environment to obtain his or her recommendation on any conditions that should be included. In place of the current protections, if a mining tenement, petroleum title or a geothermal energy title is granted over lot 9, in addition to the usual requirements under the Mining Act 1978 and the Petroleum and Geothermal Energy Resources Act 1967, for the areas that are not class A nature reserves, the bill requires that written consent of the Minister for Mines and Petroleum be obtained before mining, petroleum or geothermal energy operations can be carried out. Such consent may be conditional or unconditional. Before consenting, the minister must consult with and get recommendations from the Minister for Environment and the head lessee, which is the Pila Nguru Aboriginal Corporation; or, if lot 9 has reverted to unallocated crown land, the Minister for Lands.

There is no requirement that any consent by the Minister for Mines and Petroleum must include conditions reflecting the recommendations of the Minister for Environment or the head lessee, get their concurrence or get Parliament's consent, as is currently the case.

I ask the minister to describe the nature of the consultation process that will apply to consulting with the head lessee, PNAC. I ask the minister to respond to that; or, if not, we can deal with it during the Committee of the Whole House stage. I have no desire to go into committee, but I think it is important for the minister to respond.

Hon Stephen Dawson: I'm happy to give you an explanation of it, but this is a process that is undertaken by the Minister for Mines and Petroleum, not by the Minister for Lands, whose bill this is, or, indeed, me as Minister for Environment. I'll give you as fulsome an answer as I can, on the record, as I reply to you.

Hon ROBIN CHAPPLE: I thank the minister.

If mining or petroleum operations or geothermal energy operations are not carried out in accordance with the consent of the Minister for Mines and Petroleum, the mining tenement may be forfeited or the petroleum or geothermal energy title cancelled. The Department of Mines, Industry Regulation and Safety will place a file notation on the lease in Tengraph—with which I have a long history—to alert proponents and department staff to this new condition for mining tenements or geothermal operations for lot 9. I am very pleased to see that, because Tengraph is the first thing just about anybody who operates in the mining sector uses to find out what conditions are attached to an area of land.

The general manager of the Pila Nguru Aboriginal Corporation, the registered native title body, has confirmed with me that the community supports the bill. It is "ninti", which means clever, and it is "palya", which means good.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [3.37 pm] — in reply: I apologise for my tardiness in the house this afternoon. I thank all members for their contributions. I am very grateful to Hon Donna Faragher, Hon Jacqui Boydell, Hon Colin Tincknell and Hon Robin Chapple for their contributions. Hon Robin Scott, Hon Kyle McGinn, Hon Jacqui Boydell, Hon Ken Baston, Hon Robin Chapple and I share an electorate and the Tjuntjuntjara community is part of that electorate. I have been there a few times. I expect most members have been to the community. If they have not, they should certainly get out to the community. As Hon Robin Chapple explained, it is a great community. The people are fantastic and, if anyone is ever in the business of buying art, the art out there is exceptional. It costs a lot of money, but they are fantastic artists and are world acclaimed. If Hon Robin Scott ever comes across some money, I recommend that he buy a piece of art from the Tjuntjuntjara community.

Hon Donna Faragher: Have you purchased?

Hon STEPHEN DAWSON: Have I purchased? I almost purchased. If I bring any more art home to my house, I will be divorced, Hon Donna Faragher, such is my love of Aboriginal art!

I turn to the contributions to the debate this afternoon. As Hon Donna Faragher pointed out, the commencement date of the legislation will align with the signing of the Indigenous land use agreement. Although it has been agreed in principle, it has not been authorised or executed yet. I guess the government was waiting to find out how the Parliament would receive the legislation. Thankfully, as a result of the support of the house, that authorisation will happen in the next calendar year. That process will start early in the new year. I am advised that the National Native Title Tribunal process will take a few months, but we can certainly get on with it in the new year.

I appreciate Hon Colin Tincknell's comments along the lines of this being a chance to right a wrong. It is certainly a chance to provide an opportunity for the Spinifex people and the people in that community to control their own destinies. As Hon Robin Chapple pointed out, it has been difficult for the community to get funding for a range of services from governments because it is in the middle of the park at the moment. I want to acknowledge that in the past 12 to 18 months there has been movement in the community and some money was so allocated. There were 18 existing houses in the community. As a result of this $8.8 million, four extra houses have been added to the community and all 18 existing houses have been upgraded. The number of bedrooms in that community has gone from about 62 to 87. It is a significant increase—25 per cent—in that community. As the honourable member pointed out, there was significant overcrowding in that community. The houses were old and tired. Although this is a significant increase, there is a lot more work to be done. Because the area is in a park, the community has not been able to access money from the federal government. Once this legislation passes through the Parliament, it will create more opportunities.

I appreciate Hon Robin Chapple's comments about the mineral prospectivity of the area. As the member pointed out, companies have been through there in the past. It is a difficult area to mine. Notwithstanding that, members have asked about the process that will take place. Approvals will not be given without the consent of the Minister for Mines and Petroleum. He or she will consult with me, in my role as Minister for Environment, and also with the Pila Nguru Aboriginal Corporation. We will both be asked for our comments. If a project is approved, certain conditions can be put on it. The way it works with this government is that the Minister for Mines and Petroleum approaches me regularly for my comments on an issue. If I provide comments, they are acknowledged and taken into consideration.

Hon Donna Faragher: It happened under our government too.

Hon STEPHEN DAWSON: I cannot comment.

Hon Donna Faragher interjected.

Hon STEPHEN DAWSON: Yes. Although the legislation does not say that they must be, the common practice is that our comments are taken on board and it is ensured that if we are vehemently opposed to a project, the project does not go ahead or only goes ahead under stringent conditions.

I want to touch on Hon Robin Chapple's comments on Parnngurr and Punmu. The Minister for Aboriginal Affairs and I have been to Karlamilyi in the last 12 months. The community there very generously let us swag and looked after us for a night. Some work is certainly happening across government now in relation to potential excision to Karlamilyi. As the member pointed out, some legislation was in the Parliament in 2007. It did not get assented to before Parliament was prorogued, so it lapsed. There is some work happening in relation to Karlamilyi at the moment and I look forward to the honourable member's support when the matter comes to this place at a later date for consideration.

In relation to the process that the Minister for Mines and Petroleum will undertake and the consultation or how it might interact with the Pila Nguru Aboriginal Corporation, when the applicant for or holder of a mining tenement affected by the Tjuntjuntjara community lease requests access to the lease either before or after grant, the Department of Mines, Industry Regulation and Safety will undertake a referral process as prescribed in clause 9(5) of the Reserves (Tjuntjuntjara Community) Bill 2018 and seek the recommendations of the Minister for Environment and of the person or persons holding the Tjuntjuntjara community lease, or the recommendation of the Minister for Lands if the Tjuntjuntjara community lease is on unallocated crown land. Following receipt of the recommendations, the Minister for Mines and Petroleum may refuse to give his consent or may give consent subject to such terms and conditions as are specified in the consent. The process that the department may undertake is being worked out at present, honourable member. As the minister representing the Minister for Lands and as Minister for Environment, I am not aware of the specifics of it.

Hon Robin Chapple: Are you aware of what structure that might take? Will there be a regulation?

Hon STEPHEN DAWSON: I do not believe regulations are needed, so, no, it will not happen through regulation, but certainly there is a commitment from this government to make sure that we properly consult with traditional owners. In this case, it will be with the registered body. It is a hypothetical in one sense because, as the honourable member quite rightly pointed out, the prospectivity of this area is low. However, a proper process will be undertaken by the Minister for Mines and Petroleum if such a proposal is ever received in the future. Certainly, I am not aware of any that may well come forward.

Hon Robin Chapple: You may not be able to answer the question, but once it becomes vacant crown land, it is available to be pegged as a tenement. Will there be any review—again, you might not be able to answer this—of the application to peg? Normally with mining, an application is put in, and it is then granted and agreed to. There is a process. I am wondering whether there will be some involvement at that very early stage when somebody puts in an application and the mines department might have a chat.

Hon STEPHEN DAWSON: My understanding is that once this bill passes, this area of land will be tagged.

Hon Robin Chapple: It's flagged on DMIRS.

Hon STEPHEN DAWSON: It is flagged on the DMIRS system and, essentially, an approval will not be given, so it cannot go ahead unless this process is undertaken; that is, the Minister for Mines and Petroleum has to give consent and he will go through the process that I explained earlier. He will go to me, as Minister for Environment, to the person or persons holding a lease in the community and/or to the Minister for Lands if it is unallocated crown land. That process will happen, but it will be flagged on the system first of all upon the passing of this bill, and then a process will take place. I am very happy to take on board the member's question about that consultation process directly with PNAC, but I do not think it needs to delay the bill this afternoon. I will provide the information to the member and the house at a future date once the Minister for Mines and Petroleum has had a chance to consider it.

Hon Robin Chapple: Thank you.

Hon STEPHEN DAWSON: I really appreciate the contributions made this afternoon. This is one of those pieces of legislation that I am actually very proud to be bringing to this place. It will make a big difference to the community of Tjuntjuntjara over the years ahead. With those words, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Environment)**, and passed.

GAMING AND WAGERING LEGISLATION AMENDMENT BILL 2018

Second Reading

Resumed from 30 October.

HON COLIN HOLT (South West) [3.49 pm]: I rise on behalf of the Nationals to make a contribution to the debate on the Gaming and Wagering Legislation Amendment Bill 2018. I will use the second reading speech that was tabled by the Minister for Regional Development as a bit of a guide to my contribution today. A lot of what is contained in this bill has been talked about for quite a while. I remember that when I was Minister for Racing and Gaming, our government was looking at bringing in legislation to deal with some of these issues. Unfortunately, in my view that legislation did not get the priority from the former government that it should have been given and never made it to the floor of this Parliament. However, a number of the amendments that are proposed in this bill have been on the cards for quite a while, so we certainly support those. The bill also contains some new ideas that need explanation and exploration. That is mainly to do with the banning of events or products by the Gaming and Wagering Commission of Western Australia.

I was interested the other day to hear a news grab from Premier McGowan, I assume as he came out of a cabinet meeting. He was asked about his legislative priorities for the remainder of the year, and he said words to the effect that the government wanted to take care of racing. The government has done that with the changes to the point-of-consumption tax that we passed earlier today. The Premier said also that the government wanted to take care of Lottoland. I am not sure what piece of legislation is before this house to deal with Lottoland—this is probably the only one. The second reading speech states —

> The federal Parliament recently amended the Interactive Gambling Act 2001 to prevent betting on the outcome or a contingency of Australian and overseas lottery draws.

We could probably call that the Lottoland clause. The federal government has already taken care of that. Therefore, I am not sure what the Premier was talking about when he said that the government wanted to take care of Lottoland.

Hon Alannah MacTiernan: When was that, member?

Hon COLIN HOLT: He spoke about that on Monday a week ago.

Hon Alannah MacTiernan: When did the federal government pass that provision?

Hon COLIN HOLT: That is a good question. It would have been midyear—six months ago. I believe it comes into effect on 9 January. There were some delays in bringing that about, perhaps because of the transition from people playing Lottoland to not being able to play Lottoland and recovering debts.

Hon Darren West: Heaven help us if we had to rely on the federal government!

Hon COLIN HOLT: I thought the member would celebrate that, because that is actually a good thing. That is what his government wants to achieve—except that the federal government has already done it for it. Therefore, I am not sure what the Premier was talking about. I notice on supplementary notice paper 93 a proposed amendment by Hon Aaron Stonehouse to postpone the implementation of the regulations to no earlier than 10 January. Perhaps there is some sort of interaction between this bill and the proposed changes to the Interactive Gambling Act, and that is not going quickly enough for the state government, so it wants to prohibit Lottoland or gambling on overseas lotteries. Therefore, either the Premier was mistaken when he said that the government wants to take care of Lottoland or the government wants to move to ban Lottoland before the federal ban comes into operation on 9 January. That needs to be addressed in the minister's reply.

The minister said also in her second reading speech —

> To complement the approach of the commonwealth and enable an immediate response to future undesirable betting products entering the public domain, the bill will amend the Betting Control Act 1954 by making provision for the Gaming and Wagering Commission to prescribe prohibited events and contingencies that can be bet on. … This provision futureproofs our state against undesirable products or wagering activities so that these can be managed more easily in the future, without the need to amend legislation.

Given that this bill gives the government some regulation-making abilities, we probably need some idea of what those undesirable products and wagering activities could be. I know that that is very difficult, because we do not know what they are, but it is a pretty broad provision-making ability. It would be useful if the minister could give an indication of why the government thinks it needs that.

I also wonder whether any other jurisdiction has taken this approach. Are we the only state that is giving a regulator the ability to ban an undesirable product or wagering activity? It is important for us to know whether we are doing this by ourselves and how this will interact with other jurisdictions, especially when we get to the fines that will be incurred, which are pretty hefty. When we think about what could be banned, we also need to consider how the fines will be applied. I understand that the Gaming and Wagering Commission will identify undesirable events, wagering products and wagering activities. Will there be any ministerial oversight of that? Will it operate completely independent of a ministerial decision?

Hon Alannah MacTiernan: In terms of the regulation of prescribing? We will talk about it. My understanding is that a normal regulation is required to be signed by a minister.

Hon COLIN HOLT: Sure. I am getting it on the record so that we get it clear. I am posing questions to which the minister can respond in her second reading reply.

The second reading speech referred to the fines that could be imposed. If a person bets on a prohibited event or contingency, it may attract a fine of up to $2 500, while the penalty for a person who offers such betting is a fine of $5 000 and one year imprisonment. There are hefty fines in this bill. I would like to know how that will work. It might be better to ask these questions in committee, but I am happy to listen to the minister's reply. Will proof that someone has placed a bet on an undesirable wagering activity or product be a paper slip that someone got when they visited Sydney and bet on an event that New South Wales has not banned? They may have the betting slip in their pocket when they come home. Even though we have banned that undesirable activity or product, New South Wales has not. They may have an app to play. An example would be Lottoland. I assume that people can still download the Lottoland app and play it until 9 January. After that date, if it is an undesirable product that has been banned, is an app with some data on it good enough proof? What happens if a person places a bet on that app when they are in New South Wales or overseas? They could place a bet on a UK lottery or an event that is banned in Western Australia. If they have a paper slip or data on their app, will they be fined in Western Australia for doing something that they thought was legal when they were in another jurisdiction? There are some questions around that.

If Western Australia is the only jurisdiction that has this approach and bans an undesirable product in Western Australia, will there be any potential constitutional issues across jurisdictions? Could some group, organisation or company that offers one of those products that is banned in Western Australia but is not banned in any other state have a case, on constitutional grounds, concerning restrictions on trade or whatever it might be? Will there be any transitional arrangements during the period that the Gaming and Wagering Commission moves to ban undesirable products? The state government and regulators will have to play a bit of catch-up with legislation like the Gaming and Wagering Legislation Amendment Bill 2018. For example, a new wagering product may come on the market, and after people have played it, issues may be recognised by the Gaming and Wagering Commission and the government may move new regulations to ban it. What will the transitional arrangements be? Regulations cannot be imposed in any other way but catch-up. If people buy a ticket or wager some money and that product is then banned, how will those people recover their money or get a payout?

I will move on to some of the other provisions of the bill. We are currently out of step with other jurisdictions on the treatment of betbacks and the betting exchange under the racing bets levy scheme. The calculation of racing bet levies will also change; we think that is sensible and agree with those provisions. The bill will also amend the definition of "turnover". The bill states that "turnover" means —

> in relation to a betting exchange — the net winnings of racing bets placed with the betting exchange.

That change has been requested for a number of years, and we support it.

The second reading speech states —

> The Gaming and Wagering Commission of Western Australia has the legislative ability to prohibit Racing and Wagering Western Australia from establishing or operating a TAB agency where the commission considers it detrimental to the public interest. However, no equivalent legislative provisions exist for the commission to prevent licensed operators in other jurisdictions from establishing facilities …

That makes complete sense. I am not sure why we have not had that before now. It will protect our Western Australian TAB. Things are already bad enough, given mobile phones, apps and personal devices, and this will prohibit betting agencies setting up some sort of retail face to the industry in WA. That is obviously a good idea that can only be good for the potential sale of the WA TAB, because some of its value is the exclusivity of its retail outlets. We need to protect that, so that provision gets our support.

Has another operator ever set up a TAB-style agency in Western Australia? From my memory of the briefing, it has not. That is good. With the advent of the internet and personal devices, it could take other forms. I am interested to know whether that change was prompted because it has happened before in Western Australia.

The second reading speech states —

> … the bill will amend the Gaming and Wagering Commission Act 1987 to enable regulations to be prescribed prohibiting live betting odds being broadcast during sporting events at prescribed sporting arenas and stadiums.

Can the minister provide some examples of the form that is likely to take and the sorts of venues it will cover? Will advertisements on the big screen at Optus Stadium for betting with Ladbrokes on, let us say, the West Coast Eagles winning at $1.65 be prohibited, or will it take another form? How will that advertising be kept track of? Could it take another form such as, "Visit Ladbrokes right at this moment for the best live sport betting odds for the West Coast Eagles to win"? How do we discern between those in the regulations? If the government will put this sort of stuff in regulations, which is a sensible idea, how will it manage to keep track of all the potential venues and what they are doing with live odds advertising at all those venues? Even though the government can ban advertising, we know that the Asian punting market is very clever and bets on smaller events nowadays. It will target smaller venues. How will the policing occur to ensure that this regulation is adhered to, or will it just pertain to some of the larger venues and sporting codes? They are interesting questions that need to be answered.

This bill also removes the prohibition on raffles conducted in other states and territories being offered in Western Australia. Again, this has been on the cards for many a long year, and it is good to see the bill address this. It will be interesting to see whether there are any safeguards around what a national charity or sports organisation charity is, and is there a national register? Are there any loopholes that can occur in which a charitable organisation based in, say, Sydney will not have to go through the hoops to establish a raffle in Western Australia but through this provision can do it in the state? Is there any way of checking the legitimacy of some of those interstate raffles that want to sell their tickets in Western Australia?

We support the bill. There are some questions to answer about how it might operate, the severity of the fines, how they were arrived at and how they are going to be enforced. We need to spell out for and warn the people of Western Australia how these laws will operate in the future so they can be prepared to deal with prohibited events into the future.

HON DR STEVE THOMAS (South West) [4.07 pm]: I am looking forward to a fairly small contribution to the debate on the Gaming and Wagering Legislation Amendment Bill 2018, given that we had a fairly extensive general discussion about gambling in the debate on the Betting Tax Bill 2018. There are a few little issues that I would like to raise. I am not the lead speaker for the Liberal opposition. I am sure Hon Tjorn Sibma will have much to say, because we still have a bet on who can speak the longest on their particular bill. In fact, I am thinking about running odds, honourable members, on how long we can make this particular bill last. It is a three to one ratio I will get to Thursday lunchtime, if possible!

Hon Sue Ellery: Give it your best shot.

Hon Dr STEVE THOMAS: It is possibly a five to one ratio, given the expression of the Leader of the House. We might talk a little later about the things that are appropriate to bet on.

The Gaming and Wagering Legislation Amendment Bill 2018, which I guess is rather separate but overlaps a little with the taxation bill, more specifically outlines the capacity of the government to make a provision to prescribe prohibited gambling effectively. It will identify those things that it thinks is inappropriate. Obviously, the discussion has largely been around Lottoland, which is effectively banned anyway based on national legislation; however, it raises the potential discussion about some of those other products that might be identified by government, as other members have identified in both this house and the other one. I use the example of artificial electronic racehorse racing. Effectively, should we prevent people from engaging in gambling on an electronic race that occurs on a television screen in an appropriate venue? I have been around the racing industry—those genuine animals with four legs that move fairly fast—for many years. It is not an easy process to select and make an appropriate bet on a racehorse. Members have to remember that the genetic capacity of a racehorse—its inheritance of running fast—is very low. From memory, there is only a 10 to 20 per cent chance that a horse bred from a fast-running racehorse will itself be a fast-running racehorse in the next generation. It is a complicated process; it is not all that easy. We had this old rule of thumb that one in 10 racehorses that were bred would start, and one in 10 of those might potentially win a race, so the chances of winning a race were about one in 100. It is an old rule of thumb that we always had in place. Although it is difficult to judge a horse's running ability, to me that makes gambling on a racehorse a bit of an art, because there are so many factors to take into account. When that is done in an electronic form on a television screen, I have some questions about how that becomes an art form. I would personally be very nervous about any significant gambling that effectively relies on a computer program to dictate a winner. I do not know how that works. We are relying on an 18-year-old computer expert, programming anywhere in the world and putting it into a machine. Do they randomise which horse wins? Do they have a set pattern? I do not know. It is hard enough to trust a racehorse and a jockey sometimes. I have known the occasional jockey to jump off at an inappropriate moment, over many years.

Hon Alannah MacTiernan: What do you think happens with pokies?

Hon Dr STEVE THOMAS: It is a similar process, and I am getting to that, minister—you are absolutely right. My question is why people would gamble under those circumstances. It has been put to me that it is a mild and gentle amusement to keep people occupied between other events, and that might be the case. I am reminded of those sideshow games, where the kids shoot water into a fountain and either a racehorse or a monkey climbs up a post or something. I am reminded of that constantly, and I wonder whether that is really the way we want to progress with gambling. It is probably not. I certainly would not engage in it myself, but I do not necessarily think that that is a reason to ban it.

We are back to this age-old question of whether we protect people from themselves. That is the process that I think we find ourselves in. I would think that people were simply going out there for a bit of mild amusement, taking the odd gamble, as people have often done—walking into a hotel with a Pub TAB and collecting one of those mystery bets, for example. It is a bit of amusement to keep oneself occupied. Maybe the electronic racehorse looks a little bit like that. I would be pretty nervous about it, but I do not think that necessarily means I would want to ban the things. There is a bit of caveat emptor here. People getting involved in that sort of thing need to be aware of the process.

The minister mentioned poker machines, and she is absolutely right. I would expect this type of electronic gambling to look very much like poker machines. As we said previously, poker machines work on a purely mathematical basis. A poker machine is pre-programmed to return a certain proportion of the money it accepts in rewards, to keep people coming in, but it will make sure that the house receives its proportion of all turnover. It is simple mathematics that the house can never lose. The only thing that could happen to the house is that, if the throughput is lower, the house makes less. It is purely based on throughput. If $1 million goes through a machine, and the machine is programmed to take in 10 per cent for the house, the house is making $100 000 out of that process. Whether it is $200 000 out of $2 million or $50 000 out of $500 000, the number does not vary that much; it is a pretty simple process. That becomes the risk. With poker machines, it is purely mathematics. I would assume the gambling involved with electronic horseraces would be a very similar process.

The question will be: which of the things in that process are in and which are out? The threat within the bill is that it does not necessarily prescribe which of those things are in and out. It allows the government to legislate and regulate eventually to prescribe things. I do not see a natural alternative to that. I cannot see us coming before the Parliament every few months for the next and latest invention of something that somebody wants to gamble on. The problem with that is that given the explosion of things that people gamble on, it would mean that we would be here all the time. It is a bit like the tax laws. Every time the federal government tightens tax laws, somebody comes up with an alternative way of getting around them. I think we would be in the same situation. I think that we are stuck with the current proposal; that is, as things come up, the government has to have the capacity, the provision through regulation, to prevent something from happening. I do not object to that process; I just ask that it is a fairly sensible and open process.

We have got to the stage these days that people will gamble on almost anything. I note that sports gambling has taken off. The bill to tax sports gambling that has passed through the house is a welcome step. The advertisements that occur during live sporting shows certainly annoy the blazes out of me; I know other people feel the same. Parts of this bill seek to address that particular proposal. I note that it is common now to get odds on not only sporting events, but also political events. People can get odds on election outcomes. Eventually we will able to get the odds on a seat-by-seat basis. I wonder where that will end? We might be running odds on the make-up of cabinet, for example. I note that a reshuffle is in the offing and that the odds of Hon Darren West leaping to cabinet at the moment would probably be 400 or 500 to one—but that might be rising.

Hon Simon O'Brien: I'm barracking for him.

Hon Dr STEVE THOMAS: If we had the capacity, we might put some money on Hon Darren West. We might get odds-on up or down. We will have to see how that pans out. We might get odds potentially on some of the clumsier ministers falling out. Hon Fran Logan has had a difficult couple of weeks.

Hon Simon O'Brien: Odds-on; look on—that's the rule.

Hon Dr STEVE THOMAS: Yes.

Hon Darren West: How about the odds that the opposition may lay a glove on a government minister?

Hon Dr STEVE THOMAS: I think that the member would lose his money. Hon Darren West would want to put fairly careful odds on that.

Several members interjected.

The ACTING PRESIDENT (Hon Martin Aldridge): Order, members! Let us just return to the bill.

Hon Dr STEVE THOMAS: Thank you, Mr Acting President. I think the odds of Hon Darren West rising to ministerial material just lengthened out to 1 000 to one, and it is increasing.

Hon Alannah MacTiernan: Not at all. He is a great parliamentary speaker.

Hon Dr STEVE THOMAS: It may require the incumbent Minister for Regional Development to trip and break a cannon bone or something to shorten the odds for him to get a closer run. He may have to rely on a scratching, as it were, to get up. We are not expecting a photo finish.

Hon Simon O'Brien: No. There have been ministers from Albany before.

Hon Dr STEVE THOMAS: Hon Simon O'Brien is quite right. There have been ministers from Albany before. I have known them well.

Hon Tjorn Sibma: They may get another very soon.

Hon Dr STEVE THOMAS: Am I hearing somebody offering odds—that might be the question—and would that be legitimate?

We have digressed a little, but let us return to the substance of the bill. I would like to raise a couple of issues. In the second reading speech, the minister referred to the calculating of the racing bets levy and particularly referenced betback. The speech states —

> … placed by the wagering operator are treated as two separate transactions. To establish consistency for wagering operators throughout the country so only the value of the customer's original bet is considered, the bill will amend the Betting Control Act 1954 so that any betback placed by a wagering operator with another wagering operator to offset their liability is deducted from their total amount of racing bets received.

Apparently this is a long overdue amendment for wagering operators. The issue is that we have just passed the Betting Tax Assessment Bill 2018. In that bill, it is referred to differently—it is called a lay-off bet. Members might remember that early this afternoon we referred to a lay-off bet in the Betting Tax Assessment Bill as "a bet placed with a betting operator, if the bet is placed for the purpose of reducing the liability of another betting operator". That sounds remarkably similar to what is referred to in this bill as a "bet back". It gets a little confusing. What seems to be the same thing is treated differently in the two bills and I am a little interested to know why. In the Betting Tax Assessment Bill, it does not really matter whether it is a lay-off bet—which is effectively an insurance policy for the wagering organisation—it is still treated as a normal bet for the purposes of the assessment of betting revenue and therefore to pay the betting tax. In the Gaming and Wagering Legislation Amendment Bill 2018, it states quite specifically that a betback, which is effectively the same thing, placed by a wagering operator with another operator to offset the liability is deducted from the total amount of racing bets received for the assessment of the racing bets levy. I am not sure why it is treated in different ways in two different bills—coincidentally, both of which we are debating on the same day in the Legislative Council. I would be interested to know why there is a difference between those particular areas. I think that will be interesting.

The other thing I want to refer to is the ability in the bill to enable regulations to be prescribed prohibiting live betting odds being broadcast during sporting events. I am a little interested to know how universal they might be and how universally they might be applied. Betting updates are often seen in the eastern states. They have been precluded in most states now. If members watch a variety of football games, odds are broadcast at the beginning of the game. We used to get an updated set of odds halfway through the game and three-quarters of the way through the game. We saw the advertising that said, "If your team is behind at three-quarter time and you pull out, you'll get your money back or you can get back the equivalent in betting dollars." It is a very complicated industry now that is designed to attract people. I am a little interested to know how universal the plan is to address those advertising issues, particularly during sporting events.

Obviously, horseracing is an exception. We do not see a lot of horseracing on mainstream television and free-to-air television anyway, to be honest. There is a little bit on a racing channel now, as digital television came along. Those are just a few questions that I have some interest in. I would love to see what odds we can get on various bets coming up, particularly political ones.

Hon Alannah MacTiernan: What would you give the federal government's chances at the next election?

Hon Dr STEVE THOMAS: The horse has not bolted completely, minister! There is still an opportunity for the opposition to falter. That is not a 100 to one bet. I have not looked it up; the minister could probably look it up on her laptop. She would probably find it is in the order of somewhere between five to one and 10 to one. It might be a bit further out at the moment.

Hon Alannah MacTiernan: Would you have a view on the seat of Warringah?

Hon Dr STEVE THOMAS: That will be interesting. I have not looked at the odds of that one either. I will be more interested in what happens locally. We will get back to some of the local levels. I think it is long odds that we will see a change and an upgrade in the parliamentary secretary to the Minister for Regional Development. It might be a long smoky at the moment for people to invest in! I am interested to see what odds we can get on a change of Premier before the next election. There are a couple of interesting horses in the race. I might put a long bet on Hon Roger Cook or Hon Ben Wyatt to mount a late charge to become Premier of this state in the lead-up to the next election. I think we would probably get some reasonable odds on that. It is very hard to tell. I will not put a bet on Hon Fran Logan because I think the odds on that longer term future would be very low. We are looking for the outsiders; we are looking for the backbench people to make a stand and to step up. We might get 100 to one on a fast-rising star of the Labor backbench. That might give us a reasonable bet, but for the time being, I suspect, we have been through the most obvious bets. Each gambling outlet will make sure that it does not lose money in the process. With those simple words, I am sure that Hon Tjorn Sibma will have a lot more detail on the opposition's position on the bill.

HON TJORN SIBMA (North Metropolitan) [4.25 pm]: From the outset, I thank the members who have made contributions to the debate on the Racing and Wagering Legislation Amendment Bill 2018. I am the lead speaker for the Liberal opposition and I happily declare that we support the bill.

Hon Alannah MacTiernan: You're not now going to argue it for four hours.

Hon TJORN SIBMA: No, but I will take these joyful interjections to encourage me to offer my felicitations to every member here as we quickly draw our business this year to a close and enjoy what I hope for everyone is a long, happy, relaxing and safe Christmas and joyful New Year.

I return to the substance of the bill. In part, this is an omnibus bill. It offers a range of sensible and non-controversial amendments to two pieces of legislation that will benefit the industry, which I will go into briefly later on. However, there is also the threat of so-called synthetic lotteries around this bill. Claims have been made about the danger of these kinds of betting and wagering products and, indeed, claims have been made about the threat to the Lotterywest business model. I think in large part many of these claims are exaggerated. The so-called threat to Lotterywest has been cited as the principal justification for the expansion of the Gaming and Wagering Commission of Western Australia's power to prohibit wagering on what is described as an undesirable offence or contingencies, which is a very, very broad category, and one on which I will seek further detail to determine what is planned. There is also the issue of the necessity for the creation of a head of power, bearing in mind that earlier this year, federal Parliament passed amendments to the Interactive Gambling Act, which has already effectively prohibited companies, such as Lottoland, from offering wagering products that offer odds on the outcomes of lotteries both overseas and in Australia. That law is a significant one and it comes into operation, I think, on 9 January next year. Having read some of the rhetoric around this bill, the claim is that this bill will complement commonwealth legislation. I do not think that the case has been adequately made to substantiate that claim. When I consider the timing of the drafting of these regulations that will flow from the head of power and their implementation, I am concerned that it might complicate an already complicated regulatory environment. I will seek further details about the government's plans about when it will be in a position to provide exposure to the draft regulations and the time line it anticipates to give them effect.

When discussing issues such as gambling, it is very easy to fall between the cracks of our own moral rhetoric. In this bill lip-service is paid to what we call at-risk or problem gamblers. It is the kind of claim that I think fairly invites some scrutiny when we consider and reflect on the contributions made by previous speakers about the government's plans to introduce a new synthetic racing product called Trackside, which is effectively there to bolster the sale price of the TAB. I understand that the minister has ruled out that this head of power that is being created will give effect to regulations that will prohibit Trackside. I think it is important that all members of this chamber have a very clear understanding of the schema that would drive determinations about what a desirable gaming and wagering product is and what an undesirable one is. From where I sit, there seems to be a very arbitrary demarcation. I can accept that, but only without the moral grandstanding that goes on around talking about harm minimisation. Frankly, to extend the analogy, we cannot have a bet both ways on desirable and undesirable gaming and wagering products. The happy coincidence is that the desirable one bolsters the sale price of a government-owned asset and anything that might undercut that or compete with that is rendered undesirable. I think the government invites all kinds of claims and actions being taken when something is so gratuitously and obviously arbitrary.

Debate interrupted, pursuant to standing orders.

[Continued on page 9088.]

QUESTIONS WITHOUT NOTICE

CHRISTMAS RETAIL TRADING HOURS

1279. Hon PETER COLLIER to the minister representing the Minister for Commerce and Industrial Relations:

I refer to the minister's decision under the Retail Trading Hours Act to allow only 34 hours of additional trading over the Christmas period.

(1) Did the minister receive submissions from interested parties prior to making the decision?

(2) If yes to (1), how many submissions did the minister receive and will the minister table those submissions; and, if not, why not?

(3) On what basis did the minister make the decision to extend retail trading for the Christmas period by only 34 hours, which is a reduction on previous years?

(4) Why did the minister not use his powers under the act to extend trading for the full 28-day period prior to New Year's Day?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Commerce and Industrial Relations has provided the following information.

(1) Yes, the minister did.

(2) Eight submissions were received. The minister has requested this information and will endeavour to table the submissions on the next sitting day.

(3) The minister gave consideration to the views expressed by stakeholders on this issue, the interests of the retail sector employees and consumer shopping patterns early in the Christmas trading period.

(4) It was for the reasons identified in (3).

MINISTER FOR WATER — PORTFOLIOS — FEES AND CHARGES — REVIEWS

1280. Hon PETER COLLIER to the minister representing the Minister for Water:

I refer to the answer to question on notice 4190, answered in the Legislative Assembly on 27 November 2018, which states that the Water Corporation's cost reflectivity for a business as a whole is 97 per cent.

(1) What is the Water Corporation's level of cost recovery for metropolitan residential wastewater and sewerage?

(2) What is the Water Corporation's level of cost recovery for metropolitan residential water supply?

(3) What is the Water Corporation's level of cost recovery for metropolitan residential drainage?

(4) What is the weighted average cost of capital used by the Water Corporation to determine the level of cost recovery?

(5) Based on the water price increases in the budget, in what year will the Water Corporation exceed 100 per cent cost reflectivity for a business as a whole?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Water has provided the following answer.

The Water Corporation does not calculate cost reflectivity per cent by customer type, only by line of business. The following responses therefore reflect cost reflectivity by total metropolitan line of business.

(1)–(3) I table the attached information.

[See paper 2287.]

(4) It is 7.2 per cent nominal before tax.

(5) In the 2018 state budget, 100 per cent cost reflectivity will be achieved by 2021–22.

INSURANCE COMMISSION OF WESTERN AUSTRALIA — BELL GROUP LIQUIDATIONS

1281. Hon MICHAEL MISCHIN to the minister representing the Treasurer:

I refer to the Insurance Commission of Western Australia's engagement of former Chief Justice Hon Wayne Martin, QC, to "support the Insurance Commission in its endeavours to seek an end to the Bell Group liquidations".

(1) What precisely is Hon Wayne Martin's brief and what are the terms of his engagement?

(2) How did that appointment come about, who made the decision to engage him and when?

(3) What is his remuneration package?

(4) What is the legal work, advice or assistance for which he has been engaged by the commission?

(5) Was the Treasurer consulted about the appointment; and, if so, when and by whom?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) To assist the Insurance Commission of WA to pursue its interests in the Bell Group liquidations, Mr Martin has been engaged by the Insurance Commission as a strategic consultant to provide strategic advice on the conduct and resolution the Bell litigation.

(2) The Insurance Commission approached a number of senior lawyers to assist it in dealing with Bell Group–related matters. The process to approach and interview senior lawyers commenced in July 2018 and concluded with the engagement of Mr Martin and Mr Carson on 29 October 2018.

(3) It is $10 000 per day, exclusive of GST, for one day a week for two years.

(4) Mr Martin has been engaged by the Insurance Commission as a strategic consultant to provide strategic advice on the conduct resolution of the Bell litigation. The consultant will not be providing legal advice.

(5) The Insurance Commission advised the Treasurer about the appointment in a briefing note on 13 November 2018.

DEPARTMENT OF EDUCATION — SCHOOL VIOLENCE

1282. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the minister's press statement released on Sunday, 2 December, titled "Schools to take a stand against violence" and the accompanying minister's statement on school violence.

(1) (a) Has the government allocated any funding to deliver this initiative, particularly those action items that will require additional resourcing, and what is the allocated funding and is this new funding or a reallocation of funds from the department's current budget; and

(b) if not, why not?

(2) With respect to "Action 3—New alternative learning settings for the most violent students" —

(a) where will the pilot programs be trialled; and

(b) what additional funds are being provided for this specific action?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) (a) The action plan will initially be funded within the Department of Education's existing budget, with an estimated cost of approximately $3 million in 2019.

(b) Not applicable.

(2) (a) The pilot programs will be trialled in the north metropolitan education region, the south metropolitan education region and the south west education region. The details of the pilot programs are being finalised.

(b) I have announced a trial of alternative learning settings. This will be funded within the Department of Education's existing budget. Future funding will be determined at the completion of the trial.

CHILD PROTECTION — CHILD SEXUAL ABUSE — ROEBOURNE

1283. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the revelations during the annual report hearings on 14 November 2018 that it was the expectation of the Department of Communities that some of the six known perpetrators identified in Operation Fledermaus are attending the same school as their victims.

(1) What were the last three dates when the Minister for Child Protection received any briefing documents about this issue?

(2) Will the minister table those documents?

(3) If no to (2), will the minister undertake to comply with section 82 of the Financial Management Act 2006?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1)–(2) The minister received a briefing note in August 2017 in relation to some of the six known perpetrators identified in Operation Fledermaus attending the same school as their victims. This document was provided as part of the questions prior to the 2017–18 annual report hearings. I will table the briefing note. As has been stated on numerous occasions, the minister has been regularly briefed in relation to Operation Fledermaus and more recently on the Pilbara joint response team.

[See paper 2288.]

(3) Not applicable.

WATER RESOURCE ASSESSMENT — FITZROY CATCHMENT

1284. Hon JACQUI BOYDELL to the Minister for Regional Development:

I refer to the "Water resource assessment for the Fitzroy catchment", a report to the Australian government from the CSIRO on the northern Australia water resource assessment.

(1) Does the government support the recommendations of the report?

(2) Will the minister outline the state government's position on to the development of the Fitzroy catchment area?

(3) Will the minister outline what measures are in place to support interested investors in the region?

(4) How are state and federal governments collaborating to ensure the successful implementation of the ideas outlined in (1)?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) The work of the CSIRO was very valuable. It mapped water availability and suitable soil types and correlated the two. That they identified areas that would be suitable for horticultural development does not mean that it was arguing that all those areas should be developed. Its task was simply to identify those regions that were suitable. We are looking at the recommendations of the report. We accept the underlying science, but other issues need to be taken into account.

(2) We have confirmed our position that we will not allow the Fitzroy River or its tributaries to be dammed. We support sustainable development in the Fitzroy catchment. Irrigated agriculture will be part of this development matrix and, although the CSIRO report identifies the potential land and water available for irrigated agriculture, development is likely to be on a smaller incremental scale.

(3) The government has committed to the development of a water allocation plan and a management plan for the Fitzroy catchment, both of which are critical to support investor confidence in the catchment while protecting the region's environmental values.

(4) The state and federal governments continue to work closely on the management of the Fitzroy River. Data from the federal government–funded CSIRO assessment will be critical to the development of the water allocation plan. The management plan will also interact with the federal government's National Heritage List to ensure clarity for development approvals and also the protections of the region's environmental and cultural values.

TAB — PRIVATISATION

1285. Hon COLIN HOLT to the minister representing the Treasurer:

The government has made an offer to WA TAB agents of up to $100 000 if the acquirer of the WA TAB licence decides to close down an agency due to network requirements.

(1) How will this offer apply and how will it be decided which agencies receive the $100 000 or a lesser sum?

(2) Have WA TAB agents indicated that this is acceptable; and, if yes, which individuals or organisations have endorsed this offer?

(3) What set of parameters will be used to determine which agencies will be closed, or will it be at the acquirers discretion?

(4) How will this offer affect existing TAB agent contracts, which currently offer higher buyback sums?

(5) What is the government doing to assist the 25 TAB agencies that have been identified by Racing and Wagering Western Australia as at risk of becoming "low turnover" during the first five years of private ownership?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) A buyer of the TAB will be required to make termination payments of 50 per cent of gross annual commission up to $100 000 per agency for any service level 1 assignable business licence agency contracts it terminates upon a review of network requirements within three years of the sale.

(2) The government is continuing to engage with the WA TAB Agents' Association as part of the sale preparation process ahead of the sale occurring.

(3) The overall management of the TAB agency network will be the responsibility of the incoming wagering licence holder, subject to regulatory oversight by the Gaming and Wagering Commission.

(4) TAB agents who are subject to the connect contract will have their existing contractual rights preserved through the sale process.

(5) Racing and Wagering Western Australia's assessment of the number of agencies that may be at risk of becoming "low turnover" applies irrespective of the sale occurring. Should a sale not proceed, it will be RWWA's responsibility to manage the TAB agency network commercially and in the best interests of the racing industry. Once a sale occurs, it will become the incoming wagering licence holder's responsibility to manage the TAB agency network commercially and in accordance with its contractual agreement with the racing industry. The reform package announced on 9 October 2018 is expected to put the TAB in a stronger position going forward and thereby ensure the long-term sustainability of the local racing industry.

MINING TENEMENT APPLICATIONS — KALGOORLIE REGISTRY

1286. Hon ROBIN SCOTT to the minister representing the Minister for Mines and Petroleum:

(1) How many tenement applications are awaiting grant at the Kalgoorlie registry?

(2) What is the time required to grant a prospecting licence or exploration licence or mining lease at the Department of Mines, Industry Regulation and Safety Kalgoorlie mining registry?

(3) Why is this length of time necessary for granting a licence or lease?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Mines and Petroleum.

(1) There are 1 065 pending applications at different stages of assessment.

(2) There is a 35-day objection period under the Mining Act 1978 and a four-month notification period under the commonwealth Native Title Act 1993. If the application for a mining tenement includes any reserve land, time for referral to other ministers under sections 23 to 26 of the Mining Act 1978 must be considered. The processing period within the Department of Mines, Industry Regulation and Safety for mining tenement applications is targeted for a maximum of 65 working days.

(3) This length of time is required to ensure that applications are processed in accordance with the Mining Act 1978 and the future act procedures of the commonwealth Native Title Act 1993 are satisfied prior to grant.

DEPARTMENT OF FIRE AND EMERGENCY SERVICES — STATE EMERGENCY SERVICE INTEGRATION

1287. Hon RICK MAZZA to the minister representing the Minister for Emergency Services:

At a meeting with the Minister for Emergency Services on 30 October, the State Emergency Service Volunteers Association of Western Australia was told that the SES was not getting a chief officer and it was to be integrated into the Department of Fire and Emergency Services.

(1) Can the minister confirm that Western Australia is the only jurisdiction in Australia without a chief officer?

(2) If yes to (1), what is the rationale for not appointing one?

(3) Can the minister confirm the SES has gone from 2 500 volunteers eight years ago to 1 902 today?

(4) If yes to (3), why is this the case?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Emergency Services.

(1) No. There are other jurisdictions without a chief officer.

(2) Not applicable.

(3) No. The SES figure in the 2009–10 Fire and Emergency Services Authority annual report was 1 914. At that time, volunteers registered with more than one SES unit were counted for each registration; that is, volunteers registered with two SES units were counted twice. Data cleansing after the annual report figures are released also occurs. The revised figure is 1 772 individual volunteers. The SES has actually increased from 1 772 individual volunteers in 2009–10 to 1 906 individual volunteers as of 2 December 2018.

(4) Not applicable.

PUBLIC TRANSPORT — PASSENGER INFORMATION

1288. Hon ALISON XAMON to the minister representing the Minister for Transport:

I refer to the Department of Transport's commitment to continually strive to provide all Western Australians with improved access to transport services that best meet their needs.

(1) Will the minister consider instigating an education campaign to raise awareness about the correct use of wheelchair spaces on buses on trains?

(2) If no to (1), why not?

(3) Will the minister initiate upgrades to infrastructure at major bus and train terminals to ensure that changes to the schedule and/or platforms are displayed visually as well as announced over loud speakers so that deaf passengers are also notified?

(4) If no to (3), why not?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) Yes.

(2) Not applicable.

(3)–(4) The Public Transport Authority currently uses a number of mediums to communicate with passengers, including those who are deaf or have other disabilities, at major bus and train terminals. These include the Transperth website, printed timetables and My Alert email messaging, which provides up-to-date information about the Transperth network in a visual form. Passenger information displays at major transport or station facilities and onboard train services have the capacity to visually communicate changes to the timetable and/or platforms as changes occur. These same messages are also announced over loud speaker. Transperth is also progressing its real-time tracking application, which allows all passengers to track their bus as it approaches a stop, and also to track the bus en route so that they are informed when they reach their desired bus stop. Transperth is hoping to launch this service during 2019.

INDEPENDENT SCIENTIFIC PANEL INQUIRY INTO
HYDRAULIC FRACTURE STIMULATION IN WESTERN AUSTRALIA — VETO RIGHTS

1289. Hon ROBIN CHAPPLE to the minister representing the Minister for Aboriginal Affairs:

I refer to the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia.

(1) Will the government legislate to give veto rights to native title holders and private landholders prior to any approvals for fracking?

(2) Will the veto apply to exploration fracks or only production?

(3) Can the minister confirm that the right of veto for Aboriginal people will rest with the native title–prescribed body corporate?

(4) Can the minister outline how the veto right will be applied for native title claims?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) Our policy is clear: fracking production will be allowed only with the agreement of the landowner. Traditional owners will have the right to say no, or yes, to any fracking production on their land if that land is on existing petroleum titles. This can be achieved through a number of legislative mechanisms. We have asked the implementation group to consider the options and report back to us.

(2) Traditional owner agreement in relation to fracking being on traditional lands will apply to production activities. Exploration activity is different from production. It is low impact and temporary in nature. Exploration data enables landowners to make informed decisions about potential developments.

(3) Where native title has been recognised, the state government will refer to the provisions of the Native Title Act 1993 and the role of prescribed bodies corporate.

(4) Please refer to the response to part (1) of this question.

RE-USABLE PLASTIC BAGS — BAN

1290. Hon SIMON O'BRIEN to the Minister for Environment:

What plans does the government have to ban the use of re-usable plastic bags?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

As the member would be aware, from 1 July this year, we obviously brought in a ban on single-use plastic bags with 35 microns or less. I and my ministerial colleagues will be meeting on Friday over east to discuss a future phase-out of single-use plastic. At this stage, there is no plan, but there will be a conversation about those heavier bags and what we might do with them in years to come.

GOVERNMENT CONTRACTS — HUAWEI

1291. Hon TJORN SIBMA to the minister representing the Minister for Transport:

I refer to answers provided by the minister to my questions without notice of 22 and 23 August, as well as 12, 18 and 19 September this year.

(1) Has the minister now received advice that will permit her to make a decision regarding the public release of both the Public Transport Authority tender evaluation report and the government's contract with Huawei UGL regarding the Metronet 4G radio system replacement project?

(2) If yes, what is that decision?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1)–(2) The minister has received State Solicitor's advice in relation to the tender evaluation report and contract. The minister is currently considering the advice received in consultation with relevant agencies.

SOUTHERN PORTS AUTHORITY — CHIEF EXECUTIVE OFFICER

1292. Hon COLIN de GRUSSA to the minister representing the Minister for Transport:

I refer to the Southern Ports Authority chief executive officer position.

(1) Have interviews been conducted for the position of CEO of Southern Ports?

(2) If yes to (1), who conducted the interviews and when will the successful candidate commence?

(3) Will the new CEO be from an organisation external to Southern Ports?

(4) Who will manage Southern Ports' port of Esperance and port of Albany once a new CEO is appointed?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) Yes.

(2)–(3) It will be the Southern Ports Authority's board, assisted by an external representative from the Department of Transport and the CEO of another port authority. The selection and appointment process has not yet been completed; therefore, a start date has not been determined.

(4) No decisions have been made about permanent appointments to these positions ahead of the appointment of a new CEO.

DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION — COST RECOVERY DISCUSSION PAPER

1293. Hon COLIN TINCKNELL to the minister representing the Minister for Water:

I refer to submissions to the Department of Water and Environmental Regulation on the discussion paper on cost recovery for the Department of Water and Environmental Regulation.

(1) Will the department publish the submissions on its website as foreshadowed in the discussion paper; and, if not, why not?

(2) How many submissions were received by the department?

(3) How many of the submissions opposed the high water licence fees now applying to the mining industry, which include up to $8 929 for a licence application and $6 668 to renew a water licence?

(4) Will the minister appoint the Water Resources Council for the state to consider the submissions and advise the minister, provided for under part IIA of the Water Agencies (Powers) Act?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Water has provided the following information.

(1) Yes.

(2) A total of 174 submissions were received, including 24 pro forma submissions.

(3) The submissions are still being analysed by the Department of Water and Environmental Regulation and the final analysis is not yet available.

(4) No.

HYDRAULIC FRACTURING — GREENHOUSE GAS EMISSIONS

1294. Hon TIM CLIFFORD to the Minister for Environment:

Given that gas, oil and coal need to be phased out as a result of the Paris Agreement, will the minister explain why allowing for fracked gas, which is 10 per cent worse than natural gas, is an acceptable environmental option in terms of CO_2 emissions?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

Even though the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia concluded that the amount of additional greenhouse gas emissions resulting from hydraulic fracturing is small, the government understands that greenhouse gas emissions are an increasingly important issue for Western Australians.

As I have previously outlined in this place, in line with the findings and recommendations of the independent scientific inquiry, the McGowan government considers the avoidance, monitoring, regulation and offsetting of greenhouse gas emissions as integral to allowing this industry. In addition, the royalties from any unconventional gas projects will be used to support new renewable energy projects via the establishment of a clean energy future fund. An implementation group has been tasked to determine the means by which this can be achieved in a plan to be delivered in March 2019.

BIOMASS ENERGY PLANT — COLLIE

1295. Hon Dr STEVE THOMAS to the Minister for Regional Development:

I refer to the government's commitment to develop a biomass energy plant and solar farm in Collie, as indicated by the Premier, who said, and I quote —

> Labor would commit $30 million towards a biomass power plant as well as the planting of timber needed to fuel it. There would also be $30 million for a solar farm.

(1) How has the government progressed the proposed biomass plant?

(2) When will the proposed solar farm start producing energy, and how many jobs will the proposal deliver to the Collie site?

(3) What plantings have occurred to provide the fuel for the proposed biomass plant?

(4) Given the time taken to grow the trees, how soon would the government's planted forest be providing fuel for the proposed biomass plant?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. I point out that not all biomass plants operate on the back of plantation timber, as the member would well know.

(1)–(2) A prefeasibility study has been undertaken and is under consideration as part of the development of the Collie–Bunbury economic development plan.

(3)–(4) Not applicable.

LOCAL GOVERNMENT PROCUREMENT PRACTICES

1296. Hon JIM CHOWN to the Leader of the House representing the Minister for Local Government:

I refer to the Auditor General's report "Local Government Procurement", dated 19 October 2018.

(1) Given that the approximate cost of undertaking and tabling this audit was $470 000, who is responsible for the cost?

(2) (a) What systems has the minister put in place, across all local governments, to remedy the shortcomings highlighted in the Auditor General's report?

(b) How will the minister police compliance going forward of procurement practices within local government?

(c) Does the minister intend to enforce the recommendation of the Auditor General's report that each of the local governments audited should provide an action plan after reviewing their policies, processes and controls?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) This part of the question would be more appropriately directed to the Office of the Auditor General.

(2) (a) The recommendations are being considered by the Department of Local Government, Sport and Cultural Industries to determine appropriate supports for local governments. An end-of-year communiqué to the sector highlighting key findings relating to sector performance is being devised.

(b) The matter is currently under review by the department.

(c) Section 7.12A(4) of the Local Government Act 1995 requires that where the auditor has identified a significant matter in the audit report, the local government must prepare a report that addresses these matters, stating what action the local government has taken or intends to take with respect to these matters. A copy of this report must be provided to the minister within three months of the audit report being received by the local government. The chief executive officer must also publish a copy of the report on the local government's official website within 14 days of providing the report to the minister.

DEPARTMENT OF EDUCATION — SAVINGS MEASURES

1297. Hon MARTIN ALDRIDGE to the Minister for Education and Training:

We are now approaching the one-year anniversary of the minister's disastrous decision to gut $64 million from education services, which has impacted on many regional communities in my electorate.

(1) Can the minister rule out any further surprise announcements in the lead-up to Christmas?

(2) Can the government confirm whether any schools or school facilities will close between now and the 2019 school year?

Hon SUE ELLERY replied:

I thank the member for the question, but I obviously reject the pejorative language he used in it.

(1)–(2) In respect of the closure of schools in his electorate, which I think was the second part of his question —

Hon Martin Aldridge: Schools and school facilities.

Hon SUE ELLERY: No; there is no plan to do anything like that.

Hon Martin Aldridge: No surprise, sneaky announcements?

Hon SUE ELLERY: Madam President, that kind of language is not necessary.

The PRESIDENT: I am sorry; I missed that.

JOBS — SKILLED MIGRATION LIST

1298. Hon CHARLES SMITH to the Minister for Education and Training:

I refer to the minister's answer on 18 September to question without notice 825, in which the minister stated that the graduate occupation list state-nominated migration program aimed to attract the best and brightest international students to study at Western Australian universities.

(1) Does the state government consider listed occupations, such as caravan park and camping ground manager, acupuncturist, dance teacher, finance broker, interior designer, television journalist and traditional Chinese medicine practitioner, as examples of the best and brightest?

(2) Can the minister direct me to comprehensive labour market modelling demonstrating the critical shortage in WA of workers in the occupations on the list?

(3) Can the minister direct me to comprehensive modelling showing that incumbent Western Australian workers will not be adversely affected by the influx of foreign labour?

(4) Why has the state government been unable to provide an answer about whether government ministers met with the Australia China Business Council WA to discuss the list?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

(1) The purpose of the graduate stream of the state-nominated migration program is to support the growth of the international education sector in Western Australia by providing a small number of the best and brightest international university graduates with a pathway to skilled migration. The best and brightest are selected by a ranking process. As advised in the answer to the member's previous question without notice 825, priority under the ranking process is given to those students who have gained the highest level of qualification at a Western Australian university. There are also other ranking criteria to ensure that the best and brightest are selected on other attributes, such as work experience and English language proficiency. The graduate occupation list is not predicated on the assumption that the best and brightest will be working in only a small number of occupations.

(2) The graduate occupation list does not indicate occupations for which there is a shortage of Western Australian workers, but, rather, provides a range of occupations to attract the best and the brightest to Western Australia.

(3) As advised to the member in the answer to question without notice 825, the state-nominated migration program, under which the graduate stream sits, is a capped program. This cap is set by the commonwealth government. The cap of 800 for 2018–19 represents only a small fraction of overall employment in Western Australia.

(4) On 20 September 2018, I provided supplementary information to question without notice 825, advising that no government ministers have met with the Australia China Business Council WA to discuss the graduate occupation list.

MINING — GINGILUP–JASPER WETLAND SYSTEM

1299. Hon DIANE EVERS to the Minister for Environment:

I refer to the response by the Minister for Mines and Petroleum to my question on 28 November 2018, referring to the "agreement, understanding or consideration that if the company did not proceed with an application to mine, any land formerly within D'Entrecasteaux National Park would be reinstated into the park".

(1) Did this occur?

(2) If yes to (1), when did this occur and why is it no longer part of the national park?

(3) If no to (1), why has this not occurred?

(4) If no to (1), will the minister commit to honouring the previous agreement and reinstate this land into the national park?

(5) If no to (4), why not?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question.

(1) No. The land in question is reserved under section 5(1)(g) of the Conservation and Land Management Act 1984 and is being managed by the Department of Biodiversity, Conservation and Attractions.

(2) Not applicable.

(3) In 2009–10, when the company decided not to proceed with the mining proposal, the previous government chose not to reinstate this area into the national park. Changing the purpose or class of existing reserves requires a process that addresses a range of considerations, including native title and stakeholder input.

(4) I have written to the Minister for Mines and Petroleum, seeking his agreement to suspend consideration of grant of the current application for a tenement over this area until the government can fully consider the implications of mining. Once I have the necessary information, I will consider the return of the area to national park.

(5) Not applicable.

RENEWABLE ENERGY BUYBACK SCHEME — REVIEW

1300. Hon PETER COLLIER to the minister representing the Minister for Energy:

I refer to the government's review of the renewable energy buyback scheme.

(1) Has the review been completed?

(2) If yes to (1), has the minister received a copy of the review or advice from the Public Utilities Office?

(3) If yes to (2), will the minister table a copy of the review; and, if not, why not?

(4) If no to (1), when will the review be complete?

(5) If no to (1), has the minister or any of his staff received a draft copy of the review or any other advice in relation to the review?

(6) If yes to (5), will the minister table a copy of the draft or other advice; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question.

(1) No.

(2)–(3) Not applicable.

(4) The review will be complete in 2019.

(5) No.

(6) Not applicable.

BAYSWATER TRAIN STATION — CONCEPT DESIGN PLANS

Question without Notice 1263 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.05 pm]: I would like to provide the answer to Hon Donna Faragher's question without notice 1263, asked last Thursday, 29 November, which I seek leave to have incorporated into *Hansard*. I also table the attached document as requested in part (1).

Leave granted. [See paper 2289.]

The following material was incorporated —

Answer

(1) Following the extensive community consultation and feedback, the concept design for Bayswater Station was announced on 1 December 2018. I table the attached document.

(2) Further consultation on elements of the Bayswater Station upgrade projects will take place as the project progresses, including two drop in sessions to be held across December 2018 and January 2019.

(3) The refined design is currently estimated to cost $146 million.

(4) The McGowan Government announced the preferred design option on 1 December 2018.

ALBANY WAVE ENERGY PROJECT — CARNEGIE CLEAN ENERGY — FUNDING PLAN

Question without Notice 1217 — Answer Advice

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [5.06 pm]: On 27 November, Hon Michael Mischin asked question without notice 1217, and asked whether I would table a copy of correspondence from Carnegie Clean Energy to the Department of Primary Industries and Regional Development, seeking an extension of time to complete a financial plan for the Albany wave energy technology development project. The correspondence contains information that is commercially sensitive to Carnegie, including —

Hon Martin Aldridge: That old chestnut!

Hon ALANNAH MacTIERNAN: Sorry?

Hon Martin Aldridge: That old chestnut.

Hon ALANNAH MacTIERNAN: It included details of Carnegie's other assets and financial arrangements outside the ambit of the project. I will provide, therefore, a redacted copy of the correspondence, and I table it.

[See paper 2292.]

QUESTIONS ON NOTICE 1730, 1736, 1738, 1743, 1755 AND 1757

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Stephen Dawson (Minister for Environment)**, **Hon Alannah MacTiernan (Minister for Regional Development)** and **Hon Alanna Clohesy (Parliamentary Secretary)**.

GOVERNMENT CONTRACTS — HUAWEI

Question without Notice 642 — Answer Advice

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [5.07 pm]: This is with regard to a question without notice asked on Wednesday, 22 August to Hon Sue Ellery as Leader of the House. The Leader of the House mentioned that she would try to get a response. It has come to my attention that —

Hon Sue Ellery: To me?

Hon PETER COLLIER: No; it was representing the Premier. It was about government contracts. Would you check up on that to see —

Hon Sue Ellery: I will chase that up.

Hon PETER COLLIER: Thanks.

GAMING AND WAGERING LEGISLATION AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

HON TJORN SIBMA (North Metropolitan) [5.08 pm]: Before question time, I provided a preliminary overview of some general concerns and questions I have on the Gaming and Wagering Legislation Amendment Bill 2018. We will probably spend a little bit of time—it will not be unduly lengthy—on the interrogation of what is actually envisioned for the creation of heads of power, what those regulations will constitute, with whom and how will they be drafted, and when they will be implemented.

I will do that for a number of reasons. The first is because it behoves this house to have a view on what power it will provide the commissioner to self-generate, and we also have a serious issue with the interaction of this bill to be passed by the Western Australian Parliament and similar legislation that deals with the prohibition of synthetic lotteries by the Australian Parliament. I note that Hon Aaron Stonehouse will move an amendment to that effect that deals with the operation of this prohibition scheme, and no doubt that member will speak to that matter in the course of this debate.

I wish to reiterate that notwithstanding this interrogation, the Liberal Party supports this bill. There are some very sensible measures in it, and although they have been canvassed by other speakers, this is an opportunity to reinforce what we find desirable in this bill. We commend the government for how it deals with the treatment of betbacks and the redefinition of "turnover" to effectively ensure consistency in the way that wagering and gaming operate in Western Australia and with similar practices in other Australian jurisdictions. The betback provision effectively allows bookmakers to better manage contingent liabilities to effectively spread the risk of encountering their obligation to pay out big payouts. That is a sensible, practical measure that we fully support.

We also support updating the definition of "turnover" to relate to the collection of the racing bets levy on the net winnings of racing bets placed, rather than on the gross turnover of clients' bets, which I understand to have been the previous practice. We also find it desirable that the amendment to this bill will seek to prohibit remote gambling facilities that are specifically built and made available in public places that connect to licensed operators in another jurisdiction. This deals with the potential for kiosks provided by betting operators at carnivals, fetes, shopping centres and the like. I find that a desirable provision and we will fully support that. We obviously support in principle, but will seek further clarification on the practicalities of, the intention to prohibit live betting odds from being broadcast during sporting events at prescribed sporting arenas, with the caveat, obviously, that an exemption will apply to live odds being broadcast at racecourses during a horse or dog race meeting. But my questions around the practicalities and how the ban will apply at, say, the cricket, the rugby or the footy relate to where Hon Colin Holt was taking this. What specifically will be banned? Is it a more prescriptive broadcast of a particular odd or set of odds attached to specific contingencies that relate to the game being played, or is it also envisaged that the ban would preclude, say, Ladbrokes, bet365 or Sportsbet from effectively placing ads that lead the punter onto their website? If the focus is on harm minimisation, the government would perhaps have to go to the full extent and completely ban the capacity for gaming and wagering operators to advertise; otherwise, what is the point?

I also note that the more sophisticated and internationalised sporting associations have recognised the scourge of exotic in-game betting for what it is, and are making attempts to render the practice impracticable. They have introduced a range of sanctions against professional athletes betting on games in which they are involved. These associations are looking at the ways in which they manage their rights deals, and the prescriptions they might put

on the capacity of gaming and wagering operators to broadcast in any event. I would be interested to know where the risk is in the current sporting context, and what the government is seeking to do in relation to that.

The bill contains a range of minor amendments that make some sensible adjustments, such as lifting the ban on raffles conducted in other states and territories being offered in Western Australia. I always thought this to be a curious relic of a bygone era, focused on a very fixed-pie economic view of the world. This is an overdue adjustment that should benefit Western Australian raffles, if they can operate in eastern states jurisdictions.

The more contentious and complicated aspects of the amendments proposed in this bill are the capacity for the commission to prescribe prohibited events and contingencies on which one cannot either offer odds or place a bet. In addition to this prohibition schema, which is at some stage of being drafted, we are establishing a new small fines regime connected to those prescribed events. This will introduce penalties of $2 500 for a person placing a bet, and $5 000 and up to a year in prison for a person offering such a product. I would be very curious to learn about how those financial penalties were arrived at and who was consulted in their generation. I could, for example, anticipate a scenario in which a person who describes themselves, for want of a better expression, as a professional gambler would factor in a $2 500 potential fine to their betting outlay. It is a very easy thing to overcome, if they think that the incomings will compensate for the risk of being fined. I would be curious to know how this regimen is proposed to be enforced, and whether there will be any resourcing implications for the commission for the policing. Otherwise, what is the point in introducing the fines, if they cannot be enforced and surveilled?

I want to dwell on, but not contemplate too deeply, the manner in which this bill has been debated both within the Parliament and in the public domain. It goes to the very purpose of this chamber. I am reminded of events last week around comments made in the other place that quite unfairly misrepresented the perspectives of not only the opposition but also the crossbench on the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. There seems to be a dispiriting pattern of bullying behaviour from ministers on any bill they want to pass through the Parliament. I want to reflect on the comments made by the Minister for Racing and Gaming, Hon Paul Papalia, on 16 October in the course of debate. I was more than happy to proceed to debate this bill in a constructive way—indeed, that is still my disposition—but I cannot let go unchallenged the following contribution, because I think it reflects very poorly on the good faith that we attempt to show one another in Parliament. This is a direct quote. He said —

> … I can tell members that if this bill gets into the upper house and is delayed by any sort of ridiculous politicking, I will follow the lead of the Minister for Transport. I will get the list of addresses from the Premier and write to every single one of the Lotterywest newsagents and the 26 bookmakers and tell them that this bill is being held up by the opposition in Western Australia —

It included the following quote.

Several members interjected.

The ACTING PRESIDENT: Order, members! Hon Tjorn Sibma has the call, and although you might want to have a conversation outside of that, I am trying to listen to Hon Tjorn Sibma.

Hon TJORN SIBMA: Thank you, Mr Acting President. I am not doing this to be gratuitous or invite discourse into this chamber—I think enough exists in its own right to not warrant my prompting—but it is worthwhile that when we give serious contemplation to our responsibilities to interrogate bills, we also reflect upon the way our responsibilities are held by others, in particular ministers of the Crown. The minister goes on. This is his quote—I presume it is a form of words that is drafted somewhere. It states —

> …"The Liberal Party in Western Australia has proven itself incapable of a coherent response to anything and they do not like you; they didn't help you in government, and they're not helping now." That is what the letter will say. I will say, "Contact them and tell them that you're not voting for them but also that you'd like them to pass the bill in the upper house."

This is a disturbing pattern of behaviour. It came unwarranted; it was not merited. I have been dealing with bullies my entire life. As a short bespectacled kid with an odd-sounding name, I have dealt with bullies my entire life. I have not capitulated at any stage in those 41 years and I am not going to start now. That kind of hectoring, bullying and misrepresentation is an absolute disgrace, but it has become a pattern of behaviour from the McGowan government, and in particular this minister. When this minister is put under pressure and interrogated about the implications of his legislation, he invokes the inner bully, who must not lurk too far from the surface. It does not take too much to evoke this kind of response out of him. It must be called out as the disgrace that it actually is. All I can do is thank very much the minister's staff, because I think they are professional and helpful, and have done so much for their minister to keep his legislation and his legislative program on something of an even keel. I think they deserve some congratulations.

Hon Alannah MacTiernan: Do you support the legislation?

Hon TJORN SIBMA: Do you want to delay the consideration of this bill? If you don't, just shut up!

The ACTING PRESIDENT: Order, members!

Hon Alannah MacTiernan interjected.

Withdrawal of Remark

The ACTING PRESIDENT (Hon Dr Steve Thomas): Hon Tjorn Sibma, I ask you to withdraw that remark.

Hon TJORN SIBMA: I withdraw.

Debate Resumed

The ACTING PRESIDENT: I think we need to take a little bit of heat out of this particular debate.

Hon TJORN SIBMA: It does reflect on the way in which debate is actually welcomed by the government. It reflects very poorly on it. It would be remiss of me not to advise the house of the minister's remarks. I can say to every single newsagent in Western Australia that retails a Lotterywest product that the Liberal Party supports their business. We do not hate them. That was a foolish, juvenile accusation. I will not accept it and I rebut it in the strongest possible terms. As for the 26 bookmakers, I wish them well, and I wish this legislation swift passage through this house this evening so they can get in and out and operate effectively during a busy summer racing carnival.

Ultimatums should not be rewarded. The substance of the bills should be interrogated. I must say that there is a slight difference in emphasis between what is proposed by way of the second reading speech, the bill itself and the explanatory memorandum that is considered along with those two other documents. I want to reference a joint media statement of 19 September this year from the Premier and the Minister for Racing and Gaming. It provides some dot points about what this legislation we are debating is all about. The dot points at the start state —

- McGowan Government moves to prevent betting on the outcome of lotteries
- As a result, organisations such as Lottoland will be banned in WA
- New laws will protect Lotterywest and ensure it can continue to support the WA community through its grants program
- Live betting odds will no longer be permitted to be broadcast at prescribed sporting arenas
- Amendments aim to minimise harm to at-risk and problem gamblers

We have dealt with that before. What I found interesting about this media statement is that to some degree this house needs to read not only the bill as it is presented, the explanatory memorandum and the second reading speech, but, in addition, whatever media statement is tacked on the end to get a comprehensive picture of the purpose of government legislation. I mention that not to be gratuitous, because if we deal with the substance of the documents tabled in this Parliament, there is very little, if any, mention of synthetic lotteries and their risk, of Lottoland in particular as an agent of that risk, or indeed of the challenges faced by Lotterywest and whatever threats may exist to Lotterywest's capacity to administer a much loved and respected grants administration program.

I will cite a quote attributed to Premier McGowan. It states, in part —

> "The new laws will protect Lotterywest and enable it to continue to provide its outstanding contribution to the community through its grants program.

We can all agree that we love Lotterywest. I do not want there to be the misrepresentation that the Liberal Party looks upon it with anything other than fondness, but it behoves a house of review to actually get a very clear-sighted sense of what threats Lotterywest faces and how those threats, in particular, are manifest in the operations of so-called synthetic lottery operations. To the best of my knowledge, those kinds of risks, as they apply to a drop in market share and a destabilising of or disruption to sales channels, have never been described or quantified. It is important that we respond to risks appropriately, but to do that, quite frankly, I think we need a quantified and uncontested view of what that risk really is. Despite many opportunities—I will return to this topic—I do not think the evidence is in.

I would like to pick up on an interesting quote attributed to the Minister for Racing and Gaming, Paul Papalia, because I think it is an important point, but it does not seem to be necessarily reflected in the explanatory memorandum or any of the debate. The quote concerns one of the justifications for seeking to prohibit synthetic operators, such as Lottoland, and reflects on the marketing of companies such as Lottoland. I have a bit to say about them. Effectively, the quote attributed to the Minister for Racing and Gaming is that the marketing has —

> caused community concern where customers believe they are buying tickets in a lottery draw, when they are instead betting on the outcome of that lottery.

I think that is right. That is a large part of Lottoland's operation.

Hon Alannah MacTiernan: That's right. I bought tickets thinking that.

Hon TJORN SIBMA: The minister would not be alone. So it is very clear, I will tangentially refer to the disdain I personally hold for outfits such as Lottoland. It has made a number of marketing missteps, one of which was to act with a wink and a nod about the product that is being sold. It also imperilled itself almost from its first television advertisement, in which it had a mock-up of a newsagency and showed a range of people coming through a bricks-and-mortar–like store and asking how to buy a Lottoland ticket. That kind of marketing stupidity

gets its just rewards, and I think it got its just rewards by virtue of the amended act in the commonwealth Parliament earlier this year. But that said, I would be interested to know whether the misrepresentation of the product is the primary concern, or one of the primary concerns, that has motivated the McGowan government to create an expanded heads-of-power arrangement for the Gaming and Wagering Commission of Western Australia to effectively prohibit such things. Why do we not just utilise the appropriate sections of the Fair Trading Act 2010 that deal with misleading and deceptive conduct? To quote briefly from section 18 —

> A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

I am not disputing this as a justification; I am just curious to know why the provisions that exist under the Fair Trading Act could not have been brought to bear against —

Hon Alannah MacTiernan: Because the problem is not simply that they were misleading people; it is actually that they are drawing from a scheme, so they are benefiting without contributing.

Hon TJORN SIBMA: I understand that argument—it has been put before—but it is a different argument. It is not the same.

Hon Alannah MacTiernan interjected.

Hon TJORN SIBMA: The specific question, minister, with respect—I think this is a constructive interjection —

Hon Alannah MacTiernan: I know. I understand the point you're making. We could deal with one aspect of the problem by making that legislative change, but it would not deal with the other aspect of the problem.

Hon TJORN SIBMA: That is an interesting contribution, but I suppose it depends on whether we think the threats exist and what the most significant threats are. If we have a legitimate and well-founded concern that an operator, almost by virtue of the very product it tries to sell, will mislead or deceive, why do we not go after it by utilising the Fair Trading Act 2010? Has that been considered? It may not have been. If it has been, I am interested to know, and I think it is worth knowing.

The purpose and the consequences of this bill also require a bit of justification. A number of arguments are proposed to justify why the McGowan government is determined to proceed with this legislation and to enact it swiftly, despite commonwealth legislation already being in place. The government appears to be responding to the views of the Australian Lottery and Newsagents Association and its membership, and that is fine. It is important to be responsive to the views of those stakeholders who will be directly affected by the legislation. But I want to understand why the government concurs with the newsagents association's view, cited by the minister on 16 October, that it "is not at all comfortable that the threat has been dealt with."

Again, why is this legislation needed? Why is it needed now? What gap exists in the relationship between the commonwealth legislation and what is proposed here? One of the arguments provided by the minister is that the newsagents association is still worried. That worry may rest on a solid foundation, but the level of justification needs to be a bit higher than "because the association is worried". Why is the government worried? That is what I want to understand here.

In the debate on this bill both in this place and in public, a lot has been made of the position that Lotterywest is in and the proposed protections that this bill will provide to Lotterywest. The place to start is how Lotterywest is going at the moment. The source document for that is Lotterywest's most recent annual report. The "Lotterywest 2017–18 Annual Report" is an interesting document for a number of reasons. I am quoting from page 2, which provides an infographic with the highlights. The year 2017–18 was particularly good for Lotterywest, with $855 million in lottery sales, $463 million worth of prizes paid out to Western Australians and $260 million worth of contributions made to needy groups in the Western Australian community, presumably through the grants program. The sales figure of $850-odd million is nearly 3.5 per cent higher than the previous year, which, of course, is encouraging; nevertheless, both the chief executive officer and the chair of the organisation remain somewhat concerned about the challenges that Lotterywest has faced and might continue to face. We should do what we can to preserve the very effective Lotterywest model, because it receives great community support, but I would make the observation that over the last few years—the time of the previous government and the transition to the current government—some internal decisions made at either the executive or the board level of Lotterywest have quite obviously contributed to the successes and failures of that organisation. This is not to make a political point at all; this is just an observation about how any entity is managed over time and how it deals with the circumstances that it generates or has to respond to. Do not worry; my contribution will only go until the dinner adjournment, Leader of the House.

Hon Sue Ellery: I'm sorry; the sigh was not at you. I am reading my correspondence.

Hon TJORN SIBMA: I despair at that news. I hope the Leader of the House is not too disheartened —

Hon Sue Ellery: I was despairing at what I was reading.

Hon Simon O'Brien interjected.

Hon TJORN SIBMA: That is interesting —

The PRESIDENT: Member, you should not allow yourself to be distracted by those around you.

Hon TJORN SIBMA: I like to learn from others' valuable contributions, Madam President. I make it my job to learn; nevertheless, I will proceed.

I was very curious about what was mentioned in Lotterywest's annual report, and, more to the point, what was not mentioned. Lotterywest is the kind of organisation that attracts attention from time to time due to changes at the top. I wanted to interrogate what is going on. With some indulgence, I put a series of questions to the organisation through the online question lodgement system. I wanted a sense of what Lotterywest saw as its challenges and threats. At the moment, Lotterywest sees —

> Major challenges faced by Lotterywest include: adverse economic conditions reducing discretionary spend; increased competition from online competitors; changing consumer behaviour; increased operating expenses for retailers.

Mention is made in that answer of the threat, or the challenge, posed by online competitors, but the synthetic lotteries were not referred to—it does get to it. Obviously, the management of Lotterywest have to deal with a range of contingencies and not all of those contingencies avail themselves of government intervention through the design and implementation of legislation that purports to protect the organisation.

Hon Colin Holt: Synthetic lotteries aren't the only competition online.

Hon TJORN SIBMA: That is a very good interjection. I hate to be painful, but I wanted to understand the specifics, so I asked —

> What is the precise nature of the threat posed to Lotterywest by 'synthetic' lotteries and how is this different to other digital gaming or wagering applications;

The answer was —

> Synthetic lotteries, such as Lottoland, offer no benefit to the WA community by way of returns in community grants and returns to Government. As a majority of Lotterywest customers play lottery games as their only form of gambling, market share absorbed by synthetic lotteries such as Lottoland is likely to have a greater impact on Lotterywest's return to community than other digital or wagering applications.

Again, this is still a claim that is largely unsubstantiated by facts. There is no solid quantification of the argument put, which is that we need to protect Lotterywest from the competition of synthetic operators because they are chewing significantly into the market share of Lotterywest, and if we do that, an obvious set of consequences will follow.

Hon Colin Holt: I think if we could find out the download data and track it over time to see how many people download the Lotterywest app versus synthetics versus Tatts or whatever the others are, we might get some indication of how it gets affected.

Hon Alannah MacTiernan: What's the end purpose here?

Hon TJORN SIBMA: I do not know to which member I am responding. This is a substantive series of questions because, effectively, if the government is purporting to respond to a threat to protect Lotterywest from the encroachment of other operators into its revenue, how do we measure —

Hon Alannah MacTiernan: The problem is that a lot of it is not capable of precise measurement, but as the member knows —

Hon TJORN SIBMA: This is the point!

The PRESIDENT: Order, members. You will have an opportunity to respond to the matters that are being raised when the member has finished.

Hon TJORN SIBMA: That is exactly the answer that I was anticipating. It is difficult to measure. I will not say it will be impossible to measure, but it may be too resource intensive to measure. However, it has not been measured. What, however, can we measure? Have newsagents who operate bricks-and-mortar retail of lottery products been imperilled by the encroachment of synthetic lotteries? To some degree I think that perhaps that is the case. Has Lotterywest also contributed to their difficulties in the way that it utilises channels of sale? I think this is an important point and worth reflecting on. If we want to preserve the business model of retailers, we might also give contemplation to how Lotterywest prefers its products to be distributed.

I will refer to a table from questions submitted before the annual reports hearings that shows the proportion of Lotterywest products sold through bricks-and-mortar retailers and through online sales. I think this is where some of the story is—in fact, a large part of the story. In 2013–14, only 4.05 per cent of Lotterywest products were offered online. In fact, it may have been the first year it had a web presence or an app that could be downloaded.

If we fast-forward to 2017–18, the most recent financial year, nearly 9.5 per cent of all Lotterywest products were retailed online. I asked what the future projections might be. The answer I received was that over the next five years, Lotterywest expects the online channel to grow from approximately 10 per cent to 15 per cent of total sales, with a commensurate adjustment in retail. That is manageable if revenue derived from the sale of those goods grows over time, but it is very obvious that it is the Lotterywest preference to direct a significant and growing portion of its sales online, which can only reduce foot traffic through newsagents, which are its traditional retail partner of choice. I make the observation that that should potentially motivate Lotterywest to think about revising its revenue-share model with its retailers. Of the enormous volumes I mentioned earlier that it is in the annual report that Lotterywest distributed only $607 232 worth of incentives to its retailers. If this bill attempts be all things to all people simultaneously—preserving the privileged market position of Lotterywest and protecting the businesses that rely on the product, being the retailers—perhaps Lotterywest might give some consideration to how it treats those retailers. It has done some good things in this space in recent times, particularly by paying for the internal fit-outs of its own marketing, which has been a cause of some despair among newsagents over the last few years, so I commend the government and Lotterywest for moving in that space. I just encourage Lotterywest to be a little more expansive in how it treats its partners moving forward.

I should also mention a curiosity with Lotterywest. I found this curious. On page 8 of its annual report, Lotterywest advises that it campaigned with the Tatts Group and the Australian Lottery and Newsagents Association against synthetic lotteries. I would like to know whether there has been any equivalent action undertaken by a statutory authority in the Western Australian jurisdiction to effectively campaign in a political sense for legislative change in another jurisdiction, including at the commonwealth level. I found that to be more than just a curiosity; I actually found it to be inappropriate. Nevertheless, Lotterywest was satisfied with the outcome of that. I asked whether Lotterywest had engaged in lobbying either directly or indirectly as a consequence of its participation in the national campaign. Lotterywest said no, but lobbying was undertaken by a Tatts–lotteries block and ALNA. That means it has indirectly participated in a lobbying effort. The answer to that question should have read yes. Lotterywest has been effective in this advocacy for its own corporate interests. It has been largely satisfied by the result, which I think is a fair result, it secured at the commonwealth level, with amendments to the Interactive Gambling Act that prevent operators such as Lottoland from disrupting its operations.

Again, why do we have this bill then? If we accept this bill is necessary—yes, I am on the record as saying we support it—what are the implications of our assent? I received some very useful and constructive advice from the minister's office but my question is: what problem is trying to be solved by way of this new prohibition scheme? I am not going to score any points on Trackside and what makes that desirable and what makes something like Lottoland undesirable. If we are to give certainty to industry, which is what I will impute to the minister's rather harsh observations of the Liberal Party's position—if I am to be as charitable as I possibly can to the minister and his contribution—I would say that the minister wants to provide everyone involved in this industry with a measure of certainty, and I think they absolutely deserve that certainty. If this house is going to agree that the Gaming and Wagering Commission should be granted a head of power to create a set of regulations that determine what is a desirable and an undesirable gaming and wagering product, we have to have a much clearer idea of what the government thinks a desirable gaming and wagering product is and what an undesirable gaming or wagering product is. This is the best, clearest view of the government's thinking. It was provided to me by email from the minister's office, and I appreciate that, but I think it begs more questions than answers. I have been told —

> … no, there is no list of events or contingencies that would be considered for prohibition at this stage (acknowledging that the Federal Government has indeed moved to outlaw Lottoland) ...

I might just pause at the end of this sentence because I think this gets to the intent of Hon Aaron Stonehouse's amendment on the supplementary notice paper about when these powers may come into effect. I think he is concerned with the uncertainty that is created with dualling regimes across jurisdictions when companies that are targeted by a federal bill make adjustments to their business model so they can comply with the commonwealth legislation. This email is only a few weeks old. If there has been an update, I would welcome that advice, but presently there is no list of events or contingencies that would be considered for prohibition at this stage. Perhaps that is because the one that we are most concerned about—Lottoland—has already been dealt with, so it begs the question: why are we here talking about this?

The email continues —

> In regard to criteria that will be considered in the event that the Commission recommends an event or contingency should be prohibited, the following factors will be considered:

There are five dot points and I will read them out because it is important in the way we frame this debate. They are —

- Is the event of a sufficient national or international standing?
- Are the results of the event or contingency declared by a controlling body?
- The integrity and controls associated with the event or contingency

I suppose that implies that the commission will evaluate whether the integrity that governs provisions within that event or contingency are adequate. Again that begs the question: how do they base their judgement? It becomes very circular. The fourth and fifth dot points are as follows —

- The public interest or appropriateness of wagering on an event or contingency
- Harm minimisation principles such as responsible gambling practices, consumer protection measures, the appeal to juveniles.

I was curious also about how such a scheme or prohibition might be drafted noting there is presently no list to guide that, and whether that would include consultation with the broader public, especially when I have a reference to, "We might choose to ban or not ban an event depending on our evaluation of the public interest." I thought then that the government would probably seek public input. However, the answer is —

> Prohibition of a particular event or contingency will not be open to public comment through an open process—however, public input is likely to form part of the consideration, based on the consumer comments received …

I think we either have an open process or we do not. If we are responding to episodic complaints about a product such as Lottoland or we do not like the fact that a certain event is on and that people are enjoying themselves by betting on it, the government will factor that into its consideration but the government will not open this up for consultation in a broader sense. I am aware and practical enough to know that we would want to manage that process. I do not think a government necessarily knows best and that "no correspondence will be entered into" is necessarily the best process to embark upon.

I am curious to know whether something is anticipated. Is there something the government wishes to ban? That is not Lottoland, a synthetic lottery or something quite like it. From the response I have received, there is no immediate view on other events or contingencies that might be considered for prohibition. I think that is important when we give consideration to the urgency of this bill and how debate here displaces consideration of other bills.

That is one side of the generation of this scheme, which I think is absolutely broad, and we will be conferring powers on a commission that does not necessarily invite open scrutiny. I think it would be worthwhile, if the minister can, to confirm the process and operation of these heads of power. Has there been any deviation in contemplation or is anything planned that adds to the advice I have already received?

Sitting suspended from 6.00 to 7.30 pm

Hon TJORN SIBMA: Before the dinner suspension, I had moved on to canvass issues concerning the process and operation of this legislation if it is passed, and in particular the process and application of the regulations that would emerge from the creation of a new head of power to determine and demarcate offensive and inoffensive, or desirable and undesirable, products upon which one might wager or game. But before I get to the process—all I wish to do is confirm that my understanding of the process is as it was put to me by the very professional staff in the minister's office—I will once again focus on how significant this head of power is and whether it represents the creation of a new power or the extension of an existing one. I raise this as an issue only because during the course of debate in the other place on 17 October, the minister provided quite a confusing observation of the intent and consequence of his own bill in reply to questions put by the member for Riverton, the Leader of the Opposition. I want to capture this exchange, not to necessarily reflect on the debate in the other place, just to give an observation about the at times confused and confusing justifications for this bill and the assessment of what it would do. I quote from the Legislative Assembly *Hansard* of Wednesday, 17 October, during consideration in detail. Hon Dr Mike Nahan asked the minister —

Could the minister give his view on the criteria he and his advisers will use to prohibit events? What specifically is the minister trying to target the prohibition on? Is it the expansion of the lotto or something else? Because even though the regulations go to the upper house, it is important for us and the interpretation of the court to have the minister's clarity on the principles.

I think that is a very fair question. The debate in the other place had obviously reached a certain point, yet this elemental question was still an issue of debate and conjecture. To me, that reinforces the very muddled and opaque justification for the operation of this bill. The response from the minister to the member for Riverton was very revealing. I am quoting the minister directly —

> Member, the power already exists under current legislation for the commission to make such regulations. Parliament conferred the power to formulate and impose prohibitions or conditions in relation to types of wagering that may or may not be conducted on the Gaming and Wagering Commission of Western Australia under section 8 of the Gaming and Wagering Commission Act 1987. So it is not a significant change with respect to the power, and the member's concerns about us imbuing some new power on the commission are unfounded, really.

When I read that exchange, I had moment to pause and ask myself: What, then, does the government intend to do? Is this actually the creation of a new power—because that is certainly how it is presented—or is it merely the

extension of existing regulatory powers and instruments; and, in that case, why does the minister not just apply it? I put that question to the minister's office, and it was put to me very clearly that, no, this legislation represents the creation of a new head of power. I am satisfied that that is the truth. However, it is instructive for members in this chamber to note that on something so fundamental as the nature of the bill, in an answer provided during consideration in detail, the minister in charge of that bill—who is not a representative minister but the actual minister—seemed to have a momentary lapse in comprehending his own product. If that is not sufficient encouragement for us to scrutinise this bill, in a manner consistent with our responsibilities and duties in this house, I do not know what is. I am not suggesting that the minister got it wrong. However, he seemed to add somewhat to the confusion and murkiness about this bill. Therefore, it is useful that we have the opportunity to aerate these kinds of issues and get clear, strong and declarative answers in reply so that we can move forward with a measure of confidence about what we are passing. This is not to play politics or play games, and nor is it to frustrate the government's agenda. It is nothing of the sort. However, it seems that just inquiry and necessary scrutiny of government legislation is not welcomed by this government.

In my earlier contribution, I read an extract from *Hansard* to demonstrate how the minister had taken a needless threatening, bullying and belligerent attitude.

Hon Peter Collier: Which minister?

Hon TJORN SIBMA: The Minister for Racing and Gaming. However, that was not the minister's only contribution along those lines. It is also important for members of this chamber to be aware of a subsequent contribution that although not at the same level of emotional volatility as indicated by the previous example, was certainly a variation on the theme. I will quote from *Hansard* of 16 October. To provide some context, obviously a comparison had been made about the kinds of events and contingencies that would be rendered undesirable under this undisclosed and almost unknowable schema of prohibited events, as anticipated by this bill. Something that seems to be an undesirable or unnecessary gaming product to many members of all parties of both houses is Trackside, which has been anticipated by the government. How do these things compare? How do we judge what is desirable and undesirable in clearly consistent and non-arbitrary ways? That is what opposition members in the other place were asking. I just needed to provide that context. The response of the Minister for Racing and Gaming was —

> The Leader of the Opposition was ridiculous the other day when he was talking about a completely different bill.

This was obviously about the government's announcement to sell the TAB. Yes, that is a different issue, but it is certainly a related one and worthy of comparison. But this is where the minister's quote gets interesting —

> Will we go through the debate in this chamber, only to have the Leader of the Opposition roll over and suggest that he supports Lotterywest outlets, and will we then hear that the upper house is going to play games and the member for Hillarys is going to get some of his oppos in the upper house to come and give us trouble?

Hon Simon O'Brien: What's an oppo?

Hon TJORN SIBMA: I presume it is a condensed pejorative description of the opposition. We are the oppos! I do not know whether it is a parliamentary term.

Hon Alannah MacTiernan: It might be "operational".

Hon TJORN SIBMA: The operationals. The operatives?

Hon Alannah MacTiernan: It might be just reflecting his military background.

Hon TJORN SIBMA: That may well be the case. I assumed that it was referring to the opposition. There was a suggestion that the member for Hillarys was going to get some of his oppos in the upper house to come and give the government trouble.

Hon Alannah MacTiernan: Are you in his same group?

Hon TJORN SIBMA: To continue, and I am quoting, minister —

> That would be outrageous and wrong.

The Minister for Racing and Gaming then said —

> If that were to happen, that letter will go out to every Lotterywest agent.

The minister was referring to the letter we were talking about before. Somewhat unsurprisingly, several members interjected. The minister then continued —

> I will be happy to put my name on it. I will say, "I'm writing as the small business minister to you as a Lotterywest outlet to let you know about the assault by the Liberal Party of Western Australia on your business." I will let them know who has forsaken them.

Hon Donna Faragher: Is that from a minister of the Crown?

Hon TJORN SIBMA: This is a minister of the Crown. When we come in here to debate bills —

Several members interjected.

The ACTING PRESIDENT: Order, members! There are far too many conversations happening across the chamber. Only one person has the call.

Hon TJORN SIBMA: I will briefly return to the bill; I am not going to drag this out. This was an absolutely unbecoming and unnecessarily belligerent debate, not in response to anything that might jeopardise the passage of the bill, but as the first response to scrutiny. Within the first 18 months of this government, this is how ministers of the Crown react to questions being put to them. Ministers in this house do not demonstrate that standard, but their colleagues in the other place seem to indulge in that kind of behaviour with a concerning degree of licence. It would be useful if senior members—senior ministers—in this house take the opportunity to provide some professional counsel to their colleagues. Frankly, this stuff is ridiculous. The minister —

Hon Alannah MacTiernan interjected.

Hon TJORN SIBMA: I think the minister may have got lost in the thread of the discussion —

Hon Alannah MacTiernan: No—you were criticising them for saying —

Hon TJORN SIBMA: Any minister in this Parliament can threaten to write a letter. Go for it!

Hon Sue Ellery: Is that a threat? Is it?

Hon TJORN SIBMA: They should write as many letters as they wish.

Hon Sue Ellery: "I am going to write a letter and tell them what position you took." What's wrong with that?

Hon TJORN SIBMA: Any minister of the Crown can write a letter—go for it! It is an invitation, not a threat. Perhaps the problem is that members opposite do not understand what a threat is.

Several members interjected.

The ACTING PRESIDENT (Hon Martin Aldridge): Order, members!

Several members interjected.

The ACTING PRESIDENT: Order! I am struggling to hear Hon Tjorn Sibma over the interjections that are not even directed at Hon Tjorn Sibma. If we could please try to contain ourselves.

Hon TJORN SIBMA: Yes; thank you. I will take your guidance. Far be it from me to encourage that kind of unruly interjection between members in the chamber.

My serious point is that if members opposite want to conduct their affairs in a sensible, adult and business-like fashion, they should not go about it this way. I do not think it reflects particularly well on individual ministers or the government. It does not. It is not helpful or productive.

During the reply by the minister representing the Minister for Racing and Gaming, I wish to seek information on whether comprehension around the process by which these new regulations might be effected is as was provided to me. I will provide this quote. It is a bit lengthy—my apologies—but it is important to understand that this is the way it was intended that these regulations would operate. I quote —

> The avenue by which an event or contingency might come to light —

That is, an undesirable one —

> would be through a complaints-driven process—complaints may arise through consumers, the Commission itself, RWWA, other industry bodies or companies, Lotterywest, Crown etc. The commission would then have the responsibility to investigate and to assess the event or contingency against the criteria (as described in 2a.) —

That is a response I have already read in with its five bullet points —

> and make recommendations to the Minister. The recommendation may be to prescribe regulations prohibiting the event or contingency.

Add on to that, "or they may not be". The email continues —

> The Minister would need to consider his or her views on the event or contingency, as well as the background, consultation and investigation of the Commission and decide whether to progress with regulation. If the Minister decides to do so, this would then be subject to usual process for regulation (including a Regulatory Impact Assessment and Executive Council sign off) and then presented to the Joint Standing Committee on Delegated Legislation, at which time the regulations would be subject to disallowance.

In respect of my concern mentioned previously, and I think the concern expressed through the proposed amendment of Hon Aaron Stonehouse, I want the government to confirm that that process will be followed, because if indeed it is—I have taken from previous answers provided to the minister's office that no emerging

undesirable event or contingency has attracted any of that kind of process—I am comfortable that the passage of the Gaming and Wagering Legislation Amendment Bill 2018 will not contribute to jurisdictional complications between the operation of laws in the state of Western Australia and commonwealth laws as they apply to the prohibition of synthetic lotteries such as Lottoland. I am led to believe that significant progress has been made in the regularisation of those kinds of business arrangements. All I seek is clarification on the process. I am grateful now to sit down, but once again I reconfirm that the Liberal Party supports this bill, Lotterywest and Lotterywest retailers, and there is absolutely no occasion for the minister to get excited and write any letters to anyone.

HON ROBIN CHAPPLE (Mining and Pastoral) [7.51 pm]: I was going to give a lengthy presentation on the Gaming and Wagering Legislation Amendment Bill 2018, but I think the honourable member opposite has achieved my aim, so I will not bother with that. I would like to start by thanking the briefers—Emma Roebuck, Donna Kennedy and Crispin Rovere—for their advice and information on this legislation. Simply put, this bill amends our gaming and wagering laws in several ways. None of the changes it makes is controversial.

One change the bill makes is to create a head of power to enable certain events or contingencies, or classes of them, to be prescribed as prohibited, making it an offence to offer or make a bet on them. The usual disallowance process will apply. This reform allows Western Australia to go further than the recently passed federal laws that prohibit betting on lottery outcomes. The sorts of events and contingencies intended to be included are junior sporting competitions; local social sporting competitions that do not have a controlling authority declaring results; any sporting event in which integrity is compromised—for example, when there has been match fixing—and any betting activity, such as synthetic lotteries, likely to threaten either our not-for-profit Lotterywest and its small business retailers or our revenue-paying TAB.

Another change made by the bill is to reform how the racing bets levy is calculated. This is intended to match other Australian jurisdictions. The bill stops bookmakers who do betbacks from having to pay tax twice—that is, on both bets. They will now pay tax on the original bet only. This affects 26 bookmakers. The Western Australian Bookmakers Association has been seeking this for many years—we have correspondence to that effect—and supports the bill. Betting exchanges such as Betfair will pay the levy on net winnings, not turnover. This solves the current problem of the levy outweighing their profit

Another change made by the bill is to empower the Gaming and Wagering Commission to impose prohibitions or conditions on advertising live odds during events. This will be by regulation and the usual disallowance process of this chamber will apply. It arises out of a meeting of state and territory ministers. The second reading speech says that this will apply only to prescribed sporting arenas and stadiums that are not horse or dog racing venues, where odds change all the time; nor will it apply to advertising that provides sponsorship support to local community sporting grounds.

Another change made by the bill is prohibiting remote gambling facilities on public premises. This addresses a lacuna in our current laws. “Public premises” excludes TABs, Lotterywest kiosks and prescribed premises or classes of premises. This provision will not capture gambling via devices not specifically made for gambling—therefore, gambling via personal devices or internet cafe services will remain lawful.

The bill also changes the definition of “foreign” lottery. Conducting a foreign lottery is unlawful in WA. Currently, “foreign” means outside WA. This will be changed to mean outside Australia. The intention is to avoid capturing national raffles for benevolent purposes, such as the national Surf Life Saving raffles. This change reflects a Council of Australian Governments’ agreement in 2010 that was entered into as part of the development of a nationally consistent approach to fundraising regulation. It removes red tape from the organisers of those raffles, which currently requires that they get a separate Western Australian permit.

The bill also makes some housekeeping changes, including the removal of a spent provision relating to two-up, updating penalty provisions to reflect modern drafting techniques, and anticipating a name change of the licensee of Burswood casino. This bill is not controversial. It introduces some harm minimisation measures, which the Greens welcome. The bill’s other reforms are very benign and we recommend support for the bill.

HON AARON STONEHOUSE (South Metropolitan) [7.56 pm]: I stand to speak on the Gaming and Wagering Legislation Amendment Bill 2018. The bill, amongst other things, makes provision for the Gaming and Wagering Commission to prescribe undesirable wagering products as prohibited events or contingencies, and makes it an offence for a person to offer or bet on prohibited events and contingencies. The second reading speech by the minister states —

> To complement the approach of the commonwealth and enable an immediate response to future undesirable betting products entering the public domain, the bill will amend the Betting Control Act 1954 by making provision for the Gaming and Wagering Commission to prescribe prohibited events and contingencies that can be bet on.

The minister is talking about the recent amendments to the federal government’s Interactive Gambling Act 2001 through the Interactive Gambling Amendment (Lottery Betting) Bill 2018, which effectively banned synthetic lotteries nationwide—that is, betting on the outcome of lotteries in other countries or jurisdictions. This has been

given as somewhat the impetus for this bill—the motivation behind the provision to prescribe undesirable betting activities. The ban on synthetic lotteries is on Lottoland in particular, which is the only one currently providing synthetic lotteries in Australia—at least, the only one that is well known.

The ban on Lottoland has already gone through by way of an amendment to the commonwealth Interactive Gambling Act. That will come into place on 9 January, so Lottoland is effectively out of the picture. It will be banned as of 9 January 2019, yet we are still passing broad powers potentially to allow the commission to ban synthetic lotteries in this jurisdiction as well. If the government wants to ban a particular betting practice, it should do so through primary legislation rather than through prescribed subsidiary legislation—through regulations instead. In that way, primary legislation can at least be properly scrutinised by both houses of Parliament and get the review that it requires.

I see no great social ill in synthetic lotteries. The government has not pointed to any other specific practice it is seeking to ban through these powers, either. It has not provided any concrete examples or any idea about what its intentions are for these powers. It was put forward that because Lottoland competes with Lotterywest, it impacts on the revenue of Lotterywest and, therefore, the community grants that Lotterywest administers. However, it has been revealed that Lottoland controls, at least on the best estimate, about one per cent of the total market of lotteries in this state. In fact, Lotterywest officials, who even went on the record during estimates hearings, have said that they are not too sure about any measurable impact Lottoland has had on Lotterywest sales.

It was raised that there is potential for consumer confusion over what they are actually buying when they engage with Lottoland and that consumers are not aware they are betting on the outcome of a lottery as opposed to entering the lottery itself. This was raised during Hon Tjorn Sibma's contribution. If that is the case, it seems a more appropriate response would be to perhaps use the Fair Trading Act or some other consumer protection method as opposed to banning this practice entirely. If consumers are unsure of the product they are betting on or that they are buying from Lottoland, there are certainly other mechanisms that are a little less heavy-handed than granting the Gaming and Wagering Commission of Western Australia the power to ban any betting practice that it dislikes.

It really calls into question the motivation behind this. If Lottoland is already banned by an act of the commonwealth Parliament and we have mechanisms to protect consumers from unscrupulous companies advertising products that consumers misidentify as lotteries, why are we pushing ahead with this legislation? It seems to me one possible motivation might be to shore up the value of the TAB for its upcoming sale. The federal ban on Lottoland was certainly pursued by Tabcorp, which potentially sees Lottoland's virtual product, its synthetic lotteries, as a competitor to Tabcorp's own virtual product—Trackside. In fact, the government has gone so far as to roll back restrictions on virtual racing to sweeten any potential deal in the upcoming TAB sale.

I will read from an article in *The Australian Financial Review* titled "WA Labor uses TAB sale to soften virtual gaming ban". Quoting from that article by Brad Thompson, it states —

> Unions warned on Wednesday the move was likely to lead to a rise in problem gambling and was a short-sighted ploy to boost the profits of a new private owner.
>
> The blanket ban on virtual gaming and poker machines outside of the Crown Resorts casino complex in WA has long had bipartisan political support.
>
> However, Premier Mark McGowan's government confirmed it would seek to ease those restrictions as part of the long-awaited TAB sale.
>
> The roll-back will take in TAB venues and apply to virtual racing, which includes products such as Tabcorp's Trackside, which is available to punters in other states.

I would certainly welcome a rollback of restrictions on virtual gaming products and poker machines outside of Crown Resorts' casino complex. But this goes to show at least the government's willingness to abandon its view that gambling is a potential problem activity and a scourge on society and, instead, move to shore up and protect the value of the TAB and its attractiveness to prospective buyers. It seems that what we have here is a government pursuing bans on synthetic lotteries but moving to legalise synthetic racing. It is a ban on one virtual gaming practice and a removal of restrictions on another virtual gaming practice. It seems some synthetic products are good and some are bad. We do not really have any sort of clear process to determine which ones are good and which ones are bad except for, it seems, the good ones are the ones that will increase the value of the TAB to prospective buyers and the bad ones are the ones that might compromise the value of the TAB to prospective buyers. Some members may like that idea of protecting the value of the TAB for prospective buyers, but I think that is a very dangerous way to write policy; that is, for a government to write policy and ban particular business practices to protect its own interests in its own state-run monopolies, and to abandon supposed attitudes of harm reduction on gambling when it is a financial benefit to the state to do so.

Minister MacTiernan interjected during Hon Tjorn Sibma's comments when he was talking about virtual racing products. I think she suspected he was speaking in defence of virtual racing products. I wrote down the minister's interjection because I thought it was quite interesting. She asked, "What do you think happens in pokies compared

with virtual racing?" The member was criticising the idea of a computer generating a random outcome for a virtual horserace. That interjection is very interesting. The minister thinks that there is no distinction between poker machines and virtual racing products, or that virtual racing products are as bad as poker machines, or that poker machines are fine and perhaps we can roll back some of the restrictions on those. I would certainly be in favour of that. Again, that shows the hypocrisy of the government in that it is looking at some gambling products that, according to Minister MacTiernan, are indistinguishable from poker machines and saying, "Those are okay. We will remove restrictions on those because it's going to help shore up the value of the TAB for a prospective sale to perhaps Tabcorp". It also raises the question of what further actions the government might take to protect the value of Tabcorp going forward. If we grant the government powers to declare certain gaming and betting activities as undesirable and ban them, what else is on the chopping board? The government has been very vague about what it will ban with these powers. We really do not know going forward what plans this minister or ministers in the future might have.

Another interesting interjection I took note of was again from Minister MacTiernan. When speaking about the need to ban Lottoland and synthetic lotteries, she said, "They're drawing from a scheme, so they are benefiting without contributing". I think she was talking about them supposedly chewing into Lotterywest's revenue and sales, and therefore decreasing the amount of Lotterywest funds for community grants, without contributing to state coffers through a betting consumption tax. Perhaps they are not contributing, but they certainly wanted to. Luke Brill, the chief executive officer of Lottoland in Australia, was in the media stating just that—that he wanted to pay a point-of-consumption tax to government and contribute to community grants rather than being banned outright. In fact, if I am not mistaken, Lottoland even had plans to bring retail lottery agencies into the fold and start a revenue-sharing scheme with them.

Hon Colin Holt: Will you take a short interjection?

Hon AARON STONEHOUSE: Sure; go for it.

Hon Colin Holt: Because they're registered bookmakers, they would actually have to pay the point-of-consumption tax.

Hon AARON STONEHOUSE: I was just getting to that. That is an excellent point. We have just passed a bill through this place that implements a point-of-consumption tax. That would have been fantastic opportunity to raise revenue through Lottoland, which was willing to pay a point-of-consumption tax as opposed to being banned, but we have passed up that opportunity. We are granting powers to the Gaming and Wagering Commission of Western Australia and the Minister for Racing and Gaming to ban practices in the future that again may compromise state revenue through various gambling practices that will captured by a point-of-consumption tax. In the case of Lottoland, it wanted to contribute. It was willing to work with the government to contribute, but it seems that, in this case, McGowan and his government had already decided that a ban was the way they were going to go and they were willing to forgo that revenue and contribution to community grants and retail lottery agencies and instead pursue a ban that, as far as I can see, does not benefit anyone. It does not benefit lottery agencies. Their sales are not diminished because Lottoland has a one per cent share of the market. It is hard to imagine that the retail agencies that sell physical tickets are losing sales to an exclusively online service that is done through a smart phone. As we have heard in previous budget hearings, that is certainly not the case for Lotterywest's overall sales; it does not attribute its reduction in sales to the introduction of Lottoland in the market.

We are still left with the question: what is the impetus or point of this brand-new power when Lottoland has already been banned and does not pose a threat to Lotterywest or to lottery agencies and when we are forgoing a potential new revenue stream? Why are we passing these new powers?

Hon Alannah MacTiernan: How are we forgoing a revenue stream if it's already been banned by the commonwealth?

Hon AARON STONEHOUSE: Sure, there is a missed opportunity, perhaps—not an action of this government but a missed opportunity nonetheless. When we get to the mechanism by which the government potentially wants to ban undesirable betting activities in the future, this bill does it through regulation; it grants a new head of power. I am very uncomfortable with, and very wary of, this mechanism. In my view, the delegation of legislative power from the legislature, Parliament, to the executive, the minister and the state government, somewhat undermines the separation of powers and should be done only when absolutely necessary and on a limited basis with adequate checks and balances. Some of those checks and balances are in place because regulations pass through this house and are disallowable and we have a Joint Standing Committee on Delegated Legislation, but regulations should be done only when necessary. The government has not sufficiently demonstrated that these regulations are necessary. It cannot point to any product that urgently needs to be banned.

Let me make this clear for anyone who is unsure. Regulation is legislation. Albeit it is subsidiary legislation, it is still legislation in a way. When we grant the executive the power to write regulations, we are delegating a legislative power to the executive. The legislature, Parliament, should not be too hasty to abdicate its responsibility to legislate and check the powers and ambitions of the executive. As I have mentioned, the

regulations can be disallowed, but the Legislative Council's ability to disallow a regulation does not provide adequate scrutiny of subsidiary legislation. The practicality of disallowance motions is that they are debated over, perhaps, if we are lucky, 20 minutes at the end of a day or a sitting week or a sitting block. That has been the practice in this Parliament and that does not provide sufficient time to scrutinise regulations. A disallowance motion also does not provide an opportunity to amend regulations. An entire regulation or a section of it can be merely disallowed and nothing can be added, unlike primary legislation whereby a bill is presented and passes through the Committee of the Whole stage, when each clause can be scrutinised in detail and speaking times are a lot longer. The standing orders allow for a significant amount of debate.

Passing legislation in the primary form of a bill as opposed to a regulation certainly takes longer. I understand that is why the government wants to avoid that route and prefers the flexibility that regulations allow. I think that that longer process is a good thing. It would certainly curb the government's more paternalistic desires to ban gaming practices that it thinks are wicked or bad. It would provide more opportunity for community consultation and would provide members of Parliament with more opportunity to research and come to informed positions on bans, as opposed to regulations; in many cases, we are lucky if any members are aware that regulations have been tabled in the first place. Very few members in this place take the time to look at the *Government Gazette*.

Under the new powers in this bill, the minister will have the power to ban gambling practices that he or she does not like. My concern is that he or she will have the power to do that somewhat on a whim. A process was outlined to us that Hon Tjorn Sibma detailed in his contribution and that sounds all well and good, but I have a question for the minister. Perhaps she can answer it in her second reading reply or perhaps we can go through it in Committee of the Whole. If the commission initiates a review of a practice based on complaints about that practice and then makes recommendations to the minister, can the minister direct the commission to undertake those investigations and make recommendations? If it can be initiated by the minister alone, without any sort of real measurable community complaints, I am afraid that it can be done on the whim of a minister. I worry about that.

I have respect for Minister Papalia. I think that, for the most part, he is a reasonable minister, but we do not know who the minister will be in a couple of years when there is a new government. We do not know who they will be or how reasonable they will be and what pressures may be put upon them to ban certain practices because they are undesirable to certain rent-seekers, as opposed to undesirable to the community as a whole. Just in this Parliament there are plenty of examples of bans and restrictions being placed for nothing more than what seems like virtue signalling to certain stakeholders with no tangible improvement to community outcomes. I would like to know whether the minister will have the power under this legislation to direct the Gaming and Wagering Commission to recommend banning certain practices. I would also be interested in hearing an outline of the process and a confirmation of whether it will be what Hon Tjorn Sibma detailed for us—that is, a recommendation from the commission to the minister, and then to Executive Council, before being printed in the *Government Gazette*. Executive powers like this are easily given, but they are rarely taken back.

I am also very interested in what criteria will be used to determine what an undesirable wagering product is. I hope that will be addressed by the minister too. This has been touched on in a previous contribution, but will some kind of metric be used to determine what is undesirable? Of course, what is undesirable to some people may be desirable to others. Ultimately, I think that consumers have a pretty good idea of what products they like. They will vote with their feet and with their wallets. If they do not like a synthetic product, they will not buy it. If we are to take away consumers' freedom to make their own choices about which gaming and betting products they buy, what criteria will the government use and how certain can it be that it is making the right choice to take those actions on behalf of consumers?

I have a certain degree of respect for Minister Papalia. I run into him from time to time in Port Kennedy in my electorate when we go to Remembrance Day or Anzac Day services. It is always a pleasure to see him there. I also came across him at the WA Liquor Store Association awards night a couple of months ago. However, Hon Tjorn Sibma raised Minister Papalia's comments in the lower house. Quoting from the *Hansard* of 16 October, during the debate in the other place he stated —

> But I can tell members that if this bill gets into the upper house and is delayed by any sort of ridiculous politicking, I will follow the lead of the Minister for Transport. I will get the list of addresses from the Premier and write to every single one of the Lotterywest newsagents and the 26 bookmakers and tell them that this bill is being held up by the opposition in Western Australia—"The Liberal Party in Western Australia has proven itself incapable of a coherent response to anything and they do not like you; they didn't help you in government, and they're not helping now." That is what the letter will say. I will say, "Contact them and tell them that you're not voting for them but also that you'd like them to pass the bill in the upper house."

That is a really disappointing statement for a couple of reasons. It completely ignores the role that the crossbench plays in passing legislation through the upper house, which seems to be a constantly repeated theme of ministers in the other place.

Hon Sue Ellery: He refers to ridiculous politicking. If you are not doing ridiculous politicking, how is it a threat?

Hon AARON STONEHOUSE: Sure.

Hon Sue Ellery: I don't think you are.

Hon AARON STONEHOUSE: I am certainly not going to rise to the defence of the Liberal Party. I will smack it around in just a moment.

Hon Alannah MacTiernan: I make the point, too, that if the Liberal Party supports a piece of legislation, that legislation will pass regardless of the crossbench.

Hon AARON STONEHOUSE: It does, minister. As Minister Papalia was saying that, John McGrath was interjecting saying, "We support it! We support it!" This seems to be little more than grandstanding by Minister Papalia—for what purpose I do not know. Perhaps it was to win political points against the Liberal Party or to use this legislation as a club to smack it around.

Hon Colin Holt: How does not passing this bill affect newsagents?

Hon AARON STONEHOUSE: It does not—exactly!

Hon Colin Holt: So why would he be writing that?

Hon AARON STONEHOUSE: Exactly! That is a very good point. As was said previously, he can write to anybody he likes. Of course, if this bill is passed, these threats are empty, but he has threatened to write to people and provide them with very misleading information.

Hon Sue Ellery: If you engage in ridiculous politicking!

Hon AARON STONEHOUSE: Who is engaging in ridiculous politicking?

Hon Sue Ellery: That's the question, isn't it? You wouldn't describe what you're doing as that, would you?

Hon AARON STONEHOUSE: Is ridiculous politicking us, as members of the Legislative Council, carrying out our lawful role as a house of review to scrutinise and analyse legislation that passes through this place? That is not ridiculous politicking! That is carrying out our function and why we are here in the first place—to act as a house of review. The idea that to scrutinise or ask questions about this bill is somehow counter to the interests of Lotterywest, newsagents and bookmakers in this state is ridiculous. This really does a disservice to the minister, because his staff have worked very, very hard to ensure that this bill has a smooth passage through this house. They have been engaging with members of the crossbench and the opposition for weeks now, addressing concerns and ensuring we have what we need for this bill to pass smoothly, without delay. Then the minister says things like this, that are very much at odds with the efforts of his own staff. His staff do him credit and I think he really does himself a disservice when he makes statements like this. These are the kinds of statements I have come to expect from the Attorney General and recently from Bill Johnston, but to hear them from Minister Papalia—again, a man I hold in relatively high esteem—is really disappointing.

What we hear from Minister Papalia, Minister Johnston and the Attorney General are criticisms about the passage of bills through the upper house levelled at the Liberal Party—at the opposition. There is never recognition or acknowledgement of the role that the crossbench plays. There may be times in the Parliament when an opposition or a crossbench frustrates a government's legislative agenda, but there are also times—I would say, the vast majority of times—when an opposition and a crossbench have legitimate concerns about the legislation that passes through here.

That was certainly the case with the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. I think the amendments we made to that bill certainly enhanced it and will improve the outcomes for victims of child sex abuse. I think the amendments proposed for the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 will improve the outcomes for not only lessors, but also lessees. The concerns that have been raised during this debate by the opposition and by me and other members of the crossbench—the Greens are included in that, of course—will clarify the legislative intent of the bill we are dealing with, provide clarity for operators in this space and provide clarity for the judiciary if it has to adjudicate cases and challenges against this legislation in the future. It is a legitimate function of the upper house to scrutinise this legislation and to take our time and not be rushed because a minister in the other place wants to tick something off before the end of year; he wants to use it as a baton to smack around the Labor Party's eternal enemy, the Liberal Party.

I should take a moment to remind the government that we do not live under a presidential system. There is such a thing as the separation of powers. We have a Parliament for a reason—not just to make laws, but to scrutinise, evaluate and debate laws. When the government pushes through important changes, such as bans on entire forms of commercial activity, it skirts that process and deprives the people of this state with a much-needed form of representation and accountability in their Parliament. What is more important, there is a fundamental danger to our democracy when the executive vests too much power with itself. I suppose that might sound hyperbolic, but every time we delegate legislative power to the executive, we diminish the power of the legislature and we very, very rarely get those powers back, so we should tread with care. We should be absolutely certain that there is

a need for this legislation in the first place before we delegate those powers, and in my view the government has not demonstrated that need. It is unfortunate to hear that the Liberal Party will support this legislation. I certainly intend to oppose it. I will not support it. The government has not established a need for it and it will only allow for its worst paternalistic instincts to be carried out through bans on gambling practices that it dislikes.

Hon Colin Holt: What about the bookmakers who pay double? Do you not support that?

Hon AARON STONEHOUSE: I do support those aspects; it is the new head of power I oppose. I thank the member for clarifying that. I do not really have a problem with the other provisions of this bill. They are minor. There are some good things. I am not a fan of some of the bans on advertising, but they are really minor in their impact. I absolutely oppose the new head of power. It is disappointing to hear that the Liberal Party will support the new head of power. In my view, this is very reminiscent of the debate about the liquor control amendments in which the Liberal Party supported a new head of power to arbitrarily restrict the floor space of big-box liquor stores.

It is the same thing. There is a new head of power to grant sweeping powers to the executive and to write regulations to ban certain types of businesses or certain business activities to solve a problem that does not exist. Lottoland and synthetic lotteries are not a problem; they are not chewing into Lotterywest sales and they are not affecting Lotterywest retail agencies. When it comes to liquor sales, again, there was very little evidence that big-box liquor was having an impact on the variety of liquor stores or the prevalence of smaller liquor stores and competition in that space. There was certainly no evidence that it would have any impact on alcohol-related harm. These are very comparable debates in my view. The Liberal Party sided with the government on both these instances. As much as Minister Papalia and other ministers smack the Liberal Party around for potentially opposing bills, more often than not the Liberal Party is complacent and does support government legislation. It does very little to frustrate the government's legislative agenda, much to my disappointment. This is just another in a long list of examples of the government banning things it does not like as opposed to a live-and-let-live attitude of, "If some people like products we disapprove of, whose business is that?" Government would rather ban those practices to protect vested interests, to shore up its own monopolies, to ring-fence perhaps, a tab for prospective buyers. Again, as the government has not demonstrated, in my view, a genuine and pressing need for these new powers, and in the absence of being able to point to any particular betting practice that should be banned urgently, I am inclined to oppose this legislation.

Just before I resume my seat, I will foreshadow my amendment that is on the supplementary notice paper that deals with the commencement of this Gaming and Wagering Legislation Amendment Bill and its measures. It, essentially, seeks to ensure that the government cannot ban synthetic lotteries—Mark McGowan or Minister Papalia are certainly no fan of them, if we take their comments—before the date that the commonwealth ban comes into effect. The commonwealth ban will come into effect on 9 January, and my amendment would ensure that the proclamation of this head of power cannot come into effect until 10 January or after. That will ensure there are no jurisdictional complications between a state-based ban through this bill and the commonwealth ban through the legislation passed through the commonwealth Parliament earlier this year. That would provide some certainty to those in the industry—those who operate synthetic lotteries, which, to my mind again, is only really Lottoland—that they have until 9 January to exit the market with their synthetic lottery products. It does not seem to be a big ask. The government has said that it will not be banning before 9 January. If that is the case, this amendment should not be of much concern to the government at all. However, if the government can put on the record today that it has no intention of introducing regulations to ban synthetic lotteries in this state before 9 January, and can commit to that, I might be willing to remove that amendment; it may no longer be required and I may not pursue that amendment in the Committee of the Whole House. With that, I look forward to the minister's response.

HON COLIN TINCKNELL (South West) [8.28 pm]: Some pretty solid contributions have been made by members this evening. Hon Colin Holt, Hon Dr Steve Thomas, Hon Tjorn Sibma and Hon Aaron Stonehouse covered many aspects of this Gaming and Wagering Legislation Amendment Bill, which I will try not to repeat. I suppose this bill is a little like maybe going to our mum and dad's place or whatever it is on Christmas morning or going to a big Christmas party where there are some presents for us, but after Christmas day we want to take some of those presents back to the retailer and swap them for something else. This bill has some good things and it has some bad things. There are some issues and I would like to talk about some of them.

I can see that the government has tried to close some of the loopholes and anomalies in the current act. Hopefully, that will prevent interstate and overseas gaming entities from making huge profits through those loopholes. We have heard the comments of other members. Other members may take a different view. There are some good reasons why this bill should go through this place. I agree with the comment of Hon Aaron Stonehouse that the Gaming and Wagering Commission wants to have the power to decide what is and what is not a good gambling product. I take issue with that power being taken out of the hands of the Parliament. However, one of the good changes that is being made in this bill is that it will make it fairer for Western Australian betting agents and bookmakers.

However, I find some parts of this bill slightly contradictory and inconsistent. It is important to protect young kids and children and vulnerable people in our population from the adverse impact of advertising. However, we are

also preventing adults from having access to live odds. It is a bit contradictory to support one group of people because we are concerned about the influence of betting advertising and promotion, but on the other hand deny adults their right to get the latest information.

Hon Alannah MacTiernan: How are we doing that?

Hon COLIN TINCKNELL: I have just explained that.

Hon Alannah MacTiernan: They can go online and get it. We are not preventing that.

Hon COLIN TINCKNELL: The second reading speech refers to the need to ensure that vulnerable populations—for example, kids—have limited exposure to the normalisation of gambling, such as by providing live betting odds at football games. However, in limiting kids' exposure, we are preventing adults from being able to access live odds. This is an unintended consequence of the bill. It impinges on the freedom of adults to access gambling information.

As I mentioned during the debate on the Betting Tax Bill, this bill will enable the government to put a considerable amount of money into consolidated revenue. At this stage, I have no idea how that money will be spent. We have found out through inquiries that it will cost $150 million to update the racing infrastructure in this state. I fear that the smaller country meets will be either downgraded or closed in the future. Those meets are very important to the cultural life of regional communities. It is not clear to me how this bill will deal with that issue. I do not think the 30 per cent of revenue raised from the point-of-consumption tax will be enough to support the racing industry. We need to do more than that.

As Hon Aaron Stonehouse has mentioned, in some ways this bill is premature. There is a chance that a Supreme Court challenge from Lottoland would be successful. Therefore, that is another problem that could come up in the future.

With that, One Nation will be supporting Hon Aaron Stonehouse's amendment. We think this bill will definitely go through. We have seen how the major parties will be voting. However, we would like to see the bill improved.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [8.34 pm] — in reply: I thank all members for their contributions on the Gaming and Wagering Legislation Amendment Bill 2018—those in support and those not in support. Like any piece of legislation, there is complexity to it and not all issues are going to be straightforward. There will always be areas on which questions are raised. I thank all members for so kindly recognising the very dedicated team who serve Minister Papalia in this regard. I agree that they do fantastic work.

I did note some obvious discomfort with some of the robustness of Minister Papalia's comments and of other ministers' comments from time to time. I will give members some benefit of my experience of having been a member of both upper and lower houses. There is a quite considerable cultural difference between the houses. I must admit that when I came back in here, it was a bit of a cultural shock. We have to accept that lower house members are in a situation with a lot more hurly-burly; they go out and win individual seats and politics is played harder. I urge members to understand that and to not take the degree of personal offence at these things that they appear to take. I just make that observation. There are two very different cultures. Whilst we all recognise the role and importance of a house of review, there is a need for timeliness for those people who are trying to make the system work. Sometimes there is a degree of discomfort with, or perhaps members do not quite understand, the length of time things sometimes take to get through processes in that place. I make that observation just by way of providing a bit of an explanation or a different frame through which we can see these things.

Members raised many interesting issues. One of the primary concerns was obviously the idea that there will be a power to prescribe certain betting and gaming practices. I understand that Hon Aaron Stonehouse is a libertarian and that, from his point of view, every increase in regulation is something that, quite understandably, he feels the need to call out. There are other areas in which I would agree with him, but I do think we are probably overcooking this goose a little. The minister is very clear that we have explained and made various undertakings about what this involves and the processes that will be gone through.

Members have pointed out that, at one level, this was justified as a response to Lottoland, but that we have federal government legislation in relation to Lottoland. As I understand it, our commitments to do something about Lottoland had their genesis while we were in opposition. We made various commitments to deal with this, for the reasons we articulated. From our discussions with Hon Colin Holt and Hon Tjorn Sibma, we felt that it had potential. We cannot absolutely quantify it, but I know from my and other people's experience that when we have been into a shop to buy a Lottoland ticket we thought we were buying an actual legitimate lottery ticket. So although it is true that we cannot exactly quantify the detriment to real lotteries, the people who developed this derivative product have quite clearly not been paying the same return into the general system that goes to community benefit. It is widely supported across this state that the money raised from this form of gambling goes to community benefit. I do not expect Hon Aaron Stonehouse will agree with this, but generally speaking people in Western Australia believe that has been a positive.

It is true that since we were elected and started working on this legislation there has been federal government action on Lottoland. Nevertheless, we wanted to persist with our amendments; we are not the only state that has. Victoria and South Australia have also proceeded with their amendments because for a variety of reasons there might be other forms of gambling that we might want to prescribe by way of regulation. A number of members have asked for an assurance around Hon Aaron Stonehouse's amendment on the notice paper. We do not want to support that amendment, member, because we want this legislation to go through. But the minister has asked me —

Hon Martin Aldridge: Why wouldn't it go through?

Hon ALANNAH MacTIERNAN: Sorry; we want it to go through and become legislation. Hon Martin Aldridge might not have observed, but the Legislative Assembly is not sitting and we are very keen —

Hon Martin Aldridge: Is that your only defence?

Hon ALANNAH MacTIERNAN: Hold on—no, it is not! I am explaining why it is not necessary and why we will not agree to the amendment. It might be that we would be moving on two axes. Is it necessary? No, it is not. If it is not necessary, maybe we could pass it anyway. But we do not want to support it because we want the legislation to come into effect so that we can start dealing with the other parts of the legislation that I understand members support. This is a complex set of legislative provisions, some of which most members on the other side agree with. But the minister has absolutely given an undertaking that until 10 January next year he has no intention of introducing regulations in relation to Lottoland that would in any way infringe on its ability to operate. He does not have a general intention to introduce regulation on Lottoland because we are quite confident that there will not be a challenge to the federal government legislation. The minister gives an absolutely categorical undertaking to this house that no regulations will be introduced in relation to Lottoland before 10 January. We believe, Hon Aaron Stonehouse, that he has addressed this.

Hon Colin Holt and Hon Tjorn Sibma asked about the criteria for the processes that will be undertaken—the notes keep coming thick and fast; the advisers have been working hard. I am sure, given the passages members have read out, that members have been provided with this information, but I think there is a desire for this to go on the record. These are the factors that will be considered in deciding whether to prescribe a betting practice: Does the event have a sufficient national or international standard? Are the results of the event or contingency declared by a controlling body? What integrity and levels of control are associated with the event? What is the public interest or the appropriateness of wagering on the event or contingency? For example, we would not necessarily want there to be betting about whether certain public figures would die within a certain time, because that might be an incentive for people to knock them off. We can imagine that there would be some things that we just would not want, as a matter of policy, to be the subject of betting. Harm minimisation principles such as responsible gambling practices, consumer protection measures and the appeal to juveniles are another consideration. Responsible Wagering Australia has expressed concern over existing events or contingencies being prescribed as prohibited events or contingencies. The government understands the validity of this concern for current wagering operators offering these products. Although the Minister for Racing and Gaming has said that he cannot give an undertaking that existing events or contingencies will not be examined, he is prepared to say that that is not the intent of this bill.

The minister has set out the sorts of processes that the government would follow before seeking to regulate any product. The Gaming and Wagering Commission would be notified, either through intelligence or via day-to-day business, of a contingency or event that may be of concern to consumers, a threat to Western Australian industry, or operating contrary to the law. The commission would perform due diligence and investigate, against the criteria articulated, whether the contingency or event is contrary to the spirit of the gambling policy in Western Australia. If the commission deems the contingency or event to be contrary to the criteria, it may recommend to the Minister for Racing and Gaming that a prohibition be made via regulation. If the minister agrees, regulations would require the approval of the bettor regulation unit and the Executive Council prior to gazettal. The regulation would then be subject to disallowance. We hope that that deals with some concerns. It is important to understand that this provision would not be used lightly by any means. No existing practice is being targeted, but we believe that, just as Lottoland emerged, other provisions may emerge as the industry becomes more competitive. We know that it is changing daily, and people are constantly exploring ways in which they can get more people gambling, and the government believes that it is important that we respond.

A number of members suggested that I was comparing Trackside with pokies. I was doing so only to the extent that in each case the algorithm provides a return for the operator. This bill does not deal with Trackside, but given that people have raised this, I suggest that there are some very great differences. As anyone who has played the pokies knows, it is quite an addictive practice. People put in their money, they pull the handle and they get a result. It is very quick. An important factor in gambling is the rapidity of the response—the bet to the response. There is not that immediacy with Trackside. People have to put on their bet and they have to wait for the race to be held, whether it is a real or virtual race. It is not interactive in any way and the odds are known in advance. Of course, it is going to be available only during times that actual real-life races are going on. We think that there are very important and significant differences between Trackside and the pokies.

Another issue members raised was the prohibition, or limitation, on the advertising of live odds betting during certain events. Members will be aware that many sporting codes agreed to this on a voluntary basis, and the AFL, most notably, after some of the darkest-day events, entered into voluntary agreements to have this constraint. We want a legislative framework so that if for some reason or other those voluntary undertakings fail or are not properly enforced, we have the capability to deal with them. Hon Colin Tincknell was concerned that it would stop adults betting. It does not stop adults betting. They may have access to live odds betting on their smartphones while at the footy and it will not stop people from accessing and playing live odds, but it will prevent people advertising the effect of live odds. When people go to the football, they see various betting companies—personally, I think we could go a bit further—and corporations advertising their websites. They can advertise their websites but they cannot advertise live odds. It is what we are trying to reduce that is the point. Many parents support us. Many parents who take their children to the football do not like their children being absolutely swamped with live odds advertising—the practice that many would argue is suborning the whole interest in the sporting contest and making it secondary to the gambling. This will stop live odds being advertised and thrust in the face of young people at various sporting events. The sporting arenas that are likely to be prescribed for the purposes of prohibiting the advertising of live odds are Optus Stadium, HBF Arena Joondalup, HBF Stadium, Perth Motorplex, HBF Park and the WACA. Of course, the usual regulatory processes will be undertaken to develop and implement regulations. Part of this will be in consultation with the operators and the management of sporting arenas. I understand this is part of a Council of Australian Governments' arrangement. There has been an agreement across Australia that these various voluntary codes will now become part of a proper regulatory regime. We have very strong support in the community for that.

I think it was Hon Tjorn Sibma who raised issues about raffles and how we determine whether it is a national raffle. He wanted to know how that will play out. This legislation will apply to raffles of organisations that are nationally recognised charities. A national body regulates charities. If a body that is nationally recognised as a charity goes to any one state and receives authorisation from that state to run a raffle, that raffle can be run in any state. I hope that explains that.

I will go through some of these notes to make sure I have answered all the main queries. Lots of these issues were repeated. Hon Colin Holt asked what contingency arrangements will be made. I was asked what happens if I go to Sydney and put a bet on an event that was prohibited in Western Australia; can I be charged if I come back with a betting ticket in my pocket? I can assure members it is only for actions that take place in Western Australia. If a person who is outside the jurisdiction engages in an activity that is legal in that jurisdiction, when they return to Western Australia they will not be prosecuted. I think that concern has been dealt with.

Questions were raised by Hon Colin Holt and Hon Tjorn Sibma about remote gambling facilities. It is understood that we have a prohibition. The TAB is prohibited from going into certain sensitive locations to prevent there being a retail presence. For example, members can imagine that it would not be a good thing to have that in some remote communities. We are now just seeking to ensure that no other operator has greater capacity to do that thing that we can prevent TAB agencies from doing. The amendment does not prevent Western Australian communities from accessing products from wagering operators licensed in other jurisdictions; it just does not give them greater power than the TAB. I think we all agree that there are certain sensitive communities and places where we would not want a retail betting outlet, and this ensures that we can do that. We have not been able to find for members an example of where this has happened, but clearly it could happen if we fail to take that action.

A query was raised by Hon Dr Steve Thomas about lay-offs and betbacks. Lay-offs were used in the Betting Tax Bill 2018. That was determined appropriate by the drafters of that bill and is likely to be consistent with other states and territories implementing a point-of-consumption tax. "Bet back" is used in this bill as it has been used historically in the WA context of the act and is understood across the WA market. Effectively, these terms are interchangeable and operate in a similar fashion.

Hon Colin Holt raised the question of foreign lotteries. In Western Australia, charitable organisations are registered under the consumer protection framework. Given that with the passage of this bill Western Australia will be encompassed within national lotteries, we expect that the charities would be registered with the Australian Charities and Not-for-profits Commission, which holds the federal register of charities.

I recognise Hon Robin Chapple's contribution. Hon Colin Tincknell raised concern about infrastructure in this state. I know that we give out money because from time to time when I go to country race meetings, we announce various infrastructure improvements, but the benefit really comes from the point-of-consumption tax in the previous legislation and, of course, 30 per cent of the revenues raised will go directly to Racing and Wagering Western Australia, and it will determine where in the industry that money is invested. That will be of benefit to the industry.

I thank all members for their contributions tonight. They have been useful and raised important issues of discussion. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Clause 1: Short title —

Hon TJORN SIBMA: I do not intend to detain consideration on this clause for very long, but I note that in her second reading reply, the minister made an unambiguous commitment not to proceed with any regulations that would ban synthetic lotteries, such as Lottoland, and that would take effect before 10 January. Has any drafting of these regulations commenced; and, if not, when is drafting likely to commence?

Hon ALANNAH MacTIERNAN: No, drafting has not commenced. Obviously, once this legislation is passed—if it is passed; I do not want to offend anyone by presuming that it will pass tonight—the drafting of the regulations will commence.

Hon TJORN SIBMA: No offence will be taken, but I want to clarify the answer. What is the anticipated time line from the commencement of drafting these regulations to the point at which the government effectively has an exposure draft ready that it might or might not choose to canvass with stakeholders?

Hon ALANNAH MacTIERNAN: At this point, it is not our intention to draft any regulations on this part of the legislation, because we do not bring to this debate a particular gaming practice, beyond Lottoland, that we intend to prescribe. But we understand that these things will emerge and we want the power. Although I presume that we will look at other regulations, we do not have a particular gambling practice, beyond Lottoland, that at this point we want to prescribe. As we have said, we accept that the federal legislation covers the field and we understand that Lottoland will not challenge the federal legislation. That is its indication. There would be absolutely no reason. But we can absolutely give the member a cast-iron guarantee that no regulations on Lottoland will be gazetted before 10 January 2019.

Hon TJORN SIBMA: I accept that for the very strong declaration that it was. That may have a consequence on how swiftly this bill proceeds after clause 1, but I dare not prejudge the disposition of the house. Putting the Lottoland situation to one side, is there an anticipated time line for the drafting of regulations that will deal with the prescription of certain desirable and undesirable betting activities; and, if so, what is that time line?

Hon ALANNAH MacTIERNAN: There seems to be some confusion. I read out the policy guidelines. What I read out earlier was the way in which we will go about considering whether there is another product beyond Lottoland that we want to prescribe. Those guidelines will not be the subject of regulation. If we identify another product, we will have to develop a regulation that describes that product—just as we see that the commonwealth legislation has prescribed a particular product by way of a definition and description of how that particular product functions. We are not going to go about drafting a regulation because at this time, other than Lottoland, we believe no other gaming products should be banned.

Hon COLIN HOLT: I think that is a sensible approach. This is quite an unusual provision and quite an unusual head of power. If that situation arose, rather than just rely on the prescription of regulations in the *Government Gazette*, will there be some sort of statement by ministers or representative ministers that an undesirable wagering product has been prescribed?

Hon ALANNAH MacTIERNAN: The policy will operate in the following way: the Gaming and Wagering Commission will issue the proprietor of the target gambling product with a show-cause notice, a process of consultation will follow, and a decision will be made, which will be gazetted. It will not be done by stealth or without proper investigation or, indeed, the issue of a show-cause notice to the proprietor of the product asking them to explain why the practice should not be barred.

Hon AARON STONEHOUSE: Picking up on Hon Tjorn Sibma's question, the minister has said that the government has no intention to introduce regulations to ban Lottoland before 9 January and that at this time the government has identified no other practices it intends to draft regulations to ban. Am I interpreting this correctly; that is, the government plans to draft regulations to ban Lottoland, but will not do so until after the commonwealth ban comes into place on 9 January?

Hon ALANNAH MacTIERNAN: No, that is not correct. We believe that the commonwealth legislation will be effective and that that legislation will stand. If, for some reason or other, action is taken by Lottoland in the High Court to challenge the constitutionality and the capability of the federal government to make laws about that, obviously, we would have a residual ability to do it. We do not believe that to be the case and, in any event, we guarantee that we will not introduce any legislation regarding Lottoland before 10 January. However, it is not our intention to do it because we do not believe the validity of the federal legislation will be challenged.

Hon AARON STONEHOUSE: I thank the minister for clearing that up for me. The amendment I have on the supplementary notice paper deals with clause 2, but it might be more appropriate to clear this up first. Part 1 of the bill will come into effect on the day on which the act receives royal assent. The rest of the act will come into

operation on a date fixed by proclamation. Could the minister tell us why the rest of the act will be done by proclamation rather than by royal assent? Does the government intend to proclaim the rest of this act at a later date, what might that date be and what is the reasoning behind the proclamation as opposed to assent?

Hon ALANNAH MacTIERNAN: It is a standard practice designed to give the minister flexibility, as I understand it, once the regulations are in play. In areas in which regulations might be needed, the determination can be made. We can wait until all the regulations are in place and gazetted before we have the proclamation, but we want to get the fact of the bill the subject of royal assent.

Hon TJORN SIBMA: I want to pick the minister up on an explanation of procedure that would apply. If I understand correctly, in essence, it would involve the commission issuing a show-cause notice to a company or vendor that in the commission's opinion is offering an undesirable wagering product. I have two questions about this. Firstly, is it anticipated that the commission would first raise its decision with the minister or minister's office before issuing such a show-cause notice or is the minister informed about it after the fact? Probably more importantly, what recourse would a vendor have if they received such a show-cause notice? Is there a broadly understood scheme they can point to that would justify the activity they are engaged in or the product they are offering? How do they understand the rules of the game? Related to that, how would they go about defending themselves if there was an absence of an understanding about what is in and what is out?

Hon ALANNAH MacTIERNAN: At this point policy guidelines will be developed by the commission and they will be publicly available. The issues that will be taken into account will roughly fall around those we described today, but probably fleshed out a little more. A whole procedural policy will be set out. It will be published and it will guide the way in which this proceeds. Ultimately, as with any regulation, it will not proceed without ministerial consent. At precisely what point in time the minister is alerted by the commission to their activity will probably not be set down in this policy, but we would imagine that the commission in its regular briefings to the minister would raise an issue such as this that it would have some concern about. At the end of the day, any regulatory regime would need to be approved by the minister before it takes effect.

Hon TJORN SIBMA: This will hopefully be my last question. I thank the minister for that contribution. Can I please get a sense of what stage of drafting this policy note or guideline is at now, when the process might be completed and when, on current planning, such a guideline or set of guidelines would take effect?

Hon ALANNAH MacTIERNAN: It is important to understand that in some respects this is an expanding capability. At the moment, bookmakers can bet on a very limited range of things. We are more generally allowing things to be the subject of wagering but clawing back those things that offend. At the moment, to get approval, people have to demonstrate in reverse, I guess. They have to apply for approval. In a way, this is a broadening power in that it will allow these things unless and until those things are prescribed. The sorts of issues that will be taken into account are those that were taken into account in deciding whether approval would be given. It will in fact reduce the regulatory burden.

Hon RICK MAZZA: Part of this question might have been covered earlier, minister. Besides Lottoland, which will be banned by the federal legislation, have any complaints been made to the Gaming and Wagering Commission or has anything been brought to the commission's attention that it may be concerned about that would be banned under the regulations?

Hon ALANNAH MacTIERNAN: No specific practices are a concern in WA, so we do not have a particular provision but, as I said, it is important to understand that, in a sense, we are turning the legislation around to be more flexible. At the moment, a person has to apply for each product they might want to bet on. I draw the member's attention to clause 5(2) in which we are proposing that rather than saying people have to apply, we are saying they can do it unless it is prescribed. I think that is probably a more flexible arrangement that will suit everyone. Although I know members opposite have been focusing on this legislation prescribing things, in a way, given the totality of the legislation, it is expanding what can be done because it can be done as of right, except when we have drawn an exception.

Hon RICK MAZZA: That is not quite the answer to my question. I understand the prescription. The question I asked was: has the commission had any complaints or has any product or operator been brought to the attention of the commission that may be prescribed under these regulations?

Hon ALANNAH MacTIERNAN: Obviously, Lottoland has been the source of numerous complaints—there is no record of complaints in relation to any other product. However, I go back to that same point, and it is the same question, with respect, member. We are now saying that instead of someone having to get approval for every new product, they can bring in that new product unless we have prescribed it.

Hon TJORN SIBMA: Minister, that is a sensible provision in principle, because it reverses the means by which products or wagering events might be prescribed. Nevertheless, I would like to clarify, for the sake of practicality, what rules will apply in the interregnum between the deletion of the section to which the minister referred in her previous contribution and the drafting and publication of the policy guidelines that would effectively provide the rules

of engagement around whether an event may be described as desirable or undesirable. I understand that this might take some time and involve further consultation. I am trying to get a sense of when the commission or the minister might publicise the new policy guidelines. That is important to provide clarity for all the operators in the industry.

Hon ALANNAH MacTIERNAN: The member needs to bear in mind that until such time as we have developed those policies et cetera, we will not be banning people. As soon as this particular provision is proclaimed, people will be able to put in place the products that they want. We hope that by the time we get the other regulations ready for the general proclamation of these provisions, the guidelines will also be ready. However, we need to remember that they will be guidelines; they will not be a set of regulations. The regulations will come at a later point. In the meantime, people will be able to be put in place and trial these products. It is a liberating, not a contracting, arrangement.

Hon TJORN SIBMA: I thank the minister for that contribution. On the surface, that is very sensible. However, it would be desirable to get a broad sense of the timescale we are dealing with. Would the government be in a position by the first quarter of next year to have these regulations drafted?

Hon Alannah MacTiernan: It is not regulations.

Hon TJORN SIBMA: The other regulations to which the minister referred. Effectively, the minister has said that the government will deal with these policy guidelines more or less simultaneously with the other regulations that are dealt with in this bill. I want to get a sense of the time frame to which the government is operating and when things will begin to take effect.

Hon ALANNAH MacTIERNAN: I cannot give a cast-iron guarantee but, as a rough guide, we are looking at by the end of the first quarter of next year.

Hon TJORN SIBMA: This will likely be my final, final question.

Hon Alannah MacTiernan: You said that at dinner time!

Hon TJORN SIBMA: Then dinner got in the way, and then other members wished to speak—I cannot control everyone else in this chamber. Will the minister undertake to table either a draft or a copy of the policy guidelines once they are completed?

Hon ALANNAH MacTIERNAN: I am sure that Minister Papalia, being a most reasonable man, will agree that once the policies have been determined, we will table a copy.

Hon AARON STONEHOUSE: This will be my last line of questioning, minister. We have heard the process by which undesirable practices may be prescribed and banned—that is, complaints are raised by the commission, a recommendation is made to the minister, the minister takes that to Executive Council and it is gazetted and so on. I raised this in my contribution to the second reading debate but I do not think I got a response. Can the minister direct the commission to conduct a review of a gambling practice and provide him with a recommendation? Further to that, can the minister bypass the commission entirely and take his own recommendation to Executive Council to ban a practice, without a recommendation from the commission?

Hon ALANNAH MacTIERNAN: I am advised that the legislation requires the recommendations to come via the commission.

Clause put and passed.

Clauses 2 to 11 put and passed.

Clause 12: Section 27A amended —

Hon COLIN HOLT: I was going to ask about clause 5, but the minister gave a quite adequate description of what that clause is about. It seems almost like a circular argument, but when it is reversed, it is quite sensible.

Clause 12 involves the fines that can be imposed when people do the wrong thing. Proposed section 27A(2A) says —

> A person in this State who makes an interstate or offshore bet on an event or contingency that is not a permitted event or contingency commits an offence.
>
> Penalty … $2 500.

That is quite a hefty fine. I want to explore this a little. If there is a banned event offshore or interstate and someone opens up a webpage in Western Australia and makes a bet on that contingency or event, would they be liable to be prosecuted under this division?

Hon ALANNAH MacTIERNAN: The person needs to be in Western Australia—they need to be physically within the jurisdiction—when they do this act.

Hon COLIN HOLT: If they were sitting at home in West Perth and betting on cage fighting in Queensland with a Queensland bookmaker or operator, and we have banned cage fighting in Western Australia—we have nothing else to talk about at the moment, because Lottoland is being taken care of—would that be an offence?

Hon ALANNAH MacTIERNAN: That would be correct.

Hon COLIN HOLT: What if that person was holidaying in Queensland when they decided to have a bet on cage fighting in Queensland on their laptop? If, when they came home, it was discovered that they had made a bet on their laptop, could it be a defence that they were away from the state at the time of making the bet?

Hon ALANNAH MacTIERNAN: I talked about this in the second reading reply. It is very clear that a person has to be in this state—in our jurisdiction—at the time of making the bet. If someone flies over to Queensland, makes a bet and comes back with a betting ticket in their pants, as I think was the member's concern earlier, they would not be able to be prosecuted. It is only whilst a person is in the state. We recognise the limits of our jurisdiction.

Hon CO LIN HOLT: I am just seeking clarification for others out there who might be caught up in the same system and suddenly think: "I can't go home because I made this bet on my laptop; I'd better leave it there", or whatever it might be. I thank the minister for that; I just wanted some clarification.

Clause put and passed.

Clauses 13 to 17 put and passed.

Clause 18: Section 8 amended —

Hon COLIN HOLT: This clause deals with the advertising of live odds, and I really want some clarification on the form of those regulations. The minister gave some examples of where it would be banned—HBF Arena, Optus Stadium, the Western Australian Cricket Association ground et cetera—but what form will the regulations on the ban of live odds take? Will it just be a ban on advertising like "Bet on the West Coast Eagles for $2.50"? Can the minister give me an indication of what the regulations on live betting might look like?

Hon ALANNAH MacTIERNAN: It will not be a ban on the overall advertising of betting—I am sure some members in this chamber think we should have gone that far—but the odds on any contingency will not be able to be advertised. Advertising like three to one Russell Robertson will kick the next goal will not be allowed. Odds on any contingency at an event will not be able to be advertised, whether it be fixed advertising or—what is more likely, if we are talking about live odds—the very big screens that show a whole range of activities and advertisements et cetera. Available odds for any contingency will not be able to be advertised.

Hon COLIN HOLT: Could, say, Ladbrokes take out advertising space on the big screen and, during the game, could it put up "Visit Ladbrokes for the next best odds on the next goal kicker"?

Hon ALANNAH MacTIERNAN: That would be permissible.

Hon COLIN HOLT: So, as long as it did not say "Go to Ladbrokes to get three to one on Austin Robertson kicking the next goal" it would be okay?

Hon ALANNAH MacTIERNAN: I regret to say that the member is correct. That is how it would operate. Would I prefer it to go further? Probably. But that is what is proposed at this point.

Hon COLIN HOLT: Now we have clarification, it just seems that the purpose of this provision was to help with problem gambling or to put some restriction on gambling, but it may not deliver. As long as the minister has defined it, I guess they will work their way around it.

Clause put and passed.

Clauses 19 to 25 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [9.41 pm]: I move —

That the bill be now read a third time.

HON DR STEVE THOMAS (South West) [9.41 pm]: In assisting the house in its progress by being in the Chair, I did not have the opportunity to be part of the consideration of the Gaming and Wagering Legislation Amendment Bill 2018 by the Committee of the Whole House. I just want to make a brief comment about my second reading contribution. In relation to the odds that we discussed, it is my opinion, having discussed the odds behind the Chair, that in terms of a cabinet reshuffle, we have now moved the members for Armadale and Swan Hills back to three to one. Unfortunately, Hon Darren West has moved out further than that, and is unlikely to get the same odds.

Question put and passed.

Bill read a third time and passed.

LEGAL PROFESSION AMENDMENT (PROFESSIONAL INDEMNITY INSURANCE MANAGEMENT COMMITTEE) BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.43 pm]: I move —

That the bill be now read a second time.

The Legal Profession Amendment (Professional Indemnity Insurance Management Committee) Bill 2018 makes amendments to the Legal Profession Act 2008 and seeks to expand the pool of possible appointees to the Professional Indemnity Insurance Committee. In Western Australia, the Legal Practice Board cannot grant or renew a local practising certificate under the Legal Profession Act 2008 unless the applicant is, or will be, covered by professional indemnity insurance as required by the Legal Profession Regulations 2009, or is exempt from the requirements of the regulations. Professional indemnity insurance is insurance against loss arising from claims in respect of any description of civil liability incurred in connection with legal practice.

Under part 11 of the Legal Profession Act 2008, the Law Society of Western Australia has a significant role regarding professional indemnity insurance for legal practitioners and law practices. The Law Society is, amongst other things, charged with making arrangements with insurers for the provision of professional indemnity insurance to legal practitioners and law practices and approving schemes for the provision of professional indemnity insurance. The Law Society is the trustee of the law mutual fund. This fund is used to pay insurance premiums and claim contributions required under the master policy. The Law Society may, in accordance with section 332 of the Legal Profession Act 2008, delegate its powers or duties under part 11 and the associated regulations to a committee, known as the Professional Indemnity Insurance Management Committee.

Section 331 of the Legal Profession Act 2008 makes provision for the establishment of the PII management committee by the Law Society. That section currently requires that the PII management committee consist of seven members appointed by the Law Society. The PII management committee may include members who are not Law Society members. The chairperson must have knowledge and experience in the insurance industry. At least two persons must have knowledge and experience in the insurance industry, and accounting or financial experience. At least four members must be drawn from the Law Society council. Members of the Law Society council are elected for two years and appointments to the PII management committee follow the same cycle for a regular turnover of membership. However, in recent years there has been a higher than usual turnover of membership in which a member of the PII management committee, who is a Law Society council member, retires. Higher than usual turnover of members leads to a loss of knowledge and experience, which can cause disruption to succession planning.

The amendments proposed in the bill will do three things. Firstly, the bill will make provision for the PII management committee to consist of at least seven members. Secondly, the bill removes the requirement for the chairperson of the PII management committee to be a person who has knowledge and experience in the insurance industry. Thirdly, the bill removes the requirement for the PII management committee to consist of not less than four members of the Law Society council. The amendments will enable a larger pool of appointees to the PII management committee. For example, former Law Society council members will be able to be appointed to the PII management committee. Although the chairperson of the PII management committee will no longer be required to have knowledge and experience in the insurance industry, at least one committee member must have knowledge and experience in the insurance industry and at least two committee members must have either knowledge and experience in the insurance industry or accounting or financial expertise.

The amendments to section 331 were requested by the Law Society and are supported by the Legal Practice Board. I commend the bill to the house.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 2297.]

Debate adjourned, pursuant to standing orders.

MINING INDUSTRY

Statement

HON ROBIN CHAPPLE (Mining and Pastoral) [9.47 pm]: I rise tonight to speak about how past and present Western Australian state governments have failed the people of Western Australia. I would like to acknowledge the traditional owners of this land, the Whadjuk Noongar people, and, indeed, pay my respects to their elders

past, present and emerging. Also, I acknowledge the traditional owners of the Pilbara, the Kimberley and the lands across northern WA, whose country and waters are host to the vast majority of oil and gas, and mineral extraction industries, industries that should be funding a bright and prosperous future for all Western Australians. I begin with a quote from the Association of Mining and Exploration Companies, which, in its 2002 annual report, stated —

> Sadly, mining is not sustainable, and deep down, every miner, like every grade three child, knows that it isn't ... Mining is an extractive industry, it's as simple as that. Dig it up and its gone for good. To pretend otherwise, and to argue that other uses can be found for the minesite after the ore has been worked out is fatuous.

When the oil and gas and minerals are finally extracted, what will we be left with? We will be left with rehabilitation costs that we cannot afford due to the lack of bonds and greenhouse gas emission levels that are the second highest globally per capita. Certainly, we have not invested, as Norway has done, in the future of our great state. We have no future fund and we actually have no future plan.

Recently, I posted some disturbing information on Facebook. Australia and Qatar have exported 77 million tonnes and 74 million tonnes of liquefied natural gas respectively in 2018. Australia received $600 million in revenue, whereas Qatar, with virtually the same amount of product, received $26.6 billion. That is over 4 000 per cent more for virtually the same amount of product.

On top of this, it has been identified that liquefied natural gas and its downstream processing in Western Australia is dramatically increasing national emission levels. This is not counting the emissions from unconventional gas extraction or fracking. The McGowan government's recent approval of fracking in WA will undoubtedly contribute to this rise in greenhouse gas emissions, destroying our chances of abating climate change and passing on a healthy planet to future generations. I wonder what percentage of revenue from this abominable toxic practice the people of WA will receive. Is there really an amount that can compensate for the jeopardising of our food, water, land and climate?

To add insult to injury, there are four new projects planned for the Burrup, which is an area close to my heart. The first two proposals, although they are not explicitly part of the extractive industry—Perdaman's urea chemical plant and Wesfarmers' methanol plant—will still have a marked effect on the area, specifically the need for more gas to be extracted to meet energy requirements and an increase in greenhouse gas emissions. The second two proposals are from Woodside. The company plans to expand its gas developments on the Burrup Pluto hub and the North West Shelf joint venture site, near Withnell Bay. Both these proposed expansions will have immense and direct impacts on the surrounding area, including the delicate and ancient rock art, whilst incrementally increasing WA's CO_2-equivalent emissions. We cannot keep doing this, especially since we do not actually understand the aggregate effects. In the case of the Burrup Peninsula and surrounding areas, there is no cumulative airshed analysis, whereas there is one in Kwinana. We do not know how much emission levels will increase, we do not know the extent of the effect on our climate and we certainly do not know what the repercussions will be on the ancient rock art in the area. We already know that the pH level of the rock is 4.5. That is roughly equivalent to somewhere between beer and lemon juice!

What we are getting from siphoning and exporting our limited resources is the hastening of climate change and the destruction of Indigenous art that is tens of thousands of years old. We have been had! The people of Western Australia and the nation deserve a better deal. Instead of receiving our rightful revenue to invest in the future of the state, the Western Australian state government is destroying our unique and irreplaceable environment for a pittance. We have never got what we deserve—that is, due income from our finite oil, gas and mineral resources. These resources and revenues belong to the people of Western Australia, not lining the pockets of major parties and their mates.

SCHOOL STRIKE 4 CLIMATE ACTION

Statement

HON ALISON XAMON (North Metropolitan) [9.52 pm]: I rise to say a few words in acknowledgement of the school strike that occurred last Friday. I came along to Parliament House and there were several hundred students here. They joined thousands and thousands of schoolkids across the nation who went on strike to demand action on climate change. I have to say that I thoroughly enjoyed myself. The energy, enthusiasm and commitment of these children and young people was absolutely fantastic to see. I am going to remind members that these people are the leaders of tomorrow. They have well and truly shown it in the way that they came out in force. I want to commend them because the logistical challenges of organising a rally like this across the nation was not small. They showed an extraordinary capacity to bring together a significant event. I commend them on the willpower and communication skills they demonstrated to enable this to occur.

I also commend them because we know that climate change is something that is very real and that is absolutely caused by human activity. It is not just coming but is here with us.

This is something that respected scientists have been saying for decades. Of course, the overwhelming consensus of the experts is that we are causing climate change faster than our environment can cope with it and, as a result, we will start to see more dramatic weather more frequently.

There were a lot of signs on the day and certainly a lot of anger and frustration about the lack of action to address the issue of climate change at the federal level, but the state government did not get off scot-free. Indeed, a lot of signs and messages demonstrated great concern, particularly with the state government's decision about the future of fracking in Western Australia. I, too, share that concern. I think the decision to leave an area of Western Australia nearly the size of Tasmania available for fracking is an extremely poor one. One of the things I am particularly concerned about is that that demonstrates yet again that we are still not prepared to get serious about tackling climate change, and that is exactly what those young people were trying to make very clear.

We already know that in the south west of this state in particular, people live in the area that is the most vulnerable and sensitive to the effects of climate change. Indeed, state government agencies are looking ahead to mitigate and manage the effects of climate change because they acknowledge that climate change is such a real threat. I note that the Water Corporation's marketing of water reduction this year is taking place within the framework of climate change, and that is appropriate. I note that the Department of Agriculture has a host of resources dealing with the likely effects of climate change on agricultural production to assist in mitigating the risks to agricultural producers. This is something that our state government agencies recognise is a real issue. At the heart of this, the decision to allow fracking to go ahead is another nod to keeping fossil fuels at the heart of our energy production. Regardless of where natural gas is extracted by fracking—whether it is here in Western Australia or whether it is exported overseas—it has to be burnt, so we will still feel the effects of fracking. The south west of Western Australia will continue to have longer, drier and hotter summers, and it will get even hotter in the north and central parts of the state. Here in WA, we will continue to see more extreme climate events more often. It is these children, these young people and this generation that will be left to deal with our ongoing refusal to face up to the realities of climate change and take real and decisive action to address it.

It is really important that members do not dismiss what these young people and children are saying. They are very passionate about this issue and are deeply informed. I was very, very impressed about their level of knowledge. We need to listen to them. It is their future we are stuffing up. I want to make sure that they receive the message that some people are listening to them. I really hope that we do not completely stuff their futures.

HOMELESSNESS

Statement

HON TIM CLIFFORD (East Metropolitan) [9.57 pm]: Each year we remind ourselves that Christmas is the time of year to give to those who are less fortunate than we are. As individuals and members of society, we must do our most to ensure that we can work towards improving the lives of the less fortunate. But surely, as parliamentarians, we must remind ourselves every day, regardless of the time of year or season, that while this thought crosses our mind, each year over 9 000 people in this state remain homeless. It is supposed to be the festive season, but these people still find it tough and difficult to get by.

Although housing is not the only factor that determines whether a person is homeless—there are many—the security that comes with housing in the development of children and the overall security that stable housing provides a person are incredibly important. We as parliamentarians need to work together to deliver housing to those who have a hard time accessing it. We need to find ways to help people off the streets and to provide better protections for people renting properties. More importantly, we must find a way to ensure that they have easier access to the housing market when they do not have the means to do so.

Home ownership is a mark of success in Australia and we reward our citizens for achieving it. Culturally, it signals our Australian-ness, but there is deep hypocrisy within this rewards-based system as it is available to some but not all. According to our Prime Minister, if we "have a go", we will be able to achieve the Australian dream and own a house. However, for many this is not possible, with barriers such as negative gearing in the way. Such things incentivise the investor, not someone who is looking to get a roof over their head and find somewhere to call home. Really, why must housing be the reward? Why are some entitled to housing and others are not? Members may not believe this to be the case, but it is. The rate of housing made available through the public housing sector is 3.7 per cent, which is below the four per cent sustainability level. If we want people to have a chance or have a go, we need to give them the capacity to do so.

By reducing the amount of public housing available, we are reducing the opportunities for people in WA to reshape their lives and build better lives for their children. Many people in WA are finding this to be the case. Even though we are in a downturn, with falling house prices and a lot of rentals available, housing is still inaccessible for many people in this state for many different reasons. Keeping people stranded within an unfair and unequal rental market by locking people out of accessible and affordable accommodation, we are denying many Western Australians the right that most of us take for granted—the human right to create memories and

identity and to raise our families and contribute to a better world. It is a human right to have a home and security, and to experience the joy and sadness that occurs within the walls and under the roof of the place that we call our home.

The importance of housing for our youth is integral in deciding the path that they take later in life. A 2013 Swedish journal article found that homeless shelters played a role in the pathways of youth-to-adult homelessness. A 2008 Australian study also highlighted the role that youth-to-adult homelessness plays in deciding someone's path to long-term, episodic or periodic homelessness throughout their adult life. It is worth noting that not only children in poverty experience homelessness; children from middle and working-class families are just as likely to experience the same threat of youth-to-adult homelessness, according to the same 2013 article. As families fall into financial insecurity and face being thrown from their homes into poverty and debt, children are also severely affected by this. However, there are fantastic developments in the space to curb the rates of youth homelessness.

There are many examples around, such as the work conducted by Foyer Oxford in Leederville, which does more than create jobs; it builds confidence and structure and reshapes the lives of vulnerable adults. The results speak for themselves: 90 per cent of clients secured long-term accommodation, with 50 per cent of those entering the private rental market. The work of Foyer Oxford is indicative of the power of investing in social infrastructure and shows how it can improve the lives of the less fortunate. I had the honour of visiting Foyer Oxford a couple of years ago and speaking to many of the youth in that place. To have that personal and one-on-one investment in those people's lives made a real difference. We really need more of those services in the East Metropolitan Region and out in Midland. When I speak with many of the different organisations that are looking to provide crisis care services for people, they always point to Foyer Oxford as a good example of what we can be doing to provide for the many vulnerable people across the state. Hopefully, in the future, we will see more of these fantastic establishments across the metropolitan and regional areas of Western Australia.

With this in mind, I urge my fellow colleagues, while they are sitting in their homes this Christmas with their friends and families, to think about how important the happy and sad memories they made in their homes, whether past or present, were in securing the current successes that they now embody. When we return next year, we can dedicate the year to developing plans to improve the opportunities for many people in this state, ensuring that people can access affordable housing that can eventually lead to long-term stable situations so that they can experience many of the things that we in this chamber enjoy.

RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Statement

HON NICK GOIRAN (South Metropolitan) [10.05 pm]: As the shadow Minister for Prevention of Family and Domestic Violence, I want to express my disappointment that today the government has purposely chosen not to bring on the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. The Leader of the House, who is the most experienced member opposite, gets to effectively distribute medals to bills based on their priority. Today the Leader of the House, the most experienced member opposite, decided to give the gold medal to the Betting Tax Bill 2018. She decided to give the silver medal to the Betting Tax Assessment Bill 2018. Not to be outdone, the bronze medal went to the Industrial Relations Amendment Bill 2018. As if it were some type of athletics carnival with a series of reserves in place in case the gold, silver or bronze medallist was not able to get over the line, the Leader of the House, the most experienced member opposite, decided that the first reserve would be, funnily enough, entitled the Reserves (Tjuntjuntjara Community) Bill 2018. The second reserve was the Gaming and Wagering Legislation Amendment Bill 2018. Today the house has passed five pieces of legislation, which were all determined by the Leader of the House, the most experienced member opposite.

It is quite within the Leader of the House's rights and privileges to determine which bill gets the gold medal, which gets the silver medal and which gets the bronze medal. However, as the shadow Minister for Prevention of Family and Domestic Violence, I am disappointed that the Leader of the House chose not to give one of those medals to the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. The opposition has supported this bill at every stage of the proceedings; yet in recent times, as some type of distraction from the ineptitude of the management of the house—the delays that have taken place, the referral of matters to committee, leaving it languishing, including today, on the notice paper—although many members of the government have been quite respectful and, indeed, silent on this issue, a couple of members of the government have gone out of their way to distribute misinformation to the sector. They have repeatedly and falsely said that the opposition has been holding up the bill, yet it requires only a casual observer go through the chronology of events of the passage of this bill for them to very quickly come to the conclusion that all the delay has been at the behest of the government.

I remind members that this bill languished on the notice paper from June. When I was away one day on urgent parliamentary business, the Leader of the House suddenly rose and decided to lift the bill and send it to the Standing Committee on Legislation. The Standing Committee on Legislation reported to the house on the precise day that it was asked to by the Leader of the House. Last week we had a complete fiasco. I have been told by

several members who have been here longer even than the most experienced member opposite that they have never seen such a fiasco. There were multiple supplementary notice papers flying around left, right and centre. There were amendments moved written on other pieces of paper that people had not even seen. We had a minister who decided to move an amendment, sent it to the other place and the government in the other place decided to reject it. They are all matters that we will no doubt be dealing with tomorrow.

Hon Sue Ellery: Did your people in the Assembly vote?

Hon NICK GOIRAN: I will tell the Leader of the House what: why does she not get herself one of these things? It is called "the blue"—*Parliamentary Debates (Hansard)* of Thursday, 29 November. It is not very difficult. If the Leader of the House turns to page 87, she will be able to see all the proceedings that took place. I will tell her what: it was not anywhere near as much of a fiasco as it was in this place. That has happened two weeks in a row in this place.

Several members interjected.

The PRESIDENT: Order, members!

Hon NICK GOIRAN: It has been two weeks in a row in which the mismanagement of this house has been entirely at the feet of the Leader of the House.

Several members interjected.

The PRESIDENT: Order! Stop! It is getting very difficult to hear Hon Nick Goiran. He is the only person who has the call. He has a few minutes left. If you want to add to the debate, I will give you the call when he sits down.

Hon NICK GOIRAN: It gives me no joy whatsoever to have to make these points this evening. They have to be made because some of the members opposite have gone out of their way to provide misinformation to the sector. That is the only reason that these things need to be corrected.

The Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 ought to have gone through both houses of Parliament without too much trouble, with some minor amendments, and it should all have happened on a bipartisan basis, yet it did not happen. Why was that? The government was caught out in its ineptitude delaying the progress of the bill. When the government realised it had a problem and the sector was breathing down its neck, it thought, "Strewth, we'd better blame somebody else. Who are we going to blame? We can blame those terrible people in the opposition." The government has been caught out with this pathetic strategy; it has been caught out time and again. That was hot on the heels of the previous week when there was an entire week of debate in which not one bill passed. Why was that? The Leader of the House, the most experienced member opposite, decided in her wisdom that we were going to sit through that particular piece of legislation for as long as it took for the government to keep repeatedly telling us why it could not agree to amendments, all for them to get up on the following Tuesday. That was a week wasted in the Legislative Council.

Today has not been wasted. Five important pieces of legislation have been passed, but let us be clear: they are the five pieces of legislation that the Leader of the House has determined today were the five most important pieces of legislation for the Legislative Council of Western Australia to pass. It is not the decision of the opposition. For stakeholders who will inevitably be reading the *Hansard* to find out what is happening with the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018, let us be clear: it did not come on for debate in the Legislative Council today, 4 December 2018, because the Leader of the House decided it was not a priority. That is the only reason it did not come on for debate today. I hope, as the shadow Minister for Prevention of Family and Domestic Violence, that it will be the government's number one priority tomorrow. I do not know whether that is going to be the case, because I understand from a bulletin I received on Friday that the Leader of the House intends the top priority, the gold medallist, tomorrow to be the Sentence Administration Amendment (Multiple Murderers) Bill 2018. That is what I was informed of on Friday, pursuant to a bulletin that would no doubt have only been sent out under the authorship and consent of the Leader of the House. I hope that commonsense prevails and that tomorrow the gold medallist will quite rightly be the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. I implore the Leader of the House to have it so. I implore the Leader of the House to do the right thing and make sure that this important piece of legislation is given top priority tomorrow.

It should not be left languishing on the notice paper as has happened many times this year. It started in June. By the time October rolled around, the Leader of the House was caught out with a bill languishing on the notice paper, which she hurriedly sent off to a committee and we had this fiasco last week. We do not want a repeat of that this week. I am saying to the government: do not leave it till Thursday; do not try its shifty stunts and things like that; let us get it done tomorrow. We are ready to do it tomorrow. All that is required is for the Leader of the House to decide to distribute her gold medal tomorrow to the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. We are not asking much, Leader of the House; we are just asking you to do the right thing.

CRIMINAL CODE AMENDMENT (CHILD MARRIAGE) BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.15 pm]: I move —

That the bill be now read a second time.

Chapter XXXI of the Western Australian Criminal Code Act Compilation Act 1913 contains a number of provisions that set out the acts that constitute sexual offences and factors that amount to a defence to those offences. Several provisions in the Criminal Code provide a defence to certain sexual offences committed against a child under the age of 16 years, when the accused person is lawfully married to the child. The sexual offences include sexual penetration of a child; procuring, inciting or encouraging a child to engage in sexual behaviour or to do an indecent act; indecently dealing with or recording a child; and persistent sexual conduct with a child. These defence provisions have no legal operation in Australia; they are a historical anomaly reflecting the fact that until August 1991 the commonwealth Marriage Act 1961 allowed females to marry at 14 and 15 years of age with the authorisation of a judge or magistrate. The Marriage Act 1961 provides a uniform system of marriage law throughout Australia, setting out what marriages are recognised as valid or void under Australian law. At present, the legal marriageable age under that act is 18 years or, with the authorisation of a judge or magistrate, at least 16 years of age. A marriage is void when either party is, or was not, of marriageable age at the time the marriage was solemnised. As such, it is not possible for a person to be lawfully married to a child under 16 years of age in Australia. This includes marriages that were solemnised overseas.

As the provisions in the Criminal Code are defunct and have the potential to mislead members of the public regarding the state of child marriage laws in Australia, they should be repealed. The government proposes to repeal these provisions by way of legislative amendment to the Criminal Code. The proposed legislative amendments are necessary to address anomalies between state and commonwealth legislation, as well as to avert inconsistent behaviour by members of the public. The amendments align with general government policy regarding the protection of children from child sexual offences and to reflect commonwealth marriage law.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 2298.]

Debate adjourned, pursuant to standing orders.

House adjourned at 10.18 pm

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QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

WA COUNTRY HEALTH SERVICE — ANTIVENOM

1730. Hon Martin Aldridge to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

I refer to the WA Country Health Service (WACHS) and the stocks of antivenin held for snake, spider and sea animal bites, and I ask:

(a) for each WACHS site please list the current stock of antivenin;

(b) for each WACHS site please list the recommended stocking quantity of antivenin as established by the WA Therapeutic Advisory Group;

(c) for each contracted Silver Chain nursing post please list the current stock and recommended stock of antivenin;

(d) what is the WACHS clinical guidance for a patient presenting with a snake, spider or sea animal bite where envenomation is suspected whether or not the patient is displaying symptoms;

(e) does the Emergency Telehealth Service have capability for direct connection with and support from the WA Toxicology Service;

(f) for each WACHS site and Silver Chain nursing post please provide the number of patients presenting for the last three calendar years with a suspected snake, spider or sea animal bite and the applicable ATS on presentation; and

(g) how many of those patients identified in (f) died following the presentation and in connection with the bite?

Hon Alanna Clohesy replied:

I am advised that:

(a)–(b) All WA regional hospitals stock the recommended types and level of antivenom. [See tabled paper no 2295.] for the full list of available stock. The recommended stock level is included in brackets.

(c) Anti-venom can only be administered by trained staff due to clinical safety issues, and at sites which have access to emergency telehealth so staff can connect to Toxicology specialists. Lancelin and Shark Bay are the only Silverchain nursing post sites with Emergency Telehealth Service (ETS).

Lancelin Remote Nursing Post currently has two vials of anti-venom in stock, which will be restocked as required. Shark Bay Nursing Post currently has no stocks of anti-venom, however stock is expected within 4–6 weeks.

(d) The WA Country Health Service (WACHS) has endorsed snake bite envenoming guidelines which are being reviewed in line with the increased availability of antivenoms. Treatment for marine stings (including sea snakes) and venomous spider bites are through a clinical assessment by the treating clinician on site based on presenting symptoms, with support from ETS where appropriate.

(e) Yes. The ETS has capability for direct connection with and support from the WA Toxicology Service.

(f) [See tabled paper no 2295.] for the number of ED presentations admitted at WACHS sites for the last three calendar years with a suspected snake, spider or sea animal bite. The Department of Health (DOH) does not routinely collect information from Silver Chain nursing posts with regard to snake, spider or sea animal bites, and is therefore unable to provide an answer in this regard.

(g) It is not possible to definitively identify those who died in the ED at regional hospitals as a result of venomous snake, spider or sea animal bite injuries, as the methodology for responding to (f) applied only to patients who went on to be admitted at WACHS sites. As per the answer to (f), the DOH is unable to answer this question in relation to Silver Chain nursing posts.

GREENPATCH DEVELOPMENT — MINNINUP ROAD — DALYELLUP

1735. Hon Diane Evers to the Minister for Environment; Disability Services:

I refer to tabled paper number No. 2066, *Preliminary Site Investigation, Lots 8019, 9105 and 9067 Dalyellup, Greenpatch Development*, RPS, November 2016:

(a) given the document tabled was a draft version of the report will the Minister please table a copy of the final report; and

(b) if no to (a), why not?

Hon Stephen Dawson replied:

(a) No.

(b) The draft version of the report, as tabled, is the latest version – no final version was issued.

GREENPATCH DEVELOPMENT — CONTAMINATION — DALYELLUP

1736. Hon Diane Evers to the Minister for Environment:

I refer to the former Dalyellup Waste Residue Disposal Facility (DWRDF), which is unlined and leaching into the environment, and the proposed Greenpatch development which shares its western boundary with this site, and I ask:

(a) is there any current buffer zone established for the DWRDF;

(b) have the Radiological Council, Department of Water and Environmental Regulation (DWER) or Environmental Protection Authority (EPA) given any advice on separation distances/buffer zone from the unlined DWRDF which contains Technological Enhanced Naturally Occurring Radioactive Material for earthworks;

(c) if yes to (b), will the Minister please table a copy of the advice given;

(d) if no to (b), why not;

(e) have the Radiological Council, Department of Water and Environmental Regulation or Environmental Protection Authority given any advice on separation distances/buffer zone from the unlined DWRDF which contains Technological Enhanced Naturally Occurring Radioactive Material for the development of residential areas;

(f) if yes to (e), will the Minister please table a copy of the advice given;

(g) if no to (e), why not; and

(h) if no to (b) or (e), will the Radiological Council, DWER or EPA give advice on separation distances/buffer zones?

Hon Stephen Dawson replied:

(a) Please redirect this question to the Minister for Planning, as the responsible Minister for the establishment of statutory land-use buffer zones.

(b)–(h) Through the classification of the former Dalyellup waste residue disposal facility as 'remediated for restricted use' under the *Contaminated Sites Act 2003*, the Department of Water and Environmental Regulation (DWER) specified a number of restrictions on the use of the site. One of the restrictions is "Other than for remediation purposes, ground disturbance is not permitted and a minimum of 2m of clean fill is to be maintained at all times across the site."

DWER and the Radiological Council have both provided advice. I table copies of the following documents:

(i) Correspondence from DWER to the Shire of Capel dated 7 August 2018.

(ii) Correspondence from DWER to the Shire dated 8 February 2018.

(iii) Correspondence from the Radiological Council to DWER dated 24 July 2018.

(iv) Correspondence from the Radiological Council to Millennium Inorganic Chemicals Ltd dated 4 July 2000.

(v) Correspondence from the Environmental Protection Authority to the Shire dated 24 July 1998. [See tabled paper no 2290.]

GREENPATCH DEVELOPMENT — CONTAMINATION — DALYELLUP

1737. Hon Diane Evers to the parliamentary secretary representing the Minister for Health:

I refer to the former Dalyellup Waste Residue Disposal Facility (DWRDF), which is unlined and leaching into the environment, and the proposed Greenpatch development which shares its western boundary with this site, and I ask:

(a) is there any current buffer zone established for the DWRDF;

(b) have the Radiological Council, Department of Water and Environmental Regulation (DWER) or Environmental Protection Authority (EPA) given any advice on separation distances/buffer zone from the unlined DWRDF which contains Technological Enhanced Naturally Occurring Radioactive Material for earthworks;

(c) if yes to (b), will the Minister please table a copy of the advice given;

(d) if no to (b), why not;

(e) have the Radiological Council, Department of Water and Environmental Regulation or Environmental Protection Authority given any advice on separation distances/buffer zone from the unlined DWRDF which contains Technological Enhanced Naturally Occurring Radioactive Material for the development of residential areas;

(f) if yes to (e), will the Minister please table a copy of the advice given;

(g) if no to (e), why not; and

(h) if no to (b) or (e), will the Radiological Council, DWER or EPA give advice on separation distances/buffer zones?

Hon Alanna Clohesy replied:

I am advised that the Department of Health do not have any monitoring data that supports the view that radioisotopes associated with the waste are leaching into the environment. In response to your questions I am advised that:

(a)–(b) No.

(c) Not applicable.

(d) There is no requirement for a buffer zone.

(e) Yes (Radiological Council). Neither the Department of Water and Environmental Regulation or the Environmental Protection Authority are overseen by the Minister for Health.

(f) No (Radiological Council). Neither the Department of Water and Environmental Regulation or the Environmental Protection Authority are overseen by the Minister for Health.

(g) The advice was given with respect to a situation that is no longer current and which was in place until no longer required.

(h) A buffer zone is not required.

GREENPATCH DEVELOPMENT — CHROMIUM-6 — DALYELLUP

1738. Hon Diane Evers to the Minister for Environment:

I refer to the tabled report on Tuesday, 29 August 2018, *Cristal Pigment Australia Ltd: Former Dalyellup Waste Residue Facility CSA: Site Management Plan: January 2018 GHD*, tabled paper 1689, and I ask:

(a) has this report been reviewed by the Department of Health, Radiological Council of Western Australia and/or Department of Water and Environmental Regulations;

(b) if yes to (a), will the Minister please table a copy of the comments/review from each of the departments;

(c) if not to (a), is the Department of Health, Radiological Council of Western Australia and/or Department of Water and Environmental Regulation currently reviewing it;

(d) could the Minister explain why tabled paper 1689, *Cristal Pigment Australia Ltd: Former Dalyellup Waste Residue Facility CSA: Site Management Plan: January 2018 – GHD* does not include the Southern Ponds (Dalyellup Waste Residue Disposal Facility) and Area 8 (Greenpatch); and

(e) given that the Southern Ponds and Area 8 are contaminated, will the Site Management Plan be updated to include both areas formerly used by the Dalyellup Waste Residue Disposal Facility?

Hon Stephen Dawson replied:

(a) The report has been reviewed by the Department of Health and the Department or Water and Environmental Regulation (DWER). DWER also referred the report for radiation health advice; as at 30 November 2018, DWER had not received comments from the Radiological Council.

(b) See attached the following documents:

(i) Correspondence from the Department of Health to DWER dated 19 February 2018

(ii) Correspondence from DWER to the accredited auditor for the site, Mr Jason Clay, dated 5 June 2018.

[See tabled paper no 2291.]

(c) Not Applicable.

(d)–(e) The January 2018 Site Management Plan (paper 1689 tabled on 29 August 2018), does apply to the whole of the former Dalyellup waste residue disposal facility (portion of Lot 9077 on Deposited Plan 60716), including the previously rehabilitated southern ponds. DWER has advised that it is expected that Figure 1 of the Plan will be updated through the next revision to more clearly depict the area (including the rehabilitated southern ponds), to which the Plan applies.

Area 8 (portion of Lot 9105 on Plan 404839) does not form part of the site classified as 'remediated for restricted use' under the *Contaminated Sites Act 2003*. However, the Plan does includes radiation and groundwater monitoring at an adjacent location to Area 8.

Appeals were lodged with the Contaminated Sites Committee against the March 2018 classification of the Greenpatch development site (including Area 8) as 'report not substantiated'. DWER's report on the appeals under section 80 of the *Contaminated Sites Act 2003* is due to the Committee by 3 December 2018. Given the progress of the appeals, DWER no longer intends to progress reclassification of part of Lot 9105 separately, and will instead address this matter in its report on the appeals. The Committee will consider all available information at the time of making its decision on the appeals.

GREENPATCH DEVELOPMENT — CONTAMINATION — DALYELLUP

1739. Hon Diane Evers to the minister representing the Minister for Housing:

I refer to a letter dated 19 September 2018 from Contaminated Sites, Department of Water and Environmental Regulation to the Department of Communities, informing about the intent to reclassify a portion of the Dalyellup Greenpatch Lot 9105 on Plan 404839 from report not *substantiated to contaminated, remediated for restricted use*, and I ask:

(a) will the portion of land that is likely to be under reclassification be at any point in time sold or transferred to Cristal Pigment Australia Ltd;

(b) if yes to (a), what will be the consideration for the transfer of land; and

(c) if no to (a), who will be responsible for this portion of land?

Hon Stephen Dawson replied:

(a) There are no plans to sell or transfer the portion of land.

(b) Not applicable.

(c) The Dalyellup Beach Joint Venture is responsible for this portion of land, which consists of the Department of Communities (Housing Authority) and Home Satterley Dalyellup.

MINING — ASBESTOS MANAGEMENT — PILBARA

1740. Hon Jacqui Boydell to the minister representing the Minister for Mines and Petroleum:

I refer to all iron ore mining operations in the Pilbara and the management of asbestos, and I ask:

(a) will the Minister please detail which companies have submitted Asbestos Management Plans relating to what mine sites to the Department of Mines, Industry Regulation and Safety;

(b) will the Minister please detail the number of times and locations where the department has been advised that asbestos has been encountered in mining operations in the Pilbara;

(c) how often does the department receive monitoring results from mining companies outlining the mineral content or iron ore during ship-loading activities; and

(d) has the department ever received notification from mining companies that members of the community or port workers have been exposed to asbestos during ship-loading of iron ore?

Hon Alannah MacTiernan replied:

(a) The *Mines Safety and Inspection Act 1994* (MSI Act) does not require mining companies to submit Asbestos Management Plans to the Department of Mines, Industry Regulation and Safety (the Department).

In the course of their work, Inspectors from the Department may request that a mine manager submit an Asbestos Management Plan.

The following mining companies operating in the Pilbara have submitted Asbestos Management Plans:

CITIC Pacific Mining Management Ltd

Mineral Resources Limited

Fortescue Metals Group Ltd

BHP Billiton Iron Ore Pty Ltd

Rio Tinto related companies

Roy Hill Iron Ore Pty Ltd

Pilbara Minerals

(b) Since 1 January 2011, 16 notifiable incidents, related to asbestos, have been reported by mining operations in the Pilbara. Of these, one related to the handling of an asbestos containing material (ACM) used in the construction of the infrastructure at a port operation.

06/11/2014	Phils Creek – Open Pit	Process Minerals International Pty Ltd
21/02/2016	Iron Valley – Open Pit	Mineral Resources Limited
02/01/2015	Mining Area C – Open Pit	BHP Billiton Iron Ore Pty. Ltd.
20/06/2015	Yandi – Open Pit	BHP Billiton Iron Ore Pty. Ltd.
12/05/2016	Yandi – Open Pit	BHP Billiton Iron Ore Pty. Ltd.
10/02/2017	Mining Area C – Open Pit	BHP Billiton Iron Ore Pty. Ltd.
21/07/2017	Nelson Point and Finucane Island – Port	BHP Billiton Iron Ore Pty. Ltd.
20/08/2017	Nifty – Underground	Nifty Copper Pty Ltd
28/01/2014	Brockman 2 – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
21/07/2014	Greater Paraburdoo – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
05/08/2014	Tom Price – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
24/08/2014	Marandoo – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
30/04/2017	Tom Price – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
23/05/2017	Tom Price – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
01/07/2017	Tom Price – Open Pit	Hamersley Iron Pty. Limited, Rio Tinto
15/09/2018	Tom Price – Processing	Hamersley Iron Pty. Limited, Rio Tinto

(c) A mine operator must submit a Project Management Plan (PMP) before operation of a mine can begin. The mine operator must include the mineral content of product being mined, transported or shipped with the PMP. However, the mine operator is not required to submit the mineral content report of product each time it is shipped.

(d) No.

PUBLIC TRANSPORT AUTHORITY — SCHOOL BUS CONTRACTS

1741. Hon Martin Aldridge to the minister representing the Minister for Transport; Planning; Lands:

I refer to contracts between the Public Transport Authority (PTA) and school bus contractors, and I ask:

(a) in what respects has the State Government changed its approach to the renewal of school bus contracts in Western Australia;

(b) does the State Government support evergreen contracts;

(c) if no to (b), in what respects does the State Government not support this contract type;

(d) how many contracts have been terminated in the last 12 months by the PTA;

(e) on what grounds were each contract identified in (d) terminated; and

(f) does the PTA support the relocation of contracted bus services to other locations where local demand for services changes?

Hon Stephen Dawson replied:

(a)–(c) The Minister for Transport wrote to all school bus contractors on 21 August 2017 to explain the Government's decision to no longer support the transition of fixed term contracts to Evergreen Contracts. This decision was made to ensure market contestability for new fixed term contracts and value for money for Government.

The Government supports the existing cohort of Evergreen Contracts providing the incumbent contractor has met the requirements of the contract and the service is still required.

(d)–(e) 2 – lack of student numbers on the service.

(f) The Government does not support the relocation of Evergreen Contracts due to the lack of market contestability and the lack of other local small businesses to compete for the business.

PRISONS AND DETENTION CENTRES — HEALTH NEEDS ASSESSMENT

1743. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

I refer to the delivery of health, mental health and alcohol and other drug services to prisoners, and I ask:

(a) has the Department of Corrective Services undertaken any work, or requested any other department or organisation to undertake any work, to complete a health needs assessment for the Western Australia prison population;

(b) if yes to (a), would the Minister please table the assessment report; and

(c) if no to (a), is this work planned, and is so, for when?

Hon Stephen Dawson replied:

(a) The Department participates in the Australian Institute of Health and Welfare (AIHW) survey of the Health of Australia's Prisoners. The latest report relates to data collected in 2015 and is available at the AIHW website. The website provides access to data by jurisdiction. The information contained in the report provides a useful snapshot of the health and health related issues of the prison population. The latest data collection occurred in 2018. It is understood that the Report has not yet been completed by the AIHW. In addition, the Department regularly conducts its own data reviews, particularly in relation to key health conditions, to inform service development and treatment planning. This information, whilst systemic, is not compiled into a single whole of service document, but is used to assist with identification of need at each site, areas for service development and the associated allocation of resources.

(b) Yes. [See tabled paper no 2293.]

(c) During 2018, the Department contributed to the latest AIHW data collection. The next AIHW Report on the Health of Australia's prisoners will enable interjurisdictional comparison between 2015 and 2018 and the Department intends to supplement this with trend analysis of its own, particularly in relation to chronic health conditions, mental health and alcohol and other drug problems. It is anticipated that this comparative analysis will be available early to mid-2019.

EDUCATION AND TRAINING — SCHOOL VIOLENCE PLAN

1748. Hon Alison Xamon to the Minister for Education and Training:

I refer to the development of the Minister's plan to address violence in schools, and I ask:

(a) when is it anticipated the plan will be finalised;

(b) which groups or individuals have been or will be consulted in the development of the plan;

(c) are you anticipating the plan will include introduction of an automatic suspension policy; and

(d) if yes to (c), will this include students with disability or special needs?

Hon Sue Ellery replied:

(a) The *'Let's Take A Stand Together'* action plan was released on Sunday, 2 December 2018.

(b) Department of Education Regional Executive Directors

Department of Education principals

Principals' associations

Unions

Parent bodies

Association of Independent Schools of Western Australia

Catholic Education Western Australia

Ministerial Youth Advisory Council

Commissioner of Police, Western Australia Police Force

Commissioner for WorkSafe Western Australia

Commissioner for Children and Young People

Department of Mines, Industry Regulation and Safety

Department of Communities

Department of Health

Department of Justice

Department of Treasury

The Offices of the Premier, Treasurer and Ministers for Police, Community Services, Health, Youth and Corrective Services

Members of Cabinet

(c) From next year, any student who intentionally instigates violence or films attacks or fights will be suspended automatically.

(d) The policy changes will not apply to students with disability who either cannot manage their behaviour or do not intend to harm others.

ABORIGINAL AFFAIRS — FORTESCUE METALS GROUP — PILBARA

1750. Hon Robin Chapple to the minister representing the Minister for Aboriginal Affairs:

I refer to the Member's Statement I made in the Legislative Council on Wednesday, 31 October 2018 in which I tabled documents as evidence that Fortescue Metals Group (FMG) routinely by-passes the state's regulatory requirements, and ask:

(a) will the Minister confirm whether the Minister or the Department of Planning, Lands and Heritage were aware or have given FMG written permission to carry out significance assessments of Aboriginal sites independent of the Aboriginal Cultural Material Committee (ACMC);

(b) if no to (a), why not;

(c) will the Minister confirm that the four Aboriginal sites recorded by Archae-aus and traditional owners in 2008, referred to as FF08-004, FF08-06, FF08-009, and FF08-011, were deemed by FMG as sites not important enough to the traditional owners to warrant the protection of the *Aboriginal Heritage Act 1972* (the Act);

(d) if no to (c), why not;

(e) will the Minister confirm that without the authority of the Minister or the Department of Planning, Lands and Heritage, FMG themselves issued a Cultural Salvage Permit authorising the alteration of these four sites;

(f) if no to (e), why not;

(g) will the Minister confirm when FMG installed an access track on the land where these sites were located;

(h) if no to (g), why not;

(i) will the Minister advise of the relevant authority in the Act that authorises FMG to carry out significance assessments on Aboriginal sites then issue a permit to salvage them before it carries out ground disturbing activities;

(j) if no to (i), why not;

(k) has the Minister initiated an investigation into FMG's practices to establish:

  (i) how wide spread is their practice of carrying out significance assessments of Aboriginal sites instead of referring the cultural heritage information to the ACMC per the requirements of the Act;

  (ii) how many Aboriginal sites have been impacted following FMG's significance assessments where FMG determine whether the law applies to sites; and

  (iii) how many sites have been damaged, destroyed, altered or concealed through the use of FMG's Cultural Salvage Permit without the express permission from the Minister under section 18 of the Act;

(l) if no to (k), when will the Minister seek this information from FMG and when does the Minister expect to report back to this Parliament with the findings;

(m) will the Minister confirm if the Minister or the Department of Planning, Lands and Heritage gave advice to FMG about their obligations to comply with the section 18 conditions attached to the consent granted by the Minister on 30 November 2017, reference 69-03609 that required FMG to invite traditional owners to salvage their cultural material;

(n) if no to (m), why not;

(o) will the Minister confirm whether FMG has complied with the condition of consent that requires FMG to invite, in writing, representatives of Wintawari Guruma Aboriginal Corporation to have reasonable access to the land to conduct cultural salvage;

(p) if yes to (o), why;

(q) if no to (o), why not;

(r) will the Minister seek to prosecute FMG under section 55 of the Act for not complying with the section 18 consent conditions issued by the Minister on 30 November 2017;

(s) if no to (r), why not; and

(t) if yes to (r), when?

Hon Stephen Dawson replied:

(a)–(b) Neither the Minister nor the Department of Planning, Lands and Heritage issues these types of permissions.

(c)–(h) The Member will need to seek advice from the company in question.

(i)–(j) The *Aboriginal Heritage Act 1972* grants authority to the Minister and to the Registrar of Aboriginal Sites to authorise activities in relation to Aboriginal sites.

(k)–(l) This matter is currently under investigation by the Department of Planning, Lands and Heritage.

(m)–(n) The Minister provides his advice, including any conditions, directly to the owner of the land that submitted the notice pursuant to section 18 of the Act. The Department of Planning, Lands and Heritage does not provide separate advice unless requested. I am advised that no such advice was requested from the Department.

(o)–(t) FMG has advised the Department of Planning, Lands and Heritage that it has not impacted any of the sites, that its current activities are designed to avoid all the sites and that, as a consequence, there is no need for cultural salvage at this stage of the work program.

HEALTH — PARKINSON'S WESTERN AUSTRALIA

1753. Hon Alison Xamon to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

I refer to Western Australia Health's service contract with Parkinson's Western Australia for four full time equivalent Parkinson's Nurse Specialists which expires on 30 June 2019, and I ask:

(a) will Western Australia Health be renewing their service contract with Parkinson's Western Australia to ensure this valuable service continues beyond June 2019;

(b) if no to (a), why not;

(c) if yes to (a), will funding be maintained to ensure Parkinson's Western Australia are able to continue to employ 4 nurses; and

(d) if no to (c), please advise of the Government intentions in relation to funding Parkinson's Western Australia Nurse Specialists?

Hon Alanna Clohesy replied:

I am advised that:

(a) No decision has been made at this time. In accordance with best practice contract management, a review of the Parkinson's Nurse Specialist Service will be conducted by the Department of Health in 2019, to assess the effectiveness of the service in meeting requirements and achieving desired community outcomes. The review is expected to be completed by April 2019, following which a decision will be made on the future plans for this service.

(b)–(d) Not applicable.

SENIOR DRIVER'S LICENCE RENEWAL — MEDICAL ASSESSMENTS

1755. Hon Martin Aldridge to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

I refer to the Western Australia Country Health Service (WACHS) and charges applied to patients in order to receive an annual medical assessment in order to retain a motor vehicle drivers license, and I ask:

(a) for how long has WACHS been charging for the assessment for non-commercial assessments;

(b) at what locations has this practice been occurring;

(c) at each location identified in (b), how many occasions per year have been identified in which a charge has been applied;

(d) how has it occurred that this over-charging appears to be contained to sites located in the Kimberley despite WACHS operating state wide; and

(e) please table a copy of any circular, advice or direction distributed to WACHS sites with respect to charging for services above mentioned?

Hon Alanna Clohesy replied:

I am advised that:

(a) Since 2011.

(b) Derby and Fitzroy Crossing.

(c) Fitzroy Crossing

2011 – 1 occasion

2012 – 1 occasion

2013 – 2 occasions

2014 – 4 occasions

2016 – 1 occasion

2017 – 2 occasions

2018 – 4 occasions

Derby Hospital –

2015 – 1 occasion

2016 – 1 occasion

2018 – 1 occasion

(d) Only sites in locations where GP services are not available provide these services. The fees were incorrectly charged in two of those sites.

(e) [See tabled paper no 2296.]

WA Health Patient Fees and Charges Manual 2018/19, page 104. Refer Public Patients, Medical Services: No Charge should be billed to Medicare eligible patients for most services, including for age or health related medical examinations to obtain or renew a licence to drive a private motor vehicle.

WORKSAFE — FORREST PLACE GPO BUILDING

1757. Hon Alison Xamon to the minister representing the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement:

I refer to work undertaken at the Perth GPO Building in Forrest Place, and specifically to work on the H&M shop site, for the period 1 January 2012 to 31 December 2017, and I ask:

(a) did Worksafe visit this site;

(b) if yes, on what dates;

(c) did Worksafe issue any improvement notices;

(d) if yes, for each improvement notice please advise:

(i) the date the notice was issued;

(ii) the subject of the improvement notice; and

(iii) please table a copy of the notice;

(e) did Worksafe issue any prohibition notices;

(f) if yes, for each prohibition notice please advise:

(i) the date the notice was issued;

(ii) the subject of the prohibition notice; and

(iii) please table a copy of the notice;

(g) did Worksafe issue any fines; and

(h) if yes, for each fine issued please advise:

(i) the date the fine was issued;

(ii) the fine amount; and

(iii) the reason the fine was issued?

Hon Alannah MacTiernan replied:

(a) Yes.

(b) The WorkSafe Information System Environment (WISE) classifies investigations into the various 'activity' types such as Inspections/visits; Meetings; Phone calls; Correspondence; Support; and Research. WISE does not make a distinction between a visit and inspection. The following table provides the dates of activities at the H&M shop site (Forrest Place in Perth).

Table: Worksafe activity in relation to the H&M worksite from 01/01/2012 to 31/12/2017

Based on information from the WISE system WorkSafe activities in relation to this site occurred on the following dates which on some dates involved multiple activities.

Investigation activity date
14/12/2016
5/1/2017
6/1/2017
13/1/2017
20/1/2017
21/1/2017
24/1/2017
2/2/2017
16/2/2017
8/5/2017

Source: WorkSafe Information System Environment, report extracted on 18 November 2018

(c) No.

(d) Not applicable.

(e) Yes.

(f) (i) 05/01/2017

(ii) Access to glass atrium

(iii) [See tabled paper no 2294.]

(g) No.