Parliamentary Debates
(HANSARD)

THIRTY-NINTH PARLIAMENT
FIRST SESSION
2016

LEGISLATIVE ASSEMBLY

Thursday, 7 April 2016

Legislative Assembly

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THE DEPUTY SPEAKER (Ms W.M. Duncan) took the chair at 9.00 am, and read prayers.

WILLIAM PATRICK MITCHELL — PAROLE

Petition

MR I.C. BLAYNEY (Geraldton) [9.01 am]: I have a petition from 2 527 petitioners regarding the release of William Patrick Mitchell from prison. It reads —

> To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled —
>
> We the undersigned, say that William Patrick Mitchell who committed the violent murders of a mother and her two daughters aged seven and five respectively, and her sixteen years old son, at Greenough in February 1993, should not be granted parole, but remain imprisoned for the term of his natural life.
>
> Now we ask the Legislative Assembly to ensure that William Patrick Mitchell is never released from jail.

[See petition 361.]

PAPERS TABLED

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

WATER CORPORATION ANNUAL REPORTS 2013 AND 2014

Correction — Statement by Deputy Speaker

THE DEPUTY SPEAKER (Ms W.M. Duncan): Members, I have a statement from the Speaker, who received advice on 6 April 2016 from the Minister for Water indicating errors in the Water Corporation's 2013 and 2014 annual reports. Both reports contained incorrect figures relating to the number of employees living and working in regional areas and providing water services to regional customers. The minister has attached three errata to correct those errors, being on page 14 of the 2013 report and pages 16 and 48 of the 2014 report. Under standing order 156, the Speaker has authorised the necessary corrections to be attached to the tabled papers.

[See paper 4073.]

REVEALED 2016 ABORIGINAL ART EXHIBITION, MARKET AND SYMPOSIUM

Statement by Minister for Culture and the Arts

MR J.H.D. DAY (Kalamunda — Minister for Culture and the Arts) [9.04 am]: I rise to briefly update the house on a program of events taking place in Fremantle this weekend as part of the *Revealed 2016* exhibition, market and symposium for Aboriginal art. *Revealed* is a wonderful initiative of the state government and is delivered through a partnership between the Department of Culture and the Arts and the Australian government's Ministry for the Arts. Since the inaugural program in 2008, *Revealed* has grown to become a significant event in WA's arts and cultural calendar. The program comprises an exhibition, which opens on Friday night at the Fremantle Arts Centre; a symposium, taking place at Fremantle Town Hall; and a marketplace, which will run from 10.00 am to 4.00 pm this coming Saturday, also at Fremantle Arts Centre.

Revealed has been designed specifically to focus attention on the next wave of developing Aboriginal artists, providing support and exposure during the early stages of their careers. Along with the exhibition and marketplace, *Revealed* provides training and workshops to emerging Aboriginal artists and art centre managers. It is interesting to note that around 30 per cent of Australia's Aboriginal art centres and artists are in Western Australia, producing more than 40 per cent of Australia's Aboriginal art market. The marketplace this weekend will feature work from 26 of these centres from the Kimberley, Pilbara, midwest, goldfields, Western Desert and great southern regions, as well as metropolitan Perth. With a range of paintings, textiles, ceramics and jewellery on offer, the *Revealed* marketplace is a rare opportunity to buy affordable works by new and emerging artists directly from Aboriginal-owned art centres. The exhibition itself features more than 60 new works by emerging Aboriginal artists, demonstrating the diversity and quality of our state's contemporary Aboriginal art scene. I congratulate all the artists and art centres involved and the Fremantle Arts Centre for hosting the *Revealed* program in 2016. This is a fantastic program and I encourage all members to visit the exhibition and the market to see the range and quality of work being produced by emerging Aboriginal artists in Western Australia.

ELECTRICITY MARKET REVIEW — RESERVE CAPACITY MECHANISM

Statement by Minister for Energy

DR M.D. NAHAN (Riverton — Minister for Energy) [9.07 am]: I am pleased to inform the house of significant reforms to improve the efficiency of the Western Australian wholesale electricity market's reserve capacity mechanism. Today I release the "Final Report: Reforms to the Reserve Capacity Mechanism" presented to me by the steering committee of the electricity market review. The Liberal–National government has accepted each of the recommendations outlined in the report.

Through the electricity market review process, the state government estimates that these reforms alone will reduce the cost of supplying electricity by up to $130 million every year from 2017–18. These reforms are critical in sending the right investment signals to the market and directly impact the reserve capacity mechanism, which provides commercial incentives for investment in power stations to meet demand forecasts. The mechanism also rewards demand side management providers, which are businesses that are prepared to reduce their electricity consumption during peak demand events. The reserve capacity mechanism was designed at a time when there was a genuine concern over the adequacy of investment in the sector to meet demand forecasts. However, demand for electricity is not increasing as forecast. Additionally, consumers have invested in energy-efficient technology and solar generation, which has resulted in a substantial oversupply of electricity generation in the south west. As a result, the mechanism currently over-compensates investors in power stations and providers of demand side management.

There are four central elements to the reforms developed by the Electricity Market Review's steering committee that are set out in the final report, which will be published on the Department of Finance's Public Utilities Office website today. Firstly, transitional arrangements will be implemented to reduce capacity payments to power stations and demand side management providers due to current levels of excess capacity. Lower prices will be applied to demand side management providers during the transition, which recognises that these services have not made the same financial investments as traditional generators. Secondly, an "auction" will be introduced by 2021 at the latest to determine the most efficient price of electricity capacity going forward. Thirdly, requirements for demand side management providers will be updated so that services can be more readily called upon and, therefore, more effective to the market. Lastly, conditions on power stations will be tightened to improve incentives for these facilities to be maintained and ensure that they are ready to generate and supply electricity when required.

These reforms, implemented by the Liberal–National government, will ensure that owners of power stations and providers of demand side management are paid a reasonable price, reflecting the value they provide in maintaining the security and reliability of electricity supply. This will substantially reduce pressure on energy prices and the cost of electricity subsidies to the state government.

Further to this, through the ongoing collaboration with Synergy, the Liberal–National government will make direct contributions to removing excess capacity from the market by retiring up to 15 per cent, which is 380 megawatts, of the existing state-owned generation in the south west interconnected system—this will exclude renewable energy assets—by 1 October 2018.

LOCAL GOVERNMENT — STATUTORY COMPLIANCE OBLIGATIONS

Statement by Minister for Local Government

MR A.J. SIMPSON (Darling Range — Minister for Local Government) [9.10 am]: I am pleased to announce that the majority of local governments in Western Australia are meeting their statutory compliance obligations. Local governments are required to submit annual budgets, annual financial statements and compliance audit returns to my Department of Local Government and Communities. In addition, auditors are required to submit audit reports to the department annually. Despite my department making every effort to follow up with local governments and auditors, some local governments still did not meet these requirements.

Compliance audit returns were due to be submitted by 31 March 2016. This obligation was met by 136 local governments and nine regional councils. However, it was not met by the City of Cockburn and the Shire of Murchison. Local governments are required to submit their annual financial statements to the department within 30 days of receiving the auditor's report. Auditors are required to examine local government annual financial statements by 31 December each year. Annual financial statements were submitted by 131 local governments and nine regional councils, as required. However, the following shires have yet to meet their obligations: Ashburton, Coolgardie, Dowerin, Kulin, Laverton, Ngaanyatjarraku and Nungarin.

Audit reports were received from 129 local governments and seven regional councils, as required. However, they have not been received from the Bunbury–Harvey and Pilbara Regional Councils and from the Shires of Ashburton, Dowerin, Coolgardie, Kulin, Cambridge, Laverton, Ngaanyatjarraku, Nungarin and Perth. Budgets are due to be submitted to my department prior to 30 September each year. This statutory requirement was met by 137 local governments and all nine regional councils. However, it was not met by the Shire of Ngaanyatjarraku.

This government has implemented a number of measures to strengthen the local government sector and address compliance issues. The My Council website is set to launch in mid-2016. The website is a place where the community can find out how local governments are raising, spending and managing their money. It will provide even greater transparency of key pieces of local government data.

Legislation will be introduced to allow the Auditor General to take over the auditing of local government finances. This will create a higher level of integrity and accountability in the local government sector. These measures are just some of the many that this government has introduced to promote good governance in the local government sector.

STOKES REVIEW — RECOMMENDATIONS

Statement by Minister for Mental Health

MS A.R. MITCHELL (Kingsley — Minister for Mental Health) [9.12 am]: The "Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia"—the Stokes review—was released in 2012. This week will see the final meeting of the Implementation Partnership Group, the multi-agency group that first met in March 2013 to oversee the implementation of the Stokes review recommendations. The IPG, which is chaired by Mr Barry MacKinnon, AM, consists of representatives from government agencies, including the Mental Health Commission, the Department of Health and the State Coroner, peak bodies in the mental health sector and consumer and carer representatives. It has a specific term of three years.

The Stokes review recommendations were each allocated a lead agency to coordinate implementation. The lead agencies are expected to collaborate with relevant stakeholders to implement recommendations; however, they are responsible for ongoing monitoring and reporting. The Stokes review made 117 recommendations and 10 additional sub-recommendations. All but two of the recommendations were accepted by government for implementation.

Prior to the close of the IPG, a plan for the future governance, monitoring and implementation of outstanding recommendations has been developed and will be submitted in a report to both the IPG and me, as the Minister for Mental Health. The report will include compliance monitoring through the Office of Mental Health at the Department of Health; implementation of the actions in the "Better Choices. Better Lives. Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015-2025" through the Mental Health Commission; monitoring and reporting of outstanding recommendations through the Mental Health Commission and the Office for Mental Health; and monitoring of the Chief Psychiatrist's standards through the Office of the Chief Psychiatrist. When the report was released in 2012, it was described as a warts-and-all look at the mental health system in Western Australia. As this group ends its three-year term, I am pleased that 79, or approximately two-thirds, of the supported review recommendations have been completed. The remaining recommendations are in progress, and many of those will be addressed through the implementation of the plan.

I wish to thank Mr MacKinnon and all those involved for their hard work in ensuring the implementation of the report's recommendations, which serve as important foundations of mental health reform.

RANSBERG PTY LTD — CONCRETE BATCHING PLANT — BAYSWATER

Grievance

MR D.J. KELLY (Bassendean) [9.14 am]: I thank the Minister for Environment for taking my grievance this morning about a concrete batching plant that is proposed to be built in Bayswater. Ransberg Pty Ltd is proposing to build a concrete batching plant on a vacant site in Collier Road, Bayswater, near the corner of Tonkin Highway. The site is on the edge of an industrial area that backs on to a residential area. The vacant site also backs on to Joan Rycroft Reserve, which is a grass playing area that includes a cricket pitch and playground. There is a residential area on the other side of Joan Rycroft Reserve, with some homes only 140 metres from the boundary of the proposed industrial site. The residents have raised many concerns about the proposal, such as noise from the proposed plant, truck movements, dust, the inadequacy of the proposed buffer zone and the potential run-off into the main drain, which empties into the Swan River. A whole range of issues have been raised by residents, but mostly they are concerned about the impact of the dust on their health.

The City of Bayswater rejected the proposal, but its decision was overturned by the State Administrative Tribunal with a number of conditions. I compliment the work of the City of Bayswater on this issue. The company made a second application with a different style of plant. The City of Bayswater rejected that application as well, and that decision is now before SAT. The community asked the Environmental Protection Authority to do an environmental assessment of the proposal, but in March this year, the EPA declined to do an assessment and stated —

> … the overall environmental impact of the proposal is not so significant as to require assessment by the EPA …

That decision has been appealed, and it is my understanding that effectively the minister ultimately decides whether or not to uphold that appeal. One of the minister's options is to direct the EPA to do an environmental assessment. That is the purpose of my grievance this morning. I want to inform the minister about some of the issues relating to the appeal and urge him to, in effect, step up, listen to the concerns of the community and require the EPA to do a full environmental assessment of this proposal.

I turn to some of the key issues. A concrete batching plant poses serious risks. Ransberg's chemical data sheet warns, "Do not breathe the dust", "Avoid contact with skin and eyes" and "Do not empty in drains." It also refers to the "Danger of serious damage to health by prolonged exposure through inhalation (applies to concrete dust)." The proponent's data sheet acknowledges the dangers that this type of plant can cause. They are not minor issues.

The second issue is the buffer zone. The EPA's document titled "Separation Distances between Industrial and Sensitive Land Uses" lists a range of industries and has recommended buffer zones. For concrete batching plants, that document recommends a buffer zone of between 300 and 500 metres, depending on the size of the plant. Under the proposal, Joan Rycroft Reserve backs right up to the site of the proposed plant. If this plant goes ahead, in effect there will be a zero buffer zone between the plant and Joan Rycroft Reserve. One of the residents' concerns is that that reserve is not being recognised as a sensitive land use. Under the document I have just referred to, playgrounds are sensitive land uses. If this plant goes ahead, there will be a zero buffer between the concrete batching plant and that play space. That is just absolutely crazy, minister. In addition to that, the residential houses on the other side of the reserve are within that 300-metre buffer zone as well. The community cannot understand how any government authority could contemplate putting a concrete batching plant there when it would mean a zero buffer between the plant and the reserve. The Environmental Protection Authority's own documents recommend a buffer zone of 300 to 500 metres.

When the EPA made its decision not to do an environmental assessment, it accepted some arguments from the proponents that the importance of Joan Rycroft Reserve should be played down, because people do not play there every day. By definition, children do not play at playgrounds every day, so we do not see that the EPA has properly considered that aspect. The other aspect we do not believe the EPA has properly considered is the question of future expansion. The daily production proposal from the proponent seems, to the community, to be way less than is likely to be into the future for that plant.

Today, we really want the minister to listen to the concerns of the community. We are not asking the minister to stand and reject the plant, though that would be great; we want the minister to properly play his role. If the public are to have confidence in the role of the EPA, the EPA must do this type of assessment. We want to hear from the minister today that he sees the EPA playing that role. Thank you.

MR A.P. JACOB (Ocean Reef — Minister for Environment) [9.21 am]: Madam Deputy Speaker, thank you for the opportunity to respond on this issue. I acknowledge the high level of community interest around this particular proposal. By way of background, developments in Western Australia that may impact on the environment are subject to a number of provisions under the Environmental Protection Act 1986, an act in place to ensure the environment and the community are protected through development of this type. Under the act, any person can refer a proposal to the Environmental Protection Authority if they consider that that proposal is likely to have a significant effect on the environment. The current proposal to establish a concrete batching plant in Bayswater was subsequently referred to the Environmental Protection Authority in October 2015 by 18 third party referrers and the City of Bayswater.

Under the Environmental Protection Act, the EPA in the first instance decides whether to assess proposals that are referred to it. By way of background and for community members who have a particular interest—I acknowledge that there is a level of concern around this—that decision from the EPA is the earliest decision within the process. It is not a decision around the merits of the proposal as such; it is a decision around whether it will be assessed under part IV or part V of the Environmental Protection Act. There are two parts under the EP act—part IV is done through the Environmental Protection Authority and part V is done through the environmental regulator, which is the Department of Environment Regulation. This is a decision around which level a proposal such as this one would be better assessed. It is not the assessment of whether the proposal can go ahead or not; it is a decision around which part of the act it would be assessed under.

The Environmental Protection Authority determined that although the proposed concrete batching plant raised a number of environmental issues, it did not believe that this project should be assessed by the Environmental Protection Authority, thereby implying that it should be assessed by the Department of Environment Regulation, which is the state's key environmental regulator. In public advice issued on 21 March 2016, the Environmental Protection Authority set out the environmental issues it had considered and why it decided not to assess the proposal. That public advice is available on the authority's website. Whether the EPA decides to assess or not assess a proposal is appealable to me as the minister, and any person can lodge an appeal to the authority's decision through the Appeals Convenor. The period for appeals against the EPA's decision not to assess the Bayswater concrete batching plant closed 4 April 2016—just in this past week. Four appeals were received on this matter.

Since becoming Minister for Environment in 2013, I have had the benefit of considering a wide range of appeals under the Environmental Protection Act. My observation is that the current appeal process, which we now find ourselves within, provides a fair, accessible, transparent and effective review mechanism. Appeals are now investigated on my behalf by the Appeals Convenor, which is a statutory position established under the act. There is also the capacity under the act for the Appeals Convenor to seek further technical guidance from experts as required, as well as the option of appointing a dedicated appeals committee, if necessary, to investigate specific appeals. The appeals process is merit based, meaning that the focus of investigations is on the substantive environmental matters raised by the decision —

Mr D.J. Kelly: Minister, we understand the process.

The DEPUTY SPEAKER: Order, member.

Mr A.P. JACOB: Member for Bassendean, it is important that I make very clear the point in the process we are in. The appeals period just closed three days ago, so we are now in the appeals process. I know that there is community interest; I am just trying to very carefully spell out where we are at in that process. Further fact sheets are available on the Appeals Convenor's website.

In preparing a report and recommendation to me, the Appeals Convenor seeks advice from relevant agencies and, very importantly, will also meet with the appellant. Those four appellants will be contacted by the Appeals Convenor. The Appeals Convenor will also meet with the applicant and any other party deemed necessary to inform the investigation. Following consideration of the Appeals Convenor's report to me as minister, ultimately the minister makes the final decision whether to uphold the appeal, dismiss the appeal or allow the appeal in part. Once that decision is made—I am not at the point of decision at this stage—full reasons for my decision will be published on the Appeals Convenor's website, along with the full Appeals Convenor's report. As I said, the Appeals Convenor is now at the absolute frontend of that process. As that matter is currently being investigated by the Appeals Convenor and I will ultimately have to determine this matter with an impartial mind—which I most certainly have as we go in—until I receive the Appeals Convenor's report, it is not appropriate that I comment on any detail at this point on the proposal as it currently stands. Whichever way I decide ultimately in this matter, I underline that this is a decision that I will make on the level of assessment—that is, whether it is done through our environmental regulator in part V of the act or whether it is assessed through part IV of the act and the EPA. Whichever way I decide at the end of this appeals process, this proposal will still go for a full assessment under the EP act, either through part IV or part V.

Mr D.J. Kelly: Two levels, minister—that is the importance.

Mr A.P. JACOB: I really do highlight that so that residents well understand that my decision at the end of this appeals process will be on where this is ultimately assessed. My point is that, whichever way I decide, it will undergo an assessment. Whichever way I decide, the assessment is yet to come. I acknowledge that there is significant community interest, so I am flagging that in my response so that residents well understand that if they wish to continue to be engaged in this process, it is something that they should definitely keep an eye on, because either way this will not be the end of the process. I can assure local residents, however, that this proposal, either way, will be subject to the fullest environmental rigour under either part IV or part V of the act.

ESPERANCE BUSHFIRES — RESOURCE ALLOCATION AND EARLY INTERVENTION

Grievance

DR G.G. JACOBS (Eyre) [9.28 am]: I thank the Minister for Emergency Services for taking this grievance around resource allocation and early intervention during the Esperance fires. At the outset, I acknowledge the wonderful work of firefighters during the tragic fires of 17 November last year, including professional firefighters, and firefighters from local brigades and from the Department of Parks and Wildlife. Resources and early intervention is so important. Early intervention is important in preventing a serious wildfire from developing, which we have experienced in Western Australia. I recognise that once a wildfire develops, it is almost unstoppable.

I also recognise the very severe conditions around that time in Esperance, with a grass fire index of 221. To put that in perspective, anything over 100 is deemed extreme. I recognise also the increased fuel loads and the temperature on that day. However, it would be sad if we did not learn something from the "Major Incident Review of the Esperance district fires" that was released on 8 March this year by the Department of Fire and Emergency Services, and the good work of Euan Ferguson. I want to address the limited external resourcing. I quote from the report —

> While the Esperance district did request additional resources, the pattern of fires and predicted adverse fire conditions across the state meant that limited external resourcing was made available

"Limited" resourcing was made available, recognising all the matters within Western Australia and the severity of other fires throughout Western Australia.

On 16 November, the day before the major wildfire in which we unfortunately lost four people around Grigg Road in Scaddan, a DFES area officer based in Albany was deployed to the Esperance district office to assist the local incident management team. On the morning of 17 November the regional operations centre requested additional resources from Perth. Initially the state operations centre did not action the request due to a determination that there were adequate IMT resources already in Esperance and Narrogin. It is the matter of aerial support that I want to address in particular. I understand that aerial support is not the be-all and end-all in fighting fires—it is very important that we have ground troops, if you like, to follow up—but aerial support in early intervention is critical. Two local fixed-wing agricultural aircraft operated by private contractors in the Esperance area were offered for aerial support suppression tasking; however, regulatory constraints and the time available and contract management capacity prohibited their deployment. We recognise that there were demands from the aerial infrastructure in the metropolitan area and Albany region, and for Mt Solus and in that area around Albany.

On the evening of the seventeenth, after the wildfire had developed and gone through Grigg Road in Scaddan, a further request was made. Eventually, aerial support was available but it did not appear until the Wednesday morning. It is really important to look at the whole issue of the implementation of aerial support, both the intelligence in fighting the fire and the suppression of it. The response in Esperance, therefore, was reliant on aerial resources from outside the region. Had aerial suppression resources been available prior to the escalation of the fire on 17 November, they would most likely have been deployed at the Merivale fire, which was the fire that was threatening the town. There were three fire fronts, as the Minister for Emergency Services well knows, at Cape Arid National Park, at North Cascade and at Merivale. If those aerial supports were not available because of all those constraints and demands in the state of Western Australia, we need to take away those regulatory constraints that do not allow the deployment of two fixed-wing aerial agricultural aircraft that could have been deployed. This is not the first time this issue has arisen. It is really important. It is not as though those two aerial supports would be used during the whole firefighting period, but it would provide early intervention until the troops arrive; until the other squadron, if you like, arrives. That is really important because, as with disease, early intervention is critical and obviates much pain into the future.

In the last minute I have left to speak I will touch on resources being low initially in the incident management team. It is important that we have a scalable model so that when the risk exists during the high season—we have a very large agricultural region—more than one person is in the office. One person in the DFES office is insufficient and staff numbers must be increased when there is a potential fire risk. The minister must recognise the importance of early intervention with aerial support and the IMT in the early phase of the fire. There was some description around the lack of record keeping, planning and information passing up the line in the early phase of the fire that threatened early intervention.

MR J.M. FRANCIS (Jandakot — Minister for Emergency Services) [9.35 am]: I thank the member for Eyre for his grievance on resource allocation and early intervention during the Esperance fires. I acknowledge also his passion and absolute commitment to the people of Esperance, in not just raising this issue but also in dealing with the recovery from those fires. It takes the kind of human touch that only a doctor could provide to his electorate to help people through what has obviously been a significant and challenging time in and around Esperance. To put it into context, the Esperance complex fires were some of the most destructive fires the state has ever seen, notwithstanding the Yarloop fires, which obviously was a different issue to confront. The Esperance fires devastated over 300 000 hectares and tragically cost four lives. Since then, there has been commentary around the deployment of resources and the speed of the response. I also have a limited amount of time and there are a couple of points I need to address, including the member's comments about early intervention using aircraft capable of dropping water.

The major incident review released just last week found that the response was broadly well managed; however, it also noted that there were clear areas for improvement. That MIR was conducted by the Nous Group on behalf of the Department of Fire and Emergency Services, so it is effectively an internal review. It notes clearly that there were a number of high-level fires and a lot of fire activity across southern Western Australia during this time, with 29 separate fires burning. On 15 November lightning strikes ignited multiple bushfires throughout the Esperance area. The Department of Parks and Wildlife and local government brigades responded, and DFES monitored the situation from the state operations centre, as it does with every single fire. When a level 1 fire starts, it is initially under the control of the local brigade and local government. When it has escalated to a level 2 fire, effectively it is still under the control of the local government but it will bring in other resources from other local government areas if required, and perhaps aerial support. A level 3 fire is effectively when the local government authority asks DFES to take command and control of the fire, for a number of different reasons, but probably for logistics and also because of the command and control structure that is required for a large fire and the coordination of all the responses.

We must keep this in the context of the catastrophic weather conditions on 17 November. The fire escalated at 12.30 pm on 17 November. Under section 13 of the Bush Fires Act, the local government requested, as

I mentioned, that DFES take control of the incident; so the fire had effectively been burning for some time before then. Under the control of the IMT, which was staffed by DFES, Parks and Wildlife and the local government, additional resources were immediately mobilised. One criticism is that when a fire becomes a level 3 incident DFES does not listen to local knowledge. I should note that there are always local volunteers, local fire control officers and local experienced people who are part of that IMT. It is essential that whoever is qualified as an incident manager down to a sector commander takes into account local knowledge, and I am confident that continues to happen.

The "Major Incident Review of the Esperance district fires" notes that preparations were undertaken across all regions in the state, in light of anticipated severe fire conditions, as early as 12 November—three days before the fire started. The Cascades fire had an unusually high intensity and rate of spread for a grassland fire; it is thought to have been the hottest grassland fire in Western Australia's recorded history. The science of it is that direct attack by water after a fire like that takes off—I know the member was talking about before it took off—is like putting a glass of water on a bonfire. Grassland fire is hard to compact with water after it gets across a measurement of 5 000 kilowatts a metre, and this fire was assessed to be 45 000 kilowatts a metre of intensity of energy; it was significant.

Resources were mobilised from all over southern Western Australia, and crews from Perth—predominantly volunteers—were on three-day deployment. I acknowledge the volunteers, career firefighters and businesses that employ volunteers and let them go and fight fires; there is a financial sacrifice when they do that. I also acknowledge the wonderful corporate support. I remember giving the example of Virgin Australia Airlines having put on, at its expense, an aircraft to fly volunteer firefighter crews in and out of Esperance in the style of fly in, fly out workers. That made it a lot easier for more volunteers to go to and from Esperance; it otherwise may not have happened. The trucks were left there and Virgin flew the crews back and forth. That was a great act of corporate citizenship by Virgin, and a lot of other businesses made similar contributions. The crews did a two-day turnaround, and once the appliances were on the ground it was a lot easier.

I will quickly touch on two things. Firstly is the issue of aircraft—the crop dusters that could not be used for aerial firefighting. The major incident report states that federal aviation regulations prohibit a pilot who is not licensed to undertake firefighting operations from doing so. Member for Eyre, I think we can explore this further because it is a good point. I am happy to take this up with the relevant federal minister to see what kind of emergency relaxations might be able to be put in place.

Mr A.P. Jacob: Accredited pilots do cropdusting, and they can fly a plane.

Mr J.M. FRANCIS: But flying over a crop is different from flying over a fire, and there may be a very good reason they are not allowed to do that.

I want to place on record that the Bush Fires Act 1954—this is another urban myth that now creates a dangerous situation—clearly allows fire control officers and firefighters from bush fire brigades to enter crown land for the purpose of extinguishing a fire. An urban myth has been spread by a number of different people that if bush fire brigades do that, they will be prosecuted; it is just not true. It has become counterproductive, because there is a myth out there that if bush fire brigades go on that land, they will be prosecuted. I wanted to put on the record that that is not the case. There is a clear and specific section in the Bush Fires Act that allows that, and I think it is dangerous to continue to perpetuate an untruth that would prohibit bush fire brigades from putting out a fire.

RESIDENTIAL AGED-CARE FACILITIES

Grievance

MRS M.H. ROBERTS (Midland) [9.42 am]: In the brief time available to me this morning, I would like to grieve to the Minister for Seniors and Volunteering on an issue that crosses many portfolios and all levels of government. I will highlight to the minister the need for an increased number of residential aged-care facilities in Western Australia, but more specifically in Midland and the eastern region.

A lot of information is available on the general topic of our ageing population, for whom we need to cater. I am calling upon the Minister for Seniors and Volunteering to take a lead role especially in catering for the needs of our ageing population, particularly those who need, and will need in the next 10 to 20 years, residential aged care. I commend the Community Development and Justice Standing Committee for dealing with this issue last year in its report entitled "Age-friendly WA? a challenge for government". It is certainly a big challenge for government and an issue that needs addressing.

I specifically want to talk about what is available in the eastern region. I also want to commend the work of the City of Swan Community Care Services Advisory Committee. The minister will be no doubt be aware of Swan Community Care Services in his role as Minister for Seniors and Volunteering; it is a fabulous group of volunteers that has been in existence since the 1980s. That group does about 30 000 hours' volunteer work a year; that equates to about 4 000 eight-hour days a year. It provides all kinds of services and has numerous bus

drivers and bus assistance. It drives people about 7 000 kilometres a year and does something like 480 trips a week. That dedicated group is really helping out with its volunteering. Those people have firsthand experience of the needs of aged people. Constituents come to me all the time—often people in their 40s or 50s—trying to find accommodation for the aged for their parents; they find it very difficult. I was saying yesterday that many of my constituents and people from the broader Midland region have to put their parents in aged care in Mosman Park. One lady commutes to Guildford from Toodyay for work every day and has had to put her mother into aged care in either Mosman Park or Osborne Park. It is a real burden and makes it hard to visit and support elderly people. Of course, elderly people can feel really isolated and out of place when they have to head off to another region. It is really important.

I turn to some facts and figures. Mr Ron Carey from Swan Community Care Services and others have provided me with some information. My electorate of Midland has seven facilities and a total of 479 beds. Midland is a major regional centre that caters for a very broad region. Mr Carey makes the case—I know he has been in touch with the Minister for Lands, the Premier and other people—for the whole of east metro region; I will concentrate on electorates close to mine. Midland has seven facilities for 479 people; Kalamunda has 12 facilities—it sounds good, but they house only 540 people; Forrestfield has two facilities and has only 115 beds; Swan Hills has one facility, which I believe is in Mundaring, with only 40 beds; and West Swan has two facilities—I believe they are in Ellenbrook—with 198 beds. That totals 1 372 beds across five electorates in my part of the eastern region. I note for the minister's reference that Darling Range, which I also have the figures on, has just one facility with 60 beds in Carmel. If that is the correct scenario for the minister's constituency, it would mean most of the minister's constituents have to find aged care well out of the eastern region, or certainly outside of his electorate.

It is really important for all levels of government to get across this issue. There are 1 372 beds across five electorates of about 25 000 people each; 125 000 people live in that region. Many of those areas, as the minister well knows, are expanding—certainly the areas around Ellenbrook and so forth—and that is putting extreme pressure on the number of available residential aged-care beds in the area. This need has to be met now, and planning needs to be done now. I particularly wanted to highlight to the minister the opportunity afforded by the Swan District Hospital site. That is a large site within my electorate of Midland, a significant portion of which could be used for an aged-care facility. I think this is very important. I know that the sale of the site and the registrations of interest and so forth are under the Minister for Lands' portfolio, but I am really calling upon the minister to take a lead within government to deal with this need. That is what the community expects of government. It expects the minister to take an across-the-board view at the real community needs, not the needs of the Minister for Lands, the Treasurer, the Minister for Finance or someone else; their main brief is probably to get the best dollar value for taxpayers. They can no doubt say, "Look, we had several offers but this is the best offer because it delivers $1 million more back to the taxpayer", so the government can pay off $1 million more of the mammoth state debt. But we would lose the opportunity to provide for the real needs of people because we would lose a fabulous site that would be ideal and strategically located quite close to Midland. It would well and truly service people in the Swan Valley, the hills and the broader eastern region where there is a significant shortage of beds and a phenomenally growing need into the future. I would like the minister to address the whole issue, but he could more specifically take up the cause for the people of our part of the eastern region with respect to the Swan District Hospital site.

MR A.J. SIMPSON (Darling Range — Minister for Seniors and Volunteering) [9.50 am]: I thank the member for Midland for her grievance this morning and for raising an issue about seniors in Western Australia. I would like to put some interesting facts on the record that will lead on to what has been raised this morning about the ageing population. There is a WA Seniors Card that allows people to receive a lot of discounts. The statistics reveal that in 2015, 74 Seniors Card holders turned 100 years of age. Members should keep in mind that not everyone who is 100 years of age has a Seniors Card, but in 2016 that number blew out to over 100 cardholders and, currently, there are 469 people over 100 years of age who hold WA Seniors Cards. The population is ageing and the community is now far more tuned in to keeping healthy and active so, consequently, we are all living longer. A lot has been said about the ageing population in the last 30 years, and, also, people are working longer.

The member for Midland raised aged care and rightly pointed out that in a number of areas there is a lack of aged-care beds. We must also keep in mind that the federal government allocates money for aged-care beds, so if someone wants to build a new facility, they would have to apply to the federal government for funding for those beds. The federal government funds the beds, which come with an allocation of money, and that person must then get a licence to operate. At the same time—I will come back to the Swan District Hospital site in a moment—a person could build independent living units for people over 55 years, which are pretty much not nursing or aged-care homes but a place where people come and go freely and live in group housing together, have interests in common and get things together.

Mrs M.H. Roberts: But some mix of accommodation would be possible on that site—that's a good point.

Mr A.J. SIMPSON: We have an opportunity now to look at how to utilise the land at the Swan District Hospital site. It is important to note that work is currently being done on the former Roleystone Primary School site, which merged with the district high school, and we are working through a similar process to put independent living accommodation on that site. The main reasons for that is it is within walking distant to shops, ovals and the senior citizens centre and there is a lot available right at that site's doorstep. The Swan District Hospital site is similar to the Roleystone site. The 10.6 hectare site is zoned urban under the current metropolitan region scheme and is reserved for public purposes under the City of Swan's local planning scheme No 17. In the event that the site is used as an aged-care facility, a local planning scheme amendment would be required, which would include a public consultation period. The Swan District Hospital site is surplus to the government's requirements and is being prepared for disposal as part of the land asset sale program by the Department of Lands through LandCorp. The Minister for Lands is responsible for that matter, but I will take it on board. I am advised that a market-sounding report was undertaken by LandCorp in 2015 to further understand the market's need for the subject site in its current state or in an alternative form. A number of industry groups were consulted during this research, including aged-care providers. LandCorp is currently seeking expressions of interest from proponents for a master plan to develop the site, which may include the reuse of all, part or none of the existing building. Those expressions of interest will close on 25 May 2016. A town planning scheme amendment will be considered once the future use of the site is confirmed.

It is acknowledged that providing aged-care accommodation is a challenge and, as the member pointed out, it is likely to increase. However, it is important to note that the matter is definitely on the table and options for aged care are currently going through expressions of interest so that we can to find a way to facilitate that. The member hit the nail on the head when she said dealing with this matter will cross a number of agencies, including the Department of Lands and the Minister for Planning to deal with the planning regulations and me as the Minister for Seniors and Volunteering.

Mrs M.H. Roberts: By way of interjection, the Minister for Health should be interested, too, because, as you say, aged-care beds are funded by the federal government. Many elderly people while waiting to go into an aged-care facility are costing the state government health minister money in his portfolio.

Mr J.H.D. Day: That is an issue, and I am certainly interested from a portfolio point of view and a local electorate point of view.

Mr A.J. SIMPSON: Also, as the Minister for Local Government, all local governments are implementing the age-friendly communities program. A fair bit of work has been done on that to date with 57 regional and metropolitan local governments receiving state government grants to adopt that approach. The age-friendly communities program is all about designing new subdivisions with small, cottage lots that are close to parks, main arterial roads, bus routes and shops. Fifty-seven local governments have taken up those grants to help in the design and future planning of age-friendly communities. We know this is a going to be a very big problem for our community in the future. The interesting feature of those subdivisions will be that if we can achieve that it acknowledges that seniors are home a lot during the day so they are the eyes and ears on the street for those busy families who are at work and school and have to leave an empty nest at home. It is important that we have someone living nearby to keep an eye on the street, providing very good passive surveillance. The program is about putting in age-friendly design and how to work to bring it all together. A lot of work is being done in this area and it brings together a group from Department of the Premier and Cabinet, Department of Transport and Department of Health to work on the age-friendly communities program to make sure that action plan is put in place. Hopefully, that action plan will be endorsed this year so that it can be put in place through the Department of Local Government and Communities.

I thank the member for Midland for her grievance. Her grievance is exactly that. It is a larger issue for the whole government and I take on board her comments that we need to be more proactive than we are being at the moment. I will take up the matter of the expressions of interest with the Minister for Lands so that we get some transparency around that. Obviously the key component, as the member touched on, is that we have to make sure we put some pressure on our federal colleagues to fund those beds. I understand that the funding of those beds is done by using Australian Bureau of Statistics census collection district data to identify the number of people over a certain age who would qualify for those beds. That is probably where the problem arises. For example, a private operator might require a minimum of 70 beds to build a reasonable facility and if funding is not available for 70 beds, the operator will not spend its money to build that facility. It is a good point to raise. There needs to be cooperation between state government ministers and their federal government colleagues to get on top of the issue of the ageing population in the wider community. I thank the member for her grievance.

UNIVERSAL VACCINATION INSURANCE SCHEME

Grievance

MS W.M. DUNCAN (Kalgoorlie — Deputy Speaker) [9.57 am]: I thank the Minister for Health for taking on board my grievance. It is a matter I have raised in this house on many occasions as part of more general

speeches, but I would like to put on record the specific issue of people who suffer adverse reactions to vaccinations. Just by way of a reminder to the house, the reason for my concern is that in early 2012 a young gentleman in Kalgoorlie-Boulder was given a whooping cough vaccination before he could visit his son who was born prematurely. His wife and son were in King Edward Memorial Hospital. He reluctantly agreed to the vaccination because he felt as though he did not have any choice. As a result he suffered a very severe allergic reaction. He suffered encephalomyelitis, which resulted in him being paralysed from the neck down. He has been able to regain some movement, but still has no feeling from the chest down and has damaged and deteriorating internal organs.

I first wrote to the Minister for Health on this matter in May 2013. He indicated that the Hammonds should seek compensation through the hospital insurers. It is more than three years since the event and nearly three years since I wrote my letter to the minister, and Ben and Tanya have still had no relief from their dire circumstances. I wrote to the Premier in January 2015, advising him of this situation, and also the Attorney General, asking for an ex gratia payment. I wrote again to the Minister for Health in May 2015, who said that he favoured an ex gratia payment but because legal action was taking place the matter could not be resolved. It was then that I realised that we need policies in Australia to deal with these very rare situations. It is a one-in-a-million reaction. One such adverse reaction happens in Australia about every four years. These reactions are far less common than extreme reactions to the diseases themselves. I want to put on record that I am not averse to vaccinations; in fact, I very strongly support them. However, litigation is unpleasant for all concerned. It drags out for years, as can be seen in the case of Ben and Tanya Hammond, and is unlikely to succeed, because there is usually little or no evidence of negligence or a faulty vaccination. Health professionals and academics have been arguing since 2011 that Australia should be brought into line with international best practice, and address a common criticism of immunisation; that is, there is no redress should it go wrong. In 2011, such people as Associate Professor Heath Kelly of the University of Melbourne School of Population and Global Health and Professor David Isaacs of the Children's Hospital at Westmead in Sydney called for a no-fault insurance scheme for people who suffer a serious vaccine-related reaction. It only seems fair that our society, which benefits from the herd immunity of universal vaccination, should wrap its arms around those who are adversely affected by it. No-fault insurance schemes are in place in 19 countries around the world, including the United States, Britain, most of Europe and New Zealand. Germany's scheme has been in operation for over 50 years. The scheme could be funded by a levy on the cost of vaccination sales, or some other form of industry contribution, or ahead of or part of the National Disability Insurance Scheme or the National Injury Insurance Scheme.

When Tony Abbott decided on a no-vaccination, no-payment policy, denying childcare rebates to children who were not vaccinated, I wrote to him congratulating him on this policy, but calling for a vaccination compensation scheme. His then parliamentary secretary, Christian Porter, responded that Australia does not have a compensation scheme because immunisation is non-mandated. He also wrote that he had written to the Hammonds expressing his sympathy for this rare and adverse event. Unfortunately, sympathy is not going to help the Hammonds. They have now resorted to crowdfunding to try to keep their home. Ben's health is deteriorating. They have got themselves into a situation in which trying to pay for his medications, therapy and so on has driven them so deeply into debt that if they did sell their home, they would still not be in a position to be able to move to Perth, where he can get the treatment and support he needs, and Tanya can have the support of her mother and her family around her. They have four children, and they really are in dire circumstances.

I note that yesterday a young mother posted a story on Facebook about how she was an anti-vaxxer, and was absolutely determined that she did not need vaccinations and neither did her children. Because she ate healthily, exercised and bought organic food, she thought everything would be fine, but then she gave whooping cough to her newborn baby. They went through hell for weeks, and are still doing so. She has said on Facebook that she is really sorry and regrets her position on vaccination. The Prime Minister picked that up and noted on Facebook that he was pleased with her making that decision. I made a comment to the current Prime Minister, saying yes, but please bring in a no-fault vaccination insurance scheme. That is what I am asking the minister today—that the Western Australian government lobby the federal government to introduce a universal vaccination insurance scheme or, in the interim, provide an ex gratia payment to Ben Hammond.

MR J.H.D. DAY (Kalamunda — Minister for Health) [10.04 am]: I acknowledge the concerns that the member for Kalgoorlie has raised. It is a real issue and the concerns are valid. By way of background, it is important to note, as the member for Kalgoorlie herself indicated, that vaccines are highly effective at preventing many serious illnesses. The World Health Organization estimates that vaccinations prevent two million to three million deaths each year worldwide. Vaccines are generally safe, with the risk of severe sequelae, or consequences, of routine immunisation being about one in one million doses administered. Without the national and international vaccination programs we have today, many more people—children in particular, but also adults—would be suffering severe illness or dying compared with the results of the vaccination programs. Although the risk of a serious adverse reaction following vaccination is very low, it cannot be completely eliminated.

No-fault vaccine injury compensation programs are based on the premise that any adverse event attributable to vaccination is due not to the fault of a specific individual or organisation, but to an unavoidable risk acknowledged as being associated with vaccines. As the benefits of immunisation are critical for protecting the health of our population, it can be argued that there is a case for compensation for the small but predictable number of individuals who are disabled as a consequence of immunisation. The ethical argument for establishing no-fault vaccine injury compensation programs is based on the concept that any person who is injured while helping to protect the community, as well as themselves individually and their family, is contributing to herd immunity, as it is termed, and should not bear the consequences of injury alone. In other words, the community owes a duty of care to the individual injured by a vaccine offered and accepted in good faith. Nineteen countries around the world, including the United Kingdom, the United States of America and New Zealand, already have no-fault vaccine injury compensation programs, and some have been operational for more than 50 years.

Australia currently has no straightforward means for compensating people who might be injured by a vaccine. Parents of children or adults who seek compensation for a serious adverse event following vaccination are typically required to make their case through the legal system. Obtaining compensation through the courts often requires demonstration that an individual or an organisation was at fault. However, fault can be difficult to establish, because an adverse event may be caused by a vaccination through no fault of the vaccine manufacturer or the person who administered the vaccine. Additional potential benefits of no-fault vaccine injury compensation programs are that they are believed to improve consumer and provider confidence in vaccination programs, and they are thought to reduce litigation costs.

The vast majority of vaccines administered in Western Australia are given as part of a national immunisation program. Creating and administering a state-based compensation scheme would be a sub-optimal solution as Western Australia would be assuming the risks and costs of implementing a program that is largely a federal responsibility. I am advised that in August 2011 the federal Productivity Commission recommended the establishment of two compensation schemes—the National Disability Insurance Scheme and the National Injury Insurance Scheme. The NDIS has been partially implemented and has been well publicised. If serious injuries attributable to vaccines are covered under the NDIS, this might obviate the need to establish a standalone immunisation-specific compensation and support mechanism. Unfortunately, there has been conflicting information about whether a serious permanent disability occurring as a result of medical care is eligible for support under the new NDIS. Progress with the National Injury Insurance Scheme has been slower. In theory, when it is operational, the NIIS will cover a broad range of health costs associated with catastrophic injuries, such as acute care and rehabilitation services, and will specifically include coverage for medical accidents and/or "medical treatment injury".

I do not think it is really appropriate to support a state-based no-fault vaccine injury compensation program, because this is really something that needs to be approached on a national basis. I have been advised that my predecessor as Minister for Health has requested clarification on whether a person who suffers a serious adverse event following vaccination is eligible for support under the NDIS. He wrote to the commonwealth Minister for Social Services, Christian Porter, about this matter in January this year. He also requested clarification on whether a person who suffers a serious adverse event following vaccination will be eligible for support under the NIIS, when it comes into operation; and, if so, when assistance may become available.

The previous Minister for Health wrote to the commonwealth Treasurer, Scott Morrison, regarding this matter in January this year. I am interested to see the responses to those inquiries and following receipt of that information, I will then consider requesting the federal government ensure that vaccine injuries resulting in permanent disability are covered by one of the new insurance schemes, either the National Disability Insurance Scheme or the National Injury Insurance Scheme. I look forward to advice on that matter coming from the commonwealth. Clearly, a better approach than that which is taken at the moment is needed, and I hope we will get some progress through engagement with the commonwealth.

I will seek an update on what progress has been made or what action has been taken to provide assistance in the specific case that the member raised. From what the member said, legal action is underway, which would appear to be the only realistic course of action at the moment, but I will seek on update to see whether we can achieve an outcome.

HEALTH SERVICES BILL 2016

Consideration in Detail

Resumed from 6 April.

Postponed clause 141: Transfers between health service providers or between health services providers and the Department —

Debate was adjourned after the postponed clause had been partly considered.

Ms J.M. FREEMAN: Clearly we have ascertained that Clause 141 is to do only with transfers within the public sector and Clause 161 onwards is to do with whether we can forcibly transfer someone to a suitable alternative employment position in a private health provider. On that basis we are pretty clear that this clause relates to transfers within the public sector; that is the conclusion we came to in the last discussion on this area.

I want to take us back to a question that the member for Kwinana asked about Clause 141. He said —

> Is it currently possible to force a nurse or a hospital employee to move from one hospital to another?

The answer was —

> I do not think it is. We are talking about the current act.

I do not have a copy of the Health Act with me. I have a copy of the Public Sector Management Act. Yesterday I looked at the staffing provisions under the Health Act and it seems to me that this gives the department a capacity that it did not have previously to transfer employees from one health service provider to another. I want to be made aware whether it is the case. Under the act, can a nurse or hospital employee be transferred from one hospital to another without their consent? Clause 141(4) refers to consulting, but we cannot move an employee to another hospital without their consent. The adviser in the Legislation Committee said —

> I understand that under the current act those provisions are not present —

That is, unless they are in the industrial agreement. I want to clarify and have it confirmed to me whether these are new provisions and the Department of Health currently does not have that capacity.

Mr J.H.D. DAY: As I mentioned yesterday, this clause relates to transfers within public health service providers and although it is extremely rare, if it ever occurs, I understand it is currently possible to require employees to be relocated from one location to another location.

Ms J.M. Freeman: You say it is currently possible to do that?

Mr J.H.D. DAY: Yes.

Ms J.M. FREEMAN: Where in the Health Act?

Mr J.H.D. DAY: As I said, it is very rare that that occurs, but there is a whole process and the employee needs to be consulted. If they are not happy to make the change, I imagine it generally would not occur. There is a process. As I mentioned yesterday, the transfer of employees is considered to be an industrial matter subject to review by the WA Industrial Relations Commission under the dispute settlement procedure provisions within the industrial agreements within the health system. This includes employees covered by the Health Services Union, United Voice and the Australian Nursing Federation. The procedure process requires the employer to consult the employee and issue the relevant notice provisions before putting the transfer into effect. If the employee remains aggrieved, he or she has recourse under the relevant clause in the dispute settlement procedure and also under the public sector transfer standard.

Transfer decisions are reviewable. The "Public Sector Commissioner's Instruction No.1: Employment Standard" and the Public Sector Management (Breaches of Public Sector Standards) Regulations 2005 already offer an avenue of review for health employees who are adversely affected by a transfer or secondment decision. Currently, under clause 46 of the "WA Health — United Voice — Hospital Support Workers Industrial Agreement 2015", an employee can be transferred to another work location following notification of change and consultation with the employee. Although it would be a very unusual situation—I do not know how often it happens, but I am advised it happens very rarely—it is possible for such transfers to be required at the moment and what is being put in place is this legislation really reflects what is already in place.

Ms J.M. FREEMAN: The minister referred to employees covered by the Health Services Union, United Voice and the Australian Nursing Federation agreement. My question goes to the Australian Medical Association and whether we can transfer a doctor without their consent. The previous minister spoke in this house about the difficulties faced in transferring doctors from Royal Perth Hospital to Fiona Stanley Hospital and that many were reluctant. There was also the issue around the transfer of doctors from Fremantle Hospital to Fiona Stanley Hospital. With the new opening of the campus at Midland hospital and the Perth Children's Hospital, although the minister has answered the question in terms of the workers, so to speak, my question goes to the fact of whether the same applies to the doctors needed to run an effective health system—the doctors and the Australian Medical Association.

Mr J.H.D. DAY: I am advised that in the AMA industrial agreement there is a similar provision by which there can be a requirement to transfer. It is rarely put into effect, if ever, probably for the same reasons as other industrial agreements. I am advised that is the current situation and once this legislation comes into effect, the same arrangements will apply to doctors as other employees.

Ms J.M. FREEMAN: I want to take the minister to clause 141(4)(c), which states —

> the employee to be transferred has been consulted.

The bill is drafted so they have to be consulted under subclause (4)(c). However, clause 142 is "Secondment of employee" and subclause (4) states that for a secondment of an employee the chief executive must not act to do that unless the employee concerned consents. I would have thought that a transfer from one spot to another, a forcible transfer, the capacity for which is now being given to the health department, should have the same level of agreement as a secondment of an employee. There is a process in which the transfer complies with the relevant policy. Clauses 141(4)(b) and (c) state —

> (b) the employing authority of the health service provider to which the employee is to be transferred or, if the employee is to be transferred to the Department, the Department CEO, has approved the transfer; and
>
> (c) the employee to be transferred has been consulted.

Given that it is clear that consent is provided for in the next clause—so the consent of an employee is something that the employer, being the health department, has no problem with—why would it not be stated in this clause that the employee to be transferred has consented in the same way as has been stated in clause 142(4)(b)?

Mr J.H.D. DAY: When an employee is seconded, it is really by definition for a specified period of time, so it is not a permanent arrangement. Therefore, a judgement has been made that if there is not consent of the employee to agree to a secondment, given that it is not a permanent arrangement, I guess it is less necessary for that to occur. Compare that with a transfer, which may be required to occur because a particular facility, health service, hospital or whatever may close, as was the case with Swan District Hospital, because an employee cannot stay working at a location where there are no patients. It does not really make sense. It looks pretty good in the *Yes Minister* program; it is very easy to run a hospital with no patients on that program, but clearly we cannot.

Ms J.M. Freeman: The previous minister certainly managed for some months to run Fiona Stanley Hospital with no patients, so he was the perfect example of *Yes Minister* in that way! You left yourself open to that, minister.

Mr J.H.D. DAY: When major new health facilities are built, the building needs to be completed and then it needs to be fitted out and commissioned, so there is a period of time for that to occur, as will be the case with the Perth Children's Hospital.

Ms J.M. Freeman: Except you said you were going to open it on 1 April, but anyway. You introduced that as a topic. I am happy to continue to interject on that basis.

Mr J.H.D. DAY: As I said, forced transfers rarely happen, and they are normally done in consultation and agreement with, and the understanding of, the employee. Most employees have commonsense and they are prepared to do what is in the wider community's interest as well as their own personal interest. Most take that attitude—not all on all occasions I think it is fair to say, but most people are reasonable. If there is a reasonable approach taken by the employer, generally speaking—I emphasise generally speaking—there is a reasonable approach taken by employees. When it is required for an employee to be transferred, there would be a good reason, such as a particular service ceasing at a particular location or a service being increased elsewhere and that sort of thing. Therefore, in the end a decision needs to be made to require such a change to occur, but it is very rare for that to be done in a forced situation. That really explains the difference in approach between transfer and secondment.

Ms J.M. FREEMAN: I might agree with the minister, other than the fact that his predecessor stood in this house and talked about how difficult it was to actually get doctors to transfer from the hospital. No-one in this place would say that doctors are not reasonable and would not want to work for the benefit of the public health system. I understand that the minister is saying that this clause could not have a provision that the employee had to consent. My question is: will they have to be consulted? a secondment of an employee can only be done with their consent, but for a transfer they are only consulted. Can the minister confirm to me that any transfer will be from like to like in terms of pay, conditions and permanency? The minister said that the issue with the secondment of an employee was that they were not going to be in a permanent position. I want to know about a transfer between health service providers in the department because there is a situation of need—the minister used the example of Swan District Hospital closing. Can the minister confirm that the employee does not necessarily need to agree because the transfer will be from like to like in terms of conditions and other factors such as the convenience of the location, the employee's day-to-day living, and the fact that it is a permanent position and not a supernumerary position at a hospital, and that is why only consultation with an employee is needed and not their consent?

Mr J.H.D. DAY: This issue is dealt with under clauses 141(3) and (4) and in particular subclauses (3)(a) and (b), which state —

> (3) A transfer under subsection (1) or (2) must be —
>
> (a) at the same or equivalent level of classification; and

(b) to an office —

(i) for which the employee possesses requisite qualifications; and

(ii) the functions of which are appropriate to the employee's level of classification.

Ms J.M. Freeman: Can the minister just say that they would be permanent positions as well? Given the minister's comments about the secondment of employees, will they be permanent positions?

Mr J.H.D. DAY: My understanding is that if they are in a permanent position at one location and are moved to another location, they will continue to have a permanent position. That is defined under the Public Sector Management Act. This clause replicates clause 65 of the Public Sector Management Act.

Postponed clause put and passed.

Postponed clause 142: Secondment of employee —

The clause was postponed on 24 March after it had been partly considered.

Ms J.M. FREEMAN: Can the minister briefly tell me why an employee has to consent to secondment, given that to transfer someone they need only be consulted? However, the minister has made it quite clear that under this legislation, the employee has to consent. I suppose in a supreme form of consultation, the department does not necessarily have to get agreement; but with consent, it has to consult and get agreement, so in entering into that agreement the department has to consult to get consent.

Mr J.H.D. DAY: As has been indicated, this is a higher threshold, I guess, in requiring the acceptance of the employee. Secondment is normally used for professional development. There is no point in forcing an employee to undertake professional development if they are not prepared to do it. Most sensible people would want to participate in such a program. It is also used for special circumstances or special projects such as the opening or commissioning of a new facility such as Fiona Stanley Hospital or Perth Children's Hospital where they are required for a finite period and, similarly, it is considered that if people really do not want to be part of that special project, there is no point forcing them to do it. Similarly, I imagine that most sensible people would be keen to take that opportunity when it arises, but if someone particularly did not want to, it is considered there is not much point in forcing them to do it. I imagine they would be limiting their career development options to some extent if they really did not want to, but that would be their decision.

Postponed clause put and passed.

Postponed clause 143 put and passed.

Postponed clause 161: What is a breach of discipline —

The clause was postponed on 24 March after it had been partly considered.

Ms J.M. FREEMAN: Would it be a breach of discipline to refuse to be redeployed from a permanent public servant position as a long-term employee at a public hospital to a private hospital such as Midland Public Hospital, Joondalup Health Campus or Fiona Stanley Hospital? Would it be a breach of discipline to refuse such a transfer if a hospital or the health department—the health service provider—deemed that the position in the Serco-run areas at Midland, Joondalup or Fiona Stanley Hospital, but obviously not nursing, is a suitable alternative position, thereby losing their sick leave and other conditions of employment service in the public health system? If someone is directed that that is suitable alternative employment established by virtue of regulations under this legislation, would an employee commit a breach of discipline if they did not take that employment at a private hospital, despite having worked for many years in the public health system?

Mr J.H.D. DAY: This provision replicates what is in the Public Sector Management Act. There is a series of steps to go through before such a situation would be considered to be a breach of discipline. I will elaborate on that. I am advised that the WA Health industrial agreements do not include provisions addressing redeployment and redundancy. The Public Sector Management (Redeployment and Redundancy) Regulations 2014, otherwise known as the PSMRRR currently apply and will continue to apply to all redeployment and redundancy circumstances in WA Health. Section 94 of the Public Sector Management Act currently applies to WA Health employees. Clause 173(2) of the Health Services Bill replicates section 94(4) of the Public Sector Management Act. This bill does not change the status quo. Pursuant to regulation 38 of the PSMRRR, a registered employee may be directed in writing by the Public Sector Commission to accept an offer of suitable employment outside the public sector. Only if a registered employee fails to comply with a written direction does clause 173(2) of this bill become enlivened. This mirrors section 94(4) provided for in the Public Sector Management Act and therefore the power currently exists but, as I am advised, it has rarely, if ever, been exercised. That is across the public sector I presume. I am not aware of it having been used within the health sector. If a registered employee does not comply with a written direction issued by the Public Sector Commission pursuant to regulations 38 and/or 39 of the PSMRRR, a section 94 breach of discipline may be applied. The provision in this bill replicates what is in the Public Sector Management Act and has been there for quite some time. It has rarely, if ever, been used but there is no change to the current situation.

Ms J.M. FREEMAN: Section 94 "Regulations concerning redeployment and redundancy" of the Public Sector Management Act—the section the minister is discussing—was introduced in 2014. If this bill is simply reproducing section 94 of the Public Sector Management Act and that act applies, will the minister accept an amendment from me that will delete this clause because there is no necessity for it given that the Public Sector Management Act provisions apply? If the minister will not accept an amendment from me to delete these disciplinary matters, can he tell me why it is necessary? If he can stand up there and tell me that the Public Sector Management Act applies, so the status quo remains and nothing will be different and it has not been enacted, why does it need to be in this legislation?

Mr J.H.D. DAY: As I said, I am advised that this provision reflects what is in the Public Sector Management Act, but it is clearly preferable to have it spelt out in the Health Services Bill so that clarity around the responsibilities in the employment of staff is provided for the health services that will be established as a result of this legislation. I do not think it would be wise to remove this provision from the bill. It is better to have clarity and certainty, albeit, as I said, I am advised that what is in the bill reflects current practices under the Public Sector Management Act, which have rarely, if ever, been used, and I expect that that will continue to be the case. But situations can arise in which it is necessary to take a particular action that is in the public interest and, therefore, I think it is better to retain the clarity and certainty that are provided by leaving this provision in the bill.

Ms L.L. BAKER: I understand that the minister has said that it is worthwhile leaving this basic repeat of the Public Sector Management Act in the Health Services Bill so that the new health service providers, employees, the department or anyone else interested in this matter will be able to source the information from the same place. We will be relieving them of the responsibility of having to understand the Public Sector Management Act as well as the Health Services Bill. I understand that argument and there is some sense in that, but I am interested to know why, for the sake of consistency, clause 161(e) states —

> commits an act of victimisation within the meaning of the *Public Interest Disclosure Act 2003* section 15.

In terms of consistency, if the minister's argument holds water, should that section also not be repeated verbatim in the bill? It seems to me that it is inconsistent to say that everything about disciplinary matters will be spelt out, even though it is a pretty direct duplication of what is in the Public Sector Management Act, because people might not think to look at the Public Sector Management Act. Why would there not just be a reference to the relevant section of the Public Sector Management Act in the bill? Indeed, all the way through the bill there is reference to other acts when there is an overlap. For the sake of consistency, why is this application or intent different from, say, the reference to section 15 of the Public Interest Disclosure Act 2003? I do not know what is in that section because it has been a while since I have read the Public Interest Disclosure Act 2003; I cannot remember whether I have actually read it. I do not know what is in that act, so I do not understand section 15. I honestly do not know what victimisation means, and I will ask the minister that question in a minute. I have to go to another act to find that information, so it seems logical that the same argument that the minister has just put would hold true for the meaning of victimisation. In that way, the health service providers would not have to traipse through government papers to find another section of a different act and work out what the word "victimisation" means.

Mr J.H.D. DAY: As I said, the intention is to provide clarity and certainty for the health service boards, which will be the employers of staff once this legislation comes into effect. We want to ensure that there is a clear and consistent statutory approach to employment matters across the WA health sector, as there is with employees in the public sector now. I take the member's point that we could spell out a lot more, such as what is in section 15 of the Public Interest Disclosure Act 2003. I guess all of that could have been written in. It is not hard to look that up. I cannot say that I have read that act in recent times either, but I know where to find it pretty easily, as I am sure does the member for Maylands.

It is really a question of how far we go with what is included in the bill. I think it is desirable to make clear what is a breach of discipline. The parliamentary drafters probably could have gone further if they had wanted to, but it is a matter of balance and how far we go. I am advised also, for example, that the full provisions of the Financial Management Act are not replicated or stated within the bill.

Ms J.M. Freeman: That would be handy for the health department; they might need that given what they have just done with IT. That would be really useful in fact.

Mr J.H.D. DAY: There is no question that the Financial Management Act applies to the health system and the health department in Western Australia. I am sure that people in the health department at a senior level, including those who are sitting at the table with me now, are very familiar with the Financial Management Act and will put it into effect very strongly.

Ms J.M. Freeman: Unfortunately, their staff weren't, and they signed off on things for the IT area and therefore wasted a whole bunch of money. Perhaps if you included that, instead of just going after workers, you might have good financial management of the health department.

Mr J.H.D. DAY: It is not just a matter of "going after" workers, but those involved in that whole IT issue were presumably workers, to use the member's terminology, as well as some contractors who may well not have been doing the right thing. But, as I understand it, some were employees—that is, workers—within the health system.

I think that what is in the bill is a reasonable balance. It makes the responsibilities clear to the boards and those who will need to be familiar with this legislation once it is put into effect, whether they be employees or employers. Substantial protections are provided for workers or employees within the relevant Western Australian legislation.

Ms J.M. FREEMAN: It is not clear for someone who sits on a board. If someone wants to know what is a breach of discipline or disobeying a lawful order, they have to refer to clause 173 of the bill, which refers to section 94(2)(b) of the Public Sector Management Act. If the minister wanted the Public Sector Management Act to be reflected in the bill, he would not now be saying to us that it needs to be reflected in another act. That clarity is a furphy. There is some devious reason why this provision has been put in the bill. If the minister wanted to refer to the Public Sector Management Act, he would have done just that. Frankly, if he is saying that it exists and this will just make it consistent, he did not make it consistent; he made it for me. I am used to looking at this sort of material and these sorts of industrial clauses, yet I found it difficult. I wondered what a breach of discipline was, and then I wondered where I would find it. Clause 173 deals with referrals in relation to directions that are lawful orders, which is not a breach of discipline under clause 161; a lawful order is referred to in clause 161(a). I need to know that the reference to a lawful order in clause 161(a) connects to clause 173(2), and then I have to work out that, under clause 173(2), a direction referred to in applied section 94(2)(b) or (3)(c)(i) is a lawful order for the purposes of clause 161(a) if the direction is given to the employee concerned in accordance with the relevant regulations referred to in applied section 94. If we split to clause 94 of the Health Services Bill, we will not find that there; we have to go to section 94 of the Public Sector Management Act. Section 94(4) of that act goes on to say —

> … that direction is —
>
> …
>
> (b) upheld by the Industrial Commission on a reference under section 95(2), … referred to in section 95(3) …

That is referring to sections in the Public Sector Management Act. But it gets better. Clause 173 also then refers to section 118, which is not in the Public Sector Management Act anymore; we have to flick back to the Health Services Bill for that. My goodness; if the government is trying to do something to make the legislation consistent and clear, and to clarify it and make it so that a board will understand it, that is not what it is doing. There is something devious in this. When we asked the former minister during the Legislation Committee hearing whether this meant, under clause 161, that someone could be forcibly transferred from Swan District Hospital to a private hospital, he was rightly concerned. Basically, he went, "Really? They can do that? They're telling me they can do that. They can do that? Can you do that? That would be unfair." The former minister was concerned that there was the capacity to force long-term employees of the Department of Health to go and work for Serco or St John of God Hospital and to lose their length of service. It is not accurate for the government to say that it has put this provision in the bill so that a board understands it better, because, frankly, it took me quite a bit to understand it better. When I was asking questions in the committee, the advisers did not know either. If the bill is going to refer to one particular area, why will the minister not agree to remove this provision from this bill? If it is in the Public Sector Management Act, it is good enough there. The minister has told me that it is just the status quo, so why will he not agree to remove this?

Mr J.H.D. DAY: For the reason I mentioned earlier: I think it provides greater clarity and greater certainty. I expect members of boards of the health services to be given and to read a copy of the act when they are appointed. I think it will be helpful for them and for reference in the future. I have not been intimately involved in the drafting of this bill, but I do not see any great problem with what is here. Strong protections for employees are provided in Western Australian legislation. The government is actually a good employer and is very keen to ensure that people are treated fairly. On the other hand, when action needs to be taken, such as when substandard services are provided to patients in Western Australia, it is possible to take appropriate action, so I do not agree to this clause being removed for the reasons I have outlined.

Ms W.M. DUNCAN: I just want to follow on from the question of the member for Maylands about paragraph (e) of this clause. As members of Parliament, we are sometimes approached by employees of or people who provide services to a health service to raise concerns. They do so with some trepidation, because they are in fear of perhaps finding that it affects their employment. My question is: does paragraph (e) provide protection for an employee who raises concerns about the competency of others working in the system, systems or equipment that may be of concern from a health or safety point of view, or bullying or harassment in the workplace and other such matters?

Mr J.H.D. DAY: I understand the concerns that have been expressed. I agree that an employee should not have action taken against them in the circumstances that have just been described. I am advised that an employee who raises a matter of health and safety would be protected by other legislation, including the Public Interest Disclosure Act 2003, the Occupational Safety and Health Act 1984 or the Health Practitioner Regulation National Law (WA) Act 2010, as well as internal policy frameworks associated with the clinical incident management process and quality and safety. Across those other acts and the internal policies, appropriate protections are in place for employees who take action in the circumstances the member for Kalgoorlie has just outlined.

Ms L.L. BAKER: I will pursue the same issue with the minister. I am sure that the minister would have the definition or meaning of "victimisation" with him. For clarity's sake in the future, it would be good to put that in *Hansard*, even though it is in section 15 of the Public Interest Disclosure Act. Could the minister read in the definition or meaning of "victimisation" and how something may be an act of victimisation so that somebody in a health service provider or the health department might do something, as that would be helpful?

Mr J.H.D. DAY: I have been provided with a copy of the Public Interest Disclosure Act 2003. Section 15 is headed "Act of victimisation defined; remedies for" and states —

> (1) A person who takes or threatens to take detrimental action against another because or substantially because anyone has made, or intends to make, a disclosure of public interest information under this Act commits an act of victimisation which may be dealt with as a tort.
>
> (2) Proceedings in tort under subsection (1) may be taken against the perpetrator of an act of victimisation or any employer of the perpetrator.
>
> (3) In proceedings against the employer of the perpetrator of an act of victimisation, it is a defence for the employer to prove that the employer —
>
> (a) was not knowingly involved in the act of victimisation; and
>
> (b) did not know and could not reasonably be expected to have known about the act of victimisation; and
>
> (c) could not, by the exercise of reasonable care, have prevented the act of victimisation.

That section goes on with another three subsections, subsections (4), (5) and (6), which I will not read out. Essentially, that outlines the circumstances in which somebody is regarded to have been victimised and how protections are provided for them. It is important that those provisions exist, of course.

Ms L.L. BAKER: I thank the minister. I should feel completely edified by that definition. I am sorry; I just wondered whether the minister could clarify something. Is this about civil litigation or civil claims that might be made? It sounds a bit like it is whistleblowing on one side of it and then civil claims on the other. If the minister could make it a little clearer for *Hansard*, that would be really helpful.

Mr J.H.D. DAY: The legislation I just referred to is colloquially known as the whistleblowing legislation. As I understand it, it applies to employees who are providing information that, in general terms at least, is considered to be in the public interest, and provides an outline of when they are able to take action under law so that they can be protected and there can be a remedy if action is taken against them. I do not have all the information about how that applies precisely in the law of torts—I studied the wrong course at university to be able to go into that in great detail. My legal advisers need to probably consult other reference documents to be able to outline that in great detail. Essentially, what I have just outlined is the general situation that applies.

Postponed clause put and passed.

Postponed clauses 162 and 163 put and passed.

Postponed clause 164: Action against employee pending decision on breach of discipline —

The clause was postponed on 24 March.

Ms J.M. FREEMAN: Clause 164(1) states —

> If an employing authority has decided to act under section 162(a) …

I remind the minister that that is about disobeying or disregarding a lawful order, which includes, as we understand from section 94(2) of the Public Sector Management Act 1994 —

> (b) an employee referred to in paragraph (a) who —
>
> (i) refuses the offer of a suitable office, post or position, to be directed by his or her employing authority to accept that offer; …

There are disciplinary procedures if an employee refuses redeployment to a suitable alternative position at a private hospital. Clause 164(1)(a) states —

> suspend the employee on full pay, partial pay or without pay; …

Does that mean that if someone refuses to be redeployed to a private hospital, the employer has the right to suspend them without pay?

Mr J.H.D. DAY: As I outlined previously, there would be a number of steps to go through before the situation arose, and I outlined in the discussion yesterday and also earlier this morning to some extent the various steps of consultation and the procedures that apply. After all those processes have been exhausted and if there is no other alternative, as it states here in the legislation, it would theoretically be possible to suspend the employee on either full pay, partial pay or without pay, but that would very much be a last resort; it would be a very unlikely situation to apply, I would expect. However, it needs to be in the legislation as an ultimate action able to be taken in the unusual circumstances in which it might be required.

Postponed clause put and passed.

Postponed clauses 165 to 172 put and passed.

Postponed clause 173: Referrals in relation to directions that are lawful orders —

The clause was postponed on 24 March.

Ms J.M. FREEMAN: This is the clause under which the employer is held to account. The minister commented that it would be very rare and after a long process. He said that it is highly unlikely and that the government is a good employer. The employer can be held to account before the Industrial Relations Commission. Under clause 173(5), action can be taken in the Industrial Relations Commission, and it is considered an industrial matter referred to the Industrial Relations Commission. However, I want to talk to the minister about clause 173(6), which states, "In exercising its jurisdiction". A person may think they are being treated poorly; they are not getting paid. After a long period of time working for a public hospital, they are forced to take a job at Midland Hospital, otherwise they will be suspended without pay. The person may think, "I've been a long-term employee of the public health system. I've given it good service. I'm happy to stay in the public system, and they're telling me I can't, and I think that's unfair." The person goes to the Industrial Relations Commission. However, subclause (6) states —

> …the Industrial Commission must confine itself to determining whether or not that direction —

That is the direction about a lawful order —

> has been, or is capable of having been, complied with.

Whether it is fair or not is irrelevant. Could that person go and work elsewhere and lose all of that time? Yes, they could. It is irrelevant whether it was fair or not. However, if we go back to the Public Sector Management Act, we are continually told that this legislation is absolutely the same. We are told that under section 78(5) of that act, they have to go through a process to determine whether it was fair and reasonable, basically. Subsection (5) is quite a long, so I will not bore the house with it. On that basis, and on the basis that the government is a good employer and we want to ensure that, I would like to move an amendment. I move —

> Page 114, line 20 — To insert after "with" the following —
>
> and is fair and proper in relation to that employee

The intent of this amendment is to ensure that the commission can confine itself not only to whether the direction is capable of having been complied with, but also whether it is fair and proper in relation to that employee. The minister has stood up here and told us what a good employer the government is and that this provision would hardly ever be used, but he said that we need it just to ensure that if we have got a completely unreasonable employee, we will be able to do this—but most employees are reasonable and we will never use it. Here we have an employee who thinks they have been reasonable and who wants to be reasonable, but the department has decided to take this course of action because this is the way it wants to proceed. It goes to the Industrial Relations Commission, and the fairness and the properness of the procedures that they have talked about are not able to be complied with. If the minister does not think this should happen, that is fine. Let us move to delete all the clauses about the Public Sector Management Act and just have the Public Sector Management Act apply. If the minister is going to tell me that this is consistent with the Public Sector Management Act, I can tell him that it is not. In section 78(4), there is a subsection underneath what is usually —

Mr D.A. TEMPLEMAN: This is very important and I would like to hear more from the member.

The ACTING SPEAKER (Mr P. Abetz): Okay; the member may continue.

Ms J.M. FREEMAN: Thank you, Mr Acting Speaker, for your perseverance in the chair at this point in time.

The minister may want to rely on the idea that this is consistent. It is not consistent, because he could have inserted into this legislation the other provisions of section 78(5), which give an aspect of fairness and capacity. If the minister wants consistency with the Public Sector Management Act, as I have said, just take this stuff out of this bill. There is some reason that the minister has done this, and it is shady, duplicitous, mean and nasty. We want to ensure that people can stand up and defend the things that they have said and that the process is fair and reasonable for that employee.

Mr J.H.D. DAY: I am advised that the protections the member is seeking to ensure are applied already exist under the Public Sector Management Act. In particular, the Public Sector Commissioner's Instruction No 1 allows for a review of a decision of the nature that the member has been referring to. It requires decisions to be consistent with the principles of equity, interest and transparency. Therefore, it is not necessary to incorporate this amendment within the bill. Protections are provided in the Public Sector Management Act. That is the appropriate way to deal with these things to maintain consistency. Therefore, I do not support the amendment.

Amendment put and negatived.

Postponed clause put and passed.

Postponed clause 174: Application of PSM Act Part 6 and regulations made for the purposes of that Part —

The clause was postponed on 24 March.

Ms J.M. FREEMAN: Here is where the bill is completely duplicitous. Subclause (1) commences, "The PSM Act Part 6 applies". I want to put this on record because, to tell the truth, I think the minister does not get anything that I have been saying. He just says, "Oh, yes. It's all good." The former minister got that this was unfair; the current minister does not. This clause will clearly apply the Public Sector Management Act provisions of part 6, but the government is saying that for the purposes of this act, it wants to put in clause 173. That is the bit that we have been talking about—the lawful order directions—that refer to section 94(2), which is about making people forcibly redundant or forcibly transferring them to private hospitals or private places that the minister can say are suitable alternative places of employment. The government says that it accepts everything about this act, except the bit that it can use when it wants to to treat workers unfairly and forcibly make them work in private hospitals or other hospitals of the minister's choice. The government says that is a lawful order and so it may want to modify the regulations. The minister then stood up and said, "But that's okay, because we have a public sector management regulation and a thing that says that they'll be good." Well, it does not, because this is the bit that reveals that there is something completely duplicitous, wrong and unfair in the bill.

Mr J.H.D. DAY: I cannot say that I agree. As I outlined before, the Public Sector Management (Redeployment and Redundancy) Regulations 2014, also known as the PSMRRR, currently apply and will continue to apply to all redeployment and redundancy circumstances within WA Health. The relevant industrial agreements do not include provisions that address employment and redundancy. As stated previously, section 94 of the Public Sector Management Act currently applies to WA Health employees, and clause 173(2) of the bill replicates section 94(4) of the PSMA; so, the bill does not change the current situation. Pursuant to regulation 38 of the PSMRRR, a registered employee may be directed in writing by the Public Sector Commissioner to accept an offer of suitable employment outside the public sector only if a registered employee fails to comply with the written direction of clause 173(2) of the bill when it becomes enlivened. This mirrors the section 94(4) breach provided for in the PSMA and links back to clauses 161(a) and 173, which we previously discussed; namely, that an individual can be issued with a lawful instruction to relocate, and a refusal to comply could be seen as a breach of discipline, in extreme circumstances, as I mentioned earlier; it would only be as a last resort. Therefore, the power presently exists under the PSMRRR; it has not been exercised. Therefore, Madam Acting Speaker (Ms J.M. Freeman), as I see you are now in the Chair, we are of the view that this clause should stand and should be supported as part of this important legislation to put in place substantial reform of the health system in Western Australia.

Postponed clause put and passed.

Reconsideration in Detail — Motion

MR J.H.D. DAY (Kalamunda — Minister for Health) [11.15 am]: I move —

> That the Health Services Bill 2016 be reconsidered in detail for the purpose only of considering clause 102 in order to delete subsection (5) and insert the minister's proposed new subsection (5).

If I can explain: yesterday, in being very willing to accept your amendment, Madam Acting Speaker, I was probably being more willing and cooperative than I should have been.

Several members interjected.

Mr J.H.D. DAY: It was a conscious decision. The intent of the amendment is fine, and indeed it would not be a problem if it stayed as it is. However, since we debated the issue yesterday I have been given advice that it would be preferable to replace the amendment with wording that is more specific when the tabling of any such

dismissal of a board needs to occur within Parliament. What I intend to move will be consistent with clause 60(4) of the bill. That will tidy up the legislation and be consistent with the other provisions. That is the reason for moving to reconsider clause 102.

Question put and passed.

Reconsideration in Detail

Clause 102: Minister may dismiss all members of board —

Mr J.H.D. DAY: I move —

Page 69, after line 25 — To delete —

(5) If the Minister acts under subsection (1) then the action taken by the Minister in accordance with subsection (3) must be tabled before both Houses of Parliament.

And substitute —

(5) If the Minister acts under subsection (1), notice of the action must —

(a) be laid before each House of Parliament or dealt with under section 229 within 14 days after the action is taken; and

(b) be included in the annual report submitted by the accountable authority in respect of the health service provider under the *Financial Management Act 2006* Part 5.

Amendment put and passed.

Clause, as further amended, put and passed.

As to Third Reading — Motion

MR J.H.D. DAY (Kalamunda — Minister for Health) [11.19 pm]: I move —

That debate on the third reading stage of the bill be made an order of the day for the next day of sitting.

Just to explain very briefly, I have agreed to this approach because the member for Kwinana, the opposition spokesperson on health, is not here today. I hope there will be cooperation from the opposition in dealing with and finalising the bill on the next day of sitting, when we are back here in a few weeks' time. It is important that this legislation goes through both houses before the end of June, so that it can take effect from 1 July.

Mrs M.H. Roberts: We could sit again next week, if you like.

Mr J.H.D. DAY: I am not sure that the member for Midland really means that!

I hope there will be cooperation from the opposition, given that I have agreed to hold off the third reading stage from today's sitting.

Question put and passed.

LEGAL PROFESSION AMENDMENT BILL 2016
LEGAL PROFESSION AMENDMENT (LEVY) BILL 2016

Cognate Debate

Leave granted for the Legal Profession Amendment Bill 2016 and the Legal Profession Amendment (Levy) Bill 2016 to be considered cognately, and for the Legal Profession Amendment Bill 2016 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 16 March.

The ACTING SPEAKER (Ms J.M. Freeman): I give the call to the member for —

MR J.R. QUIGLEY (Butler) [11.21 am]: I do not worry about your hesitation, Madam Acting Speaker, because the name of my electorate has changed several times in my parliamentary career and I am very happy to represent the good people of Butler, stretching from Quinns Rocks to Two Rocks, as it does. I hope, as the house has granted leave for the two bills to be considered cognately, that the government will reciprocate when it comes to the amendments and that I can move the amendments en bloc and speak to them as one, because they are all part of the one clause, rather than having to go through each one individually. However, we will consider that when we come to it.

I rise to comment on these bills, having spoken with many of the stakeholders involved—that is, the Legal Practice Board, the Law Society of Western Australia, and the Western Australian Bar Association. I have some familiarity with the operation of the law library, having first visited it in 1973, when it was not the law library that it is today. I think it was then a fairly small library, situated in what is now the Chief Justice's

chambers, in the back corridor of the Supreme Court building. The purpose of these two bills is to amalgamate the law library, currently situated in the Supreme Court of Western Australia, with the library of the Department of the Attorney General, currently situated in Westralia Square. It is worth remembering, just for the moment, a bit of the recent history of these libraries.

When I was admitted to the legal profession in Perth in 1975, the profession was still relatively small by today's standards. The profession played an integral part in providing a library for the use of both practitioners and the court itself. The Legal Practice Board, under the then Legal Practitioners Act 1893, was charged with the responsibility of running the library, and could raise money for this purpose through its fees. Its principal source of income is the issue of legal practice certificates. I have not got the exact figure, but I understand they are currently priced at around $1 500 per annum. The issue of legal practice certificates could then help to fund the library. As I am about to speak against a particular provision in this bill—that is, how the contribution sum is raised—I should at the outset declare that I have no interest in this matter, although I still hold a current practice certificate. I think I am one of two practitioners in this Parliament to hold a current practice certificate, the other being the member for Girrawheen, whom I definitely know holds a current practice certificate. Each of our certificates is endorsed "pro bono only" and, therefore, we do not pay the legal practice fee, so anything I say here today will have no impact on me personally in terms of costs.

As I said, the Legal Practice Board raises substantial funds through the issuance, on an annual basis, of legal practice certificates. The Legal Practice Board is a statutory body created by an act of this Parliament, and its primary duty, up until this point, has been to regulate the legal profession by determining the grounds for admission to the legal profession, the annual renewal of practice certificates, supervising the requirement for ongoing legal education, auditing all practitioners on a regular basis against their obligation to attend lectures and undertake continuing legal education—which I do on a regular basis, and I have been so audited—and to operate, under the act, as a subcommittee of the board, the Legal Practitioners Complaints Committee, which receives complaints against practitioners, investigates them and, where appropriate, prosecutes them before the State Administrative Tribunal.

The Legal Practice Board, as I said, was also charged with the responsibility of maintaining a law library. As I said, the library is located in the Supreme Court building, but is not available to the public. It is used by the legal profession and the judiciary. In a real sense, not in an illusory way, the lawyers, through their annual practice certificates, were providing a library and resources to be used by not only themselves, but also the judiciary and other law officers. They were contributing, in a very real sense, to the development of the law, and to the availability of law reports and other papers to the judiciary and others.

By 2011, the cost of the law library annually to the Legal Practice Board had risen to $904 000. Additionally, the Department of the Attorney General would contribute $250 000, plus the equivalent of one full-time employee. Until recent times, nine people were employed in the library—the librarian and eight staff. In 2012, the library was trying to achieve economies, and the annual cost fell to $777 000, as I understand it, through the attrition of staff and the reduction of staff wages. It was of great concern to the board that it was facing these sorts of figures. Historically, it was nothing like this. As long ago as 2012, the board approached the government to see whether the government would divest, or take away from the board, the responsibility of running a library, when its core function was supervising the legal profession in Western Australia. It is a very important function, because the legal profession is not a private club or a private organisation. The legal profession is a public profession regulated in the first instance by statutes of this Parliament and by the Supreme Court through which it chooses who to admit as practitioners. The board is performing this public function and that is its core function, so it asks the government to relieve it of the responsibility of running a library. At the same time, the board undertook drastic cost-saving measures and in 2013 drove the cost down to $427 000, primarily through the withdrawal of staff. In 2014 that crept up by $3 000 to $430 000—I should say, plus the $250 000 per annum it was getting from the government. Last year that figure rose to $565 000 plus the $250 000 the government contributes.

Although I say that it is a public profession, the members of the Legal Practice Board are elected by a plebiscite amongst the profession. If members of the profession are dissatisfied with the library service being offered and the amount they are charged for the library, they have the capacity to vote against members of the Legal Practice Board at the annual elections. A democracy is involved. The library, of course, has a committee, members of which are drawn from the profession and the Law Society. It determines the shape and size of the library, by which I mean it determines what it will place emphasis on. The law library of the Supreme Court of Western Australia places a lot of emphasis, not unexpectedly, on law reports and texts, including law reports from common law countries, such as the Irish Law Reports and other reports that impact upon the development of the common law.

The board has said it would like to be relieved of this obligation and the department said we should amalgamate the two libraries and relocate them into the new David Malcolm Justice Centre. A working group was set up involving the Western Australian Bar Association, the Law Society of WA, the Legal Practice Board and

officers from the Department of the Attorney General. It was agreed that there would be this amalgamation. This, of course, would require funding, which is addressed in the first of the two bills, the Legal Profession Amendment Bill 2016. Clause 5 inserts a new section in the Legal Profession Act 2008. Proposed section 548A provides —

(1) In this section —

law library means the library established under section 596A.

That was the old law library. It continues —

(2) The Board must pay to the State an amount each year calculated in accordance with the regulations as a contribution towards the cost of providing and maintaining the law library.

The profession and all its stakeholders had no difficulty with the proposition that it continue to contribute to the maintenance of the law library in its amalgamated form. The proposed section further provides —

(3) The regulations must specify —

(a) the method by which the amount of the contribution is to be calculated; and

(b) when payment becomes due.

(4) An amendment to regulations mentioned in subsection (3) must be made at least 7 months before the beginning of the financial year to which the amendment will apply.

Proposed subsection (3) refers to the regulations specifying the amount that the profession will contribute. Proposed subsection (5) provides —

Before an amendment to regulations mentioned in subsection (3) is made, the Attorney General must —

(a) obtain the written agreement to the proposed amendment by the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association; or

This will be done in agreement with the profession—that is, how much the profession will contribute to this library. It continues —

(b) notify the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association of the proposed amendment at least 9 months before the beginning of the first financial year to which the proposed amendment is intended to apply and have regard to any submissions made by those bodies.

Proposed section 548A(5) gives the ultimate power to the Attorney General to fix the contribution and notify the profession, "I will take on board what you are saying; here is the sum." At this point the profession then raised its stiffest objection and said that this is not what it understood would be happening as a result of this working group and that it thought that there would be goodwill. After all, for more than 70 years the profession has maintained a law library for the use of not only professionals who are paying their legal practice certificate, but also others who get it at a discounted rate. By that, I mean all government employees who are practitioners do not pay the full whack of a legal practice certificate. We will come to that at the consideration in detail stage. They pay a much reduced rate. They are not paying a contribution towards the library because the Department of the Attorney General has its own library. It is the same for the judiciary and other law officers. They do not contribute to the library. However, the profession has been happy to provide this library as a resource for them as well.

After 70 years of proceeding in goodwill, this government comes in and says it will endeavour to reach an agreement with the board on the costs of maintaining the library, but at the end of the day, if the profession does not like the determination, the government shall impose it. We object to that. We are not dealing with rascals here. The people on these committees with whom we are dealing are the very pool of people at the top of the profession from which the judiciary are chosen because they are regarded as the crème de la crème in intelligence, character and reasonableness. They will not go around standing up the government just for the sake of doing so. However, the profession is very much put out by the notion that at the end of the day, the government will just say this is what they will contribute and this is what access to the law library will cost.

Let us talk about access for a moment. In fact, a lot of the profession do not or very seldom use the law library at the Supreme Court of Western Australia for the following reasons. Barristers, for example, have to join the Western Australian Bar Association and the Bar Association has a very good library.

Barristers do not leave bar chambers to traipse all the way down to the Supreme Court to read a book; they go to their own library, which is funded by a fee that they have to pay when they join the Western Australian Bar Association. However, barristers are now also required to make a contribution to the law library that they do not

use. They have never quibbled at that, but they do more than quibble—they raise their strongest objection, as government members know because they have written to them—about the notion of the government coming along and saying, "We're going to set a fee, like it or lump it. This is what the profession is going to pay so stump up each year for your contribution to the library." I have spoken with members of the profession, including members of the Western Australian Bar Association and the Law Society of Western Australia. They do not want their objections to this fee to be read as meaning that they do not want to contribute any more, and the library should be packed away—stuffed away in some musty corner and vandalised. That is not their intention. They intend to seek equity in terms of contribution, not to open a door that allows the Attorney General in the future to cost-shift onto the profession the cost of running the Department of the Attorney General library so that the profession then has to subsidise the government. That is not fair. The profession does not want to see that library vandalised.

Before making this speech in response, I went down to the Supreme Court library—I have not been there for a while—to re-familiarise myself with the place. The shelves are starting to empty. I asked the librarian, "Are you getting ready for the move—packing up the books to put them in a van to go up to the David Malcolm Justice Centre?" This librarian has worked there for over 18 years. I do not want to put it too high, but she was obviously quite emotional when she gave me her explanation. She said, "No, not at all Mr Quigley. DOTAG has been down here, saying it just does not want a lot of this. All these valuable books are being packed up into boxes to be put away in a vault somewhere." The very thing that the profession said it did not want to see happen—the vandalising of the library—is happening. It is happening because the library operates out of a floor space of about 950 square metres at the Supreme Court rent-free. I understand that the DOTAG library is about 900 square metres, and we are told that the floor space at the new David Malcolm Justice Centre will be about 800 to 850 square metres. Obviously, a lot of the books will have to be discarded. All the books that the profession has contributed to over the years are now going to be discarded. What is more, the law library will move to the David Malcolm Justice Centre, and it will have a lot of pressure on it because the profession is growing. Practitioners do not need just one volume of law reports; they have to have multiple volumes of law reports. Once the library moves to the David Malcolm Justice Centre, practitioners who appear in the Supreme Court—the Court of Appeal and other civil work will still be happening in the Supreme Court—will have to hotfoot it across the Terrace to the David Malcolm Justice Centre to withdraw books and take them down to the Supreme Court. The library will obviously have to have multiple copies, otherwise the books will be out of the building. We are now told that much of the law library is being just packed up and put away.

It is sad because the relationship between this government and the legal profession has plumbed a very low depth. There is no trust between the government and the legal profession, and the government treats it very cynically. The legal profession knows that it is treated with disdain. Of course, the Attorney General makes no secret of this. On Tuesday, 5 April, in the other place, in a very smarmy, arrogant way, he made a comment about our former Governor, Malcolm McCusker, QC, regarding the Bell Group litigation. Malcolm McCusker, QC, is regarded throughout Australia as one of the finest legal minds in the country. I could name half a dozen of them: Mr McCusker, QC; Bret Walker, SC, in Sydney; Justin Gleeson, SC, the Solicitor-General, but it would be unfair of me to go on and say that this is a comprehensive list because that would exclude people. I am saying that Mr McCusker, our former Governor, is amongst the crème de la crème of jurists in Australia. What did this arrogant, smarmy Attorney General say of this jurist, talking about the Bell litigation? He was talking about legal opinions given concerning the constitutional validity of the Bell litigation, and the Attorney General stated —

> Much has been said about the opinions that have been given by various lawyers for particular parties. All of a sudden Mr Malcolm McCusker is being elevated to the finest legal mind in the state and suddenly he takes precedence over these matters being dealt with by a court. It appears that his opinion is sacred writ; if he says something, it has to be right.

What a smarmy put-down of Mr McCusker. This was said on 5 April, in the evening, before the Attorney General —

Ms M.M. Quirk: After dinner?

Mr J.R. QUIGLEY: Probably after dinner—good point, member for Girrawheen. He had obviously had his nose in the gravy trough rather than reading the transcript of the High Court on the internet. If he had read what the High Court stated about the operation of sections 5F and 5G of the Corporations Act, the Attorney General certainly would not have spoken those words and put down Mr McCusker. He would have realised that Mr McCusker was right on the money. The Attorney General had only to read what the High Court was saying in response to Mr Bret Walker, SC, and to Justin Gleeson, SC, the Solicitor-General. Of course, the arrogant Attorney General did not stop there. He is not beyond putting down the Solicitor-General of Australia, too. The Attorney General continued —

> The Solicitor-General for the commonwealth all of a sudden is not someone who is an advocate for a party to wit the interests of the commonwealth. All of a sudden he is some kind of impartial and fair broker. They are extraordinary propositions.

This Attorney General is a fool! This Attorney General did not read the transcript; this Attorney General missed the opening sentence of Mr Justin Gleeson, SC's announcement of appearances. He said that he appears for the Australian Taxation Office and for the Attorney-General for Australia. None less than Mr Brandis, QC, has instructed Mr Gleeson in what he should put before the High Court, yet this smarmy Attorney General in Western Australia has been putting down the Solicitor-General of Australia, who is acting on behalf of the Attorney-General of Australia.

Ms M.M. Quirk interjected.

Mr J.R. QUIGLEY: Yes, member for Girrawheen, he must have had his nose deep in the gravy trough in that dining room when this transcript was posted on the internet. It is offensive. The profession knows the opinion he has of him. Take the Chief Justice, for example. Who will ever forget the smart letter—I do not mean smart as in clever; the stinging letter—the Chief Justice wrote to the Attorney General complaining about the Attorney General's interference with the independence of the judiciary because the Chief Justice had decided to do what other courts around the country do—that is, selectively videostream to the internet some cases of high public interest. The High Court and the Victorian Supreme Court do it. As soon as the Attorney General got wind that that was what the Chief Justice was going to do, he withdrew funding from the Supreme Court to stop it. The Chief Justice, quite rightly, wrote that he saw this as nothing else but an interference with the independence of the judiciary. As the Chief Justice explained, we are part of Asia; we are on the same time line. Many Asian students of very, very wealthy businessmen throughout Asia come to Western Australia to study law and be admitted to the Western Australian bar and then go back to their country. He said, "What a magnificent thing if I could videostream to the internet the admission ceremonies so that throughout Asia all the wealthy businessmen and their families would see our court in action and their child, niece or other family member being admitted to practice. What a thing to promote our jurisdiction." This has been stopped by the Attorney General withdrawing the funding to permit it to happen. What did the Chief Justice say? "The public has intense interests in other high-profile cases, but they could not be viewed because they are too busy in their daily working lives." The Chief Justice nominated the first of them, which was the Rayney appeal. No jury and no people could be affected by the broadcast of the proceedings. However, people throughout Western Australia and Australia generally had an intense interest in the outcome of that appeal. The Attorney General stopped him from doing that, so the relationship between the Attorney General and the court, and the Attorney General and the legal profession could not be lower. People cannot come into this Parliament and slag off the leader of the legal profession in Western Australia, Mr Malcolm McCusker, QC, and pretend to have any credibility. I can just imagine, when the Governor sits in Executive Council, what a greasy suckhole the Attorney General would have been when speaking to the Governor.

Mrs L.M. Harvey: Excuse me.

Mr J.R. QUIGLEY: He is two-faced. He would go down there and be polite and then come into this Parliament —

Withdrawal of Remark

Mrs L.M. HARVEY: Madam Acting Speaker —

Mr J.R. QUIGLEY: I withdraw the words.

Mrs L.M. HARVEY: It is a question of relevance. We are discussing the law library.

The ACTING SPEAKER (Ms J.M. Freeman): Member, you withdrew the words; that is good. It is the bill, but it is the second reading speech.

Debate Resumed

Mr J.R. QUIGLEY: I am addressing that, at its heart, this Legal Profession Amendment Bill relies on trust between the profession, who funded the library, and the Department of the Attorney General, which is taking it over and folding it into one library. The lack of trust has completely dissipated, and I was giving examples of how the Attorney General has slagged off leaders of the profession and interfered with the independence of the judiciary. In this sort of environment, how can the legal profession repose any faith or trust in the Attorney General? It is absolutely impossible. Well, the Attorney General would like to say, I anticipate—I do not want to put words in his mouth—what happens, and this will take me to the next part of the bill, if the negotiations with the profession break down on the contribution they should make to this library. Where would that leave us? That would leave the profession with the whip hand. The profession could say that it will not contribute that sum and the government would be stuck. That would not be the case at all because this government believes in user pays.

I turn now to proposed section 596A, which deals with the law library. It reads —

> (1) The State may establish and manage a law library for the use of the judiciary, local lawyers and other prescribed persons.

It does not say anything about interstate practitioners; perhaps they will be prescribed. It continues —

> (2) Without limiting section 596, the Governor may make regulations with respect to the provision, operation and management of the law library, including —
>
> (a) access to and use of the law library; and
>
> (b) the terms on which persons may be given access to … the law library facilities …; and
>
> (c) the borrowing of resources and the manner of securing a resource if it has been loaned.

If members of the profession do not come to the party and make a reasonable contribution, the door can be shut on them and they could be told if they are not contributing to this library, they cannot access it. It is not that the profession, in the absence of an ultimate power by the Attorney General to impose a fee, is left stranded; they can say, "Well lawyers, if you don't want to make a contribution, don't come to the library, full stop." As I said, the Western Australian Bar Association and the Western Australian Law Society are not bloody-minded; they have been providing this service to the profession, the judiciary and members of the government sector, who do not contribute to it in any way, for over 70 years. The goodwill on their part is indisputable but they do not want a system that this government is setting up whereby they can cost shift the whole cost of the DOTAG library onto the profession.

I come now to access. I referred to clause 7 to determine what is the ultimate veto if they do not get agreement from the profession. If lawyers do not want to pay a reasonable sum, they should not come into the library. As I said, that would not worry most of the profession because most of the profession rarely go there. Think about it. A lot of the legal resources are now available online. I am talking not only about all of *Hansard*, although we were told at the briefing that not all of *Hansard* is on there, but as the Clerk Assistant has reminded me, it is all backloaded on there. The State Law Publisher has backloaded on the internet all the old statutes from 1890 or something like that, including all the law reports. They are all available to anyone in Australia who googles them. The other day, when preparing my remarks, I wondered how long it would take for a member of the public to get informed about the development of federalism in Australia under case law. I googled it and the first thing that came up was the seminal engineers' case argued by the late Sir Robert Menzies in September 1920. Articles on it appeared on the screen within two minutes. When I first entered the law, if we were asked by the master to research a line of cases from which developed federalism in Australia as we know it today—that is, with the supremacy of the commonwealth and no reserve state powers et cetera—it could take the best part of half a day digging around in the library. No wonder practitioners go to their screen. This comes to the second part of access, because I asked a judge, who will remain nameless—I do not want any of them marked down for talking to me.

Ms M.M. Quirk: Odds are, it was a bloke.

Mr J.R. QUIGLEY: It was a bloke, because there have not been any women appointed to the Supreme Court.

Ms M.M. Quirk: The last 19 appointments have been men.

Mr J.R. QUIGLEY: Exactly, and the Chief Justice has written on that gender inequality too. It was a bloke I was speaking to. I said, "Your Honour, when you are preparing judgements in your chambers, do you use the DOTAG library?" He said, "Of course." I said, "Situated at Westralia Square?" He said, "No; it is all on the screen." They just key in a number and there is what we would know as the loose-leaf texts. I am sure that the member for Girrawheen, whose interjection I took earlier, will know about them, such as the Commerce Clearing House tax reports, and even *Cross on Evidence* has been in loose-leaf —

Ms M.M. Quirk: I have been looking at the ASIC company law reports lately.

Mr J.R. QUIGLEY: Is that the loose-leaf ones concerning insider trading?

Ms M.M. Quirk: Yes.

Mr J.R. QUIGLEY: That is a very interesting area. I think a lot of people around the cabinet area would be looking at that same area of insider trading, member for Girrawheen.

Getting back to the point, I asked His Honour what he does and he said that he accesses it on the screen on his desk so that he does not have to leave his judicial chamber.

Now we will have an amalgamated library and the profession will make a huge contribution to that library, which will be primarily the Department of the Attorney General's library, because, as the librarian told me, the officers from DOTAG have spent five weeks at the library saying what they do not want and most of it will be packed into boxes and put in some musty vault. What will happen to the members of the profession who will fund this? Will they also get access to this material on their screens? I bet that they will not. I bet that they will have to go to the library to access it on a terminal. There will be two classes of passengers—two classes of users. There will be the A-class shareholders, who are all the people associated with the government, including judicial officers. We will wait until the practitioner from the State Solicitor's Office comes to advise the minister at the

table, because I am sure that she will be able to confirm what her access is. There will also be the others—the members of the profession—who will not have the same ease of access. But who will pay for all of this? The people with the restricted access will be the big contributors. I was at the briefing on these bills with the member for Girrawheen and she astutely asked the adviser how much DOTAG had estimated it will cost to make the DOTAG library generally available to the profession. My recollection is that the answer was that it would cost $850 000. When I mentioned that to members of the profession, they fainted—I could hear them hit the deck over the phone! As I said earlier in my speech, they trimmed their sails and got it down to $430 000 and then the annual subscriptions to services drove it up to $565 000 last year and now they are looking at $850 000.

Under these amendments, there is a method by which the annual contribution will be calculated, but this method is not set out in the legislation. I have complained recently about what happens in Parliament. We complained about this during the consideration of the Motor Vehicle (Catastrophic Injuries) Bill, because 10 of the 33 operative clauses after the definition clauses were subject to regulation that had yet to be formulated. At the briefing, when I said that the advisers must have put their minds to the regulations because the government wanted this matter through by 1 July so that it could fire this up for the next financial year, I was told that they had not because the legislation had not been passed, but then they would turn to the regulations. We are being asked to vote for this legislation without knowing the method by which the amount of the contribution is to be calculated. This is very important. Is the method to include, for example, a sum for rental for the floor space of the library? At the moment, the law library, funded as it is by the Legal Practice Board principally, occupies some 900-odd square metres at the Supreme Court rent-free. As I have said, the Legal Practice Board, which is a statutory body performing a public function, not a function on behalf of a private club, was told about 18 months ago that the government would no longer provide premises for it and that it would have to turn to the profession to raise the money to pay rent. This is unbelievable for the government statutory body. We could say that the lawyers can afford all this. We could say that whatever the contribution is, the lawyers are wealthy; they can afford it. But might I remind members that it is highly unlikely that that will happen; there is a snowflake's chance in a hot place of that happening, because the lawyers, understandably, will pass this cost on to the consumer. They will not deplete their income; they will pass it on to the consumer as a cost of their legal practice.

Let us think about this for a moment. When there is a case on appeal and a senior counsel is briefed, he will have a junior. They both will have paid their legal practice fee, of which a portion will be the amount to be levied for the new amalgamated library. They will be instructed by solicitors behind the bar table, all of whom will have made a contribution to the law library through their legal practice fees. The firm itself, if it employs, as some of these firms do, 100 or 200 cost earners, will make a huge contribution to the law library, but none of those people will use it because the firm maintains its own library, and most of it is online anyway. All of this drives up the cost of access to the law and makes it even harder for people to litigate their disputes.

We say that it is time for the Attorney General to rethink his relationship with the legal profession and not speak of it in the derisory fashion that he does; rethink his relationship with the members of the judiciary and not deal with them in the offhand manner that he does; restore the good relationships that had hitherto existed between the profession, the judiciary and the executive, which are at an all-time low; and proceed to amalgamate this library in the spirit of goodwill that the profession has demonstrated for over 70 years, and not set up a scheme whereby the Attorney General can cost-shift the price of maintaining the DOTAG library to the legal profession. If he does that, under proposed section 596A, everyone in the legal profession will enjoy exactly the same access to all reports, be they in hard copy or online, as that enjoyed by government lawyers, who will pay little towards it.

We have given notice on the notice paper of amendments that we intend to move. Those amendments are relatively short. All they do is to take away the sledgehammer that the Attorney General is so intent on arming himself with by just imposing a fee upon the whole of the profession, by saying that this should be arrived at by agreement. I am just picking up the amendments. They are the only amendments that we have and cover clause 5, proposed sections 548A(3) and 548A(5). I will be moving the amendments during the consideration in detail stage. The first amendment, to proposed subsection (3), seeks to insert the words —

> and that the amount must be agreed to by the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association

The second amendment, to proposed subsection (5), seeks just to delete the disjunctive "or" and in its place put "and", so that the Attorney General must obtain the written agreement of the board, the society and the bar association and notify them nine months before the beginning of the financial year what the new amount is going to be. They are very simple, very small amendments that I am told reflect the understanding that the profession was given from the working paper. I mentioned in my speech that the government might be prepared to let me move those amendments as one motion, but I will wait until we get to that stage. The amendments are all on the one page and concern the one clause. If we are able to move the amendments and make submissions in relation to them in one go instead of in three different motions, I am sure that the passage of this bill through this chamber will be accelerated—we will do it a lot faster—but that is up to the government. Otherwise, we do

support this. Let everyone understand that Labor does support the amalgamation of these libraries, but only on equitable and just terms for the legal profession.

MS M.M. QUIRK (Girrawheen) [12.13 pm]: As my colleague the shadow Attorney General has said, the opposition supports the Legal Profession Amendment Bill 2016 and the Legal Profession Amendment (Levy) Bill 2016. On the face of it they are non-contentious, but to use a well-worn cliché, the devil is in the detail. By way of preliminary remarks, I have to concur with my colleague, but probably not with the same hyperbolic flourish as he used. It is sad that so many law reforms are needed but are not being introduced by the inert and ineffectual Attorney General, yet these bills have reached the house because, as I will explain shortly, they are about shifting expenses and the government trying to save money. We have been waiting for a range of issues and law reforms for a considerable amount of time and they are stuck in the Attorney General's in-tray, but because these bills are about saving money, they have been rushed through with some haste.

I observed in the briefing that we had on this bill that the second reading speech was somewhat opaque, and I will refer to why I think it is opaque shortly. Because it is opaque and because there is no detail in the legislation itself, we rely on regulations, which have not been produced. How this scheme is going to work in practice and the quantum of the levy are unknowns. This government might pride itself on removing red tape, but what it has in fact done, not only in this bill but also generally, is to remove all the significant details from substantive legislation and put them in regulations, which are not scrutinised by this Parliament. That is incredibly unsatisfactory.

I asked in the briefing what would be the quantum of money levied from the practising certificate fees. They were unable to tell me, but I think I know the answer; that is, it may well be more than cost recovery. The levy that is imposed on law practitioners may well be more than the cost of actually running the library, because the Legal Profession Amendment (Levy) Bill empowers the government to impose a tax as opposed to merely cost recovery. On its face, as I said, this looks pretty non-contentious, but it actually is imposing a tax. As my colleague alluded to, people say, "It's just the legal profession; they're rolling in it; they can afford it." Frankly, there are many sole practitioners and there are community legal services, so there are a range of people who practise in the legal profession who are not rolling in it. In any event, if it is a tax, the government should be up-front about it. I expect the minister to be able to tell us what is contemplated to be taken by way of the levy and what are the calculations. Frankly, it is implausible to say that the government does not know this, because I suspect this is part of the budgetary process and that the Attorney General, through his advisers, would have run the sums on what the government anticipates receiving from this levy. That is the first point to make. The existence of the Legal Profession Amendment (Levy) Bill means that the government intends to impose a tax as opposed to merely cost recovery. As the legislation stands, that can be done without the level of notice and consultation that the opposition regards as satisfactory, and that is why the member for Butler has proposed an amendment to the bill. We need to know what component will be deducted from the practising certificate and the rationale for doing so.

The current situation is also not clear, as the member for Butler said. There have been different contributions from the Legal Practice Board over the last four years. It has gone from nearly $900 000 four years ago to about $500 000 last year, so, again, it is not as though it is a set amount every year. I am interested in how that amount is calculated. With the imposition of this tax, who will calculate what periodicals, texts, other books and electronic resources are needed for the library, how will that budget be managed and how do we know that the legal profession will get value for money? As I said, I am particularly disappointed about the lack of clarity on these matters. I am particularly disappointed that we do not know, for example, about the hours of access. As the member for Butler asked: is there going to be more restricted access because it is effectively a library of the Attorney General's department or will everyone who has contributed to that tax have the same access as the Attorney General's lawyers to the library? We do not know whether access will be limited in any way, or the same people who have access at the current hours will still have that, because that is also something that will be subject to regulation. That is another issue. The government has brought a bill to this chamber and Parliament, saying, "Trust us, all of that will be in regulation. Trust us to stick our hand in the piggy bank" at a time of massive debt, when all ministers have to find savings. They are not even prepared to do it by way of cost recovery but under the regulation, insisting on having the power to raise it as a tax, which means, of course, that the sky has no limit. At the same time this is being done, the government is not assisting in providing a better understanding of the law to the community, and the member for Butler gave a very good example, on videostreaming cases of great public interest. I commend the Chief Justice for his many efforts to try to make what is incomprehensible to many people in the public more comprehensible, so that they can understand the legal system better. I am saddened by the fact that community legal centres and the Aboriginal Legal Service of Western Australia are facing funding cut after funding cut, with increasing demand to provide services under very constrained financial circumstances. I am equally concerned that victims of domestic violence have to fend for themselves in court and are not assisted by police officers. Again, court is a very confronting place for someone who is not familiar with the legal system and it saddens me. In other jurisdictions police officers will, for example, accompany victims to assist them in getting violence restraining orders.

To conclude, we are signing a blank cheque. Although it might be seen to be user-pays—people are prepared to pay for a service—we are not yet sure of the extent of that service. We are not sure of the quantum of the tax and all that is left to chance and trust. I can tell members that trust has well and truly evaporated before now.

MRS L.M. HARVEY (Scarborough — Minister for Police) [12.21 pm] — in reply: I thank members for their contributions to the second reading debate on the Legal Profession Amendment Bill 2016 and the Legal Profession Amendment (Levy) Bill 2016. The purpose of the amalgamation of these two libraries is not about cost saving to government, and it is not about any kind of budget efficiency measure. The genesis of this amalgamation was back in 2012 and the impetus for the amalgamation was explained quite clearly in the second reading speech. The Legal Practice Board indicated that it was no longer interested in having any involvement with the law library at the Supreme Court. That is the first reason for the amalgamation. The second reason is that it was recognised by government that we required a law library for the judiciary, for members of the legal profession and for government legal officers. That should be best located in the new justice complex at the old Treasury building, and what was required was to reduce some inefficiency, duplication and costs to the profession and government in running and supporting two law libraries. This is really about being able to put the resources into one better library resource rather than splitting that effort and having unnecessary duplication in running two separate libraries. The government does not expect any cost savings out of this amalgamation. There may be some efficiencies gained by amalgamating two managerial structures, but the purpose of this, in response to the Legal Practice Board indicating it did not wish to have involvement in the law library at the Supreme Court, was to convene a steering committee to actually look into the way forward. The steering committee for the project to amalgamate the law library consisted of representatives from the Supreme Court, the Legal Practice Board, the Law Society of Western Australia, the Western Australian Bar Association, the State Solicitor's Office, the Director of Public Prosecutions and Parliamentary Counsel's Office. It was a very comprehensive consultation process with the steering committee over time, and out of that we have come to this point, with the amalgamation of the two libraries seen as the appropriate way forward.

To address the accusation that the Attorney General will have carte blanche to set the fees and cost shift, that is not what is being proposed here. At this point in time, the government and the Attorney General cannot articulate what the fee will be. However, a process of development of the regulations has been established. Consultation of the fees is occurring with all the stakeholders. What has not been determined as yet is whether it will be a percentage of the practice certificate or a set dollar amount per practice certificate. The Law Society, the Bar Association and the Legal Practice Board have been consulted as to how that fee should be set and how it should be specified in regulation. It is conceptually agreed that the fee will cover the marginal cost of the additional library resources and particular librarians who will be put in place to service the profession and to enhance the collection.

Although it has been said that the Attorney General can set the fee, he has the power of decision-making with respect to the fee, as does every minister. Every minister signs off on fees that are set by regulation. However, the determination of those fees is usually done in consultation, and the principles for setting that fee, although not being set in stone, conceptually, have been established that it will cover the marginal cost of those library resources. As I mentioned earlier, all the stakeholders involved in this process have expressed satisfaction with that process. At no point have any of those stakeholders indicated that they would be supportive of the amendment that has been put forward by the member for Butler, and, as such, the government is not inclined to support the amendment. I am sure that we will get to debate that during consideration in detail.

I thank members for their contributions to this debate and look forward to further examination of the principles of the legislation when we go into consideration in detail.

Question put and passed.

Bill (Legal Profession Amendment Bill 2016) read a second time.

Leave denied to proceed forthwith to third reading.

LEGAL PROFESSION AMENDMENT BILL 2016

Consideration in Detail

Clauses 1 to 4 put and passed.

Clause 5: Section 548A inserted —

Mr J.R. QUIGLEY: In relation to clause 5, I wish to move the amendments standing in my name on today's notice paper. I forecast in my speech that I would ask to move those en bloc, because they are all to exactly the same point and I do not know whether the government will accept me moving those three amendments together, although they are all to the one clause and are all to the only point of contention in this bill.

Mrs L.M. HARVEY: Madam Acting Speaker, I seek your advice on whether that would be appropriate in the circumstances.

The ACTING SPEAKER (Ms L.L. Baker): Yes, that is fine. We can pass that.

Mrs L.M. HARVEY: Yes, the government is happy with that.

Mr J.R. QUIGLEY — by leave: I formally move —

Page 3, line 3 — To insert after "calculated" —

and that the amount must be agreed to by the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association

Page 3, line 14 — To delete "or" and insert —

and

Page 3, lines 21 and 22 — To delete —

and have regard to any submissions made by those bodies

I was taken somewhat by surprise by the minister's reply to the second reading, during which she indicated that none of the stakeholders had indicated that they were seeking any amendment like that moved by myself. I am surprised because I had raised this matter after the stakeholders—that is, the Law Society of Western Australia and the Western Australian Bar Association—had, as joint signatories, written a letter to the Attorney General. In their letter, they proposed an amendment—not in exactly the same words that I have used; I have used fewer words—to the government that expressly put —

5) Before an amendment to regulations mentioned in subsection … is made, the Attorney General must —

They have struck out paragraph (a) in its entirety, and included —

… (a) notify the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association of the proposed amendment at least 9 months before the beginning of the first financial year to which the proposed amendment is intended to apply; and

(b) thereafter obtain the written agreement to the proposed amendment by the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association.

It continues —

> The proposed reformulation of clause 548A(5) (set out above) enjoys the support of both the Western Australian Bar Association … and of the Legal Practice Board. Notwithstanding the views of all three bodies, the Society notes with concern that the formulation of clause 548A(5) in the bill is in the manner set out at the commencement of this letter.
>
> In the circumstances, the Law Society and WABA respectfully request that following its introduction the bill be referred to the appropriate standing committee to enable the Law Society, WABA and any other interested body or party who may wish to advance submissions as to the appropriate formulation of clause 548A(5) (or of any other provision in the bill) to do so.
>
> The Society would also be happy to discuss its concerns in a meeting with either or both of you, if that might assist.

That letter was emailed to the Attorney General and to the Chair of Committees of the upper house, Hon Adele Farina. It is with the utmost surprise that I hear the minister say that there is no indication from stakeholders that they support this amendment or that they want the amendment that I have moved. It is actually in writing to the Attorney General. Why am I not surprised?

Mrs M.H. ROBERTS: I think the member for Butler is making some excellent points here and I would like to hear him substantiate his argument further.

Mr J.R. QUIGLEY: Why am I not surprised that the Minister for Police, in her reply to the second reading, said that there is no indication from stakeholders that they want this amendment? All three stakeholders—the Legal Practice Board, the Law Society of Western Australia and the Western Australian Bar Association—have set it out in writing. Why am I not surprised that the Minister for Police said that there has been no indication? I do not blame her at all. I anticipate that the Attorney General would have said, "Here's another letter from the lawyers. Let's bin this. Let's delete it out of our inbox and, if a hard copy exists, let's shred it. Let's get rid of this idea. I want the sledgehammer. I do not want to go to the trouble of having to strike any agreement with this profession. I just want to say what it is." So I am not surprised that the Minister for Police comes into this chamber and says that there has been no indication from any stakeholder that they want this amendment. It is quite the contrary. As soon as they saw the last iteration of this bill—I am told they met last Friday and then again on Monday—they sent off this letter urgently. They wrote it and struck out, in case there is any doubt, "Dear Attorney General" and put "Dear Michael". The Minister for Police has no idea of the existence of this

letter. Labor says that it respects the profession, the Legal Practice Board and the Western Australian Bar Association. The amendment that I bring forward to this chamber is the amendment that the Legal Practice Board, the Western Australian Bar Association and the Law Society wants. In fact, in discussions with the Legal Practice Board, its spokesperson said to me, "We want out of the library. We'll only be collecting the fee during the issuance of the practice certificate." They said to me expressly, "The amount to be levied is to be agreed between the Attorney General, the Western Australian Bar Association and the Law Society—we're not really keen to be part of that." It was the understanding of the board that there would be agreement between the profession and the Attorney General as to the amount.

In her second reading contribution, the minister said that there is a method by which this is to be calculated and that we will come to that after this. But there is no method. We are told that a method will be invented and we will come upon it after the passage of this bill. We will ask about that in consideration in detail. There is nothing further that I can add now.

I received thanks from both the Western Australian Bar Association and the Law Society after I indicated to them that I would move the amendment that they were seeking. Both wrote back thanking me and saying that my efforts were very much appreciated. One email states —

> On behalf of the Law Society I echo the words … of my colleague, Mr Howard SC.

It expressed appreciation that the Labor opposition is moving amendments that the Legal Practice Board, the Western Australian Bar Association and the Law Society are all seeking. So it is wrong for the minister to inform this chamber that these stakeholders do not support this amendment. The government can vote this amendment down by its numbers, but it is slapping down the legal profession.

Mrs L.M. HARVEY: The amendment that the member for Butler has on the notice paper proposes to amend proposed section 548A(3), which is basically the formulation of the initial regulations.

Dr A.D. Buti interjected.

Mrs L.M. HARVEY: No—the formulation of the initial regulations. In the letter that the member read out, the Law Society sought an amendment to proposed section 548A(5), so that, when the initial regulations are being amended, which is a recalculation of the fee at a future point in time, a requirement is inserted that the Attorney General must obtain written agreement to the proposed fee amendment from the Legal Practice Board, the Law Society and the Western Australian Bar Association. It wanted to delete the word "or" in proposed subsection (5)(a) and replace it with "and" and then, in proposed subsection (5)(b), delete every word after —

> notify the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association

The reason the government has rejected that—and the Attorney General, in my view, was quite right to do so—is that the users of the library, who have agreed as part of this process to partially contribute to the maintenance of the library with the contribution of a levy, would then be the very same people, as a result of the requested amendment, who would have a right of veto over any fee increase. That is obviously not appropriate. Generally speaking, most of the people who are going to have to pay the fee towards the maintenance of the library would reject a fee increase. We felt that it was appropriate for the Attorney General to be the final decision-maker on any fee amendment that may occur in the future, and we declined to entertain that right of veto for the Legal Practice Board, the Law Society and the Bar Association to limit the ability to increase fees in the future. That would have been an amendment to proposed section 548A(5), not proposed section 548A(3), which is the amendment that the member has on the notice paper.

I stand by the advice that I have received from the Attorney General, and on his behalf, that there has been no request from the proponents, as the member suggested, to amend proposed section 548A(3). We have no request. There was some debate about proposed section 548A(5). We have declined that request, and instead settled on a process under which, should there be any future amendment to the regulations set out under proposed section 548A(5), there will be a consultation process. It will be a seven-month process by consultation, or a nine-month process if consultation could not reach agreement, and the Attorney General will decide to set a fee. This basically then gives the proponents an additional two months to lobby for an alternative arrangement. That is what we have agreed on. Under proposed section 548A(3), the initial regulation, the collection method for those fees is still being developed and negotiated with the board. As I said in my response to the second reading debate, it has not yet been determined whether it will be a set dollar amount or a percentage of the cost of a legal practice certificate. We are looking for a simple collection method and ease of administration for the purposes of the management of the library.

Mr J.R. QUIGLEY: I asked for all the amendments to be moved at once. The minister might have overlooked the fact that the motion includes an amendment to proposed section 548A(5)—both proposed subsections (3) and (5). The minister was in simple error when she said that the letter from the stakeholders addresses proposed subsection (5), while my amendment addresses only proposed subsection (3). That is clearly not right.

Line 14 on page 3, where the amendment seeks to delete the word "or" and insert the word "and", is smack in the middle of proposed subsection (5). The next part of the motion, which refers to lines 21 and 22 on page 3 and proposes to delete the words "and have regard to any submissions made by those bodies", is also in proposed subsection (5). That is all proposed subsection (5), which deals with the fee to be struck in subsequent years. Proposed subsection (5) begins —

Before an amendment to regulations mentioned in subsection (3) is made, the Attorney General must —

Proposed subsection (3) enables the Attorney General to specify the method by which the amount of the contribution is to be calculated and when the payment is due. For the first year's contribution, that will be settled under proposed subsection (3). That is the start-up one. For subsequent years, when the fee is to be increased, with the effluxion of time, we go to proposed subsection (5), because that will amend the amount that has been calculated in proposed subsection (3). That is why the amendment I have proposed also addresses proposed subsection (3). It may have been an oversight by the society when it was hurriedly preparing this letter on Monday to send urgently to the Attorney General. I handed this letter to the chamber clerks and asked them to assist me in drawing up the amendment that would reflect this letter. As was pointed out to me by the chamber clerks, the fee for the first year is to be calculated pursuant to proposed subsection (3). That is why I have proposed the amendment for proposed subsection (3) to require the amount to be agreed to by the Legal Practice Board, the Law Society of Western Australia and the Western Australian Bar Association. That is for year one. For subsequent years, and the review of that amount, we go to proposed subsection (5). That is why it is all there.

My amendment to proposed subsection (3) encapsulates exactly the amendment that the Law Society of Western Australia, the WA Bar Association and the Legal Practice Board are seeking for proposed subsection (5), but, instead of restricting it to subsequent years, makes it inclusive of year one as well. The Labor opposition is doing no more to this bill than assisting and trying to facilitate the Legal Practice Board, the Law Society of Western Australia and the Western Australian Bar Association. This is not a matter of Labor ideology or any such thing. It is the facilitation of the legal profession in a very important matter. The minister says that this would give the legal profession a veto over the setting of the fees and that no-one wants to see fees rise. The profession has been doing this for over 70 years, and for that time there have been increases in the fees, and it has never quibbled. It has provided this service to not only the private practitioners, but also the judiciary.

Debate interrupted, pursuant to standing orders.

[Continued on page 2355.]

RETURNED AND SERVICES LEAGUE OF AUSTRALIA — CENTENARY — CITY OF BELMONT RSL SUB-BRANCH

Statement by Member for Belmont

MRS G.J. GODFREY (Belmont) [12.50 pm]: With Anzac Day approaching, I wish to recognise the centenary of the Returned and Services League of Australia, 1916 to 2016. Over the past few years, under the current committee, the City of Belmont RSL sub-branch has increased membership, started a combined school service and renovated the war memorial, as well as the usual things such as holding lawn bowls events, providing meals and undertaking wardens duties. In Belmont, the combined school service was held on 5 April at the City of Belmont war memorial. On Sunday, 17 April, at 2.00 pm, the City of Belmont Anzac service will be held at the Faulkner Park memorial, followed by afternoon tea at the RSL sub-branch at 22 Leake Street, Ascot. On Monday, 25 April, a dawn service will commence at 5.45 am, followed by a gunfire breakfast at 7.30 am at the RSL.

As the patron, I congratulate the members of the City of Belmont RSL sub-branch, who work very hard to make a massive contribution to our community in Belmont. The members of the committee are president, Alan Richardson, OAM, JP; vice-president, Steve Toon; treasurer, Janet Hall; secretary, Yvonne Richardson; Dot Balcombe; John Polkinghorn; Rod Forster; Allan Kennedy; David Turnbull; Steve Madden; Paul Thwaite; Olga Greig, OAM; and Bob Poole.

THEATRE SPACE — MIDLAND

Statement by Member for Midland

MRS M.H. ROBERTS (Midland) [12.52 pm]: Last month I had the opportunity to have the shadow cabinet in Midland. As part of that, we received a briefing from Siobhan Vincent and Philip McAllister on a proposal to have a significant theatre in Midland and the prospect of it being put in the workshops. There had been a previous plan to do that, but it seems that the government has gone pretty cool on this idea. Midland very desperately needs a theatre space. At the moment, schools such as Swan View Senior High School and Governor Stirling Senior High School often have to go to Belvoir Amphitheatre, which is more appropriate for a wedding reception than it is for a graduation ceremony. A theatre in Midland is needed. There are lots of small venues in Midland such as the Garrick Theatre and the Marloo Theatre, but our region does not have

a decent-sized theatre—something like the Mandurah Performing Arts Centre. I congratulate those people and seek an assurance from the Minister for Planning, who is responsible for the Metropolitan Redevelopment Authority, that we can reserve space in one of the workshops. They have an idea for workshop 1, but I think workshop 2 could be a full arts precinct, so there are lots of opportunities there. I want to make sure that that space is reserved and not given over to some other private interest.

WORLD DOWN SYNDROME DAY 2016

Statement by Member for Swan Hills

MR F.A. ALBAN (Swan Hills) [12.53 pm]: On Thursday, 24 March, I had the privilege of co-hosting a morning tea on behalf of the Western Australian Parliamentary Friends of People with Disabilities. The occasion was to recognise World Down Syndrome Day 2016, which was first recognised by the United Nations in 2012, and also to celebrate the thirtieth anniversary of Down Syndrome WA. Down Syndrome WA has been working tirelessly to support Western Australians with Down syndrome and their families by amplifying their voices and educating those in the community. By delivering information at every stage of life, it has proved an invaluable support while connecting families who share this journey. There was a time when people with disabilities were not given many opportunities and had few rights. That was a time when attitudes to disability were driven by ignorance and fear. Today, a new era has brought about increased recognition of human and civil rights for people with disabilities, and along with that has come access to education and health and a move away from institutional services, and an emphasis on integration and participation in the local community—what we now call inclusion. Today, more people with Down syndrome are independent and contribute to the world around them while living longer and fuller lives. Down Syndrome WA is today an organisation supported by a devoted team of supporters, volunteers and staff who maintain and share the enthusiasm of the people who founded it. We wish them well for the future in achieving successful outcomes for children in their care.

ANIMAL WELFARE — PUPPY AND KITTEN SALES

Statement by Member for Maylands

MS L.L. BAKER (Maylands) [12.55 pm]: I quote *The West Australian* of 31 March 2016 —

> The International Animal Protection Index grades Australia on a C rating alongside India.
>
> … the index assesses each State's approach to a wide range of animal welfare issues and, in many cases, WA lags behind.
>
> We are the only State not to have put in place the Australian Land Transport Standards for Livestock, most codes of practice for livestock haven't been updated for more than a decade, we lack codes or standards on animal welfare for companion animals when other states have already introduced them, —

And we are still selling puppies and kittens in pet shops. As a state, we are failing to lead this agenda. The government released a report into animal welfare in October 2015, which acknowledged the conflict of interest created when the Liberal–National government moved responsibility for the codes into the Department of Agriculture and Food Western Australia. The animal welfare report makes a number of recommendations, including the need for a strategic plan policy framework for animal welfare, the need to review the act, and for an independent strategic policy advice committee—a ministerial advisory council—to be established. The report's panel also recommends that local government seek support to appoint rangers. That is pretty interesting, considering that this government removed the responsibility for administration of the Animal Welfare Act from local governments. This government is failing in animal welfare in many ways. It is clear to the panel, in its own review, that considerable savings were made to government because the services are being delivered by the Royal Society for the Prevention of Cruelty to Animals through community funding. Only six per cent of the funding that goes into animal protection comes from the government.

SOUTH PERTH HOSPITAL — SIXTIETH ANNIVERSARY

Statement by Member for South Perth

MR J.E. McGRATH (South Perth — Parliamentary Secretary) [12.56 pm]: Thursday, 22 April will mark the sixtieth anniversary of the opening of South Perth Hospital, the only community-owned hospital in Australia. Its membership consists mainly of local community leaders and medical professionals who elect a board of management, of which I am privileged to be a member. This story of community endeavour dates back to the postwar years when South Perth residents included people who had migrated from the United Kingdom who had experienced community-based hospitals back home and asked, "Why can't we do it here?" It was a time when South Perth was slowly becoming urbanised. The nearest hospital was Royal Perth Hospital and the only way to get there was across the Causeway. So the South Perth Community Centre Association was formed and, very soon, a hospital building fund was launched. Locals pledged their support by pledges from buying a brick to committing amounts of 2s to £1 a week. Volunteers knocked on doors to collect these pledges. So impressed was the government of the day that it came up with the funds needed to build the hospital. On its opening in 1956, the government gave the community the authority to operate that hospital.

In 1959, with the population booming, the government encouraged the hospital to go into obstetrics. Thousands of babies were born there until the service was closed down in 2002. The hospital now provides acute services for medical and surgical cases, and operates seven days a week, 24 hours a day, with in-patients and day care. In 2009, the hospital was rated the best in Australia in a patient satisfaction survey conducted by Medibank Private.

The ACTING SPEAKER (Mr M. Cowper): Thank you, member for South Perth. Wonderful people were born in that hospital.

SAFETY IN NUMBERS CHOIR — TWENTIETH ANNIVERSARY

Statement by Member for Albany

MR P.B. WATSON (Albany) [12.57 pm]: The Safety in Numbers Choir celebrated its twentieth anniversary with a flash choir performance at the Albany farmers' market on Saturday, 2 April. For the past 20 years, the Safety in Numbers Choir has provided an opportunity for community members to come together to enjoy singing in harmony. The choir has grown from a small group of singers who met in a lounge room to a group of more than 50 men and women. Teresa Hughes is the choir's musical director and conductor, supported by accompanist Janet Austin on piano. The choir sings a widely varied repertoire, mostly in four-part harmony, and it has performed in concerts and at numerous community events since 1996. Organisations that have benefited from the choir's fundraising activities include Albany Community Hospice, Hawthorn House, Fellowship House, Kids Central Great Southern and other projects for local youth. Teresa Hughes, who organises the choir, is a legend in music in Albany. She teaches not only at schools, I have also seen her out at Hawthorn House, Fellowship House—a group house for suffers of schizophrenia—and at all these other projects at the hospice. She makes a tremendous effort for our community. Today, I would like to congratulate not only Teresa, but everyone else who is involved in the Safety in Numbers Choir.

Sitting suspended from 1.00 to 2.00 pm

RUSSELL BREMNER — RETIREMENT

Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): It is with regret that I advise that today is Russell Bremner's last sitting day before he departs on pre-retirement leave next week. Russell has been the executive manager of the Parliamentary Services Department for the past 18 years, having joined the Western Australian Parliament in 1998, just after the department was established. His retirement will take effect from 25 October 2016. Prior to his employment at WA Parliament, Russell worked for nearly 26 years in the public and private sectors. As executive manager, Russell has been instrumental in introducing many significant improvements to the Parliament House building over the years, as well as facilities and services for members. Under his leadership, the Parliamentary Services Department has become a strong, efficient and professional department serving the chamber departments, the parliamentary institution and the diverse and ever-changing needs of its members.

In 1998 this Parliament took the lead in establishing a new joint services department, and this innovation has been adopted by New South Wales, Victoria and the federal Parliament. Under Russell's stewardship, the Parliamentary Services Department of this Parliament has achieved very high standards of service, as demonstrated by the consistently positive feedback received from members in the annual survey. I believe that our Parliamentary Services Department continues to set the standard that other Parliaments aspire to and this is in no small part due to Russell's leadership.

I wish to sincerely thank Russell on behalf of all members and, indeed, on behalf of all past members whom he has served during his distinguished career, for his advice, support and guidance over the years and for his significant contribution to the management and operation of the Parliament of Western Australia. I wish Russell a long, happy and healthy retirement.

[Applause.]

QUESTIONS WITHOUT NOTICE

MUJA POWER STATIONS

222. Mr M.P. MURRAY to the Minister for Energy:

I refer to the minister's announcement today that he has accepted all the recommendations from the "Reforms to the Reserve Capacity Mechanism" report, including retiring 380 megawatts of state-owned generation capacity by 1 October 2018.

(1) After spending $330 million on the refurbishment of Muja A and B, does the minister now plan to close it and its 240-megawatt capacity?

(2) If the minister is going to close it, why did he say in 2013 that, after completion, it will be sold?

(3) How many jobs will be lost in Collie due to this policy?

Dr M.D. NAHAN replied:

I thank the member for the question.

(1)–(3) Yes, I did make those announcements. Shortly, I will direct Synergy to retire 380 megawatts of installed capacity. I also indicated that I look forward to Synergy recommending what mix of plant that is composed of. The member jumped to the conclusion that it would automatically be Muja A and B. I find the member's criticism of us refurbishing Muja A and B very strange, given that it was brought on board during the commitment to reopen Muja A and B after the explosion on Varanus Island, and it helped rescue the state's electricity supply. We went on to refurbish Muja A and B, which employed a large number of people in the member's electorate, and it still does, both in the operation of the mine and in the operation of the plant. I find it very strange that the member is criticising us for reopening the plant. He should tell his electorate that that is the case.

Mr B.S. Wyatt: Are you closing it?

Dr M.D. NAHAN: Yes; let me get to the question. Right now Muja A and B is one of Synergy's most profitable plants. As long as it is one of the most profitable plants, the answer is no. I indicated, as is set out in the report, that Synergy will come forward and indicate to me the mix of fleet that adds up to 380 megawatts that we will close in 2018. I look forward to that information.

MUJA POWER STATIONS

223. Mr M.P. MURRAY to the Minister for Energy:

I ask a supplementary question. Why did the minister pour $330 million down the drain rather than invest in a long-term alternative industry in Collie?

Dr M.D. NAHAN replied:

The money was spent on refurbishing Muja A and B. That is something that the member supported regularly, and now he is criticising us for it! The member for Collie–Preston repeatedly argued for the reopening of Muja A and B. Did you not, member?

Mr F.M. Logan interjected.

The SPEAKER: Member for Cockburn! Through the Chair, please; quick answer.

Dr M.D. NAHAN: The simple fact is that the member for Collie–Preston never wanted the plant to be mothballed in the first place. He argued, quite rightly, that it be brought on to rescue the state and Varanus Island, and then argued repeatedly that it should be brought on and refurbished. There is no doubt that the refurbishment cost a lot more than expected, but the act of refurbishment was supported by the member for Collie–Preston all the way down the line.

Mr M.P. Murray: Come down to Collie and speak to the Collie community!

Dr M.D. NAHAN: I think the member should do that. He should explain why he is now arguing that we should close down Muja A and B forthwith. I remind him that Muja A and B is one of, if not the most, profitable plant in Synergy's mix. I might add—this is a little secret for the other side—that if Mr Shorten became Prime Minister, God help us, most of our coal would be shut down due to his 50 per cent renewable target by 2030. The Labor Party is the enemy of coal, not us.

KIDSPORT PROGRAM

224. Mr T.K. WALDRON to the Minister for Sport and Recreation:

I notice that the state government's KidSport program has had more than 10 000 Aboriginal children sign up to participate in club sport since it began. Could the minister please explain the reach the program has across our state?

Ms M.J. DAVIES replied:

I thank the member for the question. Members would know that this program was put in place when the member for Wagin was the Minister for Sport and Recreation. It has been so successful that nearly every state in Australia has picked it up in one form or another. We hit a really exciting milestone a couple of weeks ago when we signed up the 10 000th Aboriginal child to this program. A total of 55 000 children can now participate in organised sport who otherwise could not afford to. I think that is quite remarkable not only from the perspective of this state government, but also for the whole community. I am sure that everyone in this house understands the value of being part of organised sport—part of a team. Certainly from my perspective, growing up in a small community, my father encouraged me to be a part of every sporting organisation. That added to —

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean!

Several members interjected.

Ms M.J. DAVIES: Sorry, Mr Speaker, there is a bit of a drip on the other side.

The SPEAKER: Minister, through the Chair.

Ms M.J. DAVIES: Although the opposition is making light of this fact, it is a remarkable program. A couple of weeks ago I had the pleasure of meeting Sorrell and Kelliesha Dimer, who are part of the Kingsley Junior Football Club. Kelliesha stands about so high and she is just about to start playing football in the same team as her older brother. I will just say that 90 per cent of the 10 000 kids are from regional Western Australia, which is another great statistic from the program. Members in this house are welcome to talk to their local Department of Sport and Recreation manager, who will be able to provide them with the statistics in their electorates.

A member interjected.

Ms M.J. DAVIES: The member certainly does, and they would be happy to provide him with the statistics in his local area.

Unsurprisingly, Australian Rules football is the most popular sport picked up by the kids. That probably comes as no surprise to anyone in this house. It is really pleasing, particularly from my perspective, that 41 per cent of Aboriginal KidSport participants are girls. That is great ahead of what is happening this weekend at Domain Stadium with the women's football curtain-raiser match. A new generation of women are coming through and participating in sport. From our perspective, no child should be denied the opportunity to be part of an organised team sport because they cannot afford a uniform or to pay registration fees. Another great milestone reached.

PUBLIC SECTOR RECRUITMENT FREEZE — DEPARTMENT OF HEALTH

225. Mr B.S. WYATT to the Treasurer:

I refer to the current public sector job freeze and to reports that up to 21 doctors will not have their contracts renewed at Princess Margaret Hospital for Children due to the freeze.

(1) Are these reports correct?

(2) Did the Treasurer receive any applications from the Department of Health for exemption for doctor positions since the freeze began?

(3) Has the Treasurer approved any exemptions for doctor positions?

Dr M.D. NAHAN replied:

(1)–(3) Thanks for the question. There is a freeze going on. In the health system there is a large number of transactions and changeovers, particularly in rural areas, I might add, where the contracts do not last very long. I have received hundreds.

Mr B.S. Wyatt: Hundreds of exemption applications?

Dr M.D. NAHAN: Yes, across the board, including doctors and specialists.

Mr B.S. Wyatt: How many doctors?

Dr M.D. NAHAN: I cannot remember how many doctors particularly in one individual hospital.

Mr M. McGowan: What about the 21 doctors at PMH?

Dr M.D. NAHAN: The Leader of the Opposition did not ask the question, so just keep out of it.

Several members interjected.

The SPEAKER: Members!

Mr B.S. Wyatt: Have you approved them?

Dr M.D. NAHAN: I will let the noise subside. I have approved all the doctors that have come to me. I have not seen the ones for Princess Margaret Hospital for Children. Was it Royal Perth Hospital or PMH?

Mr B.S. Wyatt: PMH.

Dr M.D. NAHAN: To my knowledge, we have not refused a single doctor.

Mr M. McGowan: They are contract positions.

Dr M.D. NAHAN: That is right. Good for you—that was the question.

We have no intention of knocking back the recontracting of doctors whether they are on contracts, part-time—many work fractional times—or whether they are permanent employees. I might add we also approved—what are they called—all the junior doctors coming from the university to take their position in hospitals.

Several members interjected.

Dr M.D. NAHAN: Yes, registrars.

PUBLIC SECTOR RECRUITMENT FREEZE — DEPARTMENT OF HEALTH

226. Mr B.S. WYATT to the Treasurer:

I ask a supplementary question. In light of the fact that the Treasurer approved an exemption for a media adviser in the Department of the Premier and Cabinet, will he guarantee the approval of exemptions for the doctors at Princess Margaret Hospital for Children?

Dr M.D. NAHAN replied:

I do not think the member for Victoria Park should jump to that conclusion, because I have not done that.

Mr B.S. Wyatt: You guaranteed —

Dr M.D. NAHAN: No, I have not done that. I thought the member would ask that, because it was in the media somewhere. That request has not come to me. I have not approved it because I have not seen it. I do not know where the member got this. It is in the media.

Mr B.S. Wyatt interjected.

Dr M.D. NAHAN: The member made a statement that I approved something and I am telling the member that I did not.

ELECTRICITY PRICES

227. Mr C.D. HATTON to the Minister for Energy:

It was very pleasing to hear this morning's announcement regarding the government's commitment to delivering lower electricity prices. Can the minister please update the house on the implementation of recent reforms?

Dr M.D. NAHAN replied:

Before I get going, on behalf of the member for Dawesville, I recognise the children from Mandurah Catholic primary school, who are up there in the gallery.

I thank the member for the question. Yes, the member got a taste for that, but I will fill in the detail. The member was not in the chamber at the time, but when we first came to government, the electricity system in the south west was in disarray. We faced a trajectory of 70 per cent increases in the price of electricity over 10 years. The subsidy was growing rapidly; it grew from $60 million a year to $450 million. Verve Energy, the generator, was on the verge of bankruptcy. If it was a private firm, it would have gone bankrupt. This all came about because of the failed reforms by the Labor Party in government in 2006.

We have set about reforming this. We have made substantial changes to the state-owned electricity industry in Synergy, Horizon Power and Western Power. All major reforms are reducing in the vicinity of $500 million of costs out of the system. I have already discussed that in this house. We had a review of what they call the reserve capacity mechanism. Under the system put in by Labor, people or firms would come forward and offer generating capacity into the market and get paid to do so. It also put in an expanded program for what it called demand side management, whereby people, firms and aggregators were allowed to say that if called upon, they would turn down electricity or postpone it. We have seen that grow dramatically. From 2006 to now, we have seen a substantial increase in excess capacity. We have 1 000 megawatts of excess capacity in the market because of overcooking the market and promoting the wrong type of capacity. That is equivalent to supplying electricity to 750 homes on a hot day. That excess capacity is costing electricity consumers about $116 million. A thorough review was led by Lyndon Rowe and Ray Challen from the Public Utilities Office, together with a whole range of other advisers. They made recommendations, which I have accepted in full, to change the mechanism by which we pay people to put in capacity. We have done a couple of things. We have changed the price pattern, which will reduce the price in the first year substantially by about 15 per cent. We have put in a difference price for DSM and capacity. The simple story is that if we pay a generator to provide capacity, it has to invest, let us say, $300 million. If we pay someone for DSM, all they have to spend is a few thousand dollars for organisation. We are reducing the price for DSM; by the way, last year we paid $67 million for it and did not call on it at all. In the previous year, we paid $90 million and did not call on it at all. We are pricing them differently and we are going to an option approach in 2021.

As the member for Collie-Preston indicated in his question, I am directing Synergy to reduce its installed fleet by 380 megawatts; therefore, we will take out of the market 15 per cent of capacity. The experts tell me that will save $130 million a year in the cost of electricity. The people opposite, the brains trust—the members for Cannington and Collie–Preston—say we have the math wrong and that that will not save anything. But I think I am going to rely on Lyndon Rowe and Ray Challen to do the math better!

Several members interjected.

Dr M.D. NAHAN: I would think so. I will rely on Paul Evans and others to do the math. Price times quantity is a very simple thing. What will happen is that the price will initially go down and the quantity will eventually go

down. When we multiply those two together, we get $130 million a year. That is reform. People opposite made the problem and have bagged us on every attempt to reform, whether it is to Western Power, Synergy, Verve Energy or Horizon Power, and now their complaint is, "No change. No savings. Dr Challen"—one of Western Australia's best economists—"has his math wrong." I think I trust Ray Challen more than the member for Cannington or the member for Collie–Preston. They are good reforms—I accept them in full—that will take costs out of the electricity system.

HORIZON POWER — PILBARA NETWORK

228. Mr M. McGOWAN to the Leader of the National Party:

I refer to reports that the Treasurer is planning to sell Horizon Power's Pilbara network of poles and wires and to the significant impact that this could have on regional Western Australia.

(1) Will National Party members of Parliament support the privatisation of Horizon's Pilbara network?

(2) Is the Leader of the National Party willing to jeopardise the reliability of service to towns and communities in the Pilbara?

(3) Will this sale mean a loss of the profitable part of Horizon's business, thereby putting up costs for all other electricity consumers across WA?

Mr D.T. REDMAN replied:

I thank the Leader of the Opposition for the question.

(1)–(3) The Leader of the Opposition well knows that we supported, through last year's budget process, a number of assets, and consideration of those assets for sale. Assets have been sold by the government, one of which was Perth Market Authority. We have also supported the securitisation of the Keystart loan book. The Leader of the Opposition knows Utah Point is in process now, but we did not support the sale of Fremantle port. My point is that when and if an asset comes up for sale, the National Party will give it the due diligence it deserves. We will, of course, do that in the context of outcomes for regional Western Australia. In respect to the other points, they are basically not applicable because it is not before government at this point in time.

HORIZON POWER — PILBARA NETWORK

229. Mr M. McGOWAN to the Leader of the National Party:

I have a supplementary question. The Treasurer has indicated that the Pilbara network will be sold off. Is it National Party policy to sell off the profitable parts of the network, therefore putting up costs for all consumers across WA?

Mr D.T. REDMAN replied:

The Leader of the Opposition is speculating on what might or might not happen, and asking us to make a decision before what we always do; that is, apply a good process of due diligence.

Several members interjected.

INTERNATIONAL CONFERENCE AND EXHIBITION ON LIQUEFIED NATURAL GAS

230. Mr A. KRSTICEVIC to the Premier:

The eyes of the world's oil and gas industry will focus on Perth next week, when 5 000 people are expected to take part in the eighteenth International Conference and Exhibition on Liquefied Natural Gas.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I have a blank sheet here: do you want me to soil it?

Several members interjected.

Mr A. KRSTICEVIC: My question to the Premier reads —

> The eyes of the world's oil and gas industry will focus on Perth next week when 5 000 people are expected to take part in the eighteenth International Conference and Exhibition on Liquefied Natural Gas. Could you please inform the house of the benefit of having this conference here in Perth?

Mr C.J. BARNETT replied:

Certainly, I can. LNG 18, which will be held in Perth next week, will be the largest ever business conference held in Western Australia. There will be more than 5 000 participants, including 1 750 formal delegates; that number is rising. Seventy per cent of those people are from overseas. Among the various delegations and 250 exhibitors will be the global heads of the world's biggest petroleum companies, including Shell, Total, ConocoPhillips, Chevron, Petronas and so on. It is expected that the conference will inject about $45 million into

the Western Australian economy, with more than 2 300 nights of accommodation being booked and so on. It comes at a very important time for the Australian, and particularly the Western Australian, liquefied natural gas industry. From 2014 to 2018, LNG production out of Western Australia alone will grow from 20 million tonnes to 48 million tonnes. Western Australia will then be about equivalent to the world's number one producer, Qatar. Australia as a whole, with the coal seam projects on the east coast, will clearly be the world's number one producer.

It is interesting that this is largely a technical conference as much as an economic one. Australia provides a little bit of a laboratory for what is happening in LNG. We certainly have conventional offshore reservoirs and onshore liquefaction plants, like Wheatstone and Gorgon and so on. We also have coal seam gas projects on the east coast, and we are about to see the first large-scale floating LNG in Prelude. Hopefully, the Browse project will go ahead in the future. We also have the early exploration and development of one of the world's biggest shale gas deposits in the Canning Basin. There will be a lot of interest in Australia's potential in LNG. LNG is three-quarters an Asia–Pacific market, and there is still a very high growth rate there, particularly from the emerging economies of China and India. It is a very important conference for the industry in Western Australia.

Ms M.M. Quirk: You're not the Minister for State Development anymore, Premier.

Mr C.J. BARNETT: No, but I am the Premier.

I want to congratulate the Department of State Development.

Several members interjected.

Mr C.J. BARNETT: This conference will have a big tourism impact. The Department of State Development, with the support of other agencies, did an excellent job in securing this conference. Perth is the only city in the world to have hosted the LNG conference twice. That is a reflection on —

Mr P. Papalia: You didn't even know about it until that one.

Mr C.J. BARNETT: Oh, Sunshine! Oh, goodness! What a dull, dull, person, you are!

POLICE — REDUNDANCIES

231. Mrs M.H. ROBERTS to the Minister for Police:

(1) Why has the minister not publicised her latest round of senior police redundancies?

(2) Why are these redundancies being offered?

(3) Approximately how many senior police will be leaving in this round, prior to 30 June this year?

(4) What is the approximate cost of the redundancies?

Mrs L.M. HARVEY replied:

I thank the member for Midland for the question.

(1)–(4) I have been very forthright in this place in talking about the WA Police Frontline 2020 program and the reform agenda we are running through Police. That reform agenda has identified some opportunities to flatten the structure in Police. "Flattening the structure" means looking at the areas of excess officers in the commissioned ranks, such as inspectors, superintendents and commander positions. They are positions where we are looking for opportunities to create gaps, if you like, to allow new people to move up through the ranks. The Frontline 2020 program also identified that we have surplus mid-level management numbers in WA Police. WA Police has come to me and asked whether it can self-fund, from within its own resources, some voluntary redundancies and voluntary severances, and a small number of opportunities have been offered to WA Police officers. We have not settled on a final number as yet because we want to see what kind of response we get from the commissioned officers who may be eligible to assist in flattening our structure. So that members understand why this is important, taking out an officer at a commissioned rank of inspector or above gives us the opportunity to replace that officer with two junior constables or two new recruits. If we can get two troops on the ground, out serving the community —

Point of Order

Mrs M.H. ROBERTS: I asked some very specific questions such as approximately how many officers and at approximately what cost. I do not appear to be getting an answer to those quite simple questions; rather, I am getting some prepared diatribe.

The SPEAKER: Thank you. I understood the minister to say that things were not exactly settled yet. Minister, can you address those further?

Questions without Notice Resumed

Mrs L.M. HARVEY: I am very pleased that Mr Speaker is listening to my response; the member for Midland seems to have a problem listening to my responses.

Mrs M.H. Roberts: The problem is with you not telling the house anything of use!

Mrs L.M. HARVEY: I will go back a couple of sentences and speak slowly so the member for Midland can understand. I said that we are looking at opportunities to flatten our structure; we have not settled on a total number and it will be small. It will be fewer than 50. We are looking for some opportunities to look to commissioned officers who are surplus to requirements, to, through a voluntary severance scheme —

Ms M.M. Quirk: How are you going with detective vacancies?

Mrs L.M. HARVEY: — free up those positions so that we can replace them with more officers on the front line. Maybe the member for Girrawheen might get a question one day, and she can ask that question about detectives, or maybe the member for Midland can ask it.

POLICE — REDUNDANCIES

232. Mrs M.H. ROBERTS to the Minister for Police:

I have a supplementary question. Given that the minister is removing that number of officers—somewhere fewer than 50—can the minister advise whether those senior positions will be abolished or advertised and filled by lower ranking officers?

Mrs L.M. HARVEY replied:

The proposal at present is to look for opportunities to flatten the structure, and to look for opportunities, if you like, for officers who may choose to leave WA Police through a voluntary severance scheme to free up an opportunity for younger, more enthusiastic officers to fill those positions. We have not settled, as I said, on a final number. What has gone out at present is an expression of interest to gauge the mood within those commissioned officer ranks. We obviously need to flatten our structure. Every government agency needs to do that in the interests of getting best value for money for taxpayers. That is what I will do and that is what Frontline 2020 is all about.

TWO ROCKS MARINA

233. Mr P.T. MILES to the Minister for Transport:

On behalf of the member for Joondalup, I welcome to the public gallery the student leaders from Heathridge Primary School.

Will the minister please update the house on the recent improvements that the state government has made to the Two Rocks Marina to ease congestion around this increasingly busy boating facility?

Mr D.C. NALDER replied:

I thank the member for his question and for his hard work in making sure that he secures these important changes for the local community up at Two Rocks.

Mr D.J. Kelly interjected.

The SPEAKER: Member for Bassendean!

Mr D.C. NALDER: I was pleased to join the member for Wanneroo yesterday morning to inspect the great work undertaken at the marina. The member is a great advocate for the Two Rocks community and has lobbied hard for these improvements. In consultation with the local community, a number of priority short-term actions were identified to improve the existing boat launch facilities there. These works were undertaken in two stages. The first stage was the car park works, which cost around $500 000 and have seen the car park increase from 38 bays to 99bays, allowing for cars and trailers. The second stage, at a cost of approximately $700 000, created a dual-ramp system for the many impatient boat users there. There was an issue of “ramp rage” amongst some of the boaters due to the lack of facilities. It has been a great project, well executed and well received by the local community. Out of that, we have also identified the need to build another small jetty beside the ramp to allow emergency service vehicles to tie up when the ramp is otherwise occupied. This work will get underway immediately.

It was a pleasure to be up there with the local member, and it is another great initiative, delivered well, for the people of Two Rocks.

GREAT NORTHERN HIGHWAY — UPGRADE

234. Ms R. SAFFIOTI to the Minister for Transport:

I refer to the minister’s answer in the other place concerning a 22 per cent increase in the estimated project cost of the Great Northern Highway upgrade between Batty Bog Road and Walebing.

(1) Did senior project managers in the minister’s department initially advise against the variation?

(2) Did legal advice from two different sources initially advise against accepting the variation?

(3) If so, on what basis was the variation made?

Mr D.C. NALDER replied:

(1)–(3) I am really pleased that the opposition transport spokesperson has asked what this government has been doing on transport projects. We have been delivering projects well under budget and ahead of schedule. We have continually delivered ahead of time and under budget on pretty much every project, including that project on Great Northern Highway.

Mr D.J. Kelly: What about Roe 8?

Mr D.C. NALDER: Watch this space, member for Bassendean; watch this space.

Mr M.P. Murray interjected.

Mr D.C. NALDER: Now I hear the member for Collie–Preston complaining, when nothing happened with the Coalfields highway. It took this government to make it right after the previous government took away the budget.

Several members interjected.

The SPEAKER: Member for Collie–Preston!

Mr P. Papalia interjected.

The SPEAKER: Thank you, member for Warnbro!

Mr D.C. NALDER: The member for Collie–Preston did not lay one grievance while he was in government—not one grievance on that road not being undertaken.

Several members interjected.

The SPEAKER: Thank you; wall of noise. Let us go to Great Northern Highway and the question on the increase there.

Mr D.C. NALDER: There have been many variations to do with Great Northern Highway, and some of them are fantastic additions to that road. I have great faith in the recommendations that have been put before me by Main Roads and the Department of Transport. The advice that I have received is that this is the appropriate action to take, but I can also assure members that, in an overall sense, it is still coming in well below budget.

GREAT NORTHERN HIGHWAY — UPGRADE

235. Ms R. SAFFIOTI to the Minister for Transport:

I have a supplementary question.

(1) How can the minister say it is coming in under budget when his own answer shows that it is coming in more than 20 per cent over budget?

(2) Did the minister receive legal advice recommending against these variations?

Mr D.C. NALDER replied:

(1)–(2) When I talk about it being "under budget", a number of other initiatives fall into that overall project, so if we look at an isolated contract, then, yes, this is 22 per cent over. But we are also delivering a bypass around New Norcia and the monks at New Norcia are extremely pleased with this initiative. We are able to deliver these because of the overall savings that we are making right across the transport portfolio, so when I talk about what is happening on Great Northern Highway, I am not talking about just the Bindi Bindi curves. We will deliver a fantastic outcome for the communities along Great Northern Highway as a result of great processes. With regard to the specific question on the legal advice, I will take it on notice and refer back to the member.

RESOURCES SECTOR — EXPLORATION

236. Dr G.G. JACOBS to the Minister for Mines and Petroleum:

Can the minister please describe how the state government is encouraging exploration in the Western Australian resources sector?

Mr S.K. L'ESTRANGE replied:

I thank the member for the question; it is a wonderful question. The mining sector, as we all know, is a vitally important sector to the people of Western Australia and the people of Australia, but the sector is going through tough times. We have falling commodity prices and we have tight capital markets.

Several members interjected.

The SPEAKER: Give the minister a chance!

Mr S.K. L'ESTRANGE: Thank you for your protection, Mr Speaker.

The member might be aware of the difficult times the mining sector is facing, but I want the member to understand what this government has been doing to help through these difficult times. That was actually the question—about exploration. I want the member to understand this: in the December quarter, we saw a four per cent reduction in exploration in this state. At the time we had a four per cent reduction in exploration in this state, Western Australia still accounted for 58 per cent of exploration in Australia, so exploration in Western Australia still drives the majority of exploration in Australia, even during these tough times. What we are doing to continue to support exploration in Western Australia is fantastic. One of the things we are doing is through the state geological map. The data that can be drawn from that geological map helps reduce explorers' costs because they can access that data through either weekly updates or, on some occasions, daily updates. We have the highly regarded exploration incentives scheme, which has been running since 2009 and is valued at around $130 million. The smaller exploration companies certainly benefit from that. We have also had the recent twelfth round of the co-funded drilling program, valued at $5.17 million. That has been allocated to up to 48 companies and prospectors throughout Western Australia. In addition to these great measures, we have the Department of Mines and Petroleum's own reduction in its approvals times, and it had a record quarter in that space in the December quarter. We also continue to fund the Minerals Research Institute of Western Australia—a wonderful institute that is a friend of the miners and certainly helps exploration. Finally, as all members in this place know, we have the Mining Legislation Amendment Bill 2015 currently in the other place, which is also focused on reducing red tape and green tape, streamlining the approvals processes and making mining easier for our miners and explorers. Let there be no doubt that the Liberal–National government is a friend of the mining and exploration sector. That, unfortunately, is not something we can say about the other side of the house.

RESOURCES SECTOR — EXPLORATION — DRILLING POLICIES

237. Mr W.J. JOHNSTON to the Minister for Mines and Petroleum:

Noting the minister's answer outlining the existing policies of his agency, introduced by the former minister, that have seen drilling exploration in Western Australia fall from $573 million in 2012–13 to only $250.8 million in 2014–15, and continuing to decline now, does the minister have any new policies for this agency to encourage this dramatic downturn to be overcome, or is he satisfied to continue with the policies that led to a 55 per cent reduction —

Several members interjected.

The SPEAKER: I must say I am losing track of the question, member for Cannington.

Mr W.J. JOHNSTON: Noting the minister's answer a moment ago in which he explained the policies introduced by the former minister that have seen $573 million of expenditure reduced to only $250 million of expenditure on exploration in Western Australia and continuing to decline, does the minister have any new policies that will reverse this decline, or is he happy to continue with the policies that have seen a 55 per cent reduction in exploration activity in Western Australia?

Several members interjected.

Dr M.D. Nahan interjected.

The SPEAKER: Thank you. We have got the question, but you are going to be the first one off the rank, Treasurer. I call you to order for the first time.

Mr S.K. L'ESTRANGE replied:

Thank you, member, and thank you, Mr Speaker, for allowing me to get to my feet to again explain how this side of the chamber is a friend of the mining community; and we will continue to be a friend of the mining community through all of the measures that I have already outlined to the member opposite. Can I just add that while the member is asking me to look for policies that can support mining, can I suggest to the member opposite that some of the policies that are on the opposition's policy platform that do not support the mining sector be reviewed.

Mr W.J. Johnston: Name one!

Mr S.K. L'ESTRANGE: Such as its position on uranium, and such as its position on hydraulic fracturing, member.

RESOURCES SECTOR — EXPLORATION — DRILLING POLICIES

238. Mr W.J. JOHNSTON to the Minister for Mines and Petroleum:

I ask a supplementary question.

Several members interjected.

The SPEAKER: Sit down, please. I do not want the wall of noise.

Mr W.J. JOHNSTON: The minister is saying that he is going to continue with all the same policies that have seen a 55 per cent reduction in drilling expenditure in this state—as Albert Einstein said, "Doing the same thing over and over again and expecting a different result". Is that the minister's plan for the future of this state?

Point of Order

Mr J.M. FRANCIS: Mr Speaker, I refer you to standing order 77(1)(a), which states that questions should not contain extracts from newspapers or books, or quotations. The member for Cannington is quoting Albert Einstein and I would ask you to —

Several members interjected.

The SPEAKER: Thank you. Answer the question, please.

Questions without Notice Resumed

Mr S.K. L'ESTRANGE replied:

I thank the member for Cannington. He is clearly not understanding. This government is a friend of the mining sector. I have explained to the member for Cannington that we have depressed commodity prices and a tight capital market. That has impacted on exploration and mining in this state. All of us accept that. This state government is continuing to do what is working for that sector, member; and if it is working for that sector —

Mr W.J. Johnston: It is 55 per cent down!

Mr S.K. L'ESTRANGE: If the member can get out there and help me prop up commodity prices, I am right there with him. But we know we cannot do that.

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington!

Mr S.K. L'ESTRANGE: This government will continue to work on the excellent projects, through the Department of Mines and Petroleum, to progress mining and exploration in this state. I support the Department of Mines and Petroleum's initiatives, and of course we will continue to review those initiatives and look for new and exciting opportunities to enable the exploration and mining sectors to be prepared for the next commodity upturn so that we, as a Liberal–National government, can grasp that opportunity for the benefit of Western Australians and all Australians.

FORRESTFIELD–AIRPORT LINK — NRW HOLDINGS

Questions without Notice 55 and 56 — Supplementary Information

MR D.C. NALDER (Alfred Cove — Minister for Transport) [2.42 pm]: Under standing order 82A, I wish to provide further information to an answer I have provided. On 23 February, the member for West Swan asked me a question relating to the queries by the Australian Securities Exchange to NRW Holdings about a spike in its share price three days prior to it being announced as part of the joint venture to construct the Forrestfield–Airport Link. In a supplementary question, the member asked how many people in my department and office were aware of the announcement before it was made, to which I responded that nobody in my office was aware of it. What my answer was intended to indicate—which the question appeared to be about—was that nobody in my office was aware of who the preferred tenderer was at the time of the share spike. Of course, as the house is aware, I was made aware on 17 February and members of my office were made aware on 17 February for the purpose of preparing a statement that was released on 18 February.

The SPEAKER: Thank you. I have some statements to read. Do you want to say something, member for Belmont, or do you want to leave?

Several members interjected.

The SPEAKER: Member for Belmont, I can assure you that a lot of people here want to go, but just stay where you are, thank you.

PROCEDURE AND PRIVILEGES COMMITTEE

Inquiry into the Appropriateness of Amending the Terms of Reference of the Joint Standing Committee on the Corruption and Crime Commission — Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): As Chair of the Procedure and Privileges Committee, I advise that the PPC resolved on 5 April 2016 to conduct an inquiry into the appropriateness of amending the terms of reference of the Joint Standing Committee on the Corruption and Crime Commission. This inquiry flows from recent amendments to the now renamed Corruption, Crime and Misconduct Act 2003, the joint committee's governing act. The Corruption and Crime Commission no longer has the role of assessing minor misconduct in the public sector as this role is now the responsibility of the Public Sector Commissioner.

I further advise that I have authorised an amendment to Legislative Assembly standing order 289, which defines the functions of the joint standing committee. Standing order 289(c) will now refer to the Corruption, Crime and Misconduct Act 2003, the renamed title of the joint committee's governing act.

Legislative Assembly staff will update members' copies of the standing orders in the chamber.

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

Inquiry into Building Resilience and Engagement for At-Risk Youth Through Sport and Culture — Terms of Reference — Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): I have received a letter dated 7 April 2016 from the Chair of the Community Development and Justice Standing Committee, advising that the committee has resolved to conduct an inquiry with the following terms of reference —

> The Community Development and Justice Standing Committee will inquire into and report on building resilience and engagement for at-risk youth through sport and culture. The inquiry will examine —
>
> (1) What works.
>
> (2) Gaps in service delivery.
>
> (3) Differences in metropolitan and regional access to programs.
>
> (4) Challenges related to being Indigenous, female or from a culturally and linguistically diverse community.

The committee will report the outcome of this inquiry to the Legislative Assembly by 16 August 2016.

LEGAL PROFESSION AMENDMENT BILL 2016

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 5: Section 548A inserted —

Debate was interrupted after the amendments moved by Mr J.R. Quigley had been partly considered.

Mr J.R. QUIGLEY: I want to pick up the thread of where we were before the luncheon adjournment. The amendments to clause 5, which we are dealing with en bloc, exactly replicate the request by the Legal Practice Board, the Law Society of Western Australia and the Western Australian Bar Association. The minister said in her contribution that to allow these amendments would give the legal profession the right of veto over any increase. That is a mischaracterisation. As I have pointed out, for the last 70 years, the profession has regularly, if not on an annual basis, increased the fees for the library contribution to enable the library to keep up to date and to expand as it has. Therefore, the allegation that as a result of these amendments that I have brought to this chamber and to this Parliament, at the urging of the Law Society of Western Australia and the Western Australian Bar Association, and with the concurrence of the board, the profession would have the right of veto over any increase is preposterous, given the history of this matter. But as I have already pointed out, in the legislation there is the power to regulate access to the library. If the profession did not arrive at a comfortable or reasonable agreement with the government on the law library contribution amount, the door would be closed. It would say that if someone does not pay for access to the library, they do not get into the library. As I said at the outset of this speech, the composition of the boards of both the Law Society of Western Australia and the Western Australian Bar Association—the composition of their executives—is by democratic vote, and if the executive of either of those bodies did not come to a reasonable agreement and the members were locked out of the library, I am sure that the executive would be replaced, no question. This is a responsible profession that has been performing a public good in maintaining this facility for decades.

Proposed section 548A(3), which we are dealing with, states that the regulations must specify a method by which the amount of the contribution is to be calculated but, as previously mentioned, that is all the subject of the regulation that we are told is not even in its drafting stage, yet the minister said in the chamber that a method had been worked out and it is to be sorted through the working group with the concurrence of the society, the association and the board. That is news to everyone, because no-one can tell us what that method is. We will get to that during consideration in detail.

Mr C.J. TALLENTIRE: I would like to hear a bit more from the member, please.

The SPEAKER: We would love to hear a bit more, member for Butler.

Mr J.R. QUIGLEY: I am sure you would, Mr Speaker, and I do not say that with any sense of cynicism, because you are a practitioner yourself. You could confirm, although I will not invite you to do so, that many of the profession do not access the law library. They have their own resources in their own legal practices and, beyond that, they use electronic searches for loose-leaf texts and everything.

The profession is very worried about cost shifting in a regime in which the Attorney General can just impose things. What do the words mean? That the Attorney General can determine it. Proposed section 548A(5)(b) states —

> … the proposed amendment is intended to apply and have regard to any submissions made by those bodies.

The Attorney General might have regard to them; he can regard them and put them in the bin—the same thing that happened with the letter of 4 April when the society and the association wrote to the Attorney General urging these amendments. But today the minister said that these stakeholders had never suggested any of these amendments and did not support them. No, because the minister, the Deputy Premier, did not know about it. The Attorney General would have received that letter and presumably kept it to himself or binned it. I am not suggesting that the minister in any way misled the chamber, but what has been put before the chamber is what those bodies want, and they do not want this selfishly. They have worked up this resource for decades for the public good—for the profession's and the public's good. As I said, they are now on the brink of watching this library be boxed up and put into vaults.

The order of business in this chamber is that when we get to the relevant clause, we move the amendments. Later in consideration in detail, if this amendment is lost or even if it is passed, we will come to the method by which the amount of contribution is to be calculated. For example, is a notional rent to be charged for the floor space of this library or is it to be factored in the value of the asset that the government takes? Under clause 7, in proposed section 596B, there is reference to the library's assets. Bear in mind, Mr Speaker, that these assets were purchased with contributions that you, I and every other legal practitioner made. These assets, which immediately before the commencement date are vested in the board, now are to be vested in the state. Therefore, in working out the method of calculating the amount to be paid, will an allowance, discount or consideration for the value of the asset being brought to the books of the state be factored in, even though the state wants to put most of the assets in a box in a vault?

For those reasons, the opposition supports the Western Australian Bar Association and the Law Society of Western Australia in urging this chamber to adopt the amendments I have moved, which reflect exactly what stakeholders understood was coming from the working group, but which did not eventuate.

Mrs L.M. HARVEY: I would like to address a couple of the things that the member for Butler said. As I have said previously, the amendment he has moved to proposed section 548A(3) was never requested by the stakeholders. I concede that the other two amendments were requests that the stakeholders had put to government in December 2015 as part of the consultation process and again more recently. We have rejected those for a number of reasons, and I will outline them. First of all, the Legal Practice Board, which had been running the law library at the Supreme Court, said it was not interested in continuing to run that library. A large part of the decision the government made in refusing to put a right of veto onto the stakeholders with respect to any fee increases around running the library was in the context of the declining contribution to the law library by the Legal Practice Board over time. In 2011, the Legal Practice Board contribution to the law library was $904 455. That declined over the years to a low point in 2013 of $427 756, and most recently in 2015 the contribution was $565 616. Part of the reason for this merger was that with the Legal Practice Board being less interested in running the library and its declining contribution to the library, which was to do with the financial pressures the board was facing, it was seen as a good opportunity to amalgamate the two libraries into one facility in one location to get some economies of scale and to ensure the sustainable future of the law library, which is such an important resource for our sector.

Currently, the law library at the Supreme Court does not pay rent. That facility is provided by the government free of charge; there is no rental cost factored into that. This is not going to change because the law library combined facility will be in government-owned and operated buildings. The government believes this model provides a sustainable future for the combined law library, through economies of scale and reducing duplication. All stakeholders have been engaged in the process. They have been given reassurance not only in debate in this chamber but also in the legislation, which says they will be consulted on any proposals to change the regulations in the future. It is a good model. The government has made a decision on this. Effectively adopting the opposition's amendments would have the effect of the representative groups being able to deny any increase to funding. The government cannot anticipate what the changing requirements of that law library would be in the future and to allow right of veto to the users, who are only paying a proportion of the cost of the law library, does not make good sense. A consultation process is set out in the legislation. The Attorney General, as occurs with every other minister, will have to sign off on any prospective fee increases.

Ms M.M. Quirk: It is a tax, not a fee!

Mrs L.M. HARVEY: The member for Girrawheen can ask her question in a minute.

The consultation process will take seven months or, should they be unable to reach some agreement, there is a nine-month notification process of any fee increase to allow the different groups to lobby for an alternative

arrangement. We think we have the tension right and we will not accept the amendments proposed by the member for Butler.

Ms M.M. QUIRK: I accept it is the member for Butler's amendment, but I am mindful to rise because I want to know what is the minister's understanding of a fee and a tax.

Mrs L.M. HARVEY: It is not a fee for service. That is what the levy bill is all about. Under clause 5(6), that levy has to be paid—that is, the contribution into the law library fund, which will be established under the Financial Management Act 2006. The funds that are raised through the levy can be used only for the purposes of the law library. There is no opportunity for government to cost shift and take that fund for any other purpose. It is prescribed by legislation that the levy that is collected has to be paid into the law library fund and that that fund will be used for the purposes of maintaining a library.

Ms M.M. QUIRK: The minister has not answered my question. Does the minister appreciate that a levy or fee relates to cost recovery? This is, in fact, a tax because under the legislation —

Mrs L.M. Harvey interjected.

Ms M.M. QUIRK: I have not finished my question. I was waiting for the minister to listen. The legislation empowers the imposition of more than cost recovery and, therefore, to use the word "fee" is misleading. I want the minister's comments on that.

Mrs L.M. HARVEY: The bill defines it as a levy, which is a contribution. Some would call it a tax, but it is a levy for a specific purpose, which is the law library fund and it is for the maintenance of the library.

Ms M.M. QUIRK: The minister does not seem to understand that it is not the purpose for which the money is collected; it is the quantum of money. When this legislation does not define any quantum of money and it permits more than cost recovery, it is a tax and not a fee or a levy.

Mrs L.M. HARVEY: My advice is that a tax is a compulsory exaction by a public authority for public purposes enforceable by law, and that is the reason we have this levy bill.

Mr J.R. QUIGLEY: It is time to vote on the amendment, but I would like to respond to the minister's last assertions that the board found itself under financial pressures and approached the government.

Mrs L.M. Harvey: I did not say that.

Mr J.R. QUIGLEY: I thought the minister said it was under financial pressures.

Mrs L.M. Harvey: I said that there was declining contribution to the library from the Legal Practice Board, which they attributed to financial pressures —

Mr J.R. QUIGLEY: Exactly!

Mrs L.M. Harvey: — that were not linked to it. I did not say they approached the government. In 2012, when they were looking at the establishment of the new court precinct, it was determined this might be an opportunity to amalgamate the two libraries, and at that point in 2012, the Legal Practice Board expressed that it wasn't interested in running the law library in the Supreme Court into the future.

Mr J.R. QUIGLEY: I wish to address that part of the minister's remarks in which she said that the board was under financial pressure. The board was under financial pressure because of other matters, not because of the library. Of course, I have already averred to one of those other matters in that the board suddenly got sprung upon it a commercial rent although it was a statutory authority and the government had for decades upon decades given this statutory authority access to accommodation. Then, the lease was up, and it had to go to new premises and fit that out at huge cost. The lease is expiring at the old Kings Hotel building and the board had been told it had to pay rent. When it shifts, it has to acquire premises and fit it out. Of course it is under financial pressure. It is because this government has put it under extra financial pressure.

I refer to the minister's assertion that this library is very important for this sector and the lawyers should be paying for it. The government is setting up a scheme with an uncapped ceiling whereby lawyers who do not use the library or will never use the library are required to pay for it. That is not only a taxation, which the member for Girrawheen has referred to, it is requiring members of the profession to subsidise other sectors. That is why the society and the association have asked me to bring forward these amendments. I have done so. I have advocated the utility of these amendments and why they should be adopted by this chamber. I hear what the minister is saying. It is time to bring it to the vote. I have nothing further to advance.

Mrs L.M. HARVEY: To respond to the member for Butler, the Legal Practice Board's issue with rent is completely separate from the law library. The law library at the Supreme Court was located in an annexe to the Supreme Court and had nothing to do with the rental negotiations with the Legal Practice Board; they are two separate issues. However, as a result of the financial pressures of the Legal Practice Board, whatever they were attributable to —

Mr J.R. Quigley: Rent!

Mrs L.M. HARVEY: That is what the member is asserting; I do not know that. There were declining contributions to the law library, and at that time, in 2012, the State Solicitor was advised that the Legal Practice Board did not wish to run the law library at the Supreme Court any more, and this was seen as an opportunity to have a new amalgamated library at the new justice complex at the old Treasury building, which is what this legislation will enable.

Division

Amendments put and a division taken, the Acting Speaker (Mr N.W. Morton) casting his vote with the noes, with the following result —

Ayes (16)

Dr A.D. Buti	Mr F.M. Logan	Ms M.M. Quirk	Mr P.C. Tinley
Ms J. Farrer	Mr M. McGowan	Mrs M.H. Roberts	Mr P.B. Watson
Mr W.J. Johnston	Mr P. Papalia	Ms R. Saffioti	Mr B.S. Wyatt
Mr D.J. Kelly	Mr J.R. Quigley	Mr C.J. Tallentire	Ms S.F. McGurk *(Teller)*

Noes (32)

Mr P. Abetz	Mr J.M. Francis	Mr S.K. L'Estrange	Dr M.D. Nahan
Mr F.A. Alban	Mrs G.J. Godfrey	Mr R.S. Love	Mr D.C. Nalder
Mr I.C. Blayney	Dr K.D. Hames	Mr W.R. Marmion	Mr J. Norberger
Mr I.M. Britza	Mrs L.M. Harvey	Mr J.E. McGrath	Mr D.T. Redman
Mr V.A. Catania	Mr C.D. Hatton	Ms L. Mettam	Mr A.J. Simpson
Mr M.J. Cowper	Mr A.P. Jacob	Mr P.T. Miles	Mr M.H. Taylor
Ms M.J. Davies	Dr G.G. Jacobs	Ms A.R. Mitchell	Mr T.K. Waldron
Ms W.M. Duncan	Mr R.F. Johnson	Mr N.W. Morton	Mr A. Krsticevic *(Teller)*

Pairs

Mr R.H. Cook	Mr B.J. Grylls
Mr D.A. Templeman	Mr J.H.D. Day
Ms J.M. Freeman	Ms E. Evangel
Ms L.L. Baker	Mr G.M. Castrilli

Amendments thus negatived.

Mr J.R. QUIGLEY: Can I take the minister to proposed section 548A(3) that we so spectacularly unsuccessfully tried to amend and ask about the method by which the amount of the contribution is to be calculated. The minister mentioned that the method was the subject of discussions with the stakeholders, being the Legal Practice Board, the Law Society of Western Australia, the Western Australian Bar Association, the Department of the Attorney General and the courts. Can the minister tell us the method by which the amount will be calculated?

Mrs L.M. HARVEY: As I said previously, the collection development is still being negotiated through the board and with the stakeholders. Whether it will be a dollar amount per practice certificate or a percentage value of the practice certificate is under discussion. We are looking for ease of administration and a simple collection method so that, administratively, this is a simple procedure for the Legal Practice Board to undertake. It is looking at a levy to cover up to one-third of the cost of running the library, and the government is going to cover the rest.

Mr J.R. QUIGLEY: When the minister says the board is looking at that, is the one-third levy government policy?

Mrs L.M. HARVEY: The regulations have not been drafted as yet, member for Butler, but the stakeholder reference group will be engaged in this once the legislation is passed. Obviously, we cannot draft the regulations until this legislation is through, but the proportion of the cost of running the library that the levy would cover is currently under discussion. The discussions concern that it will be between a quarter to a third of the cost, with government covering the rest. The collection development, as I said, is still under discussion with all those stakeholders.

Mr J.R. Quigley: The collection?

Mrs L.M. HARVEY: Whether the collection development will be a percentage of the practice certificate, a dollar amount on the practice certificate —

Mr J.R. Quigley: Or a surcharge?

Mrs L.M. HARVEY: It is the subject of consultation with the stakeholder groups at the moment. I am not sure what the member is asking.

Mr J.R. QUIGLEY: I want to know the method because the minister indicated that the government's policy is to set the amount at somewhere between a quarter and a third of the cost of running the library. Did I understand the minister correctly?

Mrs L.M. HARVEY: That is subject to consultation at present and it will be subject to further consultation once the legislation has been through. I am advised that the levy to cover between a quarter and a third of the cost of running the library is under discussion. As I said previously, the collection method is still being determined. The Legal Practice Board obviously wants a very simple administrative structure for the collection, so if a percentage of the practice certificate is an easier way and an easier form of administration, that is what we will go with. If a set dollar amount is easier, that is what will be finalised through the regulations. There has been robust consultation on this and I believe that will continue into the future. I think it has been a very cooperative process up until now to get the legislation to the point where we can look at operating the amalgamated library.

Mr J.R. QUIGLEY: I pick up on the minister's comment that the consultation process has enjoyed cooperation by all the stakeholders, which is very much what I said during my speeches on the amendments.

Mrs L.M. Harvey: There has been a steering group since 2012, so it has been in operation for three years.

Mr J.R. QUIGLEY: That is right, and ongoing cooperation.

Mrs L.M. Harvey: And a large number of stakeholders are involved in that.

Mr J.R. QUIGLEY: That is right, and it is changing, too, because the executives change. Lots of lawyers are involved. They have been totally cooperative the whole time. That is why we were disappointed that the government saw the amendment as some sort of wedge to a right of veto. However, if I understand correctly that it is part of the practising certificate fee, it does not matter whether a practitioner ever uses or goes into the library. It could be a practitioner, of whom there are many, in the regions. A practitioner in Geraldton or Broome who never physically goes to the library will still be required to make a contribution through their practising certificate. What I am getting at is that it is a compulsory fee.

Ms M.M. Quirk: It is actually a tax.

Mr J.R. QUIGLEY: It is a compulsory tax and it does not matter where one lives or whether they ever go into the library, they will still be taxed to fund it. Is that the situation?

Mrs L.M. HARVEY: I think we have been pretty clear that we have a levy bill before us.

Ms M.M. Quirk: It's a tax.

Mrs L.M. HARVEY: The member for Girrawheen can call it a levy or a tax.

Ms M.M. Quirk: There is a legal difference, minister.

The ACTING SPEAKER: Member!

Mrs L.M. HARVEY: Can I finish my sentence? Why does the member not just stand and ask a question instead of interjecting on me?

Mr P.B. Watson: Happiness is.

The ACTING SPEAKER: Member for Albany!

Mr P.B. Watson: She's not one of the happy clappers.

Mrs L.M. HARVEY: It is lovely to have a relevant interjection!

The purpose of the levy collection is for a contribution from the Legal Practice Board to the maintenance of the law library. This is irrespective of other fees and charges that may be incurred as a result of user fees or individual fees for services that practitioners may require; for example, people who use those services for photocopying and those sorts of things would pay a fee. This is an appropriate contribution from the Legal Practice Board for the maintenance of an amalgamated law library, which is available for any of the legal practitioners in the state to use. Regardless of whether they use it, the facility will be there and the majority of it will be funded by the state government, not the Legal Practice Board. The Legal Practice Board is being asked, via this levy bill, to make a contribution towards the maintenance of a library that is predominantly for the use of its members.

Ms M.M. QUIRK: The minister mentioned to my colleague that the aim was to impose a cost of between one-third and one-quarter of the running costs of the library. Is that correct? Would it be true to say that an amount that the government wants to divest itself of spending has been arrived at, and it is now a question of calculating backwards to see what appropriate percentage or quantum of the practising certificate should be taken by way of a tax?

Mrs L.M. HARVEY: The proposed levy will cover the additional cost to DOTAG of providing this service to all legal practitioners and any additional resources that may be required by the law library to enhance the collection.

Ms M.M. QUIRK: The minister says that DOTAG will pay an additional cost to run the library. Is she contending that that is how the tax is being calculated?

Mrs L.M. HARVEY: I believe that the method that will be specified by the regulations was raised in consultation with the Law Society of WA, the Western Australian Bar Association and the Legal Practice Board. The principles for setting the fee have not been set in stone but conceptually it has been agreed that the contribution or levy will cover the marginal cost of the additional library resources—in particular, librarians, who will be required to service the profession—as well as whatever additional contribution may be required to enhance the collection.

Ms M.M. QUIRK: The government is merging two libraries into one. At the briefing, I was a bit confused about how that would be done. I can understand the initial stages of moving, storage and assets surplus to requirements, but ultimately merging two libraries into one should bring about some cost savings.

Mrs L.M. HARVEY: Although we expect that there will be some economies of scale and some efficiencies in amalgamating the two libraries, as a result of this merged facility, DOTAG will also provide a range of services to a large number of practitioners who previously did not have access to those services. It is looking at enhancing the opportunities for legal practitioners by expanding the collection available to them to use.

Ms M.M. QUIRK: The minister is saying that additional resources will be available to practitioners than were available previously, so therefore will this cost more money?

Mrs L.M. HARVEY: As a result of the merged facility, the legal practitioners who previously had access to the Legal Practice Board library of the Supreme Court will now also have access to the DOTAG library facility and resources. DOTAG, by virtue of more people accessing its collection, will have some additional costs as a result of that. However, there will be an opportunity for the legal practitioners in the state to access a larger collection and a better resource.

Ms M.M. QUIRK: That is offset by the Legal Practice Board library closing. Surely there will be an offset. If two libraries are being merged into one, even if there is a larger collection, surely savings will be made.

Mrs L.M. HARVEY: Not necessarily, because not all legal practitioners had access to the DOTAG library; they had access to the Supreme Court library. The Supreme Court library resources are being amalgamated into the DOTAG library resources but at present it is difficult to know what the additional costs will be because we are not yet sure of the efficiencies that can be gained by merging administrative structures and those sorts of things. It is looking as though the quantum of the additional cost of the new library will be somewhere between $850 000 a year up to about $900 000 a year.

Ms M.M. QUIRK: Can the minister advise what the current cost of a legal practising certificate is?

Mrs L.M. Harvey: No, member; I would have to take that on notice.

Ms M.M. QUIRK: Is the minister aware of whether there is any discount to government lawyers for a legal practising certificate?

Mrs L.M. HARVEY: I am advised that government lawyers do not need a practising certificate.

Ms M.M. QUIRK: Private practitioners will be contributing to a library that principally was used by government lawyers who did not pay for a practising certificate at all. Is that correct?

Mrs L.M. HARVEY: Those legal practitioners in private practice will now have access to an expanded collection that they previously did not have access to.

Ms M.M. QUIRK: There are no regulations and there is no ballpark figure as to what will be charged. The minister has told us that it will be a percentage between one-third and one-quarter, so that is 25 per cent and 33 per cent, but we do not know the percentage of what, because we do not know the cost of a practising certificate. Is that correct?

Mrs L.M. HARVEY: No, that is not correct. In arriving at a method for calculating and collecting the fee, the steering committee is engaged in a consultation process about what that method will be. Whether that needs to be a percentage of the cost of a practising certificate or an additional cost on a practising certificate is yet to be determined. The actual value of a practising certificate is not necessarily relevant in these circumstances. What needs to be determined is what the collection development will be to ensure that the levy covers about one-quarter to one-third of the cost of running the library. There is a consultation process. Obviously if it is determined that it is a percentage of a practising certificate, the value of a practising certificate is relevant when calculating the formula. At present the value of a practising certificate is not necessarily relevant to the total levy that will be collected as a result of the legislation. I am not quite sure what the member for Girrawheen is getting at.

Ms M.M. QUIRK: In fact, the minister has been helpful, because she clarified the situation. The Legal Practice Board of Western Australia currently takes money out of the practising certificate fee which, for members' information, is about $1 250 or something like that.

Mrs L.M. Harvey: I am advised it is about 10 per cent.

Ms M.M. QUIRK: Okay, that is good.

The value taken is something like $125 or $150—just to be generous—and the minister is talking about between 25 per cent and 33 per cent which, on my interpretation, is about $300 to $400; 25 per cent would be $300 and 33 per cent would be $400. The minister is now telling us that it might be worked out by way of a percentage but that is still being discussed with stakeholders. It could be on top of the $1 250. It might not, as is currently happening, come out of the existing $1 250. It might be in addition to the cost of the practising certificate. It might increase the cost of a practising certificate.

Mrs L.M. HARVEY: At the moment the percentage of practising certificates that is currently going to the upkeep of the existing library is about 10 per cent. What we are proposing with the new library is that the levy covers between one-quarter and one-third of the cost of running the library. They are different things.

Ms M.M. QUIRK: I accept that. In that case, can the minister tell me what she expects the percentage to be in general terms and whether that could effectively be out of the existing practising certificate amount that is collected or whether it might be a separate hypothecated amount that is added to the current cost of the certificate?

Mrs L.M. Harvey: As I said, the method has not been determined.

Ms M.M. QUIRK: But there is the potential it could be an add-on to the existing practising certificate.

Mrs L.M. HARVEY: I cannot speculate —

Ms M.M. Quirk: You did earlier.

Mrs L.M. HARVEY: I cannot speculate on that because the collection development is still being negotiated with the board and we have not arrived at what the collection method will be. The consultation process with the steering committee over the last three years has been robust and my expectation is that the consultation will yield a collection development method that is acceptable to the Legal Practitioners Board, the Law Society, the Western Australian Bar Association and other people involved in this process.

Ms M.M. QUIRK: I accept that it is still subject to consultation. All I want to clarify now is that everything is on the table. It might be a percentage of the existing practising certificate charge or an add-on to the practising certificate charge.

Mrs L.M. HARVEY: As I said, it has not been decided; it is subject to negotiation.

Ms M.M. QUIRK: Minister, I am asking whether both options are being considered by the committee.

Mrs L.M. HARVEY: I will say this again. The collection development is still being negotiated by the board and what is being considered is a set dollar amount for a practising certificate or a percentage of the practising certificate. It has not been determined, bearing in mind that the Legal Practice Board has been making a contribution to the library so that it does form a part at present of the legal practising certificate cost. It has not been determined. It is still being negotiated. I cannot clarify whether it will be a dollar amount of a practising certificate or a percentage of the practising certificate or what that method of collection will be, because those negotiations have not been finalised and are subject to the legislation passing and to the steering committee turning its mind to the regulations.

Ms M.M. QUIRK: I accept that there is no concluded view. But the definition of "negotiations" is that things are being discussed. Various matters have been, as the minister said, covered in robust discussion. I am asking the minister what is forming the subject of that robust discussion. Is it the option that it be a percentage of the existing practising certificate? Is that option being discussed? Is it option 2, that a set amount is placed on the cost of the practising certificate—in other words, an amount on top of the practising certificate?

Mrs L.M. Harvey: As I have said, that has not been determined.

Ms M.M. QUIRK: I am not asking the minister what has been determined. I am asking what options are being canvassed in these robust discussions.

Mrs L.M. Harvey: I have already answered that.

Mr J.R. QUIGLEY: The bottom line—do I understand it correctly?—is that the issuance of a practising certificate will entail the compulsory payment by a practitioner to the library fund unless that practitioner works for the state of Western Australia.

Mrs L.M. HARVEY: The contribution to the state will be made by the Legal Practice Board of Western Australia. The Legal Practice Board will collect the levy from practitioners. It is not the individual practitioners who pay directly into the law library fund; rather, the Legal Practice Board will collect the levy. The Legal Practice Board will then make a make contribution to the law library fund.

Mr J.R. QUIGLEY: Yes, I know, but it is not Legal Practice Board money, because it is only the collection agency. The sum is being set by the government after consultation and the Legal Practice Board will operate as a collection agency. It is not its funds; it is just putting in what it collects from practitioners. Is that correct? I do not want the minister to get up and down. The minister agrees with that. The proposition I am putting is that this means, does it not, that a practitioner who never uses the library or never has the need to use the library—there are hundreds of those—will nonetheless be required to pay the levy and subsidise the library even though they never step foot in the library, whereas practitioners in government employment who do not pay for a practising certificate will have unlimited access?

Mrs L.M. HARVEY: The state will be taking over the running of the library that was previously run by the Legal Practice Board. The Legal Practice Board used to make a contribution towards the maintenance and running of the library via a collection method through its legal practice certificates. What is changing is that that library will be amalgamated with the Department of the Attorney General's library in a new facility, so each of those practitioners will now have access to the entire Department of the Attorney General's library. The method of collection of the Legal Practice Board, with respect to its contribution to the maintenance of this amalgamated library, is yet to be determined. That will be set in regulations in consultation with the Legal Practice Board. The board will collect that contribution in whatever format it determines will provide ease of administration and is the simplest method of collection. It will then make a contribution, on behalf of its registered practitioners, to the law library fund for the partial cost of maintaining the new amalgamated library.

Mr J.R. QUIGLEY: In relation to the method, the minister said that will be in consultation with the profession and will be reduced to regulation. The profession's concern is that there will not be a chance for the wider profession to participate in that. We have explained to the profession, and most of the profession knows anyway, that with regulation it is tabled and then gazetted. I do not know if the minister's experience is different, but in my experience I have not seen a motion of disallowance in this chamber on any regulations —

Mrs L.M. Harvey interjected.

Mr J.R. QUIGLEY: Yes, but it is not a common occurrence that those regulations are debated, and therefore I ask: would the government consider, once having drafted the regulations, circulating them amongst the profession for a 28-day period—which is reasonable—so that there can be feedback? What we have here is an urgent letter, from Monday of this week, going to the Attorney General because what came out in the final iteration of the bill was not what the profession understood would be the final position. Whilst there will be some consultation with committees, will the government consider publishing these to the Law Society of Western Australia Inc and the Western Australian Bar Association, 28 days before it is intended to table them, so that the profession—which has been so cooperative throughout this process, by the minister's own acknowledgement and which has, over many years, through its own fees, built up this library—can have an opportunity to comment on the method before it is tabled? That seems reasonable.

Mrs L.M. HARVEY: I draw the member's attention to proposed section 548A(5), which refers to engagement with the Legal Practice Board, the Law Society of Western Australia Inc and the Western Australian Bar Association. They are considered to be the representative bodies for legal practitioners, so the government, rather than dealing with every lawyer in the state represented by those three bodies, is dealing with those organisations as part of the stakeholder reference group and others as part of the consultation process in drafting the regulation that will determine how the fees are to be collected. I put it to the member that it is incumbent upon those representative bodies to communicate with their members with regard to how this regulation is being drafted and the collection method that is being developed. That is why we have a stakeholder reference group—so that we have the representative bodies for legal practitioners in this state working with the government on ensuring a smooth transition to the new library and the smooth operation of the new collection method for the maintenance of it.

Mr J.R. QUIGLEY: There are three stakeholder groups mentioned in proposed section 548A(5), and I would just like to point out that the Legal Practice Board does not represent practitioners; it regulates practitioners. It does not make representations on behalf of practitioners. My further concern is that, although it might be a surprise to some in this chamber, not all lawyers are members of the Law Society Western Australia Inc, because they choose not to be. As a member of Parliament, I am not a member of the Law Society and have not been for some years, although I was for two decades before entering Parliament, but I am not just talking about Parliament. A lot of lawyers cannot afford the fee or choose not to pay it, or their firm will not pay, and if the firm does not pay—I am talking about small firms—those practitioners do not join. There is another situation in which national firms are reluctant to pay for their practitioners to join the Law Society, so they fall out through the cracks. Secondly, not all barristers are members of the Western Australian Bar Association. It is not

a prerequisite of being a barrister to join the WABA. All that is required to be a barrister is for a person who is suitably qualified to attend before the full court and announce their intention to renounce the practices of a solicitor and henceforth to practise only as a barrister. The short point I make is that those bodies are not representative of all practitioners. My concern is for those practitioners who are not covered by those associations and who might never use the library. I do not want to say who, but I spoke only today to a very senior practitioner, a Senior Counsel, and I said, "How often do you use the library?" They said, "I can't think of the last time", because they have the Bar Association library and their own library. What is happening is that people who are never going to use the resource are being required to pay for the resource, and those same people, or numbers of them, will never have a say in the method by which this impost is going to be levied.

Mrs L.M. HARVEY: It is no different from the current situation. The current situation is that the board makes a contribution to the maintenance of the existing law library at the Supreme Court and it collects that contribution through a levy on the practising certificate. That will not change. The Legal Practice Board currently makes that contribution and will continue to make that contribution. What will change is the availability of resources to the people who have been making contributions, through the practising certificate, towards the law library. They will have expanded resources at their disposal. The existing system is basically being transposed into the new amalgamated library system and lawyers who pay charges for a practising certificate will continue to pay those charges, regardless of whether they access the library or not. That has been the case for the many, many years that the existing library, run by the Legal Practice Board, has been in operation.

Mr J.R. QUIGLEY: I appreciate that; thank you, minister. However, the stark difference is that the size of the library and the sorts of things it subscribes to—I am thinking of electronics; the thousands and thousands of dollars' subscriptions—will no longer be in the hands of the lawyers. The size of the library and the expenses that it engages itself in—that is, the subscriptions to services—will no longer be in the hands of the legal profession but will be decided by the government.

The second stark difference is that the current system is underpinned by a democratic process. If the members of the profession do not like the library facility that the board is setting up for them, they can vote those people off the board. In November or December when the little voting envelope comes around, they can vote those people off the board because they are spending too much on the library or they are not getting the right gear for the library. It is a democracy. As I have stated, under this bill, the minister can impose a cost on practitioners regardless of whether they ever set foot in the library. If it was user-pays, it would be a little bit different. People could buy a library card with a magnetic strip on it that would give them access to the library and hang it around their neck as we do in this Parliament, and as visitors do, with the ID card. That library card might cost them $2 000 or $3 000 a year. It might cost a lot more than the practising certificate. However, at least they would be given a choice about whether they want to access the resource. The underlying concern of the profession is not with the minister—I assure the minister that it is not with her. The concern is that over time, when this government has come and gone, and maybe the next government has come and gone, this will have set up a structure whereby the government can cost-shift the library, which is used heavily by the government sector, to the legal profession simply by increasing, as the member for Girrawheen said, the library tax. I do not think I can say anything more on this particular aspect.

Mrs L.M. HARVEY: Member, at present stakeholders have input through the Legal Practice Board's library consultative committee. That has representatives from the Law Society of Western Australia and the Western Australian Bar Association, and judicial and government membership. That consultative input is proposed to continue with the new library structure.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Sections 596A and 596B inserted —

Mr J.R. QUIGLEY: I want to take up the last comment that the minister made, which was to inform the chamber that the library is run by a consultative committee.

Mrs L.M. Harvey: It is not run by a consultative committee, but a consultative committee will have input into the resources.

Mr J.R. QUIGLEY: At the moment, the committee has a very heavy input into the shape and size of the law library.

Mrs L.M. Harvey: It has that input through the Legal Practice Board's library consultative committee.

Mr J.R. QUIGLEY: Correct. In this clause, once again, we have a bugbear. Whilst the minister is in government, she might not appreciate it—I am not saying she does not; she might come to appreciate it next year, hopefully, but who knows —

Mrs L.M. Harvey: I hope not, member.

Mr J.R. QUIGLEY: I am sure the minister hopes not. I am just saying that the legislative process looks a bit different from this side of the chamber than it looks from the minister's side of the chamber.

Clause 7 seeks to insert proposed new sections 596A and 596B. Proposed section 596A states in part —

> (2) Without limiting section 596, the Governor may make regulations with respect to the provision, operation and management of the law library, including —

That does not provide for any input from the profession, which will ultimately have to pay for the resource or a sizeable hunk of the resource. That does not provide for input from a library committee. I anticipate what the minister's answer will be. I do not want to put words in the minister's mouth. However, there is no mention in proposed section 596A(2) of consultation with the users of the library. Proposed subsection (2) goes on to provide that the regulations may include things such as access to and use of the law library; the terms on which persons may be given access to and use of the law library facilities; and the borrowing of resources and the manner of securing a resource if it has been loaned. It does not provide for consultation. Under the current system, the subcommittee of the Legal Practice Board, the body set up by the profession, is alert and sensitive to all those issues and consults with the profession. However, that is not provided for in proposed section 596A(2).

Proposed section 596A goes on to state —

> (3) Regulations made for the purposes of subsection (2) may —
>
> (a) adopt wholly or partly any rules or administrative procedure published by any person or body —
>
> (i) with or without any modification or amendment; and
>
> (ii) as in force at the time of adoption or as amended from time to time;
>
> or
>
> (b) provide for the making of rules or administrative procedures by a person or body.

This gets back to the issue that although members of the profession may be consulted, they will not have the right to determine how much they will pay to access the library. They will not even get, under this legislation, input as to the size and shape of the collection. I am told by the librarian that the Department of the Attorney General collection, for example, is oriented more to government agency usage, whereas the law library at the Supreme Court is biased more heavily to law reports and texts that practitioners are likely to use when on their feet in court. That is a concern, minister. Where will the profession get input into the size and shape of the collection?

Mrs L.M. HARVEY: There is no reason why the practitioners' stakeholders would not be consulted with respect to the resource mix in the library, and they certainly have not expressed any objection to this new section. This new section allows for the making of regulations that will cover things like the fees that may be charged for interlibrary loans, for scan-and-send facilities, or for deposits or bonds for books that might be taken from the law library into the courts. Obviously, the fees need to be prescribed by regulation, consistent with the levy collection legislation. Other areas that will be covered by the regulations are interlibrary lending loan costs and interlibrary lending codes. Any legal practitioner can make a request to the library for resources that they require or that they want the library to hold for them. That will not change from the existing regime.

Mr J.R. QUIGLEY: The minister raised a point I was going to raise with her. The minister said that "including the payment of fees" in proposed section 596A(2) relates to interlibrary loan fees. The Western Australian Bar Association raised with me that it has been told the new amalgamated library will not be a lending library and that the WA Bar Association library will not be able to borrow from the amalgamated library. The minister suggested that that will not be the case. I wonder whether she can clarify that, because a concern of the WA Bar Association is that it will pay a library levy, tax, fee or whatever, but the library at the bar will not be able to borrow from the new library. I wonder whether the minister could clarify that.

Mrs L.M. HARVEY: I cannot speak for the WA Bar Association, but my advice is that books will not be able to leave the building. The library will be located in the new David Malcolm Justice Centre. Books can be taken from the library into the courts, but it is proposed that the books will not leave the building. No hard copy books will be able to be removed from the building, but there is obviously a scan-and-send facility for those people who would like to use it. To give the member an idea, in 2014–15 eight hard copy books were borrowed from the Department of the Attorney General library and 20 from the Legal Practice Board library, so it is a small number. For the integrity of the library resource and to prevent the issue of resources being vandalised, if you like—which was raised in the stakeholder reference process—it is proposed that the books remain in the building and hard copy loans be limited only to be taken into courts and they remain within the actual justice complex building.

Mr J.R. QUIGLEY: That in itself raises a new issue, because my understanding was that they could be taken from the library into court.

Mrs L.M. Harvey: Into court, yes.

Mr J.R. QUIGLEY: But now the court will be split between two sites, as it were. Someone appearing in the Court of Appeal will be at the Supreme Court Gardens and not at the David Malcolm Justice Centre. I know that during the hearing of an appeal, when the opposing counsel raises cases or the court asks about a ruling, the first thing a practitioner does is hive off down to the library, grab the volume and come back up to court. I get from the minister's answer that if a practitioner is appearing in the courts that will still be operating at the Supreme Court Gardens, and given that what DOTAG is not taking from the law library is to be stored away in vaults, practitioners in the old Supreme Court building will not have access to those library books. I cannot understand this, because surely to take a book out of the library and not return it would constitute a circumstance of unprofessional conduct. This is not just like some ratepayer going to the Stirling library and taking a book out. If a practitioner takes a book out and does not return it, it can constitute unprofessional conduct. I wonder what the inhibition would be. I know it will be difficult for practitioners to run out of the court, sprint up through Supreme Court Gardens and across St Georges Terrace to grab the book. The minister is telling me not to worry; none of this will happen because the practitioners in the Supreme Court building will not be able to take a book out of the library into court; only practitioners appearing before a judge in the David Malcolm Justice Centre will be able to. That is a concern for practitioners. I do not know whether that was thought of in the minister's answer. I know the minister's adviser said the books would be available for court, but I do not know whether the minister appreciated that the courts will be on two campuses—the library will be in the new campus. A practitioner appearing before the Court of Appeal in the old campus will not be able to take a book out of the library and take it to the new campus. Some of these reports, as I said earlier, are a bit obscure. For example, not many practitioners have a set of Irish law reports easily to hand.

Mrs L.M. HARVEY: The advice I have been given is that the books will not be permitted to leave the building, but there will be a facility to get copies of cases within those books for practitioners to take away from the building. I cannot answer whether the books will be permitted to leave the new building to be taken to the Supreme Court. I am happy to take that question on notice and advise the member at a later time.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MRS L.M. HARVEY (Scarborough — Minister for Police) [4.06 pm]: I move —

That the bill be now read a third time.

MR J.R. QUIGLEY (Butler) [4.07 pm]: I rise to make a few comments in regard to the Legal Profession Amendment Bill 2016. The opposition supports the amalgamation of the libraries; it will not be voting against that. We have moved amendments that were brought to us out of concerns raised by the profession itself. Obviously some hooks have yet to be ironed out in this. One of those was the last one that the minister referred to—that is, the usage of resources of the library across two campuses. The other concern is the size and shape of the collection and what input the profession will have. As stated earlier, electronic subscriptions are terribly expensive including how many licences are available under subscription. We are keen to see equity across the profession in terms of access and ease of access to those. As the minister would be acutely aware, with wi-fi in the twenty-first century, a practitioner in what will become the old campus—the Supreme Court in the Supreme Court Gardens—can quickly access texts held in the DOTAG collection over the wi-fi if they have a user number to do so. Some at the bar table, notably at the government end of the bar table, will have immediate access to the full electronic suite of resources held by the amalgamated library, whereas people at the other end of the bar table will not. The other concern the Labor Party has is the issue of access to justice at a reasonable price. We know that a lot of people cannot access justice because of its expense, hence an increasing number of litigants appear in person. We will be very interested to see, with these regulations, whether litigants appearing in person have access to the library or whether it will be limited to practitioners only. It is not an even contest in litigation if one end of the bar table has unlimited access to a legal resource—that is the library—and a self-represented litigant at the other end of the bar table is excluded from the library. The opposition wants to see equity in access and in usage and all of this delivered at a fair and just price for the legal profession.

Question put and passed.

Bill read a third time and transmitted to the Council.

LEGAL PROFESSION AMENDMENT (LEVY) BILL 2016

Second Reading

Resumed from an earlier stage of the sitting.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Ms M.M. QUIRK: The short title is the Legal Profession Amendment (Levy) Bill 2016. Why is it necessary to have, and what is the rationale for, having a separate piece of legislation?

Mrs L.M. HARVEY: My advice is that bills imposing taxation should deal only with the imposition of taxation. This is a levy. Section 46(7) of the Constitution Acts Amendment Act 1899 requires us to have a separate bill.

Ms M.M. QUIRK: That is a very satisfactory answer, minister, because that is what I was asking before. The reason we need this bill is that it is imposing a tax, and that implies that it is more than cost recovery.

Mrs L.M. HARVEY: My advice is that this bill is required because the contribution from the Legal Practice Board would be considered a tax, so there needs to be a mechanism to collect that contribution and deposit it into the law library fund.

Mr W.J. JOHNSTON: We are just getting it confirmed that there is no process to calculate the costs involved; it is simply a decision of government to impose a particular charge and that is why we need a separate bill. If it were a cost recovery process, there is already a procedure for cost recovery, and that means that the government would have to justify the specifics of the charge. We have debated this issue in other bills. I am sure Mr Acting Speaker (Mr I.M. Britza) would remember that not long after he and I and the minister at the desk were elected, we had the debate on the waste levy and the same thing happened. We had to have a separate piece of legislation, because even though it is called a waste levy, it is actually a taxation amount because the charge for the waste levy has nothing to do with the costs involved; it is simply a charge. That is the same reason that we have to have a taxing power in this bill; it is because the charge has nothing to do with the actual costs involved and there is no way to challenge it, which there would be if it were a levy. If it were a levy, the government would have to prove that the amount was equal to the actual cost, whereas by doing it as a taxation matter, it removes any doubt and there is absolutely no possibility of anyone arguing that the amount is beyond power. That is why we need a tax bill.

Mrs L.M. HARVEY: This is not proposed to be a fee for service. This is to cover a contribution by the Legal Practice Board towards the maintenance of a law library. It is not proposed to be a fee for service provided by the board or to the board; it is to make a law to put into practice a mechanism to collect a contribution from the Legal Practice Board for the maintenance and management of the law library. Cost recovery in this context is somewhat meaningless, because this is not proposed to be a fee for service; it is for the contribution to the maintenance and expansion of a facility for the use of legal practitioners.

Mr W.J. JOHNSTON: The minister seems not to understand what she is doing. The only reason it has to be a tax bill is that, however she wants to describe the charge, it is a tax. If it were a fee for service, as I am sure the minister is aware, the government would only be able to charge a fee that exactly matched the actual costs. That is why the government does not want to do it in that way, and it is doing it deliberately in this bill. I am not criticising the minister for that; I am just making the point that that is what the minister is doing. It is a tax, so there is no requirement for there to be a connection between the actual cost of the service and the charge; they are completely unrelated because it is a tax. I know that the minister understands that taxes are not related to the costs involved; they are simply a levy—a charge that is made for the interests of the Crown. The opposition is not saying that is wrong. We are making the point that that is why the government is doing this. We are not opposing that. It is just a statement of fact. We are trying to get the minister on the record to make sure that she clearly states that she understands why she is doing this. If that was not the reason for doing it this way, she would not do it in this way as a separate bill; it would have been been part of the legislation, as is done in other acts. As I say, I am sure the minister will remember that not long after she and I were elected, we dealt with the waste levy. The reason we dealt with the waste levy in that way was that the waste levy is a tax. It is not a charge for the services of waste; it is a tax. In the same way here, it is irrelevant whether these charges are the cost of running the service; the reason for the charge has nothing to do with the cost of the service. It is a tax and the Crown has the right to raise taxes, and that is why the government is doing it as a tax. That is perfectly understandable. No-one is objecting to that, but the opposition is making it clear that that is the only reason it is being done in this way.

Mrs L.M. HARVEY: Perhaps if the member had been here for the debate on the other bill, he might have had a better understanding of what is proposed. What is proposed is that the law library that was previously at the Supreme Court and run by the Legal Practice Board and paid via a contribution from the board to that library is now being amalgamated with another library. We need, via this Legal Profession Amendment (Levy) Bill 2016, a mechanism to have the government-run library still able to collect that contribution that was previously made by the Legal Practice Board for the running of that independent library and to have that flow through in a similar fashion to the running of the new amalgamated and expanded resource. That is what this bill is doing, as the member has made quite clear. I am clear that under the Constitution Acts Amendments Act, we need to have this Legal Profession Amendment (Levy) Bill 2016 to enable us to collect this levy or tax or whatever it is and to

have it go towards the law library fund to continue to maintain the integrity of that contribution from the Legal Practice Board towards the maintenance of that library.

Mr W.J. JOHNSTON: That is not true. I am sorry; the minister does not seem to understand what she is doing. Look at the second reading speech. If the government simply wanted to collect a fee, it would not be a tax. That is why the government is doing a tax bill. It is a tax. It happens to be —

Mrs L.M. Harvey: I did not say it was a fee. The fee would be prescribed by regulations as opposed to the other bill that the member was not here for the debate on.

Mr W.J. JOHNSTON: Minister, I do not have to be here for the debate. That is right; it is not a fee; it is a tax.

Mrs L.M. Harvey: We are in furious agreement that it is a tax or a levy.

Mr W.J. JOHNSTON: Okay, but the minister seems to be confusing us because she kept saying that it related to the charges that were made by some library that will no longer exist. We are very happy; we are not criticising the procedure. We just want to the make sure that the minister is on the record saying that it is a tax. She said it in her opening remarks in answer to the member for Girrawheen, but then she has gone away from her opening remarks. Why does the minister not get up and read the paper that she was given because that is the clear bit? That is when the minister was saying it is a tax. We do not have a problem with it being a tax, but that is what it is. We just want to hear the minister say that it is a tax.

A whole series of tables in budget paper No 3 show the different areas of income for the government. The income from this will be in the section called "tax". I will give the minister an example. When Rio Tinto and BHP made payments towards the changes to their state agreements, a $450 million payment was made by those two companies, and that money was then used to build Perth Children's Hospital. I asked the Under Treasurer, the year that payment was made, how that money is included in the accounts of the state. He explained to me that he had advice that it should be included as a tax. Lo and behold, I went to the budget papers and there it was. That is exactly the same here. It does not matter why we are collecting it or the purpose we are using it for; it will still be shown in the budget papers of the state of Western Australia as taxation revenue. It will not be shown as fees and charges or dividends. It will be shown as a tax. That is the point we are getting to. We are not trying to make this overly complex. I am staggered that the minister somehow or other is arguing that I am not correct when she has already said it is a tax. I am just trying to get it cleared up. I want to ensure that the minister is aware of what she is doing. We are aware of what the minister is doing. We hope she can get up and say very simply, yes, it is a tax.

Mrs L.M. Harvey: I previously said that, member.

Ms M.M. QUIRK: Given that concession, does the minister not think that it would be more appropriate for the title to be "Legal Profession Amendment Taxing Bill 2016"?

Mrs L.M. HARVEY: No, I do not, because it is standard to refer to these sorts of things as levies.

Mr W.J. JOHNSTON: When the minister says that it is standard to refer to taxation revenue as levies, could she give me an example of when taxation revenue has been referred to as a levy?

Mrs L.M. HARVEY: Member, "tax" and "levy" mean the same thing.

Mr W.J. JOHNSTON: With due respect, minister, that is not true. A levy means a charge for a particular activity. Taxation, as the minister knows, is money that is collected by the Crown through the legislative action of Parliament. They are not the same thing at all. We can collect a levy that is not taxation. So it is not correct to say that a levy and a tax are the same thing.

Mrs L.M. Harvey: It was not a question; it was a statement, so.

Clause put and passed.

Clause 2: Commencement —

Ms M.M. QUIRK: Clause 2 deals with the commencement. When does the minister anticipate it will commence?

Mrs L.M. HARVEY: That is dependent on when it passes through Parliament and when the regulations have been finalised. I do not have an anticipated time on that.

Ms M.M. QUIRK: There seems to be some urgency in getting this bill through the house. For example, bills already on the notice paper have been set aside so that this can get through this house this week. I think we were advised that there was a desire to have the scheme in operation by 1 July, but from what the minister has said there is no apparent urgency.

Mrs L.M. HARVEY: Obviously, we would like to get this through expeditiously because when the new David Malcolm Justice Centre opens, it would be desirable to have a functioning law library in place. The sooner

we can get this legislation through, the sooner we can enable that to occur and that is my understanding of why this was made a priority by the Attorney General.

Ms M.M. QUIRK: On what day is the David Malcolm Justice Centre opening?

Mrs L.M. HARVEY: My advice is that it is proposed that the courts will move in around mid-July and that other entities within that complex will move in a staggered session between June and July as the centre develops. My advice is that it was deemed desirable to have the library functioning for the opening date of the court.

Ms M.M. QUIRK: Just on that point, presumably money in the legal practice fund can be used until the time that this legislation comes through. Is provision being made in the forthcoming budget papers for these changes and that is the reason that we need the legislation?

Mrs L.M. Harvey: I do not believe so, member.

Clause put and passed.

Clauses 3 and 4 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mrs L.M. Harvey (Minister for Police)**, and transmitted to the Council.

ELECTORAL AMENDMENT BILL 2016

Receipt

Bill received from the Council.

ADJOURNMENT OF THE HOUSE

Special

On motion without notice by **Mr J.H.D. Day (Leader of the House)**, resolved —

That the house at its rising adjourn until Tuesday, 10 May 2016, at 2.00 pm.

House adjourned at 4.30 pm

———