EMERGENCY MANAGEMENT AMENDMENT (TEMPORARY COVID-19 PROVISIONS) BILL 2022

Second Reading

Resumed from 11 October.

Declaration as Urgent

On motion by **Hon Stephen Dawson (Minister for Emergency Services)**, resolved —

That the bill be declared an urgent bill.

Remaining Stages — Time Limits — Motion

On motion without notice by **Hon Stephen Dawson (Minister for Emergency Services)**, resolved —

That pursuant to standing order 125A, the following maximum time limits apply to the following stages of the bill: second reading, five hours; Committee of the Whole House, five hours; and third reading, two hours.

The PRESIDENT: The question is that the bill be now read a second time.

Second Reading Resumed

HON TJORN SIBMA (North Metropolitan) [2.23 pm]: President, I thought that potentially urgency had taken on far narrower and more ominous meaning.

The PRESIDENT: You were about to answer my question, honourable member.

Hon TJORN SIBMA: I am the lead speaker for the opposition on the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 owing to some unfortunate circumstances that Hon Martin Aldridge has to attend to with a real and palpable sense of urgency. It would be absolutely appropriate for me to credit him for sterling work done under very difficult circumstances to come to depth with the bill that the government proposes to pass. He is a parliamentarian of the highest calibre and the second reading speech that I am about to provide, albeit inexpertly, is largely the product of his labours. I also want it to be noted in *Hansard* that the amendments to this bill that appear on the supplementary notice in my name were authored by Hon Martin Aldridge. I think they are exemplary and proportionate proposed amendments to a bill which will, unfortunately, pass this place, but I do not want to claim the credit for work that is not mine.

The opposition opposes this bill. We opposed this bill and we made our opposition known early and clearly for reasons of principle, aside from the detail within the bill. This is a bad bill. It is dangerously drafted. It has been sold to the public of Western Australia, the media and indeed this Parliament on false pretences because it proposes itself as the sole means by which the state of emergency might be rescinded. I will put this very early proposition back to the government, because it has been put about by senior members of the McGowan government, including the Minister for Planning, that this bill presents what the opposition asked for—an end to the state of emergency. Our rejoinder to that is, no, this is a continuation of a state of emergency under another name. This is the government playing semantics. This bill, as dangerous as it is, has also been introduced into this Parliament in bad faith—a bad faith which is not known solely to members of the opposition or non-government members of this Parliament in their dealings with the government but also as I understand, if I listen to the Australian Nursing Federation, is a sentiment felt by its members about certain offers made in the course of industrial unrest. This government briefs the media first and everybody else after the fact. If it were just one or two aberrations in a modus operandi of government, perhaps they could be explained, or explained away. However, in the course of the last two years of COVID, the government has excelled in the game of politics.

It is not the only bill that has been, or will be, bulldozed through this Parliament. I harken back to a number of other bills, including changes to the Planning Act, radical amendments to state agreement acts and also another proposed but failed measure, when their intent was exposed, that is the so-called part 7 provisions of COVID management that effectively would have given the Premier the licence to ignore most of Western Australian statute. There is a very clear pattern of behaviour of intimidation and bulldozing through this place of legislation that would otherwise not stand up. I will not reflect on the very recent judgement of the house to treat this under the COVID provisions other than to underscore this quite obvious point: there is nothing in this bill or the circumstances around this bill that a reasonable or rational person could ever consider urgent; there is absolutely no need to deal with this bill today or tomorrow, not when we have after the end of this week another four weeks of parliamentary sittings, particularly as I understand the contingency, which the government is alert to, is the lapsing of the expiring provisions on 4 January 2023.

The content of this bill, rather than the circumstances in which it is being served up to us, appears even to a non-lawyer to traduce every basic, fundamental legal principle. It proposes to sidestep and evade parliamentary scrutiny. Potentially, it empowers an unelected senior public servant to determine the free movement of individuals

and provides the capacity to seize or take control of property, which I find completely and utterly bizarre and extreme. The curious dimension to this bill, however, is that it seems to elevate the power of the State Emergency Coordinator, who is also the Commissioner of Police, beyond that of a cabinet minister. The bill is curious in that it does not appear to empower the Minister for Emergency Services in any way. Such an explosive contempt for established Westminster protocols I find absolutely extraordinary. The consequence is that there is no accountability, in democratic terms, for decisions made and for actions undertaken by the police commissioner. To make that observation is to make absolutely no criticism whatsoever about the very fine individual, Commissioner Col Blanch, who fulfils that role and function—none at all. When this problem was identified, however, the Premier's response, if I recall correctly, was to take it as a personal criticism of the character of the commissioner. That was an obvious deviation, diversion and deflection.

Although I want to keep my remarks proportionate and restricted to the content of this bill and its consequences, I cannot help but make a political observation. Something very odd has happened to the principal, legally trained members of the Labor Party, because this empowers—even if it is through benign means or benignly expressed—the continuation of a police state. I cannot understand that. I would be curious to know whether or not there was any disruption, disputation or debate within the Labor caucus on this principle. I put it thus: if a conservative political government were to introduce the very same bill, I could probably list very easily, off the top of my head, a catalogue of prominent lawyers, civil libertarians and social justice types who would criticise and lambast that government, and they would be right to do so. Their silence in this matter I find a very curious thing indeed, and it will not be forgotten.

To deal with the matter of whether or not criticism of this unusual, extreme and unaccountable empowerment of the non-elected Commissioner of Police is an insult to the police commissioner himself or an insult to the role of police commissioners generally, I cite an article by a previous police commissioner, Karl O'Callaghan, which was published on 5 October. He made some observations about other government plans, priorities and legislation, which he categorised, unflatteringly for the government, as lazy. He says of this bill —

> Lazy, too is the move to give the Police Commissioner the ability to grant his own emergency powers in relation to COVID-19 without any ministerial oversight and to be able to seek medical advice from the Chief Health Officer without any requirement to follow it. It proposes to neatly remove accountability and controversy from Government over the exercise of emergency powers.
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> Under the proposal the Police Commissioner can virtually do what he thinks is required to manage a pandemic (excluding closing borders) without executive government being accountable to the public. Perhaps, that is what executive government is seeking to avoid.

From time to time, my opinions have differed from those of ex–police commissioner Karl O'Callaghan, who is a celebrated and respected public servant of this state, but I find his assessment of this bill to be spot on, and it is an assessment to which there has been no convincing counterargument.

At this juncture, it might be too bipartisan of me, perhaps discordantly so, to acknowledge that members of the previous Parliament and the current one in this house have worked with the government to preserve the safety, welfare, health and good order of the community through the pandemic. We have been constructive partners. We have perhaps not received the credit we deserve, but we have always maintained the capacity, as is our responsibility, to critique, examine and review the legislation and regulations that the government has proposed over the course of the last two years to manage COVID. They can be compartmentalised, both in electoral terms and in terms of the dynamics of the pandemic.

Achieving widespread mass vaccination, somewhere in the order of 95 per cent of the eligible population, precipitated the opening of the Western Australian border, and then the circumstances we had to face changed. In political terms, legislative terms, regulatory terms and operational terms, prior to the belated opening of the Western Australian border the architecture was effectively structured around the "It will take two weeks to flatten the curve" model, which soon became the "Let's smash it—COVID zero" model. Viruses respond in interesting ways, and they are not convinced by legislation. When the border came down—I think the best time to do it—the variant of the virus that we faced was Omicron. That was a milder version in pathological terms. Hon Dr Brian Walker will correct me on any misstatements, and I will constrain my remarks to matters I know a little more about. COVID is no stranger to debate in this chamber. What we are dealing with now, however, is the last vestiges of political control, or the last extraction of political benefit from COVID management.

Some 11 months ago, on 17 November, we were dealing with the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill, which was about the third or fourth time we dealt with that bill, and I made an observation. I raise this not as any sort of claim to prescience, but it did foreshadow the need for debates like we are having today. I said that we need to start scrutinising the continual deployment of this state of emergency at the point at which we reach the vaccination target, such as that was, and I mentioned what the level was at that time. I went on to say that the state of emergency will continue in some form, but I questioned what that might be. That went unremarked, because everybody's principal focus was on the transition and the opening plan, which

happened after that. But on 24 March this year, during non-government business, I brought a motion to the house that effectively asked the government to explain how Western Australia was still in a state of emergency, to explain why both emergency declarations—the one that operates under the Public Health Act in addition to the one under the Emergency Management Act—have been extended, and how the multitude of COVID directions that stem from those declarations were justified. I asked the government to provide all written advice that the Minister for Emergency Services and the Minister for Health relied upon when they extended those parallel states of emergency each fortnight. I asked the government to commit to tabling the justification for each future emergency declaration extension granted, and I asked the government to describe at which point the government would revoke the emergency declarations, and at which point each of the present COVID directions would be reviewed or repealed. I remember and I will paraphrase the official government response to that, which was given by Hon Alannah MacTiernan, who was the duty government member for non-government business that day. She basically said that this was a silly thing to talk about. People are dying; how dare we bring this to the house. That very same day, the Premier announced the alleviation of the stage 2 restrictions. It was not okay for a non-government member to ask about COVID management, states of emergency and the declarations and orders that flow from that, but it was quite all right for the Premier to make an indication that at least provided somewhat of a glimpse, although not an answer, to those questions that I had asked in this chamber that were not answered at all.

It appears to me—this is a fact, not just the appearance of a fact—that, approaching 1 000 days after COVID was declared a pandemic, we remain in a dual state of emergency declared each fortnight under both acts. This is a principal point that seems to have been lost in all the debate. It is an important point, and I make this observation: the ongoing management of COVID is better done as a continuing public health action rather than a police operation. To use another analogy that is slightly inappropriate but reinforces the point, we long ago passed the point at which our responses to COVID should have been militarised or paramilitarised. This is now an ongoing, significant health concern. Definitions and nomenclature are very important. Many people say that we are still in a pandemic, it is not endemic yet, but I think there is absolute consensus nationwide that we are in the post-emergency, management phase of this disease. That is not just the opinion of uneducated me. That is the opinion of the Chief Medical Officer of the country, Professor Paul Kelly, a man with whom originally I do not think the Premier was that familiar, but he may have come up to speed in understanding Professor Kelly's clinical background and sensible approach to these issues. As a marker of this, obviously, there was a commonwealth-wide decision that came into effect last Friday to end mandatory isolation of COVID-positive people. If that is not another marker of the step-down, I do not know what is. Words and phrases can sometimes be misleading and give people false comfort. I do not like the phrase "the new normal" or "living with COVID", but, effectively, we have understood that COVID is inevitable. It is here; it is present.

How does this play out in the Western Australian context? Why did I talk so much about the opening of the borders? That was the right thing to do. It was delayed, which was the wrong thing to do, but, roughly speaking, it was better to open up when we hit those vaccination thresholds earlier at the start of the year so that we could avoid the inevitable crunch of flu season conjoining with COVID cases. That would have been an absolute disaster. But how much of an emergency is it? Over one million Western Australians have contracted COVID at least once. That is more than half the population and that is probably under-reported. There are and inevitably always will be, sadly and unavoidably, a number of very vulnerable people who have pre-existing comorbidities or for other reasons are more susceptible, and we should always keep their welfare at the forefront of our deliberations. But it is also true to say that the sentiment of Western Australians is that the anxieties that they may have had about this virus certainly over the course of the last two years have probably dissipated somewhat in the last two or three months. That is not a recipe or an excuse for laziness or complacency. Again, mechanisms exist under the existing statute—the Public Health Act—to deal with and protect those people. But their protection is not further enabled by the continuation of the extreme measures and powers that are embedded in this bill.

The prevalence of COVID in the community has now dropped. I am happy to be corrected on epidemiological grounds, but, for example, three or four months ago, there was a one in 20 chance that somebody one met on the street or had a meeting with was COVID positive. It is probably now closer to one in 200. There has been a significant diminution in the orders of magnitude of the prevalence of the virus. That fact demonstrates that the virus is not presenting the imminent widespread arbitrary threat to life that it may once have done.

They are the broader strategic circumstances of COVID management. But as the government attempts to justify the steamrolling of this bill with its track record of keeping WA safe and strong, I will say this. We must pay credit where it is due. The maintenance of the hard border was absolutely the right thing to do. Even with the difficulties in forcing vaccine mandates, which are very controversial, in my view, the government probably got the balance right—just. But past performance is no guarantee of future success, as they say in investment prospectuses. This applies equally here. The government wants us to take it at its word that it has the track record. This is a regular line of argument, and I think the inevitable response from the minister, who is a fine person, in his second reading wrap-up speech was that we have got it right, we have the track record, trust us.

I would concur with the government's expression that it has kept Western Australia safe and strong if the facts actually bore that out. Unfortunately, the conditions of the public health system in Western Australia do nothing to support the government's claim. I want to refer to a couple of matters, not the extensive litany of issues, but one or two of the salient ones. The Western Australian ambulance ramping figures are published on a monthly basis. I will read in some statistics that extend from September 2017 through to September 2022. In September 2017, there were 1 280 hours of recorded ambulance ramping; in September 2018, there were 1 685 hours; in September 2019, there were 1 914 hours; and in September 2022, there were 3 089 hours. Remember, in September 2020, the state border was locked down and was strong. There was largely no COVID-19 in this state. Therefore, the ambulance ramping figures, which had increased from about 1 900 hours the previous September to over 3 000, did not arise as a result of COVID transmission in Western Australia. In September 2021, the story got worse, with 5 057 hours of recorded ambulance ramping in Western Australia. In September 2022, the most recent figure, 5 835 hours of ambulance ramping were recorded.

I have said that words are important. The then opposition health spokesperson, Hon Roger Cook, described the 1 280 hours of ambulance ramping in September 2017 as constituting a horror story. If that was a horror story, I have heard no descriptor from the government of what 5 835 hours of ambulance ramping represents, if we are to use emotive language. If the government has been so competent at keeping Western Australia safe and strong, how does it account for those numbers? That might be the unalienable fact that I need to introduce. The claim "safe and strong" is very convincing at a time of heightened COVID anxiety, but it is an enormous claim to make in retrospect, notwithstanding the government's successes in keeping the pre-Omicron COVID variants out of this state. That was also built upon the decision of the then federal coalition government to close the international border. Therefore, this government is owed some credit, but not all the credit.

This bill proposes to do a number of things. One is to rename the state of emergency declaration as something entirely different, namely a COVID direction. The bill will also extend for a period of two years the extraordinary powers that the government itself has previously described as draconian. I take the view—I will elaborate on this later—that if the government were to apply that word to itself and its own measures, it would invite a heightened level of scrutiny or oversight of the decisions that it makes and the actions that it undertakes.

There also appears to be no urgency for any of this. However, the theatre with which this bill has been conveyed to the public, and the way it has been managed in the other place and also in this place, imputes or connotes a sense of urgency. This bill is strange. The fact is that it will elevate the decision-making and management of one single individual in this state above that of anyone else. The State Emergency Coordinator, the Commissioner of Police, will be given a role in COVID management as a consequence of the passage of this bill that will be above and beyond that of the Chief Health Officer. The Chief Health Officer is the particular individual whose advice apparently has been taken all along, although I have some questions about whether that has ever been the case. In fact, members of this chamber have highlighted notable occasions when that absolutely has not happened. I find the marginalisation of the Chief Health Officer in future COVID management in a post-emergency situation extremely odd.

The greatest transgression is the one to which I alluded earlier. That is not so much the marginalisation of the Chief Health Officer, although I find that unseemly, wrong and completely inappropriate in the circumstances, but the marginalisation of the Minister for Emergency Services himself. This bill will apparently give neither the Minister for Emergency Services, nor the Minister for Health, nor the Premier, nor any of the other sundry cabinet ministers any oversight or role in determining the appropriateness of COVID-19 declarations. At least at the moment, on a fortnightly rolling basis, a single slip of paper comes to the Minister for Emergency Services that says, "Minister, sign here to extend the state of emergency", and the minister does it. The same thing happens with the Minister for Health. At least a minister is taking the energy to unpack a pen, glance at the document and put their signature at the bottom to legitimise under statute the continuation of these extraordinary circumstances—that is, the continuation of using a bill in a way in which it was never designed to be used. At the very least, a minister is taking the trouble to glance at that paper and put their signature to it.

I would like to be corrected if I am wrong. I am often wrong, and I make mistakes, but I own up to them. When I and other members of this chamber have asked the Minister for Emergency Services upon what written advice he has relied in signing off on state of emergency declarations, my recollection, without hyperbole, is that they were all signed off on the basis of a verbal brief. It will never be known, other than by the minister himself and the person who provided the briefing, how detailed and extensive that verbal brief was, and what kind of communication or debate was had around the matter—that is, whether it was done face to face, over the phone, or just emailed through to an adviser. I find it absolutely and utterly extraordinary that a state of emergency, the most extreme suspension of ordinary practices, statute and convention, could be treated in such a cavalier way, and that a continual declaration or invocation of that state of emergency scenario could be granted so breezily. That would be one of the most extreme things I would think a minister would have cause to sign, but it has not appeared to trouble these ministers. Even that is light-years ahead in its accountability evolution of what is proposed by virtue of this bill.

There are on the supplementary notice paper some 25 or so amendments standing in my name, but they are the work of Hon Martin Aldridge. I will counter now the inevitable rebuke: why would the opposition move amendments to a bill it opposes? I will tell members this: it is because there is absolutely no other choice. I am not satisfied at all that there was any scrutiny of this bill in the inner workings of the government, and I am damn sure that there was absolutely no scrutiny of this bill by government members in the other chamber. I do not think any of the phalanx of new Labor MPs would dare—certainly not in the public realm of proceedings in Parliament—take on their government and question why this is needed: Is this the right thing to do? Are we not jettisoning fundamental legal principles? Is this how we run an open, transparent and accountable government? Are the powers embedded in this bill proportionate to the circumstances that we face? I have not been troubled by any of those questions in that chamber and I do not dare think I would ever be troubled by them over the course of this Parliament either—not when it has become customary to be disturbed in this chamber by the racket in the courtyard early on a Thursday afternoon as they all file out! Because of that, and also because it is our job, we recognise that on the weight of numbers this bill will pass. It will, but that does not mean that we should not take the opportunity to modify the bill, make it more reasonable and civilise it to a degree, and, at the very least, invite the minister in whose name this bill has been tabled to take some ownership of the consequences of it.

The amendments are grouped according to the four principal deficiencies in the bill itself and the consequences that the passage of the bill will have if it proceeds unamended. It is absolutely within the gift of government to consider them and perhaps adopt them.

The first amendment concerns ministerial oversight. This is one thing that we need to reinforce. The Minister for Emergency Services is an elected representative of the people of the Mining and Pastoral Region and the people of Western Australia. He owes responsibility to them. He is a diligent and ethical person. I do not think he would ordinarily assume this level of accountability—the kind of declaration or empowerment that we are proposing to give to the Commissioner of Police. Why should the minister not be satisfied with the commissioner's proposal to extend these temporary COVID-19 provisions? Why should he not ask, "Actually, have you considered these elements? On what basis do you propose to make it? What is the epidemiological or pathological scenario that you are attempting to attack?" Is the consequence of the passage of this bill proportionate to the risk now that more than one in two Western Australians has had COVID and that the Omicron variant—I will talk about other variants potentially later—which is the dominant family of sub-variants, has a milder pathology in its infected hosts? Is this really necessary? Why would this not be a decision taken by a minister when the minister is already signing off on state of emergency declarations? It would also oblige the minister—this is another dimension that the minister is not obliged to do yet—to provide the information upon which the decision has been made. It would be interesting to determine whether a minister has disagreed with the advice they have been given or the recommendation that has flowed from that advice. Why should a minister not concern themselves with that?

The other amendments on the supplementary notice paper that are simpler and self-evident are the sunset clause provisions. I have made the observation previously that the sun never seems to set on the COVID powers bills. We are at a continual sundowner with them, but the sun never sets. Why was the arbitrary time period of two years determined? There is no answer to that. In fact, how can the government know that it will provide any great advantage?

Frankly, this bill should not pass in its current form, but if it is to pass, we have a duty to try to buff away the rougher edges of it. I think it is extreme in a temporal sense that the government is intent on extending these provisions effectively to the eve of the next election, which suggests to me that there is only a political motivation, not a motivation based on public health grounds, practical grounds, policing grounds or any other grounds. We will get to that debate when we have it, but if we are to pass this bill, we should probably seek to modify its term down to 12 months, and I ask at this juncture for the minister to respond to that in his second reading reply speech.

The other ground of concern that the opposition has stems from the consequences of the passage of this bill and the kinds of police operations that will potentially emerge—that is, ensuring that any information gathered pursuant to the passage of this legislation is not to be used for any purpose other than a COVID-19 response. Concerns have been raised about WA police accessing personal data provided for COVID-19 purposes—for example, through the SafeWA app. There seems to be no provision in this legislation to prevent police inappropriately accessing or using that information for purposes unrelated to COVID-19 management. This is not a flippant concern or the kind of matter that attracts the attention of public policy dilettantes. There is an unfortunate track record in this jurisdiction, as there is in other jurisdictions, of private personal data being used in ways not designed for or, indeed, expressly forbidden or discounted.

I reflect, again, on the sterling work that Hon Peter Collier brings to his conduct in this chamber that revealed the retention of G2G PASS information for 25 years, seemingly to accord with the provisions under the State Records Act 2000, although I really wonder on occasions how intently agencies' compliance with the strictures of that legislation are monitored, let alone enforced, and whether there is a bit of selectivity at the level of administration as to what data is retained, how it is used, whether it is dealt with and whether it is destroyed. At a level, that is—I will not say more meaningful—potentially higher in complexity, because those preceding three grouped issues are

reasonably understandable. What can we do to improve the transparency of the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 and the transparency of the behaviours, directions and decisions that may flow as a consequence of the passage of this legislation? How do we reassert, potentially, the primacy of Parliament as the place in which the public interest is defended and pursued? What are we are doing in jurisdictional terms—I will take the politics out of it for a while—in our approach to COVID-19 pandemic management? What do we think it has been, is it fit for the present circumstances and will it will apply equally well or be inapplicable to future pandemics? There is the potential for elevated decision-making and a more bipartisan approach, or a multiplicity of informed people, in this chamber than the other one to bring attention to such matters. It is only in this place that we can bring appropriate safeguards to preserve transparency and accountability. This transparency and accountability is directly proportionate to the extraordinary powers that will be continued and enlivened by the continuation of this legislation.

What is also a deficiency in this bill, other than the complete lack of transparency, is the fact that an informed advocate in the public interest, be they government or non-government, might seek to disallow certain measures or an instrument. For members on the crossbench and, indeed, new government members of this chamber, disallowance motions were customary—were. They were the outpouring of this house's role as the house of review. I put it to new government members who are ethical and diligent that they may have already recognised that sometimes their government does not always get it right and sometimes their agencies, gifted as they are, are populated by very inventive people working to certain interpretations, motivations and strategic outcomes that do not always consider the consequences of regulation. How could they? Even with the best will in the world, how could someone working at the Western Australia Police Force or the Department of Health consider economic, psychosocial or any other contingency that is also appropriate and demands consideration?

Can we do better? Knowing that this bill is going to get through anyway, can we make it better? Can I appeal, potentially, to a sense of enlightened parochialism? As much as I hate to draw this comparison, I will do so. The post-emergency-style contingency management evidenced and enacted in Victoria, of all places, is superior to the framework that exists, and is proposed to continue to exist, in Western Australia. We can have this kind of discussion here perhaps in a way that they cannot have in the Legislative Assembly, where there will be a retrograde juvenile undergraduate response, "We did so much better than Victoria", blah, blah, blah; "Look at the scoreboard." That is not the point. The point is that our response to these circumstances needs to be proportionate to the circumstances and it needs to be best practice. Last year, I think, this house was motivated and compelled to review its standing orders, and one of the themes of its work was to ensure that this chamber demonstrated best-practice proceedings. It is a laudable aim consistent with the concept of continual improvement. The government can credit its response to the pre-vaccination development and rollout of COVID management, but that does not mean that it should rest upon its laurels. What is proposed here is not best practice, nor is it the appropriate mechanism for managing COVID. The amendments in the bill are as follows: a requirement that a COVID-19 declaration is published and tabled in Parliament, as well as the advice that informs the minister or the State Emergency Coordinator in relation to the declaration, and—this might be of interest to members—the formation of a joint parliamentary committee, the parliamentary committee for pandemic oversight, that will have the power to review and recommend that declarations and specific directions can be amended or disallowed by Parliament. Finally, the bill will empower the State Emergency Coordination Group for COVID-19 to review COVID-19 declarations and provide advice to the joint parliamentary investigative committee on request. If the government wanted to end the state of emergency, all it needed to do was not renew the state of emergency; it really is that simple. But if it wishes to desire it away through this very curious legislative artefact, it should at least have the humility, the decency even, to consider these very balanced and targeted amendments to the bill that will in no way imperil public health and safety and the economy.

There is another point before I culminate in what some might consider to be the inevitable; that is, why is it, this far into proceedings, that we are still dealing with this as a policing matter? My understanding was that Operation Tide was run down, even though that was largely contingent on the hard border. Do we want to burden police with this kind of work? I think the answer to that is no. I do not think the Minister for Police does and I would be surprised if the police themselves are very much delighted by the prospect of the kind of work that is intimated in the bill. They are certainly overworked, under-resourced and underappreciated. Why add to their burden through the passage of this bill? Is there a way to do things smarter and better in this state? I think there is.

The other point I have is a question, a question asked genuinely but with a measure of curiosity. What happens to the state of emergency declarations that have been rolled out continually every fortnight? I think the current one lapses on Monday or Tuesday of next week; I am not 100 per cent sure. Considering the way that this bill is being dealt with as an urgent bill, and on the presumption that royal assent is granted to this bill on Thursday or Friday, does the government intend to continue the state of emergency declarations under the Public Health Act and the Emergency Management Act? It is not clear to me that that is what the government intends to do. In fact, I suspect that this is exactly what it does not intend to do, potentially until 4 January. I just want to get that technical dimension right to round this out.

This legislation has been sold to us and to the public as the way in which the government will end the state of emergency. Well, if the bill is granted royal assent and states of emergency are still declared, I am sorry, the government has misled everyone. The government has misled the Parliament, the public and the media. I asked that question not to make an accusation but because it seems to be what the government is proposing. However, it is never clear in this bill where that actually occurs. That is why we are going to subject ourselves to five hours of committee deliberation to answer that and a host of other questions.

I will round out this contribution. It was customary in the previous Parliament, with the composition of this house, that from time to time debate on disallowance motions occurred. It was also customary in the previous Parliament that when, from time to time, bills were so controversial that they left many unanswered questions, traduced fundamental legislative principles, seemed to suspend natural justice or dispensed with the concept of Westminster ministerial responsibility, we would, at the very least, refer them to the Standing Committee on Legislation for consideration. This is not something that we would do lightly or that we would want to do with every bill, but if there is a bill that has been read into this chamber this year that deserves that treatment, it is this one.

Discharge of Order and Referral to Standing Committee on Legislation — Motion

HON TJORN SIBMA (North Metropolitan) [3.22 pm] — without notice: I move —

> That the order of the day for the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 be discharged and the bill be referred to the Standing Committee on Legislation for consideration and report no later than 15 November 2022.

I think it has time available.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [3.23 pm]: It is my pleasure to support my friend and colleague Hon Tjorn Sibma on the motion that he has moved without notice before the house today. The question is why would the government be so disturbed to have this particular piece of legislation sent to the committee? Just in case members are unsure, the function of the committee is established under part 4 on page 128 of the standing orders. In relation to committees in schedule 1, it states —

> The functions of the Committee are to consider and report on any Bill referred by the Council.

Members might be a little confused because in this term of Parliament the government has not referred a single bill to the committee for review and examination. Obviously, that relates to the fact that the government does not have to because it can get all its bills through on its own vote. It will do so again, no doubt. I am sure the minister will stand up and oppose the motion in the not-too-distant future, but surely a bill that would give the government the power to extend the emergency powers to curtail the freedoms, rights and privileges of the people of WA deserves greater examination by a relatively independent committee. Surely, the government would want to make sure that all the boxes were ticked, the t's crossed and the i's dotted, for a bill that could impose a significant burden on people who may be under orders from a public servant or officer in a potential future outbreak. Surely, if the government were going to curtail the freedoms of the people of Western Australia, it would take that bill and make sure it has the fullest of scrutiny and is put to as many people as possible.

The argument before the house from the government is likely to be that there is an urgency in time. As Hon Tjorn Sibma said, and we continue to identify, the section 72A emergency management powers do not expire until 4 January 2023. By my understanding, we have five sitting weeks left at least, perhaps more, between now and the end of 2022. We are due to finish, I think, on 30 December 2022. It is not as if the government is averse to declaring things as urgent when it is convenient for it. I have to give government members in the Legislative Council some credit. The bill came in, it was tabled, and sat on the table for a week before it was debated. We had an opportunity to discuss it, and we had an opportunity to look at it. I guess opposition members in the Legislative Council should be grateful to the minister that we were not treated like members in the other place—the place that shall not be named. The bill was introduced there with no notice and debated immediately. Debate was curtailed to the point at which there was almost no scrutiny. If the government was relying on the scrutiny of the Legislative Assembly on this particular bill, it effectively got none.

It is good to see that the Legislative Council will have an opportunity, to some extent, to examine the bill. Bear in mind, we are talking about a curtailed debate all the same. We are talking about a curtailed debate on a bill that refers to powers that expire on 4 January next year. We are talking about a debate that will be limited to two days, instead of a week or two. Just in case it occurs to the government that maybe the legislation it presents could not be improved, I just remind the Legislative Council and the government of the legislation that we debated last week. The excellent parliamentary secretary, whose work was great, stood this afternoon and dealt with a committee report that included, in the committee stage of the bill, changes brought about by suggestions from the opposition, in concordance with the government, to improve a piece of legislation. The government may say that it does not happen very often. Well, it happened with the last bill that we dealt with. That was the last bill. It has not passed through its third reading stage, but that bill was improved with a little bit of cooperative work. Well done, parliamentary secretary. That was a good outcome for the people of Western Australia, and the medical profession in particular.

The government cannot argue that it does not occasionally put forward legislation that needs to be improved, because we have had a good example of that. The government cannot argue that there is not time for the legislation committee to look at this bill and recommend improvements. The government cannot argue that either. So what is the government afraid of in relation to having a committee look at the process and the bill, and try to improve it and make it better? It is a bill that contains strong powers—I will not say extraordinary powers because the powers that exist in this bill have existed before, but in other circumstances. There are other circumstances in which people in Western Australia have given up their rights and freedoms in relation to things like outbreaks. That is not an uncommon occurrence in terms of legislation; it is an uncommon occurrence in practice, which is good, and so it should be. However, it is a strong bill and a powerful bill that has the power to curtail the rights and actions of citizens.

Surely, if there is a bill that deserves proper scrutiny, that should go through every proper rigorous process before it is ultimately—as it will be—approved by this house and this Parliament, it is this bill. This bill deserves that scrutiny, deserves that level of engagement and deserves to be looked at and improved as much as possible. For those reasons this motion desperately needs to be supported.

HON DR BRIAN WALKER (East Metropolitan) [3.30 pm]: I have no intention of speaking at length because our time is curtailed, but I rise to make sure that everybody knows that the opposition and the crossbench is united in seeking that this bill be further refined. We cannot prevent it passing—we know that—but it should be referred to the Standing Committee on Legislation because there is such a lot wrong with this bill. It is just plain downright wrong. I have never in my short experience here ever had to deal with such an egregiously false and wrong bill that needs urgent amendment. In its current form, it is simply unpalatable. I will delve more into that during my speech in the second reading debate. I support the motion to refer this bill to the Standing Committee on Legislation.

HON STEPHEN DAWSON (Mining and Pastoral — Deputy Leader of the House) [3.31 pm]: I rise in reply.

Hon Nick Goiran: You didn't move the motion; how can you be replying?

The ACTING PRESIDENT (Hon Steve Martin): He is speaking to the motion.

Hon STEPHEN DAWSON: I beg your pardon. I am responding to the motion. Thank you, Hon Nick Goiran for paying attention this afternoon and being helpful.

Now that I have seen a copy of the referral motion I am very pleased to indicate that the government will not support it. This seems to be a stunt that has been carried out by the opposition many times before, certainly many times in the last Parliament. We have not seen it as much in this Parliament. This is a stunt though. Over the past few years we have found ourselves in an extraordinary situation with COVID-19, but some people seem to be suggesting that everything has been bad and that everything about people's activities has been curtailed. The fact is that in Western Australia people went to work, people went about their lives and people went to social events—unlike other states, territories and places around the world. We can be very proud of how we have dealt with COVID-19 in this state.

People have mentioned the word "false" today. I take exception to that. What is false is those people out the front of the Parliament holding signs that say, "No COVID. No pandemic". That is false; that is a lie; that is an inaccuracy that people are saying outside Parliament. That is shameful. Those people should hang their heads in shame, because COVID-19 is and has been very real in Western Australia. There have been over 600 deaths. People have been sick. The Leader of the House is away on urgent parliamentary business because of COVID-19 this week. It is still in the community. We need to continue to treat it seriously. This stunt before us will not be supported. I am confident that, regardless of what any committee comes back with, the opposition alliance, the extended alliance or crossbench alliance—whatever you are calling yourselves today—will not change their view, so the government is not supporting this motion this afternoon.

HON NICK GOIRAN (South Metropolitan) [3.33 pm**]**: The Deputy Leader of the House, who for the purposes of this week or certainly for the purposes of today, is the chief representing the government. As he has indicated, the Leader of the House is away on urgent parliamentary business so the deputy is stepping up. He says that this motion by Hon Tjorn Sibma is a stunt that occurred many times in the last Parliament and less so in this current Parliament. This was what was said in the thirty-ninth Parliament. I quote —

> What I am saying is that surprising things happen when matters are referred to committees—outcomes that I think have almost always been better than what was being proposed originally.
>
> …
>
> It is just an indisputable fact that any minister, any member of the government parties, whether it be the Liberal Party or the National Party, who can stand up in support of the bill waving a substantial committee report that recommends that it be passed in its current form will have a good, strong argument. I think that is indisputable. If the committee does not recommend support for the current bill, we will certainly—I would like to hear somebody dispute this—end up with a better bill as a result of it going to a committee.

> We are not going to end up with anything worse, we might end up with the same thing and if not, we will end up with something better.

That was in the thirty-ninth Parliament during a debate that took place on the Biodiversity Conservation Bill 2015. These words were uttered by none other than Hon Dr Sally Talbot. If I am not mistaken, Hon Dr Sally Talbot is the Chair of the Standing Committee on Legislation. Hon Tjorn Sibma is simply seeking to refer the bill to that person's committee. Hon Dr Sally Talbot chairs that committee and, as recently as 2015, basically said, "Look, there's no problem here. Let's send it to the committee because nothing is going to happen and it is only going to possibly improve the bill and we are only going to end up with a better outcome." With due respect to Hon Stephen Dawson, he should not refer to these things as a stunt when the chair of the current committee indicates we are going to end up with something better.

Of course, that was not the only example in the thirty-ninth Parliament when members opposite said these type of things. There is this comment —

> There are opportunities in this place to do our job as members of Legislative Council, and one of those tasks, of course, is to apply appropriate scrutiny to legislation. By supporting this motion to refer the bill to the Standing Committee on Legislation and giving the committee time to analyse it, hopefully the committee would come back with answers to questions raised and a much better piece of legislation.

Those words were uttered on 1 December 2015 in the previous year to the words of Hon Dr Sally Talbot. It was a quote from Hon Kate Doust who was arguing that the Perth Market Bill 2015 needed to be referred to the Standing Committee on Legislation because it needed a blowtorch applied to it. On that same bill, the now Leader of the House, Hon Sue Ellery, who is away on urgent parliamentary business, also supported the referral of that bill to the legislation committee stating it should examine issues around transparency and oversight. Hon Sue Ellery said —

> … I do not think the government should fake any surprise that we think scrutiny needs to be applied that only the legislation committee can apply—the great minds of the legislation committee, as they have been referred to. There should not be any surprise on the part of the government that we are saying that greater scrutiny needs to be applied.

Hon Dr Sally Talbot was also in fine form in 2015. At that time, in fairness, the honourable member was consistently supporting motions to refer bills to committee. Hon Dr Sally Talbot supported the referral of this bill to the Standing Committee on Legislation before the end of the second reading debate saying —

> I believe that we should either set up a business management committee, or enable the Standing Committee on Procedure and Privileges to look at the way in which the house is operating and make a recommendation that more bills be referred to a committee before they get into the second reading debate. I did not invent that. I did not get that idea from Hon Nick Goiran, who was the last person, other than me, to raise the matter of a business management committee.

Those words uttered by Hon Dr Sally Talbot in 2015 ring a bell with me because, as members will know, at the time both Hon Dr Sally Talbot and I, despite the fact I was a government backbencher at the time, consistently supported the idea of bills regularly going to committee. For the Deputy Leader of the House to suggest this is a stunt is quite remarkable, having heard what Hon Kate Doust, Hon Sue Ellery and Hon Dr Sally Talbot had to say, and when we consider what Hon Stephen Dawson said on the same bill, when supporting the referral of that bill to a committee. He said that lots of concerns had been raised with him about a great number of issues arising from the bill. He stated —

> One of the key reasons I think a committee should look at this legislation is issues about transparency, and there has been no proper scrutiny of or consultation about this legislation.

I pause there. In 2015 Hon Stephen Dawson is concerned about transparency. Well, we are concerned about transparency provisions in this bill, which we will unpick at length over the next 24 hours. In 2015, he said, "There has been no proper scrutiny of or consultation about this legislation." The bill that is currently before us has been bulldozed through the other place with one day's notice. Talk about a lack of proper scrutiny and consultation! It is hard to beat that. Because of decisions made earlier, we are now constrained in the time that we have to consider this bill. According to the government, it must pass tomorrow—or, possibly, in the early hours of Thursday morning. So much for proper scrutiny or consultation!

Hon Stephen Dawson also said on that day —

> Perhaps, the final thing I will say, as I said at the outset, is that whether it is the Standing Committee on Legislation or, indeed, the Standing Committee on Public Administration that examines this bill, both committees can provide a good level of scrutiny on this bill and answer our questions without fear or favour to give us a level of confidence —

What is different about this bill? We are certainly not going to suggest referring it to the Standing Committee on Public Administration. I am not too sure which members of this place are serving on that committee, but I am sure

that that committee is actually doing some work at the moment, unlike the Standing Committee on Legislation, which is unable to do anything because for the entirety of the forty-first Parliament, the McGowan Labor government has refused to send any bills to it—not one.

When Hon Stephen Dawson says, "It appears that this is a stunt, a stunt that happened many times in the last Parliament and a few less times in this Parliament", perhaps the Deputy Leader of the House might like to inform members here how many times in the last Parliament bills were referred to the Standing Committee on Legislation. While he is finding out that information, he might also like to find out on how many occasions the Standing Committee on Legislation recommended changes. If it was such a great stunt in the last Parliament, why was it that the Standing Committee on Legislation consistently reported back to the house and recommended improvements? It is not a stunt. Not one stunt occurred in the last Parliament, and there have been none in this Parliament. There is absolutely no good reason why the government cannot support Hon Tjorn Sibma's motion for a short referral. In fact, if the motion is to be criticised or critiqued in any way, it should be because the period of referral is too short. It is only for four weeks—28 days. It might have been a long time since Hon Stephen Dawson and his friends in the cabinet sat on a committee, but it is asking a lot of a parliamentary committee to ask it to inquire into a bill in 28 days. In many respects, 28 days is an inadequate period of time, but it is a darn sight better than 24 hours, which is what the Committee of the Whole House will have. If I have a choice between 24 hours and 28 days, I will definitely choose the four weeks.

I would not have thought it would be asking too much for one member of the government to let us know what could possibly be the problem with referring this bill to a committee for four weeks. What about the bill before us is so crucial and extraordinarily urgent that it cannot possibly go to the Standing Committee on Legislation for four weeks? What is going to happen in the next four weeks that is of such magnitude that if we refer this bill it is going to be a problem for Western Australia and Western Australians? Absently nothing. If I am wrong about that, tell me what it is. What is the one thing that is going to happen over the next four weeks? I am not asking for 10 things; just tell me one. What is one thing that is going to happen in the next four weeks of such great magnitude that demands this bill be passed tomorrow or in the early hours of Thursday morning rather than in four weeks? Can a government member tell me one thing? I suspect that, by the end of the debate on the committee referral, not one thing will have been uttered by a government member, because there is nothing.

As Hon Dr Steve Thomas, the Leader of the Opposition, quite rightly pointed out, we have had a practical example of the benefit of scrutiny just in the last sitting week. While the other place was in recess, which seems to be a frequent occurrence in the forty-first Parliament, the house of review was hard at work once again. We were dealing with the Health and Disability Services (Complaints) Amendment Bill 2021, a bill probably not forgotten by Hon Samantha Rowe. Hon Martin Aldridge—who, I might add, is the shadow Minister for Emergency Services—is away on urgent parliamentary business. We would benefit from his expertise during the course of this week, or in fact the next 24 hours. He was busy last week scrutinising the Health and Disability Services (Complaints) Amendment Bill at length. Was it a flawless piece of art? Absolutely not. The government and the hardworking parliamentary secretary have been congratulated for agreeing to amendments; what they did last week was appropriate. Not only did they concede the points made by the opposition, but they also conceded the points made by the Standing Committee on Uniform Legislation and Statutes Review, which had reviewed the bill over a period of 45 days and found the need for certain improvements. The government conceded some of them, but not all of them.

I am not going to reventilate the debate about whether the government should have accepted all of them or not. The simple point is that two things were demonstrated last week: the benefit of a bill going to a parliamentary committee and the fact that the government does not always produce flawless legislation. That bill was the Health and Disability Services (Complaints) Amendment Bill 2021, which indicates to members that it was a bill that commenced last year. That is significant because it means the opposition had plenty of time to get its head around that piece of legislation, to consult and find where improvements were needed. As a result, possibly as early as tomorrow, that bill might be third read and sent to the other place and the other place will be asked to agree to amendments. That is not going to happen with this bill, because the government has already indicated, through the deputy leader, that under no circumstances will the bill be referred to the Standing Committee on Legislation. The government provides no good reason for it, other than to make the false assertion that this is some kind of a stunt. The only other explanation the Deputy Leader of the House gives for why the motion should not be agreed to is that, looking into his crystal ball somewhere over there on the government benches, he has every confidence that if the bill is to return from the Standing Committee on Legislation the opposition and the crossbench will continue to oppose the bill. How could he possibly know that? I say to the Deputy Leader of the House, "Produce the crystal ball that you have gazed into this afternoon that has determined this result. Don't speak for me. I will make a decision once I have seen the report from the Standing Committee on Legislation, but at the moment I'm not going to have the benefit of that. And don't speak for the crossbench."

Because of the McGowan Labor government's arrogance, it simply says that there is no point in referring the bill to the Standing Committee on Legislation because members opposite will still oppose it. Imagine for a moment if

that were in fact true. Why would that be a reason for it not to go to the Standing Committee on Legislation? It could still lead to improvements. Just because members of this place, whether the opposition or the crossbench, indicate that as a matter of principle and policy they oppose the second reading of a bill, that does not mean that we do not recognise that there could be improvements made to the bill.

As a case in point, I ask the Deputy Leader of the House to take a moment to refresh his memory on the supplementary notice paper that is before us on this bill—supplementary notice paper 84, issue 1, Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022. It is an eight-page document. It was produced today. There are eight pages of proposed amendments that notice has been given of today that ought to be considered. If this bill were to be referred in accordance with the motion moved by Hon Tjorn Sibma, the Standing Committee on Legislation, which has literally nothing to do at the moment, would be able to consider, at the very least, these eight pages of amendments, but the arrogant McGowan government says, "We don't want anyone to look at those amendments. We don't want anyone to have any time to consider this bill, because we, the McGowan government, know everything. We are the experts in all matters of law and we will ram this bill through, not today, but we will ram it through tomorrow." How very generous and magnanimous of the McGowan Labor government to give the Legislative Council another 24 hours to fulfil its job as the house of review, having just received an eight-page supplementary notice paper. Have members of government been briefed on this eight-page supplementary notice paper? Do they have a position on each of these amendments? Have they read it? Do they understand it, or will they simply do as their leader tells them to do and simply oppose all amendments and any referral to the committee?

These amendments that have been proposed by Hon Tjorn Sibma on behalf of Hon Martin Aldridge deal with a number of very important matters, not least of which is the issue of who will be responsible for making, extending and revoking the declarations. Under the current bill, the government wants for this to be done by the State Emergency Coordinator. The opposition says that, as a matter of principle, that is wrong, and it should be done by the minister. The Standing Committee on Legislation could get to the bottom of that. It could unpack those things. I have every confidence that that is precisely what the Standing Committee on Legislation would do, because, in my experience, having served on that committee in the last Parliament in particular as the deputy chair, it was customary for that committee to consider a number of important questions on any bill that was brought before it. One of those questions was: are rights, freedoms or obligations dependent on administrative power only? The answer to that question at the present time is yes. In those circumstances, if that is the case, the committee would go on to inquire and scrutinise whether those provisions are sufficiently defined and subject to appropriate review. The committee also considers whether a bill would allow the delegation of administrative power only in appropriate cases and to appropriate persons. Among other questions that the committee considers when a bill is referred to it is the question: does the bill confer power to enter premises and search for or seize documents or other property with a warrant issued only by a judge or other judicial officer? In this situation, the answer is no. It does not require too much reading skill to be able to recognise that the bill currently before us would allow for such things to occur without a warrant. This is the type of thing that the Standing Committee on Legislation would then look into, seek justification from not only the government but also experts in the field, and produce a finding and recommendation accordingly. We will not have the benefit of that specialist scrutiny because, according to the Deputy Leader of the House, this is merely a stunt, and he has no confidence that it is going to change the level of support for the bill.

It is all the more remarkable if members pause to consider for a moment that the government presently has a significant majority in the Legislative Council. Why would it be concerned whether the referral to the committee would suddenly change the view or the level of support or opposition of the government or the crossbench? Either way, the government has sufficient numbers to ensure that the bill ultimately makes its way through the Parliament. The one thing that the government would be open to if it were to refer the bill to the committee would be an improvement of the bill, but, as I say, that is not going to happen.

Another thing that I find remarkable in this situation is that Hon Tjorn Sibma has suggested four weeks for scrutiny of the bill. The government has said no and is allowing 24 hours, in effect. It is almost four o'clock now, on 18 October, and, as far as the government is concerned, it would like everything to be done before midnight tomorrow, 19 October. That is the maximum amount of scrutiny that the government is prepared to allow. In fact, we know precisely how much scrutiny the government is prepared to allow for this bill because earlier today, the Minister for Emergency Services moved a motion without notice, and, as a result of that motion, the maximum time limit that will apply for this bill will be 12 hours. Not one second more will be tolerated by the McGowan Labor government for scrutiny of this bill. It will be 12 hours and not a second more, according to the Deputy Leader of the House. In contrast, the very reasonable proposal by Hon Tjorn Sibma is that a four-week period be granted to a hardworking—I should say very capable—Standing Committee on Legislation. I cannot call it hardworking because it has had no work to do, but I can call it a very capable committee. It has nothing to do at the moment and Hon Stephen Dawson wants to make sure that things stay that way. He does not want his Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 to receive one more second of scrutiny than the 12 hours it will receive over the course of today and tomorrow.

If I recall correctly, I think there was a comment earlier by Hon Stephen Dawson that he felt offended about something, or something to that effect. What offends me most of all is when a Minister for Emergency Services signs a state of emergency declaration without having asked for or viewed the health advice that purportedly justifies the calling of a state of emergency. That is what offends me. As we know as a result of the work done in the budget estimates process, that is precisely what has been going on, in fairness, not only with this Minister for Emergency Services, but also his predecessors.

I recall that Hon Tjorn Sibma quite rightly indicated that we are currently in a state of emergency, according to the McGowan government, at least as a matter of law, even if it is only as a matter of law, and that it was recently extended. To the best of my recollection and notes, the latest extension of the state of emergency declaration was made by Hon Stephen Noel Dawson on 20 September 2022. He said at that time that his declaration, or latest edict, would have effect from 12.00 am on 23 September 2022 and would remain in force until 12.00 am on 7 October 2022. For reasons that are not necessarily clear, the Minister for Emergency Services was away during this so-called state of emergency period, because on 5 October 2022, the acting Minister for Emergency Services, Hon Donald Thomas Punch, made the extension of the declaration. At that time, he said that it would have effect from 12.00 am on 7 October 2022 and would remain in force until 12.00 am on 21 October 2022. One wonders whether Hon Donald Thomas Punch took the liberty of asking for, and reading and considering, the health advice, unlike the deputy leader of the government in this place, who seemingly thinks that state of emergency declarations are a mere piece of paper that just warrant a signature and we then box on for another 14 days.

It is no wonder that the government seems to have no problem with delegating this whole system to an unelected public servant. If the attitude of the minister of the Crown is to simply say, "Give me the piece of paper and I'll sign it over a cup of tea or coffee", and it does not warrant any great intellect, thought or inquiry, then why not just send it off to an unelected public servant? However, if the minister takes the approach recommended by the opposition that state of emergency declarations and extensions are serious matters and should not be treated as mere administrative trivia that do not warrant asking for and receiving information, then the signing of those declarations ought to be retained in the jurisdiction of the minister, who is elected by the people of Western Australia to that position and is ultimately accountable to Parliament. The McGowan government wants none of that, not one bit, or certainly not more than the 12 hours that remains of the time that in its view it has so graciously granted to this house of review to consider this legislation.

I conclude on this point. There is absolutely no good reason why this bill cannot be considered by the Standing Committee on Legislation. For good measure, I remind members of what was said in 2015 by another member of government, who at the time seemed very passionate about the referral of bills to the legislation committee and has never been shy of making an interjection or comment from time to time. Hon Darren West said this —

> There will always be push back from members of a free society. We live in a free country in a free, democratic society, and this legislation will mean that people's rights to freedom of speech and expression will be brought into question. I think that the concerns of society would be best channelled back through something like the legislation committee so it can analyse whether these concerns are real or perceived.

The reason I have chosen that quote is that the point that was presumably being made by Hon Darren West at that time was that there can be opposition to bills, and sometimes those concerns are real, and sometimes those concerns are unwarranted, or, to use his words, perceived. If that is the case, why would Hon Stephen Dawson, Deputy Leader of the House and Minister for Emergency Services, who has primary responsibility for this legislation, not just in this chamber but on behalf of the McGowan government, not test those concerns? Hon Stephen Dawson knows full well, and he has said it himself, that there are concerns within the Western Australian community about this legislation. I cannot be the only member of this place who has been bombarded with emails over the course of the last few days and weeks. Evidently, all 36 members of this chamber are fully aware of the concerns about this bill. According to the standard applied by Hon Darren West in 2015, these concerns should be tested and, according to him, be channelled back through something like the legislation committee.

With all due respect to Hon Stephen Dawson, it would be stunt if the opposition throughout the course of this forty-first Parliament, which has been operating for a year and a half, were to move a referral motion such as this on every single bill. That has not happened. We have carefully selected which bills we believe warrant further scrutiny. Sometimes bills do not warrant even the scrutiny of the Committee of the Whole House. I recall the recent amendments to the Family Court Act. The house dealt with that bill in precisely that fashion. That was because, as I said at that time, the McGowan Labor government had properly consulted with relevant experts outside of government. Those experts were of the view that there were no concerns about the bill and it should be passed, and the bill was passed in an efficient fashion.

The same cannot be said of this bill. We have been bombarded with concerns. I am not aware that Hon Stephen Dawson and his fellow cabinet ministers have consulted on this bill with any experts outside of government. Name one expert with whom the McGowan government has consulted on this bill. We do not even need 10. Who is the

external expert in emergency management whom the McGowan government has consulted who has said, "This is gold standard legislation. It cannot be improved. We've looked at the Victorian legislation. We've looked at the South Australian legislation. We've compared and contrasted them all. What you are proposing is the best of the best"? I am unaware of any expert who has been consulted on this bill, let alone who has said that. That is hardly surprising, because no expert who has any pride in their performance would dare suggest that this is gold standard. This legislation has so many holes that the opposition has been able to produce, at very short notice, eight pages of supplementary notice paper, yet the government says it does not want this legislation to be reviewed by the legislation committee.

I will conclude my remarks with where the Deputy Leader of the House took us. We will not be lectured by the Labor government when it comes to stunts. The government is demonstrating the most "stuntish" behaviour in dealing with this bill. It has rammed it through the other place, and it now wants to ram it through this place. Earlier today, the government got the consent of the house for the standing orders of the Legislative Council to be ignored for this week. Keep in mind that this is the parliamentary law in Western Australia. The government then had the hide to suggest that this is a stunt on our part. The experts in "stuntish" behaviour are members of the McGowan Labor government, particularly with these emergency management–type provisions. We will not be lectured by members opposite on these things, least of all because during the thirty-ninth Parliament, they were quite capable of waxing lyrical on how one bill after another should be referred to a committee.

I simply hope that one member of the government might be able to stand before we finish considering this referral motion and indicate what is possibly so urgent and requires attention in the next 28 days that this bill cannot be considered by the Standing Committee on Legislation.

Division

Question put and a division taken, the Acting President (Hon Dr Sally Talbot) casting her vote with the noes, with the following result —

Ayes (12)

Hon Peter Collier	Hon James Hayward	Hon Dr Brad Pettitt	Hon Wilson Tucker
Hon Donna Faragher	Hon Steve Martin	Hon Tjorn Sibma	Hon Dr Brian Walker
Hon Nick Goiran	Hon Sophia Moermond	Hon Dr Steve Thomas	Hon Colin de Grussa *(Teller)*

Noes (19)

Hon Klara Andric	Hon Peter Foster	Hon Shelley Payne	Hon Matthew Swinbourn
Hon Dan Caddy	Hon Lorna Harper	Hon Stephen Pratt	Hon Dr Sally Talbot
Hon Sandra Carr	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Darren West
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Samantha Rowe	Hon Pierre Yang *(Teller)*
Hon Kate Doust	Hon Kyle McGinn	Hon Rosie Sahanna	

Pairs

Hon Martin Aldridge	Hon Sue Ellery
Hon Neil Thomson	Hon Ayor Makur Chuot

Question thus negatived.

Second Reading Resumed

HON DR BRIAN WALKER (East Metropolitan) [4.15 pm]: It may come as a surprise to members to know that I am going to oppose the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 as strongly as I can. Before I go into details, let me also say this: if this bill had been presented purely as an emergency management amendment bill without the infectious disease component, I would have been a supporter. I could have suggested improvements, but I would have been a supporter. The legislation is actually excellent for the purposes in that case—managing an emergency.

When it comes to emergencies, I have lived through a few. The Malayan emergency was another name for a war. It was spread by insurgents or terrorists. They managed to kill my father's manager before they tried to kill my father. His side was ripped open by a shotgun as he dived to the side to avoid being ripped in two. I have very vivid memories of him being brought back by the Gurkha troops, a bloodstained bed, a very ill looking father and a very worried looking mother. We were all targets—the military and civilian men, women and children. That was my early life.

I also experienced the Iranian revolution. At that time, I was married to a lady from Iran and my relatives were at risk of mob murder. Indeed, my parents-in-law were killed. I assisted one sister-in-law who was 16 years old to escape. I suggested to the UK authorities at a consulate in Germany that they might be better to let her continue her

escape into England. It was not easy trying to persuade bureaucrats to allow a 16-year-old unsupported woman to have asylum in a safe country.

I also trained for emergencies as a reserve soldier. I learnt how to deal with terrorist strikes in Northern Ireland—events that may strike a chord with other members in this chamber. It is amusing now, but at the time I vividly recall the time a car backfired and our whole platoon suddenly took up positions in the shopfront doorways, holding our imaginary 7.62 millimetre self-loading rifles at the ready. That was our training.

None of that matters, however, as I oppose this bill because it is plainly wrong. I note that there seems to be some understanding by the government that the bill is unacceptable in the public's opinion. There is a sensitivity there, no doubt highlighted by the multitude of emails that all members will have received, as have I. I had entertained hopes that this bill would be referred to the Standing Committee on Legislation. Sadly, they were dashed.

It will come as no surprise that I often find myself talking to people about the Portuguese model of drug treatment. Why am I going into that now? I am sure members will be aware of it, but, essentially, under this model, the state decides to treat all illicit drug use and addiction as medical rather than criminal matters, and the resources are distributed accordingly. From what I can tell, it has not saved any money for Portugal. That was never its intention. Instead, far more money has been spent on medical treatment than has been wasted in police and court time. A good deal can be said for this model, but what does that have to do with emergency powers? One offshoot of the conversation that I regularly find myself having about Portugal and its approach to drugs is the question of how the police have adapted to that shift. By all accounts, they have adapted well, because they have come to be seen, and to see themselves, more and more as servants of the people—sworn officers whose first duty is to help those in need. That fits particularly well with the European model of policing. In many countries—I am thinking of Italy and France in particular, but I am sure there are plenty of other perfectly good examples—they do not have a single, unified police force, but, rather, a civil guard, with guardianship rule and specialist units that sit off to one side. I am thinking also of Iceland managing domestic violence and suchlike. Sadly, that is not the model we have inherited from mother England, where the preference has always been, and still is, for a unified crime-beating force rather than a citizenship-aiding force. Of course, here in Australia, having passed through our various convict phases, until very recently—in fact, even today—there has always been the presumption that everyone was up to no good and had to be kept in check and there had to be a strong police presence.

I saw that presence firsthand recently in New South Wales. As many here know, I attended the annual Nimbin MardiGrass rally. Calling the policing there heavy-handed was perhaps an understatement. I can speak more about that at some length, but ludicrous attempts were made to pass off the universal roadside drug tests as somehow being random. Police officers in riot gear walked down streets of perfectly peaceful people, imposed their will and were, I would say, quite offensive to a naturally very quiet and happy population. That was around Nimbin as well. On my last day there, I had coffee with a couple aged in their 70s, and they bemoaned the fact that the town had a ring of police around it. If they tested even slightly positive for THC, without being impaired, they had to walk maybe eight kilometres back home as a mid-70s person with their shopping in hand. They were weary of that and would pick up their groceries with some trepidation. They said to us that they were quite disgusted by the mob tactics employed by the New South Wales Police Force with its effective ring of steel around Nimbin.

I mention this because I would like to think that it would not happen in WA, but I am not so sure that it would not happen. I am not sure that I would be proven wrong, because the attitude of the government of the day will all too often seep into the attitude of its police service. In my experience, there is little doubt that the attitude of the government at present and, at the very least, of this Premier is one of arrogance. It is mirroring the attitude of sworn officers working under the auspices of the Crown. We have a problem with them, and it is a problem that would be exacerbated tenfold if we handed those sworn officers the keys to our pandemic legislation. This frightens me.

I come back to Portugal, because it has a particular type of police officer—a servant of the public peace and the first port of call for a stranded citizen. In such a police officer, I might be happy to entrust that level of power, but I am not convinced that we have that service here in Western Australia or anywhere else in Australia; I think everyone here would agree with that. I would like to see it develop. It would be far better for us if it was developed—if we ever see it; maybe not in my lifetime—but until then I simply cannot be a party to laying the foundations for a potential police rule. This is a salami-slice move towards getting police rule in the event of an emergency. I will speak later about how I see the police and armed forces working in an emergency, but that is enough of that just now.

What I really wanted to say is that I am flabbergasted. I mean no offence to my colleagues here on the opposition side of the house, but I would have very much more expected such legislation to come from this side than from the government side. It flabbergasted me. Why? It seems so unnatural. I would have opposed it coming from this side as vehemently as I do now with it coming from the government side. I find it astounding.

Instead of taking a leaf from other jurisdictions, such as Victoria, and bringing forward pandemic legislation—more on that later—the McGowan government, the very people who have told us throughout COVID to follow the

science, is now proposing to abandon the science altogether, denigrate the medical professionals who have led us so ably over the last years and, instead, hand power in any future pandemic emergency to the police. I digress.

I now speak about Keir Hardie, who founded the Labour Party in the UK. He rose in the House of Commons back in the beginning of the twentieth century and announced —

> We are called upon at the beginning of the twentieth century to decide the question propounded in the Sermon on the Mount as to whether or not we will worship God or Mammon. The present day is a mammon-worshipping age. Socialism proposes to dethrone the brute-god Mammon and to lift humanity into its place.

In the twenty-first century, it seems to me that we are called to make a similar distinction. Will we worship science or authority? Will we dethrone the brute god that is blind obedience and lift an informed, educated humanity into its place? If we will not, then why not? Why do we, who more than any other people should be wary of our jailors, crawl back to blind obedience? We should be hoarding our freedoms to ourselves.

An emergency bill has been declared, and we are to debate this bill under emergency conditions, as defined under the revised standing orders. The keywords I use when addressing my supporters are "truth", "freedom" and "growth". Let us address that first value—truth.

In the other place, which shall not be named, this bill was declared a COVID-19 emergency, and the standing orders for that emergency were invoked, curtailing the time permitted to adequately debate it. The opposition has disproved that contention quite conclusively. The reasons for the perceived emergency are entirely fallacious. By the words of the minister who declared it, this declaration is not correct. The minister eloquently described how well things are going and failed to give even one measure of an emergency that justifies this bill being rushed through. Not one word—of that, there is no doubt. The grounds for driving this through without adequate debate are, to quote Blackadder, a pimple on the face of veracity, devoid even of a tangential relationship to truth. There can be no doubt about this. I will not labour the point any further, except to state that this abuse of standing orders is a repeated pattern, and it reinforces the view we expressed in the initial debate of May last year that the government would do precisely what it has done in abusing the otherwise sensible approach to managing emergency legislation. I had expected better.

Continuing the topic of truth, let us consider the situation in front of us now with COVID-19 presented as a pandemic emergency. Urgent measures were sought and granted. Now that the urgency has abated, we seek to pivot to manage COVID and live with the virus. The government had two choices. One was to simply cancel the state of emergency and go back to how it was with the Emergency Management Act and Public Health Act. The second choice was to build on the experience and create legislation to deal with future pandemics. With this bill, the government has done neither. I will speak some truth to this. The government has created a specific reference to COVID-19, placed it in the array of measures needed to manage an emergency and given the power to manage a COVID-19 pandemic to the police. Yes, the current police commissioner is competent, personable and an effective police officer. I like him greatly, but the power is being transferred to the police. In the briefing the government kindly provided, it was repeatedly said that a pandemic would be treated as is the case with any other emergency. The government points out the need for disciplined forces to enforce the required strategies to manage the infection, road closures, travel restrictions, mask enforcement and so on. In part, it is correct.

I have explained my personal experience with emergencies, but by "emergencies", I mean cyclones, tsunami earthquakes, civil disobedience and the like. I wonder how many members have lived through serious infectious-disease situations. I wonder whether our Chief Health Officer has lived through situations similar to those I have. Could it be that I have more practical experience of living through an epidemic than he has? Bear in mind that a pandemic and an epidemic differ only in the extent of the spread of the disease. They are the same enemy with a different extent of spread. While living in Hong Kong, I personally experienced the issues of managing SARS and H5N1. I believe the SARS epidemic had a case mortality rate of 11 per cent, compared with the current COVID-19 case mortality rate of 1.05 per cent worldwide and 0.17 per cent in Australia. The case fatality rate for influenza is 0.37 per cent, and that is for cases that have been detected; the rate is probably lower than that. Under the one country, two systems rule, the management of this very serious situation in Hong Kong fell under the aegis of the public health authorities, with the Hong Kong government in charge. They used the chief health officer, who was supported by the police. Hong Kong also had a population who, for the most part, was very compliant. There was absolutely no problem whatsoever getting people to wear face masks; that is quite standard. At that time, the World Health Organization was very concerned at the potential spread to a pandemic. It very nearly happened, and that would have had worldwide consequences, especially with a case fatality rate of 11 per cent. That is quite a lot higher than we currently have.

In 2003, PubMed Central published an article, "SARS: Epidemiology", which I can produce if members wish, in which the following line was written —

> Development of a validated diagnostic test and an effective vaccine as well as elimination of possible animal reservoirs are measures needed to prevent another epidemic.

We are still not in possession of an effective vaccine. The vaccine reduces the severity of the disease and the death rate, but it does not stop infection and transmission—it is not effective. It is an okay vaccine, but it is not an effective vaccine. We need an effective vaccine.

Are we in possession of a valid test? How often have we tested with rapid antigen tests and found them to be ineffective? The same is true for other tests as well. We have not controlled possible animal reservoirs, as we discovered in Wuhan. That was 20 years ago. I say this to underline my credentials as not only a serious-thinking politician, although members opposite may disagree with that, but also a medical professional with personal and professional experience with serious infectious disease.

Debate interrupted, pursuant to standing orders.

[Continued on page 4538.]