PROTECTION OF INFORMATION (ENTRY REGISTRATION INFORMATION RELATING TO COVID-19 AND OTHER INFECTIOUS DISEASES) BILL 2021

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon James Hayward) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon WILSON TUCKER: I would like to expand on a previous question about encryption asked by Hon Colin de Grussa. I will ask the question in a different way. Is the data from a SafeWA user's device encrypted in transit to its final destination, which I believe is located on an Amazon Web Services server located in Australia; and, if it is encrypted end to end, who has access to the data from the time that it leaves the device until it is stored at rest?

Hon MATTHEW SWINBOURN: Our technical knowledge is obviously much more limited than Hon Wilson Tucker's, but my understanding is that nobody can lawfully access the information as it passes from a phone to the server. Whether people are using methods that are not legal, is a question that nobody can answer, but hopefully they are not.

Hon WILSON TUCKER: Thank you for that answer. I have a different line of questioning that relates to a previous question. Was the parliamentary secretary told not to provide legal advice relating to any direction to mandate the collection of entry data? I was recently told by an adviser during the bill's briefing that they would make available the advice that was provided by the State Solicitor's Office to the State Emergency Coordinator during the drafting of the direction to mandate the collection of that data. If the parliamentary secretary is now refusing to table that advice, can he at least outline the content of that advice?

Hon MATTHEW SWINBOURN: I was not at the same briefing the member attended and I cannot say whether an adviser gave such an undertaking. But an adviser is not in a position to give an undertaking that would be binding. The only people who can release that information are the Attorney General or the State Solicitor. My advice is that that advice or the content of that advice will not be tabled, because if we did that, we would run the risk of waiving privilege.

Hon NICK GOIRAN: Prior to the break for the taking of questions without notice, the parliamentary secretary indicated that the first draft of the bill was received from Parliamentary Counsel on 21 May this year. It is a matter of public record that a meeting that took place between the Premier and the Commissioner of Police and that that took place on 14 April. Can the parliamentary secretary confirm that that is the case?

Hon Matthew Swinbourn: By interjection, I believe that is the case—that is, 14 April, to be clear.

Hon NICK GOIRAN: That is right; 14 April. The first draft of the bill was received from Parliamentary Counsel on 21 May, one month and seven days later. On what date was the Premier first made aware of this issue?

Hon MATTHEW SWINBOURN: I am not in a position to provide an answer on that matter on behalf of the Premier, other than to point to those matters that are already on the public record or in *Hansard* of the other place. I think some parliamentary questions have already been asked about that and I think the most definite answer I am aware of is early April. Other than that, the member would have to direct that to the Premier.

Hon NICK GOIRAN: Earlier in the debate on this bill, there was some discussion about the possibility of the government availing itself of some advisers from the Western Australia Police Force. Has any progress been made in that regard?

Hon MATTHEW SWINBOURN: I am not sure whether I made it clear that they will not be made available to me. All I said was that I note the issues that members have raised and that I would express those views to those I can express those views to.

I will make this point about the bill, though: ultimately, after we deal with clause 1, the bill does not have anything to do with police; it is about the ongoing security of the information, who can access it and those kinds of things. Once we finish the debate on clause 1, which is obviously much different from the debate on other parts of the bill, I am sure we will be able to make progress in relation to that.

Hon NICK GOIRAN: The parliamentary secretary makes a very good point. Of course, it is the case that had this bill been referred to the Standing Committee on Legislation, that committee would have been in a position to call WA police, the Commissioner of Police and anyone involved in these seven notices to produce to give evidence. Regrettably, we cannot do that for a variety of reasons, including the fact that there is a desire to pass this bill on the same day that the debate has commenced. This is therefore the only opportunity to interrogate these matters, which are at the very heart of why this bill is before us.

I can understand what the parliamentary secretary has said to the chamber. He is not in a position to inform us about when the Premier first became aware, other than to point to what has already been said on the public record, which is an unspecified date in early April. Is the parliamentary secretary in a position, particularly as he represents the Attorney General, to indicate when the Attorney General was first made aware of this matter?

Hon MATTHEW SWINBOURN: I am not in a position at this stage to say when the Attorney General first became aware. He made some reference in the debate about the circumstances in which he became aware, but I am not in a position to give the exact date to the member now.

Hon NICK GOIRAN: This is difficult, because we are dealing with a bill that comes under the auspices of the Attorney General. We have the Attorney General's representative here before us, but we cannot be told at this time when the Attorney General was first made aware of this matter. This compounds the problem that we already have with the WA Police Force. I take the point the parliamentary secretary made that moving forward, WA police will not have a role in this matter. But given that they are the cause of the matter, one would think that they would make themselves available. I reiterate the point made earlier that if we had abided by what I will refer to as the "Templeman promise"—that is to say that this matter would be dealt with on Tuesday next week—I wonder whether all these people would be available. Nevertheless, the person with the carriage of this bill, ultimately, is the Attorney General, and in this place it is the parliamentary secretary, but we cannot be told when the Attorney General was first informed of this matter.

The reason I ask, parliamentary secretary, is that it has been put to me that the Attorney General was first made aware of this matter in December last year, and I want to ascertain whether that is fact or fiction. Clearly, the Attorney General must know when he was made aware of it. I listened to the interview he gave on radio earlier this week, on Tuesday, two days ago. In accordance with my notes from the radio interview, I note that he immediately instructed that this bill be drafted after he was informed about this matter. The parliamentary secretary indicated to us that the first draft came back from the Parliamentary Counsel's Office on 21 May. When were instructions given to Parliamentary Counsel?

Hon MATTHEW SWINBOURN: The member will probably anticipate this answer, but my advice is that that is subject to cabinet-in-confidence.

Hon NICK GOIRAN: Is the parliamentary secretary in a position to advise us how long it took for Parliamentary Counsel to produce the first draft?

Hon MATTHEW SWINBOURN: Once again, the member will probably anticipate this answer, but I cannot give him that date because, obviously, it relates to those cabinet-in-confidence matters and by reverse-engineering, the member may be able to then glean when it was done. That is my advice.

Hon NICK GOIRAN: I, with respect, disagree with the parliamentary secretary on this point. I have not asked anything to do with cabinet; I have simply asked when the instructions were given to Parliamentary Counsel. Those instructions are given by a person, whether they are made on the same day as a cabinet decision or not is not my question. I am not asking about a cabinet decision; I am asking when a document was provided by one agency to the Parliamentary Counsel's Office, which gets paid by the taxpayers of Western Australia to do a job, and it does a good job. I am told that the Parliamentary Counsel's Office produced the first draft of this bill on 21 May. Clearly, people within government felt that this was an urgent matter and that is why we are dealing with it on an urgent basis here. I would like to know: did Parliamentary Counsel produce the first draft in a day, two days, one week, two weeks or a month? We know that the Premier had a meeting with the Commissioner of Police on 14 April. Were instructions then given on 15 April and it took more than a month to produce the first draft of the bill? I do not see how any of that has anything to do with cabinet-in-confidence in the slightest. Perhaps I would invite the parliamentary secretary to take advice whether any further information can be provided at this time, otherwise I think this is a matter for the Auditor General to inquire into on another occasion, albeit it will be too late at that point.

Hon MATTHEW SWINBOURN: I have sought further advice from the advisers and on the basis that we will not be going down this path any further than this information I will provide the member, the formal drafting instructions were given on 20 May and the first draft—it is not a long bill, it was just a skeleton of that sort of thing—was produced for further discussion the following day.

Hon NICK GOIRAN: That is helpful because it certainly indicates, from Parliamentary Counsel's perspective, that it produced at least the first draft, albeit skeletal or otherwise, within what appears to be 24 hours. Certainly nobody can complain about the efficiency of that process. Obviously, a range of other questions emerge, but I take the point that the parliamentary secretary made that he is not in a position to let us know when the Premier first became aware of this matter—other than early April—or, indeed, any time frame with regard to the Attorney General. Is the parliamentary secretary in a position to indicate, because I think he has some health advisers at his disposal, the date that the Minister for Health first became aware of this matter?

Hon MATTHEW SWINBOURN: It is on the record already; it is 31 March.

Hon NICK GOIRAN: As the parliamentary secretary indicated, the first time that the Minister for Health was aware of this matter was 31 March this year. Some documents have been tabled at the request of Hon Martin Aldridge to this effect. I hope to pose some further questions on those matters, not the least of which that the recommendation provided in the briefing note states that the minister note that SafeWA has been used on specific occasions for purposes other than contact tracing. This is a document dated 25 March 2021. The Chief Health Officer signed off on it on 30 March and the Minister for Health signed off on it the following day. At least I take it that it is the Chief Health Officer; it is not immediately clear to me whether it is the director general or the Chief Health Officer given the location of the signature.

In any event, one of those two senior individuals has signed off on it on 30 March, and the Minister for Health on the following day. Health's attitude on that day appears, on the face of it, at least, to be, "Well, we note it." One would like to think that there was a bit more urgency and some action taken as a result of that, potentially, that meant that the Minister for Health then immediately knocked on the door of the Premier and said, "We've got a problem", and the Premier then took some expeditious steps to try to meet with the police commissioner, albeit that that did not seem to happen until 14 April. The time line of those events is important given the gravity of the breach of trust of Western Australians. We cannot find out the answers to these questions today because the government says it is unable to provide that information to us today. Certain individuals are unavailable. If the government decides to bring on a bill in urgent circumstances, completely ignoring all the ordinary processes of the Parliament in both chambers, then, as a matter of courtesy and decency, it ought to make sure that all individuals are made available to the process. That would be showing respect to a matter that it considers to be urgent. It is not acceptable to have individuals away or unavailable for whatever reason, genuine or otherwise. Nevertheless, that is the situation we find ourselves in. All we can do is surmise on the basis of the information that we do have before us.

We certainly know, as I indicated earlier, that within nine days of the requirement for mandatory contact registration, the police commissioner's force started a process of issuing these notices to produce. There are seven of those notices. I know that at least some of the seven relate to data obtained from the SafeWA app; in other words, some of these seven notices to produce have asked the Department of Health to release information or data that has been obtained through the SafeWA app. Is that the case in all seven of the notices to produce, or were some of the notices to produce asking the Department of Health to provide information from some source other than the SafeWA app?

Hon MATTHEW SWINBOURN: My instructions are that all seven related to SafeWA app data. If there was stuff outside of that, I have no information on that, as to how much that goes to the scope of the bill that is before us.

Hon NICK GOIRAN: I thank the parliamentary secretary. That does help, because it was suggested to me by another source that perhaps not all seven related to SafeWA. It is good to get it on the parliamentary record that all seven do indeed relate to the SafeWA data.

In this instance, we know about this because it is WA police who have sought access to this data. Has the Department of Health been approached by any other government department, whether from Western Australia or from another jurisdiction, or any investigative body, to produce data pertaining to the SafeWA app?

Hon MATTHEW SWINBOURN: My advice is that the answer is no.

Hon NICK GOIRAN: I understand that the contact registration process—what we refer to as the record of entry registration information—can manifest itself in several ways at present. The most common way is the data from the SafeWA app. One of the other ways is some of these hard copy manual records that are kept by individuals and businesses. Is the government aware of whether the WA police have sought data from any of those registers?

Hon MATTHEW SWINBOURN: WA Health does not know that. It is not something that it has access to. If the member knows how the Criminal Investigation Act works, he will know that a police officer can get an order signed by a justice of the peace. It is not information that WA Health would have.

Hon TJORN SIBMA: Minister; sorry, parliamentary secretary. I am jumping ahead!

Hon Matthew Swinbourn: You keep promoting me!

Hon TJORN SIBMA: Good luck, good wishes and all the rest. I wish the parliamentary secretary every success. I think he is doing an admirable job under very difficult and constrained circumstances.

My question relates to a series of technical questions posed by Hon Colin de Grussa that the parliamentary secretary was responding to, and subsequent remarks, comments and questions from Hon Wilson Tucker. One of the pitfalls, I suppose, of legislating on issues that are still alive is that we become aware of a set of circumstances potentially or another line of questioning as we are debating the bill. The parliamentary secretary is potentially at some disadvantage, but I draw his attention to an article that was published online in *The Australian* by Paul Garvey entitled "Coronavirus: WA, Qld Covid check-in data accessible to foreign authorities". It goes to the question of who is hosting the datasets, particularly in the case of SafeWA and Amazon Web Services. I might read some sections of

this article—not the entire thing—and seek a response from the parliamentary secretary concerning who else might have access to the private information of Western Australians who dutifully utilise the SafeWA app at sign-in. The article was drawn to my attention by Hon Colin de Grussa; it is his good work. It states —

> Foreign government agencies have had the ability to access data collected via Western Australia's and Queensland's Covid check-in apps, according to the terms and conditions of the mandatory systems.
>
> The decision by both states to use international tech giants Amazon and Microsoft to host the data appears to have opened the possibility for overseas law enforcement and other agencies to access the information, although it is unclear if any such access has been sought.

That in itself becomes a question.

> The legal frameworks underpinning the apps have been under scrutiny following revelations this week that WA Police had used the state's SafeWA check-in app to assist with two serious criminal investigations, despite promises from the government that the compulsory app would only ever be used to assist in Covid contact tracing. The WA government on Tuesday introduced emergency legislation aimed at closing the loophole.
>
> The terms and conditions of the WA and Queensland apps note that the storage of the check-in information is hosted by Amazon Web Services and Microsoft Azure Cloud Services respectively. They both feature near-identical warnings that the two software giants are "subject to both Australian and overseas laws that may require the disclosure of your information (in limited circumstances) to government authorities here and overseas".

The article went on to note —

> Neither the Service Victoria nor Service NSW check-in apps —

They are counterparts to the SafeWA app —

> feature similar warnings in their terms and conditions to the WA or Queensland apps …

The question becomes: who else might have access to the data that is being collected by either WA Health or Genvis but then hosted in Australia? We have been reassured that an Australian-based Amazon server is hosting that information, but is there any way to ascertain whether Amazon has had to comply with the entreaties of a foreign government and provide that data for any purpose? How would we be reassured that that has not happened and cannot happen? What in this bill would prevent such an occurrence?

Hon MATTHEW SWINBOURN: The member put a lot into that contribution. As he can imagine, he is at an advantage to me and the advisers in that he has been able to read and look over *The Australian* article. We can only go on the basis of what the member has said to us. He read out parts of it but we have not had the opportunity to consider it in detail, so I can make some general comments.

Hon Tjorn Sibma: Would the parliamentary secretary be prepared to take that on notice and provide an answer at a subsequent stage of deliberation if he is not in a position to provide an answer now?

Hon MATTHEW SWINBOURN: Let me do my best.

Hon Tjorn Sibma: Okay.

Hon MATTHEW SWINBOURN: The member might have more to pursue because I am sure I will miss things from what he originally said, because there was a lot there.

In terms of the general issue, this will be an ordinary act of the Western Australian Parliament. Like every other act of the Western Australian Parliament, it will be limited by our jurisdictional powers. The commonwealth Constitution provides that a commonwealth act will prevail to the degree of any inconsistencies. The commonwealth enters into arrangements with foreign entities and powers on the sharing of information, and that is a matter of public record. This act can achieve only what is within the context of the Constitution and the powers that exist between the state and the commonwealth. My advice is that we would have been made aware of any attempt to access information from people within the commonwealth or internationally, and we are not aware of any such request being made.

Hon Dr BRIAN WALKER: I find the questions interesting. Being on urgent parliamentary business, I may have missed this question. The question is about the seven orders to produce. Was it one enterprising individual who submitted the seven orders or seven equally aspiring others who sought this information? Do we have any breakdown of who submitted them and when?

Hon MATTHEW SWINBOURN: Member, we do not have that level of detail available to us. They were all Western Australian police officers within the Western Australia Police Force performing their lawful duties. That is the context of where they came from. They were not people simply on a frolic to try to gain access to this information.

Hon MARTIN ALDRIDGE: I do not know whether the parliamentary secretary has a copy of these documents.

Hon Matthew Swinbourn: Which documents?

Hon MARTIN ALDRIDGE: Minister Dawson tabled some documents after question time in response to a question I asked yesterday about correspondence between the Department of Health, the WA Police Force and the Minister for Health. It is a five-page document, with the first page summarising it.

Hon Matthew Swinbourn: I think we do have them, but I have not read them. As you can see, we have a copy of them.

Hon MARTIN ALDRIDGE: I will speak to them generally.

Hon Matthew Swinbourn: We got them only 40 minutes ago.

Hon MARTIN ALDRIDGE: Yes. They are very helpful. I think the Department of Health has some further questions to answer about how we got to this place. We have learnt today that there have been three occasions on which a lawful request was made and there was compliance with that request—on 23 December, 27 December and again on 31 March. Those three occasions saw the release of 2 443 individual records. That could mean 2 443 individual Western Australians, say, had their check-in data released to WA police under these three orders. Two of those dates were in late December, only days after the first direction from the State Emergency Coordinator was issued. Another one, issued on 10 March, was complied with on 31 March. Having read these papers, it concerns me that to the best we can establish, the first time a minister of the Crown became aware of this issue was on 31 March, and that was the Minister for Health. We do not have any evidence that prior to that date, any other cabinet minister was aware of this issue. By that time, the Department of Health had complied with three orders to produce—it had already released 2 443 records. These papers, particularly the correspondence exchanged between the Commissioner of Police and the director general of the Department of Health, makes their concern quite clear. Their concern was twofold. Firstly, it was contrary to the publicly available intent of the government; secondly, their concern was about the impact it would have on confidence in using the app, and by extension the department's ability to maintain an effective contact tracing capability. It is very clear. Why did it take the director general of Health until 31 March to fly the flag on this issue? At that stage, his agency had already complied with three orders to produce. I said this in my second reading contribution. I would have thought that the moment that a public servant had received an order to produce of this nature relating to accessing SafeWA data, it would have triggered an immediate chain reaction of communication to their minister. Clearly, that was not the case, because the first order to produce was issued on 14 December 2020, and it took the director general until 31 March to write to the Minister for Health, and all the Minister for Health did was note the briefing note. Beyond that summary we have no evidence on this issue of anything that transpired between 14 December 2020 and 31 March, which is deeply concerning.

I asked a question yesterday of the Premier about whether he had a duty to inform the users of the app who had had their data shared contrary to the commitment he gave to the people of Western Australia, and he said no, he had no intention of informing them. As I said, 2 443 Western Australians could have had their data shared contrary to the commitment of this government. Why does the government not feel it has an obligation to inform users of the app in the interests of instilling greater confidence in the system? Why does the government not have an obligation to inform those users? Why did it take the Department of Health from 14 December 2020 to 31 March to raise this matter with the executive?

Hon MATTHEW SWINBOURN: In relation to the member's issue about why it took the director general so long, it would be disingenuous to suggest that the DG was just sitting around doing nothing and then happened to come across the issue. As the member might recall, there was an election at that time during which the government went into caretaker mode, which obviously changes a lot of the Westminster conventions. There were those issues to take into account. The first issues relating to these matters arose in December and then there were internal workings within the health department. Advice was sought from the State Solicitor's Office on these matters. As the member indicated from his letter, the director general wrote on 12 March and received a response from the Commissioner of Police on 19 March. The note was produced on 25 March, signed by the Chief Health Officer—or, as Hon Nick Goiran said, it could have been the Chief Health Officer or it could have been the director general—on 30 March. On 31 March, it was signed by the minister.

It is not uncommon for departments and departmental heads to deal with matters before they raise them with their ministers. Another thing that was happening for Health at that time was the COVID-19 outbreak that it was dealing with, the Wooroloo bushfires and cyclone Seroja. There was a lot going on at that particular point in time.

Hon MARTIN ALDRIDGE: The time frame started on 14 December. We were not in caretaker mode, there were no cyclones and there was no election. I was charitable in my contribution to the second reading debate when I spoke hypothetically about being a public servant in the Department of Health when this matter came in, knowing the sensitivity around the SafeWA app. The department made it patently clear in its letter: it is all about maintaining confidence in the use of the app. Why then did it take the department so long to alert the government about this? It is extraordinary to say, "Oh, it's because the director general's a busy man, we had an election and we were in caretaker mode." The caretaker convention is just that—a convention. It does not stop the government from operating and

it does not stop the government from making decisions. Yes, there are decisions that require consultation with the opposition during caretaker mode, but it does not stop the government from doing much at all. It certainly does not stop a director general sending a briefing note to his minister to say, "I think we've got a problem here that could lead to a lack of confidence in our contact registry app and contact tracing capability." I think that the Department of Health needs to be examined much more thoroughly over its involvement in this issue and why it took the department so long to bring this to the attention of the Minister for Health. The Commissioner of Police tries to reassure the director general of Health in his reply of 19 March that he has set up a new process. He says —

> To provide some assurance to you, as well as the required scrutiny by a Justice of the Peace as to the veracity of the grounds to issue an OTP, I have instructed my State Emergency Coordinator's Directorate (SECD) to issue Operational Guidance to officers as to the process for considering SafeWA information for an investigation. I have required for a senior officer at the SECD to assess each request by an investigator to access stored information, prior to obtaining an OTP to ensure that this information is only accessed where it is defensible and required. This will ensure every request is justified and necessary and is specific to a serious crime. I envisage relatively low numbers of requests.

That is one paragraph of the letter from the Commissioner of Police to the Department of Health on 19 March. This is the protocol that I suspect the Attorney General was referring to in the other place on Tuesday evening. It was not acceptable to the government, but it is also the protocol that cannot be presented to this chamber today. I will ask again: is the parliamentary secretary now in a position to table this document, the new protocol that has been established, or, in the commissioner's words, the "operational guidance"; and, if not, why not?

Hon MATTHEW SWINBOURN: The position has not changed since earlier today and the document will not be tabled.

Hon MARTIN ALDRIDGE: We learnt more from this letter from the director general of Health to Commissioner Dawson on 12 March about the types of investigations. Members might take some interest in this because, to date, we have heard only some media reports around the alleged murder at the Perth Motorplex. The letter of 12 March from the director general of Health to Commissioner Dawson says —

> To date, WAPOL have requested information regarding patrons entering venues related to an assault that resulted in a laceration to a lip, a stabbing, a murder investigation, and a potential quarantine breach.

It is interesting that there is quite a range of offences there. Some of them are crimes and some probably are not. A breach of quarantine would be a breach of a direction issued under the State Emergency Coordinator's powers under the Emergency Management Act, but I am not sure whether that is a crime. It begs the question: what exactly was the threshold used by the WA Police Force and the Commissioner of Police in its operational guidance as the measure for when SafeWA data should or should not be accessed?

Hon MATTHEW SWINBOURN: The policy of this bill is to stop the police and others from accessing this data. The member is asking me to go back and unpick all that police history and do all those sorts of things. We have already been through this in the house and said that we do not have access to police advisers. There will be other avenues for the member to explore those things through the budget estimates, the annual report hearings and parliamentary questions with or without notice. However, in relation to this and the policy of this bill, the McGowan government is making it so that the police cannot issue orders to produce to obtain SafeWA access information. I do not have anything further to add to this area.

Hon MARTIN ALDRIDGE: The parliamentary secretary is right that this bill will stop WA police. But WA police have already, on three occasions, accessed data. Clause 11 of this bill will allow them to keep and continue to use that data. My question is relevant because this bill will not remove the data that they have; it will allow them to keep it and use it.

When the government realised it had a problem on or after 31 March 2021, did it contemplate the short-term response being an amendment to the directions that are issued to make sure that the government's publicly stated intent, and thereby the confidence of the Western Australian public to continue using the SafeWA app, was upheld?

Hon MATTHEW SWINBOURN: I am advised that, yes, it was contemplated but there were legal impediments that made it an impractical solution to the issue. I have some material that I will read and hopefully it will make sense. There are a number of requirements that the State Emergency Coordinator would need to be satisfied of before the power in section 72A(2)—which is what the member is referring to—could be issued. Significantly, the SEC would need to be satisfied that the action is reasonably necessary to prevent, control or abate risks associated with the emergency. Even if the SEC could be satisfied in an individual case, it does not follow that the SEC could be satisfied in every case that a direction is justified. The SEC would need to be satisfied that it was reasonably necessary in every instance and what class of persons would be captured by the direction every time. That is plainly not the case.

Hon MARTIN ALDRIDGE: The person who has the power to issue a direction under the Emergency Management Act is the State Emergency Coordinator; Commissioner of Police. Reading between the lines, is it the case that this was contemplated but the State Emergency Coordinator said, "No. I am not amending the directions"?

Hon MATTHEW SWINBOURN: I do not think I am going to read between the lines. The issues raised here about complexities in relation to each individual issuing of a direction and those sorts of things stand by themselves. I do not think the issue about the SEC and police commissioner being one and the same person is at the heart of the decision to bring in this law.

Hon JAMES HAYWARD: I realise that these are uncomfortable questions, but they need to be asked. The parliamentary secretary mentioned there was an election campaign on during this period. Given that these notices were first served on 14 December 2020, which was during the election campaign, if this information had come out then, what impact would that have had on the Labor's Party's election campaign?

Hon Matthew Swinbourn: Is that the question?

Hon JAMES HAYWARD: It is the first part of my question.

Hon MATTHEW SWINBOURN: I make the point that we are talking about the McGowan government, not the Labor Party. The Labor Party is a body, like the Nationals WA is a body, and I do not answer on behalf of the WA Labor Party.

Hon JAMES HAYWARD: I will rephrase my question. Had this information come out, what impact would it have had on the McGowan government's election campaign? Is that the reason why there was a 15-week delay from 14 December 2020 to 31 March 2021?

Hon MATTHEW SWINBOURN: Member, I have no idea what impact it would have had on any of those things. I recall that the Western Australian people were very supportive of the McGowan government's approach to COVID-19 and the way it managed it, but that has no bearing on how this matter was managed by public servants during that period and up until the time they made the executive government aware of the issue.

Hon JAMES HAYWARD: I wonder whether the parliamentary secretary feels that the Western Australian people would have the same level of support for how this matter has been handled.

Hon Matthew Swinbourn: I'm not going to talk about my feelings. I am not going down that path.

Several members interjected.

The DEPUTY CHAIR (Hon Steve Martin): Members, please! Hon James Hayward.

Hon JAMES HAYWARD: It is a reasonable question to ask. The parliamentary secretary brought it up. He was the one who said that there was an election campaign and that public servants were dealing with these matters. The question that we have been asking and do not really have an answer to is why there was a time delay between when these first items were served and government action, which has brought us finally to here. Can the parliamentary secretary categorically rule out that these things were raised with the ministers over that period and that what we are seeing here is in fact the bureaucracy taking a long time, albeit over the election campaign?

Hon MATTHEW SWINBOURN: I do not accept that there was a time delay. There was obviously time between when something happened and when something happened again; that is very ordinary. Whether it was a delay is a matter of subjective opinion. I am not going to get into any kind of speculation about the other matters. There are public servants who have worked and continue to work very hard during the COVID-19 pandemic. We are still in a state of emergency and they are still working very hard. I am not going to cast any doubt on their motivations or actions. I can present only the advice that is given to me at the table, and this afternoon I have presented the advice about when ministers and the Premier were first made aware of the issue.

Hon TJORN SIBMA: I am quite taken by the parliamentary secretary's use of "subjectivity" in the matters of the elapse of time and whether public servants, the government more broadly and ministers in this particular instance worked at the appropriate pace, given the issues at hand. I do not need to provide much more of an insight into my particular subjective view; I think it has become clear through the course of this debate. But I am interested in subjectivity to the degree that this bill is urgent. I will raise this now rather than wait for clause 2 because, fundamentally, the consideration of clause 1 has been constrained by the government's incapacity or reluctance to provide police advisers. We have needed to prosecute lines of inquiry and seek information in a way that has been time consuming; that may have been by design. During my second reading contribution, I asked whether His Excellency the Governor has been put on notice to anticipate an emissary from government to secure his assent to this bill this evening in a way consistent with the treatment of the so-called Palmer bill, the state agreement amendment act, which, again, set an enormously important precedent for legislation in Western Australia. I was here in the chamber the full day that we spent raising issues and dispatching that bill and I recall getting home and

seeing a helpful tweet. There he was, His Excellency, doing his civic duty and signing that bill into law. When I get home this evening, am I likely to see a similar social media post confirming that the Governor has dealt with this, endorsed it and acted in accordance with the government's so-called urgency?

Hon MATTHEW SWINBOURN: The bill will be dealt with urgently on its passing through this Parliament. As to whether the Governor is sitting at home in his slippers waiting for this, I do not have that information available to me.

Hon NICK GOIRAN: The parliamentary secretary indicated earlier that the Western Australia Police Force had changed its policy on the handling of these orders to produce. My recollection is that the date of that policy change was in February. I do not know whether we are able to ascertain a precise date on that.

Hon MATTHEW SWINBOURN: The advice I have is that it was the end of February.

Hon NICK GOIRAN: I ask about that because a document was tabled this afternoon, I think, by the Minister for Mental Health in response to a question from Hon Martin Aldridge, and it is a letter from the office of the Commissioner of Police, dated 19 March 2021. In that letter the Commissioner of Police refers to the issuing of operational guidance. I realise that the parliamentary secretary had some exchange with Hon Martin Aldridge on this idea of operational guidance and has already indicated that he is not in a position to table that today, and that is fine. But my question is: is the operational guidance distinct and separate from this policy change that is said to have happened in and around the end of February; and, if it is, what is the difference between the two?

Hon MATTHEW SWINBOURN: There is probably a lack of specificity in this answer, but our understanding is that it is all the same thing in terms of that generally.

Hon NICK GOIRAN: I would have thought so as well, but that is my concern. We are told that this policy change happened at the end of February, yet this letter is dated 19 March. The commissioner writes to the director general of Health, and says —

> To provide some assurance to you, as well as the required scrutiny by a Justice of the Peace as to the veracity of the grounds to issue an OTP, I have instructed my State Emergency Coordinator's Directorate … to issue Operational Guidance to officers as to the process for considering SafeWA information for an investigation. I have required for a senior officer at the SECD to assess each request by an investigator to access stored information, prior to obtaining an OTP to ensure that this information is only accessed where it is defensible and required. This will ensure every request is justified and necessary and is specific to a serious crime. I envisage relatively low numbers of requests.

The language used there seems to indicate that it is the start of a process—that he has issued some instructions to his directorate. If it were the case that operational guidance was already in place, it would be reasonable to say that the Commissioner of Police would have said, "To provide some assurance, my officers are now complying with a new policy and operational guidance". But it seems to indicate that he has taken on this matter seriously and issued some instructions, all of which is to simply say that 19 March is not the end of February. Again, it casts into question whether it is the same document. Maybe it is something different. Perhaps the parliamentary secretary is not in a position to answer that thoroughly today, but can we at least get an undertaking that some information on this will be provided to the chamber on another occasion, unless there is any further update?

Hon MATTHEW SWINBOURN: It can be read in the past tense. "I have instructed" is in the past tense. It does not tell us what date the instruction was given. The advice we have received is that it was late February in relation to those sorts of things. I can see whether I can get more information about that for the member, but how forthcoming it will be will obviously depend on whether the police are prepared to release those sorts of things for any number of reasons.

Hon NICK GOIRAN: In that case, can I ask the parliamentary secretary to take on this request. I appreciate that he is not in a position to table these documents today. Obviously, he is in a position to represent only the Attorney General in this capacity, but as the sole member representing the government on this matter, is he in a position to make the request, if need be through the Minister for Police to the Commissioner of Police, so that he could table next week in Parliament when we resume a copy of this amended or new policy document that came into existence towards the end of February and, in addition, if it is a separate document, a copy of this operational guidance? If it is the same document, only one will be tabled, obviously.

Hon MATTHEW SWINBOURN: As the member says, I do not have the power or authority to undertake, but I can request, so I give him the undertaking that I will make the request and inform him either behind the chair or through Parliament of the outcome of that.

Hon NICK GOIRAN: I am most obliged to the parliamentary secretary.

I wonder whether the government prepared a data protection impact statement in the preparation or facilitation of the SafeWA app. I am advised that a data protection impact assessment is a process to help identify and minimise the data protection risks of a project and is quite commonly prepared. Was one prepared for the SafeWA app?

Hon MATTHEW SWINBOURN: Can the member clarify under what provision this might be? We are aware of a commonwealth requirement for its agencies, but is he aware of any state requirements or policies, just to help narrow it down a bit?

Hon NICK GOIRAN: To be clear, parliamentary secretary, I am not necessarily suggesting that there is some form of mandatory requirement to prepare such a statement; I am simply asking whether one was prepared.

Hon MATTHEW SWINBOURN: The answer is yes, there is one.

Hon NICK GOIRAN: In that case, can it be tabled?

Hon MATTHEW SWINBOURN: I do not have it here, but I understand that it can be tabled. We will seek to produce it and table it.

Hon NICK GOIRAN: In light of this episode, has the government sought any advice from the Information Commissioner or the Auditor General or some other expert in the field about the preparation of a sound data retention and deletion policy?

Hon MATTHEW SWINBOURN: My information is that the Information Commissioner was consulted in the development of this bill and she indicated that she was happy with the deletion provisions of the bill.

Hon NICK GOIRAN: Okay.

Hon Matthew Swinbourn: Sorry, by way of interjection, we do not know about the Auditor General at this stage.

Hon NICK GOIRAN: No. Sure.

Hon Matthew Swinbourn: She was not consulted in the development of the bill.

Hon NICK GOIRAN: Outside of the remit of this particular bill —

Hon MATTHEW SWINBOURN: I will just clarify. I said that the Information Commissioner was happy with the deletion. I withdraw that. My instructions are that she was happy with the bill in totality, rather than the deletion clause specifically, which was more specifically what the member's question was. But the bill went before the Information Commissioner and she indicated her support.

Hon NICK GOIRAN: Is it then the case that the Information Commissioner has been consulted about policies that flow from, are associated with, or are ancillary to this new statutory regime that will be put in place? There is certainly going to be this structure in place. I note that there is also a clause that will allow for the preparation of regulations. I would imagine that if the government has consulted with the Information Commissioner about the bill, it would intend to seek guidance and consult with the Information Commissioner about the regulations. But I am more interested in the policies that flow from these things. One of the policies, albeit not necessarily around data retention and deletion policies, is the policy that we were discussing earlier with regard to WA police's use of the notices to produce when it comes to this data. Maybe the government is consulting with the Information Commissioner about those things, or not—I do not know. But separate to that, there will be other policies about the retention and deletion of data. Is any particular inquiry underway or has a request been made by the Information Commissioner; or, if not the Information Commissioner, the Auditor General? I am reminded that there is also now a Government Chief Information Officer. Are any of these people specifically looking into these matters that flow ancillary to this legislation?

Hon MATTHEW SWINBOURN: The member threw a few things at us, so I will do my best. I do not think that I can specifically speak about a particular thing, but I can talk more generally about what flows from this. It is expected that consultation will continue to occur with the Information Commissioner, particularly the Office of the Government Chief Information Officer, which is an office within the Department of the Premier and Cabinet, as I understand it. The Information Commissioner's role, as the member may know, is a bit more specified by virtue of the act that she operates under in terms of the focus on freedom-of-information matters, but generally, there will be continuing consultation. It is also worth remembering that these policies and regulations cannot act outside the four walls of the act that we have here, which is very specific about what happens to the data that is being generated in these circumstances and how it is disposed of.

Hon NICK GOIRAN: Speaking of the Information Commissioner and the act under which the commissioner operates, does a Western Australian who uses the SafeWA app currently have a right to access a copy of the data that has been collected by the government?

Hon MATTHEW SWINBOURN: As I understand it, the member is asking about whether that is at the moment, not after this bill takes effect. Is that correct?

Hon Nick Goiran: At the moment; that is correct.

Hon MATTHEW SWINBOURN: Obviously, the member would be familiar with the FOI process. There are a number of limitations involved in that. The member would know that an individual would have to make a request to the agency, the Department of Health in this particular instance, and identify the information that they wish to collect. There are a number of matters in the act that would mean that in all likelihood it would be rejected. If we are talking about de-identified information rather than personal information, it is possible that they might be able to get access to the de-identified information that is held by the agency.

Hon NICK GOIRAN: I meant to indicate whether a person would be able to apply for their own information, not in respect of another person.

Hon MATTHEW SWINBOURN: Without being absolutely clear about the legal position, it would be possible because the agency would have to seek permission from the person whose information it is, which is the person making the application; so, theoretically, it would be possible to ask for your own information.

Hon NICK GOIRAN: I agree; I would have thought that that would be possible at the moment. If someone wants to know what data is being collected about them via the SafeWA app, as an individual, they ought to be able to access that information. Will that still be the case once this bill passes?

Hon MATTHEW SWINBOURN: No.

Hon TJORN SIBMA: I relate to one of the purposes of the bill, which is to compel destruction of entry registration records. I want to use this opportunity as best as I can. I draw people's attention to the fact that explanation of this clause is afforded some space in the explanatory memorandum. I am more interested in the practical application for agencies and organisations, particularly those that have been maintaining paper-based records such as cafes, hairdressers, mechanics or whatever. I am acting on the assumption here that there is not a great degree of policed or audited information and data security management and the like. I am interested to know what public communications strategy the government might be contemplating to remind proprietors who maintain those paper-based records of their obligations to destroy those records within a 28-day period, and how, indeed, the state government intends to audit that action.

Hon MATTHEW SWINBOURN: I might start with the second part of the question, which was about the audit process. I confirm that the police will not have any role in the auditing or monitoring and compliance part of it. Environmental health officers who work for local government authorities and fire officers who work for the Department of Fire and Emergency Services will deal with those compliance issues.

Hon Tjorn Sibma: Oh, really?

Hon MATTHEW SWINBOURN: Yes; that was my reaction, too. That is the advice I have. On the communications, WA businesses in the community are well-versed in adapting quickly and well to changing conditions, which this pandemic has required of us for over a year now. I think we would all agree that the level of cooperation we have had from small and large businesses has been very good.

The Small Business Development Corporation has been consulting and developing this bill, and relevant agencies will work together to ensure that small businesses in particular are informed, educated and supported through these changes, although I might add that I think the requirement to destroy documents after 28 days is a continuing one; it is not a new one that is coming into place under this legislation. It is new; I am sorry. I got ahead of myself. I withdraw that. I apologise; I go off the script sometimes.

The approach throughout the pandemic has been to continue a commonsense approach to enforcement. This will continue with these provisions. As the bill is proposed to commence the day after royal assent, it is important that businesses can be given sufficient lead time to make any necessary arrangements for the destruction of entry registration records. Clause 11(3) of the bill deals with this and provides that if the 28-day initial storage period has already started before the bill commenced, then a person has a further 28 days from the commencement date before the destruction obligations apply. This in effect allows a grace period for destruction of entry registration records following the commencement of the provisions of the act. As we are aware, a media release was issued on 15 June about the introduction of this bill and the issues it seeks to address. There is nothing that the general public needs to do differently. The public can be assured that protections of entry registration information have been strengthened.

The bill also aims to provide extra clarity for businesses and venues that are required to maintain entry registration records since existing requirements already make it mandatory for businesses to securely keep contact details for at least 28 days, store information confidentially and securely and ensure that information is not easily disclosed to other patrons. It is not expected that the effect of the bill will be onerous upon businesses. However, information available to businesses

will be updated promptly. I might add that the Department of Health has communicated persistently and consistently with businesses throughout the pandemic, so it will not be surprising that they will hear from the department.

Hon TJORN SIBMA: That was an interesting contribution. I suppose we are all learning as we go. That 28-day protocol is a new requirement introduced by way of this bill.

I was interested in the parliamentary secretary's response that, effectively, public health officers working for local government and fire and emergency services officers have a responsibility to audit —

Hon Matthew Swinbourn: I think it is compliance and monitoring. Authorised officers have the power, and I think they fall within the category of "authorised officers".

Hon TJORN SIBMA: That was just an aside. The reason I raised the matter of public communications is that this bill embeds a penalty of some 12 months' imprisonment and a fine of $20 000. I would hope that if anyone is prosecuted under those terms, a measure of discretion is granted to them. That is an aside, too.

The reason I raise this is that I have a personal vested interest, and I think most of us do. If my memory serves me correctly, the Department of the Premier and Cabinet strongly encouraged, if not compelled, electorate officers to have a QR code and also enjoined them to maintain a paper-based register. Am I to assume that there will be communication or a set of guidelines distributed by DPC or through public health to every parliamentarian and their officers advising them of their requirements under this legislation?

Hon MATTHEW SWINBOURN: There will be public communications for all authorities. I hope that in relation to electorate officers and members of Parliament that the Department of the Premier and Cabinet will follow that through. I think we are dealing with a different group of DPC people today. I also have a contact register and a piece of paper in my electorate office, like the rest of us do. That will be communicated in the campaign. It is absolutely in our interests to make sure that people are aware of this.

The member's point about the heavy-handedness stuff is well taken. The whole purpose here is the trust and the goodwill that has been built up between the community and the requirement to utilise the SafeWA app.

Hon NICK GOIRAN: I understand that last year the Premier of Western Australia assured people that the data that is obtained from SafeWA would be used only for contact tracing purposes. Thereafter, the police force—at least for some time—with the express authority and concurrence of the police commissioner, has decided to obtain that information for purposes unrelated to contact tracing. The government and, in particular, the Premier have been unsuccessful in asking the WA Police Force to cease and desist from this practice and therefore have had to bring this particular bill to Parliament, one consequence of which is that any Western Australian individual who can currently access their own personal information and dataset in the SafeWA app will no longer be able to do so. Therefore, they are being punished and their rights are being diminished through no fault of their own. Their trust has already been breached, I say, by the McGowan government. No doubt McGowan government ministers will say, "Well, it wasn't us." Potentially they might say, "Go and talk to WA police", but regardless of whose fault it is—we cannot interrogate that today because of the lack of available witnesses—there has been a breach of trust. The government is trying to remedy that now, but one of the consequences is that Western Australians' own individual rights will be diminished as a result of this legislation. Am I to understand that that is the current position?

Hon MATTHEW SWINBOURN: The member has made his own summation. I am not going to say whether it is fair. The issue we are dealing with here is whether the balancing act between the things the member has identified and the broader utility of the SafeWA app have been met.

In relation to the FOI stuff, they can access that information for only 28 days. I hazard a guess that an FOI application would not be processed within 28 days in any event. If it did, you guys would all be lining up to see how that had happened! Without being glib, the point is that the data will exist for only that period, generally speaking. Apparently, the agency is provided 45 days to respond to an FOI application under the act. Therefore, within the period that an agency has to respond, the data relating to most of that personalised information would have already been destroyed.

Hon NICK GOIRAN: Is there a provision at the moment and will this provision still exist for data to be retained beyond a 28-day period?

Hon Matthew Swinbourn: In this bill?

Hon NICK GOIRAN: At the moment and even after this bill.

Hon MATTHEW SWINBOURN: I will try my best here, member. The current position is that the 28 days is the storage period. So, if there was a COVID-19 outbreak, that material would exist for longer. Presumably, if that material existed for longer than the 45 days it takes to respond to an FOI application, theoretically someone could get access to it. When this bill comes into force, of course, the FOI application process will be cut off because that will no longer be permissible even for our own information. But even when personalised information is held for

a longer time, the FOI act provisions will no longer have effect from the passing of this bill. I hope that covered what the member asked.

Hon NICK GOIRAN: It does.

From what we understand, it is possible at the moment, and will be in due course, for data to be retained for a period greater than 28 days. We also know that at the moment, Western Australians can access that information if it is their own personal information, but they will not be able to do so after this bill is passed. The question then becomes: why is it necessary for this bill to go so far as to prevent individuals from accessing their own personal information?

Hon MATTHEW SWINBOURN: I think it comes back to the point I made about the balance of the system. I think the message sent through the policy of the bill is that we are ring fencing this information from all these points of view. There are exceptions in relation to that for FOI-relatable matters and, as I say, the decision was made to ensure that the message we talked about previously about this information being used for contact tracing is very, very clear. The member is right, it has essentially extinguished a particular right, although I do not think anyone anticipated very many people would seek that kind of information in any event, given that most people understand that the information being sent when they scan in is their location, their telephone number and the time they were doing it. It is not a lot of information. It was a policy decision and was deliberate, as I understand it. As I say, that is the effect of it.

Hon NICK GOIRAN: When we talk about ring fencing, we have to understand why we are trying to ring fence something. We are trying to do that so that people's personal information is not being disclosed outside the parameters within which it has been agreed; that is, as a community, we have agreed that personal information can be used for contact tracing purposes, but it is personal information. The trifecta of the Premier, the Attorney General and the Minister for Health co-authored a media release two days ago in which, under the heading "Comments attributed to Attorney General John Quigley", the Attorney General said —

> "Existing requirements make it mandatory for businesses to securely keep contact details for at least 28 days, store information confidentially and securely, and ensure information is not easily disclosed to other patrons.

It flies in the face of the idea of something being for personal information being protected from other individuals who might use it for purposes not otherwise agreed to, but the individuals themselves being unable to access that type of information. The parliamentary secretary said that one of the justifications is that it is probably unlikely that someone might want access to this information.

Maybe somebody needs to provide an alibi; maybe somebody needs to justify something. I referred earlier to the concerns of the Leader of the Opposition in the other place with the comments made by the Attorney General about information being used in civil proceedings, including Family Court matters. As we know, Family Court matters often contain allegations of various things, and somebody might well want to be able to have access to information. The point is that, irrespective of their motivation, it is their information, and now we are saying that because of the lawful conduct of the WA police—I think in the end I will say it was unethical conduct by the WA police in this instance, because we cannot have it both ways—there is no problem here, there is nothing to fix. Clearly, the government has decided there is a problem, because people were told one thing and another thing has occurred. The police certainly knew about that, and certainly the chief of police, who has at his disposal all the various levers to fix this problem but decided not to. I do not say that in any way to call into question the integrity of that individual, for whom I have the highest respect, but nevertheless there is this problem. It seems plainly unfair and completely unnecessary to then punish Western Australian citizens. Nevertheless, the parliamentary secretary has explained that that is what is happening, and so we move on.

In the parliamentary secretary's second reading speech he indicated —

> … we —

Again, a reference to the McGowan government —

> have, based on learnings from our own and other jurisdictions, continued to improve and strengthen entry registration and tracing arrangements in the state.

Regarding those learnings, improvements and strengthenings, what are the entry registration and tracing arrangements in the other states, particularly with respect to the protection of data that has been collected?

Hon MATTHEW SWINBOURN: I am conscious of the remaining time. The question the member asked about what every other state is doing and the sorts of things that have been learned is very broad. I have a prepared answer that I will read out. In May 2020, the commonwealth amended its Privacy Act 1988 to ensure appropriate privacy protections relating to the data collected through the COVIDSafe app. Jurisdictions have varying emergency management arrangements and privacy frameworks. Some jurisdictions have privacy legislation in place and privacy commissioners, and a number of jurisdictions use directions to limit the use of entry registration information to

contact-tracing purposes. There are places, namely Queensland, where the use of the information does not appear to be limited just to contact tracing, and entry registration information could be used for purposes as permitted by law.

What was also prepared in relation to this is a table that deals with interjurisdictional comparisons. It includes New South Wales, Victoria, Queensland, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory. I am prepared to table this for the member's information. I doubt very much whether he could get broadly across it—I say so on the basis that it was obviously prepared for me and not for the member. I am prepared to share it on the basis that it may help the member to understand these areas. I table the document.

[See paper 292.]

Hon MARTIN ALDRIDGE: I made a number of helpful suggestions in my contribution to the second reading debate to help the government restore confidence following its breach of trust. I want to go through them now. In the short reply to that debate that the parliamentary secretary gave, I think he deferred his answer to the committee stage because he thought it would be better dealt with there, but it really is a clause 1 question because it is where I think the bill is deficient, in two respects. Firstly, it appears that the bill does not have a statutory review clause. The recent practice that has developed over the last term has been for the Parliamentary Counsel's Office to draft and include review clauses in legislation so that we do not have to deal with them in the house as amendments. This bill does not appear to have a review clause. I think that would be helpful in building confidence that this is not going to be something that we will just set and forget. Perhaps a shorter review time frame might be more appropriate than a five-year time frame, which is in the standard clause that is drafted. Also, the type of legislating we are doing here is fairly novel, so we do not have a lot of jurisdictional comparisons to make. It is, as the government says, quite an evolving situation in both real and legislative terms. I would like to know why the government has omitted a review clause from this bill, and whether it would have an appetite to include one.

Hon MATTHEW SWINBOURN: Perhaps unsurprisingly, there is no appetite to include a review clause. We actively considered whether it would be appropriate to do so, but in terms of what the bill tries to achieve, it is obviously in relation to the COVID-19 pandemic. It is anticipated that a review of the operation of the legislation will be included in a review of the Emergency Management Act which, as has already been indicated, will occur when the pandemic is over. We do not know, of course, when the pandemic will come to an end, so putting in a set time frame for a review of the act and its effectiveness probably would not give us the whole answer, given that we are still in the process of living through the pandemic and dealing with the new and different things that it keeps throwing up at us.

Hon MARTIN ALDRIDGE: Obviously, I would prefer to see a statutory clause in the bill, but I think, true to his word, the parliamentary secretary will deliver on his commitments. He may be the reviewer; it would keep him busy.

Another helpful suggestion was the provision of an annual report. That would go some way towards instilling public confidence that the system is operating in the way that it ought to be operating. Given that this will be operating under the health portfolio, the Chief Health Officer has an important role in the administration of the provisions of this act and is an important decision-maker on aspects of this bill and the future act. I think there is merit in having an annual report laid before both houses of Parliament or, as a compromise, perhaps a provision that requires certain information to be included in the agency's annual report. The type of information I am talking about is breaches, offences, convictions and any other relevant matter that relates to the protection of this information. There may not be much to report, which I am hopeful will be the case, but I think that in the interests of restoring and improving the confidence that the director general of Health expressed grave concern about in his letter to the Commissioner of Police in March, there is some utility in the government contemplating some type of reporting provision that would allow not only Parliament, but also the public to inform themselves of the proper operation of this bill when it becomes an act.

Hon MATTHEW SWINBOURN: We are not going to include any specific reporting requirements, as the member has encouraged us to do. However, I would say that the statistics and summaries on the breaches, offences, convictions and those types of things—the macro depersonalised data that is collected—will, of course, be available to reporting agencies and may be disclosed under other laws, if necessary. Certainly, parliamentary questions and those sorts of things would be available for that information to be disclosed. Another issue about the annual report is that the act will operate only in an emergency. An annual reporting requirement would end up being nonsensical in the absence of an emergency. Hopefully, after this pandemic ends we will not have another one that requires the operation of this legislation for many, many years, but the reporting requirement would still be there for the agency year on year in the absence of an emergency.

Hon MARTIN ALDRIDGE: I take the parliamentary secretary's point. The act will be in operation, but it will not be used so I would have thought completing the annual report would be a simple exercise, particularly if it is incorporated as a component of the Department of Health's existing annual report. Nevertheless, you can't win 'em all!

One other matter I canvassed was the potential for this bill to impact upon the Parliamentary Privileges Act 1891, particularly the section 4 power. I drew attention to clause 5(2). When this bill becomes an act it will override any other written law and, obviously, the Parliamentary Privileges Act 1891 is a written law, and section 4 of that is "Power to order attendance of persons". I raise this because of the way in which this bill might limit not just parliamentary committees or the Parliament itself, which is relevant in terms of Parliamentary Privileges Act, but also because the government has kept its mind open about the establishment of a special inquiry under 24H of the Public Sector Management Act, and there may be a necessity for a state-initiated royal commission under the Royal Commissions Act 1968. I will mention the Parliamentary Privileges Act first. My concern is if a situation arises whereby a parliamentary committee of either house wanted to examine, for example, the release of the 2 443 records to WA police under the three orders to produce that were complied with, or let us say a plane or a ship arrives in Western Australia and we have a mass outbreak such as that which occurred in Sydney and we had a significant number of deaths and the gravity of the situation suggests some sort of the parliamentary inquiry should be established to consider what happened and how, and whether we can avoid that in the future, as was the case in other jurisdictions. In fact, some type of independent commission was established in New South Wales, but I am not sure whether it was a royal commission or a special inquiry. To what extent will the powers of those types of independent or parliamentary inquiries powers be limited by the operation of the provisions of this bill that appear to restrict those powers?

Hon MATTHEW SWINBOURN: I addressed this in my response to the second reading debate, and I was open about the fact that this bill will operate to the exclusion of the Parliamentary Privileges Act if there is a conflict, and that the question would relate to the purpose of the request that the committee or royal commission could be making. It also comes back to balance. The message we are trying to communicate is that the purpose of collecting information is only for contact tracing, which must be balanced against those legitimate concerns and issues that the member has raised. It comes back to the policy decision about those matters; it is not a question of whether or not it affects those acts—it does. The question from the government's point of view is to balance that against the overarching message that it is for contact tracing only.

Hon NICK GOIRAN: I think I have only one remaining theme to pursue for clause 1. During a radio interview in which the Attorney General participated on Tuesday, 15 June—two days ago—he indicated to listeners that there had been 236 million scan-ins through the SafeWA app. How many scan-ins have occurred through the SafeWA app?

Hon MATTHEW SWINBOURN: I cannot confirm the figure that the Attorney General gave on radio. However, I can refer the member to the 15 June press release—I am sure that he has a copy before him—that states that there have been 245 million scan-ins through the SafeWA app. I am not sure what date that is up to but I can provide additional figures about the app and its usage. The following figures are seven-day averages. For the first two months after SafeWA went live in early December, the average was 500 000 scan-ins a day. In early February, following the first lockdown and the policy expansion, that spiked at 2.5 million scans a day, followed by a gradual decline to 1.2 million scans a day. In early May, with the second lockdown, it spiked at 2 million scans a day, followed by a gradual decline to 1.5 million scans a day. I am told that yesterday there were 1.2 million scans of the QR code.

Hon NICK GOIRAN: Since these revelations were made public since 15 June, what has been the trend? How does that number compare with what we would normally expect to see?

Hon MATTHEW SWINBOURN: I am told that up to Wednesday last week, the daily average was 1.2 million scans, and I have just told the member that the number of scans for yesterday was 1.28 million, which suggests that it has not had a great impact at this stage.

Hon NICK GOIRAN: Is it possible to know whether people have uninstalled the app since the revelations were made public on 15 June?

Hon MATTHEW SWINBOURN: We cannot know whether people have uninstalled the app; it does not send any information back. But I can be very precise about the latest figures for total scans. For the sake of precision, it is 248 279 345 and, today, it is 1.23 million scans.

Hon NICK GOIRAN: The state that appears to lead the way with respect to contract tracing, as I gather, is New South Wales. I note that the document the parliamentary secretary tabled earlier, titled "Interjurisdictional comparison", states that NSW has a Public Health (COVID-19 Gathering Restrictions) Order 2021, and that it provides —

> To avoid any doubt, it is directed that contact details provided under clause 25 are to be used only for the purposes of contact tracing during the COVID-19 pandemic.

Has the government used the New South Wales' legislation as a guide in the preparation of this legislation?

Hon MATTHEW SWINBOURN: We did not use New South Wales as a guide. We used the commonwealth and Singapore legislation as a guide.

Hon NICK GOIRAN: Parliamentary secretary, I know that time is running out; that is part of the problem here. Of course, had this bill been referred in an ordinary way and dealt with in an ordinary fashion, we would be able to get to the bottom of these things. Is it possible to briefly explain to the chamber why the commonwealth and Singaporean models were deemed to be better templates than the New South Wales one?

Hon MATTHEW SWINBOURN: The other jurisdictions use directions, not acts. The New South Wales one is an order. The commonwealth and Singapore use acts and that is why they were used as guides.

Hon NICK GOIRAN: Would there have been any reason why we could not have issued an order or direction as the other states have done? I appreciate there has been a dialogue between the parliamentary secretary and my friend Hon Martin Aldridge as to the preparedness of whether to issue the direction or not, but that is not the question. In terms of the use of the legal instrument, is there any barrier why that could not have been done instead of the process that we are embarking upon today?

Hon MATTHEW SWINBOURN: I think issuing directions under our Emergency Management Act gives rise to legal impediments that made it an undesirable path to follow as opposed to legislating and making it absolutely certain.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Terms used —

Hon MARTIN ALDRIDGE: I want to ask a question on clause 3 and it is probably something that I have raised on other occasions. It is about my dislike of publishing information about acts on departmental websites, particularly given the current disarray that the government's websites are in after the single website project that it has enacted, because now people cannot find anything. I have not looked extensively through the bill, but there are certainly references in clause 10 to relevant information being published on the department's website and also the manner of destruction of records being published on the department's website, and there may be other references in the bill that I will not be able to explore in the time that I have. My first concern with websites is finding the information that is being sought, but I am also concerned that if that information sets out a standard or an expectation and there is an offence that relates to that standard, particularly with, say, the method of destruction of a record, over time it is not easy to determine from the department's website the particular date on which the standard applied and when it changed. I much prefer to have things published in the *Government Gazette*. I know that is not the view of government and I suspect it is not the view of Parliamentary Counsel, who is responsible for the *Government Gazette*. But I cannot see why it could not happen in both places. Can the parliamentary secretary tell me why the government has decided that a department's website is the most appropriate place for publishing information such as the manner of destruction of entry registration records, as referred to in clause 8(8)(a)?

Hon MATTHEW SWINBOURN: I am not going to give the member a satisfactory answer according to the standards that he is going to hold me to, because I think he understands that it is the current practice for these sorts of things. I am advised that it is not the only place that these things will be potentially published, but the general public is likely to have more access to the website than the *Government Gazette*. There is a whole range of other policy considerations that he has raised, and has previously raised, about this matter and they are not going to get resolved with this bill.

Hon MARTIN ALDRIDGE: I remain disappointed, parliamentary secretary! I draw the parliamentary secretary's attention to clause 8, which I just referred to. It states —

> (8) An entry registration record must be destroyed either —
>
> (a) in the manner approved by the CEO; or
>
> (b) if no approval under paragraph (a) applies to the record — by taking all reasonable steps to ensure that the entry registration information contained in the record cannot be retrieved.

Keeping in mind that this is a new requirement, we previously had only a requirement to retain a record for 28 days under the direction. Now we will have a requirement to retain and destroy. Members should think about all the small businesses, big businesses, schools and electorate offices that have to deal with the government's website on a daily basis. They will have to establish, first, whether the CEO has approved the standard. They will have to scour the website and look for the standard on the government's single website at wa.gov.au—in this one website world that we live in, where does the department's website start and stop?—and if they cannot find it, they will have to satisfy themselves that it does not exist and then use the option outlined in paragraph (b). I am going to keep making the point and I hope this is something that the parliamentary secretary will take back to the Attorney General, who has responsibility for Parliamentary Counsel, although I am not sure he is allowed to direct them. I would like him to contemplate, when he is considering bills, the impact this has on the people who have to read and use them.

Hon Matthew Swinbourn: I will take that as a comment.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Relationship of this Act to other written laws —

Hon NICK GOIRAN: Is this the clause that reduces the rights of Western Australian individuals to access their own personal data?

Hon MATTHEW SWINBOURN: I suspect that this is the clause that deals with the Freedom of Information Act that the member spoke of before. Without buying into the member's language or perhaps even the adviser's language, I think I am confirming that this is the clause.

Hon NICK GOIRAN: This is the difficulty, deputy chair. We are now time bound because of the battering ram that will be applied within the next three minutes, and there is not an opportunity to tease out with the government the possibility of an amendment here to retain a Western Australian's existing right to access their own personal information. We are not able to do that because the government and the Leader of the House insist on this course of action. This is the latest example of why these approaches to lawmaking are utterly unacceptable. This is how errors are made. This is how problems emerge, and this is why governments then end up being in crisis and having to deal with other matters on an urgent basis. That said, I refer the parliamentary secretary to clause 5(2). Why do we mention these three acts in particular when we say "any other written law"?

Hon MATTHEW SWINBOURN: I think it is simply as a matter of emphasis, particularly the Criminal Investigation Act 2006, given that that is part of the reason we find ourselves here today.

Hon NICK GOIRAN: Will the Corruption and Crime Commission be able to access this information on the SafeWA app?

Hon MATTHEW SWINBOURN: No.

Hon NICK GOIRAN: People's choice of emphasis is interesting because the Attorney General, during the course of this week in the debate, made a big deal about how the CCC will not be able to access this information because of the ring-fencing that would be applied, yet there is no mention of that in the act. However, the government goes out of its way to mention these three other acts. Nevertheless, the government has decided to apply this emphasis. Ultimately, nothing turns on it, and so it has the support of the opposition. I want to emphasise at this point, particularly under these circumstances, that I personally have some reservations about what we are doing here regarding people's personal information. I do not think it is right that they should be punished because of the inability of the Premier of Western Australia and the Commissioner of Police to have a meeting of the minds on this important issue. Individuals' rights are being affected by the passage of clause 5.

Clause put and passed.

Clause 6 put and passed.

The DEPUTY CHAIR (Hon Jackie Jarvis): Members, the time has now lapsed. Under the COVID-19 temporary order, time has expired and I am required to put all remaining questions on the bill.

Clauses 7 to 12 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [7.31 pm]: I move —

That the bill be now read a third time.

HON NICK GOIRAN (South Metropolitan) [7.32 pm]: The bill that is now before us at the third reading stage is identical to the bill that passed at the second reading stage. I want to express my appreciation for the work of the Parliamentary Secretary to the Attorney General for facilitating the passage of this bill today. In particular, I thank him for taking what I would describe as the "Dawson standard" towards the passage of bills —

Several members interjected.

The PRESIDENT: Order! Members may want to leave the chamber at a reasonable hour.

Hon NICK GOIRAN: — and facilitating the questions that have been asked, not obstructing the questions, and providing answers to the best possible standard and ability. In particular, I want to also thank the advisers for their endurance over the course of what will no doubt have been a taxing day for them.

Certain revelations came to our attention during the course of the Committee of the Whole House process. It was revealed during the Committee of the Whole House that there were indeed seven notices to produce, not two, as had been reported in other arenas over the course of this week due to information, as I understand it, provided by the government. It is reasonable to read from this that the government had wanted the people of Western Australia to assume that there had been only two occasions on which data had been released, and yet we find out that on seven separate occasions the Western Australia Police Force issued notices of production to compel the Department of Health to provide the private data of Western Australians.

During the Committee of the Whole House process, we also found out that two of those seven notices to produce are still pending. Here we are at 7.30 pm on Thursday, 17 June, and two of these notices to produce from the WA police to the Department of Health remain outstanding; indeed, one of them has been overdue since 2 April and the second one has been overdue since 11 May. It is all very good for the government and the Commissioner of Police to defend the actions of the WA police that have occurred since December last year on the basis that what it did was lawful when its own government decided to ignore the law. If what the police commissioner and the police have done was lawful, the Department of Health has an obligation to comply with that lawful order—on one occasion on 2 April and on the second occasion on 11 May. It cannot have it both ways. If it is going to put up this enormous shield as a defence to say what it did was legal, it needs to comply with the rule of law. At the moment, the Department of Health appears to be thumbing its nose at the police commissioner and the Premier of Western Australia as it stands at 7.30 pm on this day. These were the revelations during the Committee of the Whole House process.

We also now know, courtesy of this process, that at least three of those seven notices to produce were issued after concerns were raised with the police commissioner. We do not know whether the police commissioner was aware of all seven at all times. We do know that with the last three—the ones on 1 April, 7 May and 27 May—he was certainly aware of those concerns. We also know that the very first of these notices was issued a mere nine days after the police commissioner issued a direction to Western Australians requiring them to comply with his direction with respect to these registers and the records. A mere nine days later, the police force, which he oversees and has responsibility for, decided that despite the assurances provided by the Premier of Western Australia, it would access this information anyway. We do not know whether the police commissioner was involved at that time and when he first knew about the first notice. We certainly know that he was aware of it well before the final three notices.

Those seven notices to which I refer, as we found out during the Committee of the Whole House process, were served on 14 December and related to 1 639 check-ins. The second one was served on 24 December, Christmas Eve, when the WA police decided that it would serve a notice on the Department of Health compelling it to provide the data of Western Australians that had been voluntarily provided under the assurances of the Premier of Western Australia that it would be used only for contact tracing purposes. The WA police decided that it needed 800 check-ins on Christmas Eve. On 25 February, a further notice to produce was served on the Department of Health. This one was not complied with by the Department of Health. The reasonable excuse that has been provided by the Department of Health, as I understand it, is because it was impossible to comply with that particular order because the data had already been deleted as it had been held for more than 28 days. The fourth of the notices to produce was served on 10 March and that related to four check-ins. That information has been provided. That was the third of the four notices in which information was provided. The fifth was served on 1 April and, as I have already mentioned, it has been overdue since 2 April. The Department of Health clearly has no intention to comply with that notice. The penultimate notice to produce was on 7 May. It has been overdue since 11 May. The last notice was served as recently as 27 May this year. The Department of Health has indicated it will not comply with that notice because it is technically deficient. I am informed that it may well have not even been signed by a justice of the peace.

We are aware, because of information that has been obtained in the house today, that multiple discussions were held between the Commissioner of Police and the director general of Health on or before 12 March. The day before the election, on 12 March, the director general of Health wrote to the Commissioner of Police and referenced his multiple conversations that they had had about this issue. At some point between when the police commissioner issued his direction in early December—5 December, if my memory serves me correctly—and 12 March this year, multiple conversations took place between the chief of Health and the chief of police. There was not one but multiple conversations.

What we do not know is which McGowan government ministers were aware of those multiple conversations that took place between senior public servants about serious concerns about information that had been provided contrary to the assurance that had been provided by the Premier of Western Australia. He assured Western Australians that their data would not be breached or provided in these circumstances. WA police did it anyway. The Department

of Health had no choice but to comply with the lawful direction. Senior public servants knew about this and were having multiple discussions about this, including during the election campaign. What remains unknown, because the government has been unable to provide it today—some would say conveniently enough—is which Mark McGowan ministers knew about this during that time. We know, as a result of the revelations in committee, that it appears that the first time this matter was drawn to the attention of the Minister for Health was on 31 March. We do not know when the Premier was first informed. We do not know when the Attorney General was first informed, and the government is unable to advise when the Commissioner of Police himself first knew about all this. These are some of the most senior decision-makers in Western Australia and, despite the alleged urgency by the government with respect to this bill, they have been unable or unwilling to provide that information.

The Premier has been unaccountable today. The Attorney General has been unaccountable today and the Commissioner of Police has been unaccountable today. They have had plenty of opportunity, and certainly in the briefing that I attended, which started at 10.15 this morning, notice was given of the expectation that WA police would be in a position to provide information. That has not occurred. In fact, we had the extraordinary circumstances in which, despite the request of the Parliamentary Secretary to the Attorney General for police advisers, the information that came back to him was that no-one senior enough was available. No-one senior enough in the WA police is available for the Parliament of Western Australia, despite the fact that it is the WA Police Force and its conduct that has resulted in this extraordinary sitting of Parliament today. WA police are not available for the Parliament of Western Australia. Now, at what point do members consider that type of approach to the Parliament of Western Australia and the Legislative Council to be contemptuous?

People need to be held to account. We were told during the deliberations that occurred today that the Premier and the Commissioner of Police certainly had a meeting on 14 April. We have been told that. Outside 14 April, it remains a mystery. Why the McGowan government is able to tell us that a meeting took place between the police commissioner and the Premier on 14 April, but why it cannot tell us about any of the other meetings remains a mystery. The government was unable to specify the other dates. Could it be the case that the Premier knew about this for quite some time? Some information has been provided to me that suggests that the Attorney General has known about this since December. I do not know whether that is correct. That is the whole point of being able to test the veracity of these assertions. A little bit like the WA police, both the Premier and the Attorney General are unavailable to provide information to the Legislative Council today, such is their apparent disdain for the process of lawmaking and, more importantly, the process of accountability. If they are not accountable to the Parliament, what is the point of having a Parliament?

We are also informed that the Parliamentary Counsel's Office was instructed on this matter on 20 May, so there is a mysterious time lag between 14 April and 20 May this year when the Premier was certainly aware of all this. The Premier was aware of this for more than a month before Parliamentary Counsel was instructed—why? There may well be a good reason, but nobody has been able to provide that information. This type of information continues to be hidden from Parliament. Of course, members will be well aware that the first the opposition was informed about this matter was two days ago, on 15 June. Senior public servants, individuals who are paid a substantial sum by the taxpayers of Western Australia, were discussing these matters behind closed doors on multiple occasions from at least 12 March this year, yet the first the opposition knew about this is 15 June, some three months later. In the meantime, if that is not enough, we then find out that the people of Western Australia are to be punished as a result of all this; that is, their right to access their own personal data will be removed from them by this bill brought on by the McGowan government in urgent circumstances all because the Premier and the police commissioner cannot have a meeting of minds on a basic principle like this.

Regrettably, President, I inform you that the Committee of the Whole House was unable to conclude all its work because midway through the bill, once we had proceeded to clause 6 in this 12-clause bill, what I refer to as the guillotine was applied and there was no ability for the Legislative Council to scrutinise clauses 7, 8, 9, 10, 11 and 12—no capacity whatsoever. Had WA police perhaps shown some respect to the people of Western Australia and provided at least one adviser to the hardworking Parliamentary Secretary to the Attorney General, I anticipate that all those clauses could have been scrutinised appropriately. But no, such was the attitude of WA police. If they are in some kind of Mexican stand-off with the Premier of Western Australia, that is not the problem of the Legislative Council. We have a job to do and I recall that it was the police commissioner who was reported as saying during this week that he will not make any apologies and he will not do his job half-baked. Nor should the Legislative Council. We should not have to apologise for doing our job of scrutinising legislation brought to us in urgent circumstances because the Premier and the police commissioner cannot agree on a principle, and they should not expect us to do it half-baked, but that is exactly what has happened today, because we only got through half of the bill. That is not the fault of the police commissioner. He does not control the processes of this house; the Leader of the House does.

It was always open to the Leader of the House to extend time for all those other clauses to be considered. It was always a possibility for the Leader of the House to pick up the phone, talk to the Minister for Police and say, "This is not good enough. This is not the standard that we expect of the Legislative Council. Get somebody from police to come in and help the Parliamentary Secretary to the Attorney General. He has done a good job today, and needs just a little assistance from WA police." The Leader of the House could have done that as the most senior member opposite, yet nothing has emerged. We have been asked to do a half-baked job today, I regret, during the Committee of the Whole House process. As I indicate, it is certainly not the fault of the advisers and it is not the fault of the person with carriage the bill. There are other more senior members who have a lot to answer for about this process, and some of those questions remain unresolved.

Rest assured that despite the fact that the opposition has given its support and continues to give its support to the passage of this bill and the third reading, even in these urgent circumstances, we will not rest with the answers that have been provided today. We intend to continue to pursue this information. The people of Western Australia are entitled to know the precise dates that the member for Rockingham knew about this matter. They are entitled to know about the precise date. They are entitled to know how many meetings he had with the police commissioner. They are entitled to know the date that the first law officer of Western Australia first knew about this matter. They are entitled to know why there is this huge time lag between 14 April and 20 May, when Parliamentary Counsel was first instructed. They are entitled to know this information. They are certainly entitled to an explanation about why their own personal rights have been diminished today as some form of punishment because of the inability of the Premier and the police commissioner to agree. They are entitled to these things. The opposition will continue to ask those questions and pursue those matters, whether in the forum of this chamber or in other forums. The people of Western Australia can be assured of that. With those comments, I indicate that we support the bill.

HON TJORN SIBMA (North Metropolitan) [7.52 pm]: I do not intend to give a very lengthy third reading contribution on the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021. Indeed, this is the very first third reading contribution I have ever felt compelled to give. I think something about today represents a threshold being crossed, at least as it concerns my observations about this government's approach not only to legislating and managing business in this house, but its management of COVID-19 responses generally. I found today's debate and its management to be simultaneously instructive and unedifying, if that combination is possible. The reason I say that is that the most distressing and most unsatisfactory aspect of today's management was the absence of a suitably qualified police adviser, not only in this chamber, but also in the briefing provided to members. That is not a flippant observation. We made the case repeatedly throughout debate that this bill emerged only as a consequence of the actions of the police in their attempts, in some cases successful attempts, to obtain data in a manner inconsistent with the purposes of the SafeWA app—indeed, the publicly stated purpose of that application. I think it was a breach in spirit of the useful approach that the government has previously adopted in the majority of COVID-19 legislation, and today we keenly felt the absence. I think that absence also drove, in large part, the extensive concentration on clause 1. Without that opportunity to explore the very obvious missing pieces, we could not progress much further in the bill's contemplation, as Hon Nick Goiran has just identified.

Another aspect I will comment on is that this situation could potentially have been avoided very early on, last year, if the government had set aside its pride and arrogance and agreed to something as simple as establishing a bipartisan COVID-19 oversight committee. This is exactly the reason why that proposal was first put. That proposition was arrogantly dismissed in a way that we have grown accustomed to but will never be comfortable with. Furthermore, why would the government not refer this bill to the Standing Committee on Legislation? I am still not necessarily convinced that the argument for the urgency of the passage of this bill has been made, in light of the police notice to produce applications effectively being in a state of suspended animation. I think that is potentially legally problematic, but that seems to reflect the holding policy or administrative disposition of the Department of Health. I think we could have made far more progress in examining what this bill actually does and does not do if it had been referred to the legislation committee or had been managed over the course of two or three sitting days, but the government has chosen not to do that.

There seems to be a fundamental flaw in this bill—that is, it actually disempowers access by private individuals to obtain their own information. That seems to be absolutely inconsistent with the retrospective purpose of moving this bill forward, which is to protect private information. I do not see how the government can comfortably hold those two concepts together; it is completely implausible to me.

That said, we have worked assiduously today to facilitate the passage of this bill for the sole purpose of restoring public confidence, in some small measure, in the continued use of this application, which is probably the most powerful application that public health officials have to work with in the management of COVID-19. I think that trust has been significantly more undermined today as a consequence of the time line in decision-making and the revelation that very, very senior public servants, in the course of an election campaign, knew about this problem. Not only was it during the course of the election campaign; the date stamps on that correspondence coincide with the early voting passage of the election campaign. People were voting at that time.

I think there are probably more questions to answer now, as a consequence of this deliberation, abbreviated as it was, and they are for the public and the media to pursue. We could only have shone a light on this issue because we still have a functioning, albeit reduced, upper house opposition and crossbench. I would like members to reflect on this debate and how we can effectively use time to scrutinise a bill, and reflect on the government's quite obvious intention to reduce these opportunities when we return after the winter recess.

Question put and passed.

Bill read a third time and passed.

The PRESIDENT: We now move to members' statements.

Point of Order

Hon MARTIN ALDRIDGE: I believe the temporary order requires an order of the house to move to members' statements.