

LEGISLATIVE COUNCIL — MCGOWAN GOVERNMENT MINISTERS

Motion

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [10.08 am] — without notice:
I move —

That this house expresses its disappointment and grave concern at the ongoing disrespect shown by ministers of the McGowan Labor government toward the Legislative Council.

I would like to take members back to a comment made by the now Premier on 18 May 2016, when he was Leader of the Opposition. I will repeat this yet again. He said —

“The public interest must come first, transparency must come first, openness must come first.

Had the Premier adhered to that dogma, I would not be standing here today moving this motion. Unfortunately, he has not. Virtually from day one, the Premier has ignored the whole notion of transparency and openness. It is very easy when first elected to government to assume that it will be for two terms. It is a logical assumption from governments.

Hon Darren West interjected.

Hon PETER COLLIER: That assumption is always there. Does the member mind?

The PRESIDENT: Perhaps the member might direct his comments to me, and look at me.

Hon PETER COLLIER: Looking at recent history, that assumption is a misguided notion. I refer members to the whopping majority that John Howard had in 2004 in both houses of Parliament, for the first time in over 30 years, and then he was swept from office three years later. Who would have thought that Kevin Rudd would not be Prime Minister and his party would limp across the line three years after 2007? Who would have thought that Tony Abbott would not have been Prime Minister and limped across the line fewer than three years after his election in 2013? Back in 2017, the now state Labor government won by a thumping majority. I acknowledge that, and it has a mandate. But I remind members that the primary vote of the Liberal Party in 2007 was actually lower than the primary vote of the Liberal Party in 2001. Just four years later, in 2005, the Labor Party was lucky to get across the line. The primary vote of the Liberal Party in 2017 was 30.2 per cent. In 2001, it was 30.4 per cent. All I am saying is that the fickleness of the contemporary voting public is such that it is not necessarily prepared to give a government two terms. It is not. We saw that in the 9.4 per cent swing in Darling Range after just 12 months. I can assure members that the polling they saw this week was real. It was real. Members can mock it and roll their eyes; all I am saying is that it is real. If government members think that they are in for two terms —

Several members interjected.

The PRESIDENT: Order, members! I know that Thursday mornings tend to be a little bit more interactive than some other parts of the day. Each member will have an opportunity to speak on this motion if they seek the call, but until this speaker has completed what he has to say, I ask that members listen to him quietly and without interruption.

Hon PETER COLLIER: Thank you, Madam President.

The government need not assume that it is going to be here for two terms. The way that it is governing and the contempt that this government has—the Premier in particular—for the Parliament and the Legislative Council shows that it has already lost the plot. It is very disappointing. The Premier has been very frustrated with the fact that he has a thumping majority in the lower house but he does not have a majority in the upper house. The last time I looked, we have a bicameral system of government. Although that might be very frustrating for the Premier, that is the situation. I challenge the Premier that if he does not like it to take it to the Western Australian people and say, “Let’s have a unicameral system of government.” But that is not going to happen. We have a bicameral system of government. The government does not have a majority, and it is so frustrated. The Premier vents his frustration through his disregard in his responses to questions, his classic disregard for freedom of information processes and his ignorance of protocols in the tabling of reports. That contempt for Parliament is palpable. I have said it constantly: the seeds of destruction of a government are sown in the Parliament. We have seen that in years past, and the Labor Party in particular should understand that. When a government shows contempt for Parliament, it resonates in the public.

I have mentioned before that we saw what actually happened in this place. Immediately after the election, when the mob opposite did not get a majority, the leader of this house tried desperately to offload the presidency to someone on this side, on the naive assumption that she could then have a majority in concert with the Greens; assuming that she had the Greens in her back pocket. That was not the case, and it showed complete disrespect for the Greens. I draw members’ attention to the *Hansard* of 13 June 2017. After I asked —

Why were members opposite so keen to get someone from this side of the chamber to be President?

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The following exchange took place —

Hon Sue Ellery: Why do you think?

Hon PETER COLLIER: I am going to tell the member. The answer is numbers, and 18 always beats 17.

Hon Sue Ellery: That is correct.

Hon PETER COLLIER: Absolutely! Hon Sue Ellery actually admits it. The government was willing to compromise the Presidency for the numbers; is that right?

Hon Sue Ellery: How was it compromised?

Hon PETER COLLIER: The government was willing to forgo the Presidency for the numbers.

Hon Sue Ellery: Wouldn't it be in everyone's interests, with such a massive majority elected in the Legislative Assembly, to ensure that we could deliver on our election commitments and the policies that we took to the election and ensure that we could pursue our agenda?

What happened to the checks and balances of the Legislative Council? Forget about the Legislative Council; just let the government bulldoze the legislation through. If we did not have that, we would have unlawful surrogacy legislation now. We do not because of the good work of Hon Nick Goiran. Pieces of legislation that come here, go to committee and come back refined and improved. Do government members worry about it when it goes back to the Legislative Assembly? Of course not. Legislation is rushed through the lower house. The government uses its numbers in the lower house to bulldoze legislation through and then we fix it up. That is why we have a bicameral system. Again, it showed the contempt for this place. The Leader of the House was willing to try to compromise the presidency so that the government could have a pseudo majority. That continues. It is constant; it has been unrelenting.

I have had so many answers from the Premier that have shown his flippant disregard. Quite frankly, whoever answers the questions for the Premier should be sacked. They should be sacked because they are demeaning the office of the Premier. Having said that, the Premier himself signs off on this rubbish and then, as Leader of the House in the Legislative Council, Hon Sue Ellery signs off on it. I have many answers and I will mention a couple of them.

Point of Order

Hon PIERRE YANG: It is all right to have a go at the Premier, but, please, what is the point in having a go at the Premier's advisers?

The PRESIDENT: There is no point of order, Hon Pierre Yang.

Debate Resumed

Hon PETER COLLIER: Thank you, Madam President. Goodness gracious!

The Premier does not write his responses; his advisers write the responses. I asked a number of questions about the Environmental Protection Authority. The Premier asked me to put one of my questions on notice. That was on 2 April 2019. I then put the question on notice. I received an answer six weeks later. Because there was a typo in my question, the response I received was —

- (a) No.
- (b) Yes.
- (c) This question does not make sense.

For goodness sake—how juvenile is that? What is wrong with picking up the phone and saying, “Let's fix up this typo”? What is wrong with him doing what Hon Stephen Dawson did yesterday and acknowledge that it was a typo and answer the question? But to ask me to put it on notice and then wait for six weeks and come back and do that, again shows contempt for the Parliament.

I have another response from the Premier about the Constitutional Centre of Western Australia. Right at the end, it says —

It should be noted for listeners of the *Rumour File* program on 6PR that the Premier has no intention of moving from Dumas House and enjoys being in the same building as his ministers.

That is a response from the Premier! I have another one and it is a purler. I asked —

Has any minister declared a conflict of interest or a perceived conflict of industry in the western rock lobster industry?

Obviously, I meant to ask “perceived conflict of interest”, not “industry”. The response was —

It is unclear as to what the member means by a “perceived conflict of industry”. If the member could clarify the meaning of the question, I will attempt to answer it. I think there must have been a typo in the member’s question—I assume.

Can members believe that? The Premier of Western Australia wrote that! He signed off on that. I have so many of these, but, unfortunately, I have limited time, so I will leave those for another day because we will have plenty of opportunities to discuss it.

My one big issue over the last couple of weeks has been the issue that the Standing Committee on Procedure and Privileges has been dealing with. I am just absolutely staggered with the Premier’s response to this issue. This house unanimously decided to provide the privileges committee with the authority to provide information to the Corruption and Crime Commission investigation into three former members of Parliament. We unanimously decided on that on 12 June. Then, as a result of the fifty-fifth and fifty-sixth reports of the privileges committee—which, again, had the consent of this house; this house voted for those two reports—we provided the privileges committee with the authority to continue with its investigation. That is what happened. If there is one committee that is sacrosanct in this chamber, it is the Standing Committee on Procedure and Privileges. Contrary to the pleadings of a, quite frankly, ill-informed journalist, its members are not backbenchers of the Legislative Council. They are experienced and respected members of the Legislative Council. That is who they are. We all know what actually happened; it is a matter of public record now. Through the privileges committee, this house provided the Corruption and Crime Commission with the authority to access the non-privileged information. We did that in good faith. When it came out that the CCC had privileged information as well, all members were legitimately concerned that privileged information of sitting members might also have been accessed. That was a legitimate concern. I am talking about a lot of members on the other side as well. I suggest that all members, if they look into their heart, would be concerned. If we let that happen, we may as well give this game away. We had the Magna Carta in 1215, but we may as well give everything away with regards to rights and privileges. We may as well do that. Why on earth do we have privilege in this place? What will members say to their constituents or whistleblowers when they want to speak to them? Will they say that they can give them information, but there is every chance that people will access it? Is that what we are going to do? Of course not! If push came to shove and they put their hand on their heart, any member would say that I am right. Privileged information cannot be accessed. I asked a very legitimate question of the Premier —

- (1) Has the network account of any current member of Parliament or their electorate office’s email account been accessed by Department of the Premier and Cabinet staff without the knowledge of the member or their staff?
- (2) Has the network account of any current member of Parliament or their electorate office’s email account been accessed by any government agency without the knowledge of the member or their staff?

The answer to both questions was —

These are matters before the Standing Committee on Procedure and Privileges, and it would not be appropriate to continue to comment on this matter.

That is rubbish and that answer is wrong! The question was about sitting members who are not before the privileges committee—that is, former members. That is why I asked that question. There were a couple of words either way, but exactly the same question was asked of the Premier in the other place by the member for Moore on 28 August 2019. He asked —

Can the Premier guarantee that no access has been granted to any persons within the Department of the Premier and Cabinet to the email accounts of serving members of Parliament?

The Premier should have given the same answer, should he not? He gave me the answer that because it was before the privileges committee he could not comment. Do members know what he told the Legislative Assembly? He said —

To the best of my knowledge, no.

That is great. I love that answer. Why could he not provide that to the Legislative Council? Why did he provide one answer to the Legislative Assembly and one answer to the Legislative Council? What diminishes us to the degree that the Premier can say, “Forget it; it’s only the Legislative Council”? What about his minions in Dumas House? They think, “We can fob Collier off”, and just tell me that it is before the privileges committee. Whereas, when he was asked without notice, that is what he answered.

I have asked many questions about this and I continue to get shunted from pillar to post. In fact, in one answer, the Premier contradicted himself. On Tuesday, 3 September I asked him a question referring to the director general of the Department of the Premier and Cabinet stating during estimates hearings last year that —

Extract from Hansard

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As a matter of principle, it is not something I would authorise for any member of Parliament because I think it sets a very dangerous precedent.

That was in relation to providing access to email accounts. The answer was —

I refer the honourable member to the answer the Premier gave in the other place on 28 August 2019 ...

If he could give it in the other place, he should be able to give it here! He had said —

I rise under standing order 82A. In response to the member for Moore's question, I can advise that the Department of the Premier and Cabinet has not read or accessed any past or present member of Parliament's emails. Any emails that are subject to a current Corruption and Crime Commission inquiry have not been read by any person who works in the Department of the Premier and Cabinet.

Great! He did that, but he did not tell us. I thought we should find out if he stood by his answer to me that because it was before the privileges committee he could not respond. I pointed to the fact that he had given two responses to the two questions. His response was —

I draw the member's attention to the fact that the two questions, while similar, are not the same.

I do not know how many hours those guys spend up in Dumas House trying to find an answer that will get them out of the manure. They do not need to. All that needs to happen is for the Leader of the House to come into this place and make a correction to an answer and say that, to the Premier's knowledge, no emails have been accessed. That is all she needs to do. Nothing else. That is all I have asked, and I have not received it—not once! Members know that during each question time for the last three weeks I have asked these questions and every single time the answers have come back with weasel words. There is too much in another one to go forward with because I am running out of time.

This Tuesday, I asked —

Does the Premier stand by his response to (1) of question without notice 884 that it would be inappropriate to comment on these matters because they are before the Standing Committee on Procedure and Privileges ...

He said —

Yes.

He still stands by that even though he has given a different response to the Legislative Assembly from the one that he gave up here. He either told an untruth to the Legislative Assembly or he told an untruth to us. He cannot have it both ways. That is what he did. He is treating this house with contempt. I do not care that he is the Premier of the state; this is the Parliament of Western Australia. It has been here since long before Hon Mark McGowan came here and will be here long after he leaves this place. To make matters worse, I asked one of my guys to ask exactly the same question in the other place on Wednesday. Do members know what he did? He gave the same response he had given to Shane Love. He said —

... to the best of my knowledge, the answer is no ...

He can give an answer to them, but he cannot give one to us. What makes it even more concerning is his contempt for this place. What concerns me in particular is the Premier's comments when it came out that the director general of the Department of the Premier and Cabinet was potentially going to be accused of contempt of Parliament. An article in *The West Australian* of 19 August 2019 stated —

Premier Mark McGowan has warned a powerful Upper House committee threatening to find the Department of the Premier and Cabinet director-general Darren Foster contempt of parliament to back off.

The Premier is telling the Standing Committee on Procedure and Privileges to back off. Is the Premier above the Parliament? Of course he is not. It continues —

Mr McGowan this morning labelled the committee's acts of exposing an open investigation a "shocking act of vandalism" and advised them to stop in their tracks.

I think we should adhere to that; let us give this away, guys! We have found out that the Premier is running the place so we do not need an upper house and we do not need a privileges committee! It continues —

He said Mr Foster being ordered by the Upper House not to provide further correspondence to the CCC was "unacceptable".

"The Upper House Committee should back off. They should let the DPC director-general give his evidence, provide his advice, and do it freely, without threat," he said.

Without threat. The article continues —

"(Labor Members of that committee) know my views—that the head of DPC should be able to comply with requests of the CCC and the Upper House should not have exposed an open investigation.

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Labor members. Is that a veiled threat or what? What does that mean? Does it mean that because members of the privileges committee may be members of the Labor Party, they should make a decision based on the fact that they are members of the Labor Party? Should they do that, or should they do what they think is morally correct within the processes of Parliament? What should they do? I cannot believe he made that comment. It continues —

“It was a shocking set of circumstances. I would urge them to de-escalate the situation—let the department continue to comply with parliamentary privilege as they have been and stop this witch hunt.”

This is not a witch-hunt; this is the Parliament of Western Australia. The Premier can spit the chewie all he likes. He can get angry and stamp his feet because he did not get majority in the upper house. He can ask the privileges committee to ignore due process and hundreds of years of parliamentary integrity and sovereignty, or he can back off himself and let the privileges committee do exactly what it should be doing—that is, an excellent job.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [10.29 am]: I rise to support this motion. It is with regret that we once again have to bring to the attention of this house the abject failure of this government. This government achieved an enormous majority in one of the houses of this Parliament and has been infused with its own self-importance and hubris. This government has decided that it is still a political party fighting an election rather than a government on behalf of the people of Western Australia, and continues to behave arrogantly and without regard to the institutions for which it has been given responsibility.

I will also focus on the recent contest between the executive and the Parliament of Western Australia, because I think that it heightens the dangers we are facing as an institution and which the people of Western Australia are facing in this regard. I will not go through the entire history of it, but we have a director general of a department whose political history is that of a political adviser and party apparatchik. He has been through various restructures of the public service and has been appointed to one of the most important public sector positions—that of director general of the Department of the Premier and Cabinet. I do not think he actually has the background, understanding or will to be a public servant, as opposed to being a servant of a political party in government, because if he did, when he was faced with an instruction from this Parliament, there were ways for him to have that legal dispute resolved. Instead, he chose to go along with the way of the executive, and for political purposes claimed that he was only following the law. Well, the law is arguable about whether he had a reasonable excuse to not comply with those notices, but he could have taken action in order to sort that out and gotten a declaration from the Supreme Court if necessary.

Hon Alison Xamon: In fairness, we have no guarantee that he even got any sort of quality legal advice.

Hon MICHAEL MISCHIN: I will take that interjection. I agree. The government is quite prepared to say, “Hey, the Legislative Council should turn over its legal advice, which is legally professionally privileged, but we will not turn over ours.” We are told that there is legal advice, but I have no confidence that sound legal advice was sought, obtained or followed. We know that this government loves to protect cabinet confidentiality and any legal advice it allegedly receives, but that it is quite happy to say that this house ought to turn over its legal advice and is quite happy to compromise parliamentary privilege by having its public servants go through confidential emails in order to decide that question. There are concerns about that, which I will come to.

I will probably not have enough time to cover all the issues, but I will put it this way: we have a Premier who has played with words. He has refused to answer questions about this very issue—Hon Peter Collier has gone through some examples—and has hidden behind the fact that there is an inquiry going on in this place into his public servants, as if it is somehow sub judice. We have an Attorney General down in the Assembly who is a self-confessed and proud grandstander. He has said so. He is proud of it. He likes misleading the public. He likes misleading the Parliament. He likes engaging in personal abuse. He should be the legal and constitutional conscience of this government. I can see Hon Darren West giggling away there, because I do not think he has an understanding of the issue.

Hon Darren West: You have an absolute obsession with the Attorney General!

Hon MICHAEL MISCHIN: No; it is his obsession with me, actually. He likes slinging off at me, Hon Darren West, because he cannot point to any integrity in himself.

I will get to the point. We have an Attorney General who ought to be not just a lawyer and not just a politician. He is a minister of a government and he is also the first legal officer of this state. He has the responsibility of being the constitutional conscience of this state. I wonder what legal advice he has given. We will get to that in due course as well, because I will continue to drill down into his involvement in this.

I asked questions in this place about what process the State Solicitor’s Office had engaged in to go through these emails. The Attorney General’s response was, “No. It is legally professionally privileged.” That is a nonsense. But leaving that aside, some of that process has now been revealed in the fifty-sixth report of the Standing Committee on Procedure and Privileges. What a shabby little process it was.

Hon Alison Xamon: A disgraceful process.

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Hon MICHAEL MISCHIN: It was a disgraceful process. It did not follow the protocols used in other jurisdictions; it followed protocols set by our State Solicitor. We have a letter that shows the attitude of our State Solicitor. Bear in mind that the state ought to be a model litigant—not the sort of stuff that is had between private citizens, but a model litigant with certain standards as to how it conducts litigation. The State Solicitor ought to be a model litigator, yet we have this letter, which was tabled the other day, under the hand of Nicholas Egan, State Solicitor, and dated 9 September, which is the most emotive nonsense that I have seen. Frankly, I regard it as impertinent for a public servant, the State Solicitor, no doubt under the influence of his Attorney General, to write as a representative of the executive of this state to the Parliament and express surprise—“significant surprise” no less—that the privileges committee has not given a personal and public apology to a public servant whom it is looking at for the purposes of seeing whether he has breached parliamentary privilege. He is surprised that this Parliament has not gone down on its knees and said, “Sorry, Mr Foster.” This is the sort of letter that one could imagine the solicitor for Mr Foster, as a private citizen, writing to Kate Doust—I do not mean that disrespectfully—as a private citizen in a legal dispute, and not the State Solicitor, as a representative of the executive and model litigant, writing to the Parliament of Western Australia. It is outrageous. This is the man who put together this shabby little process in his office, in which summer clerks and law students were hired and spot checks done to see whether they had done it right. These low-level legal officers were going through parliamentary emails to see whether they were privileged. This is the level we have got to. When I ask about that process, I get fobbed off. When I drill further into that process, I am told to put it on notice, as if the Attorney General does not have a clue about what is going on.

I will go to the shabbiness and lack of accountability of this process. I could go for an hour, and I probably will at some stage because this is very important, once we get further information about the way in which this government has operated. I asked a question yesterday about correspondence. I asked —

Has the Attorney General or anyone in his office provided copies of correspondence from the President of the house to any member of the media?

That obviously meant any correspondence from the President of the house being provided to the media, but he chose to reinterpret it to suit himself. He could have said, “No; none of my staff would do something like that”, but he did not. Instead, he decided to play word games, in the typical Burke-ian sense, if anyone can cast their mind back to those days. The answer was —

The Attorney General is not aware of, or privy to, correspondence from the President of the house to any member of the media.

That was how he chose to interpret that question in order to avoid answering it. I will be asking further questions about that, too. Once again, instead of giving a straight answer, we have a sneaky government under a sneaky Premier with a sneaky Attorney General trying to sneak around any accountability to this place as if they are above it.

Hon Pierre Yang might think it is clever, too. He is a lawyer. He ought to appreciate the importance of what is going on, but we have a government that is so disrespectful to this place that when a simple recommendation from the Standing Committee on Procedure and Privileges that we affirm our rights and privileges in accordance with long-held and time-honoured traditions was moved, the government divided against that. What is going on? Why is it that the lawyers on the other side of this chamber cannot appreciate the importance of this and are prepared to go along with the government line in that fashion? I give full credit to all the members on the procedure and privileges committee; this is not an easy thing. This issue, however, cuts across party lines—but every member of the government who could vote, voted against it.

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the Nationals WA) [10.39 am]: I rise today to make a contribution on behalf of the Nationals WA to the motion. I thank Hon Peter Collier for bringing this important issue to the house. I do not think it is an issue that we would like to be focused on for a time. I think members of this house would rather be talking about many other issues, but at some stage in the process of government we have a responsibility to highlight the frustrations that have been afforded by this government to the Legislative Council and its members who seek information and ask genuine questions about issues that are going on in their electorates. The government responses given to some questions posed in this house forget that at the end of this process are the people of Western Australia who are demanding answers from the government. Parliament’s website describes the Legislative Council’s principle roles and functions. They are, and I quote —

legislating, monitoring and reviewing government legislation, administration and expenditure
gathering information and publicising issues, by using committees, question time and through parliamentary debates on motions, Bills, and by petitions presented by members on behalf of members of the public.

We are all here on behalf of members of the public. In dealing with this government, frustration is being keenly felt by members of Parliament and therefore members of the public. I, as well as other members who have spoken

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today, have had a level of frustration, particularly with trite answers to questions. At the end of the day, the government's responses to information sought by members of the opposition and crossbenchers says more about its attitude to the people of Western Australia than ours. Members on this side of the chamber genuinely seek information related to issues they are dealing with in their electorates and they deserve an answer from the government and the ministers responsible for the portfolios about which questions are being asked. The reason this has become an issue for this Parliament was set out by the Premier when he said, "I will deliver a rolled-gold level of transparency in government." The Premier himself set a benchmark for the way that his government would operate. Sadly, that has not been the case. We have seen that with a number of issues that this house has dealt with in the last two and a half years.

In researching this last night, I found a couple of areas that I have been frustrated with regarding questions. On 13 August 2019, I asked a question to the Minister for Water. The Minister for Water issued a press release on 23 August 2018 about water resources management legislation. I asked about the time frame, because we are now more than 12 months on from the announcement that water resources reform would come before the Parliament, and it is a very important issue in my electorate, particularly through the Gascoyne, Pilbara and Kimberley regions. There are people—investors, Aboriginal communities and pastoralists—waiting on water reform legislation, so I was pleased when the minister made that announcement on 23 August 2018. On 13 August 2019, I asked the minister when he thought it would be likely that some legislation for water reform will be presented to the house. The answer was —

The bill will be introduced to Parliament once the drafting process is completed.

I know that. He is the minister who has oversight of the drafting of that legislation, which he announced he was going to have done more than 12 months ago. I was asking him to give the people of Western Australia, who are waiting on him to do that, some further form of understanding of when it is likely to be done. He could have taken the opportunity to do that, but he did not. Instead, he chose to give me a trite answer. That tells the public more about him than me in this space. I asked a question to the Minister for Water again, this time in relation to the national wastewater report. I asked whether the minister could confirm the sites where testing was undertaken. Instead of using the resources of government to seek an answer to my question that directly related to the national wastewater report, he said, "Don't ask me, ask the Minister for Police." I mean, really? In seeking to get a fulfilled answer in response to a question to a member of the Legislative Council, when he has the resources of government before him and the Minister for Police's office may be next door to his, could he not have just referred that part of the question? Other ministers of this house have done that for me, as a member of the opposition, in response to a question I have asked, and I have appreciated that. The ministers who conduct themselves in that manner are held in high esteem by members of the opposition; I respect it when ministers do that.

I also asked a question about Karratha Senior High School, which is bursting at the seams. It is a real issue in Karratha, with its services already under enormous pressure because of the number of projects in the Pilbara and the expected growth of the community in Karratha. I asked —

(3) What are the forecast numbers to attend the school in 2020 and 2021?

The minister answered —

(2) There are 1 218 students as at 4 September 2019.

(3) The number of students forecast for 2020 is 1 231 ...

That is only 13 more students. I do not understand that. I do not have any trust in that answer because of what is going on in the community. The Minister for Education and Training answered further that for 2021, the forecast is 1 299 students, which is only 68 more. There is no understanding of what is taking place in the community of Karratha and the end result is that the families who are trying to access that school are not being considered in the government's forward planning. It is a frustrating process. I quote the Leader of the House, Hon Sue Ellery, who is absent on urgent parliamentary business today and has said that she may not like the answer that they always have to give, but the answer is the answer. What I would ask for in the answers is honesty, transparency and genuine responses to questions asked by members of the Legislative Council.

The other thing that has concerned me greatly about the attitude of the government's executive towards the Legislative Council is its extraordinary threats to members of this house and the Premier's attitude towards the Standing Committee on Procedure and Privileges in issuing it a threat. It is unbelievable. It is unparliamentary and it belittles the office of the Premier. The Treasurer's threat to the Legislative Council during the gold tax debate was another display of disrespect for the Legislative Council, the roles and functions of which, as I said earlier in my contribution, are set out by Parliament. Members do not make the rules; it is the role of the Legislative Council that we are genuinely trying to fulfil. During the debate on the Residential Tenancies Legislation Amendment

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(Family Violence) Bill, Minister Johnston threatened the house that if we did not pass the bill, he would not accept any amendments made in this house. I am sorry, minister, but that is the role of members of this house, and members of this opposition and the crossbench parties will continue to fulfil that role. The sooner we can find a way to have a more genuine attempt by the government to work with members of the opposition and the crossbench, the easier the lives of the people of Western Australia will be.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [10.49 am]: This motion is a pretty predictable miscellany of the normal complaints and I do not think any real case has been made at all. I was very interested to hear the Leader of the Opposition reflecting on the “fickleness of the public”, as I think he described it. He obviously does not have a lot of confidence in members of the public. Apparently, they do not make up their minds on the basis of real issues, but turn their affections blithely from one party to the other. I can assure the Leader of the Opposition that we have absolutely come into government without any hubris that we will automatically have a second term. Of course, we are working very hard to win the public’s confidence and to deliver our election commitments. I think even the Leader of the Opposition acknowledged that we had an overwhelming victory and can quite properly say there is a mandate.

We are seeing a degree of preciousness emerge that somehow or other there is something improper about a government attempting to act on its mandate and get its legislation through, and talking to and making comments to the public about the way in which legislation might be held up in the Legislative Council. That is politics and it is entirely in order. That does not change members’ legal entitlements, their ability to ask questions or their ability to debate. Members opposite cannot sit here and suggest that they do not, on a day-by-day basis, play raw politics and oppose things in many, many instances and ask questions in order to frustrate the government. We all have our issues and we are quite entitled as a government to talk directly to the public about the barriers the government is facing for its legislation, which we took to the election. Members opposite do not want to be called out. They want to sit here and say, “We are precious gods. No-one can reflect on the behaviour of the members of the Legislative Council because we are the lords and it is wrong to bring this in to the immediacy of politics!” That is what members opposite do every day in question time.

The Leader of the Opposition spent some time talking about this polling that apparently has heartened the opposition. Of course, this polling is secret. The Liberals are saying that they are ahead in 11 of the 14 seats polled, but they are refusing to name the seats. Why are the Liberals refusing to name the seats? It is extraordinary that this story got a run. It is very interesting to look at the raw numbers. If this poll was indeed taken across 14 seats, the sample size would have been about 100 people per seat, which someone with only the most rudimentary knowledge of sample sizes would know makes it a completely illegitimate poll. By all means, the Leader of the Opposition should take some heart from that and look at the behaviour of his party. Liberal members can try to convince themselves that they are a motza for re-election. I personally find that a little hard to believe, but if the Liberal Party wants to rely on a tiny sample of secret polling, please be our guest.

Hon Alanna Clohesy: Then table the research.

HON ALANNAH MacTIERNAN: That is right. We are going through difficult issues and no-one would challenge the fact that we have found ourselves in some very, very difficult circumstances. I put it to members to reflect on the fact that these very difficult circumstances that we find ourselves in are not of the government’s making. An investigation into three former members of Parliament—I understand, none of them are from this side of the chamber—has led to the Corruption and Crime Commission making demands for access to documents relating to those members. This is not an issue of our making. We understand that there are difficulties in trying to reconcile the competing rights and obligations of the public’s desire to ensure that corruption is properly investigated and dealt with and the countervailing force of ensuring there is proper protection for sitting members from oversight of the executive. We understand that and I think everyone accepts that that is a fundamental tension. It is not easy to get this right, as the Standing Committee on Procedure and Privileges rescinded its order to the director general. I think anyone can see that the director general had been placed in an enormously difficult situation with having to make a decision about competing obligations that he needs to comply with. As I said, members need to understand that the public would be deeply concerned if this matter before the CCC was not investigated, but that does not diminish members’ legitimate concerns about the rights the executive might have to access emails of sitting members. We all recognise that this is a very difficult situation.

Hon Peter Collier gets very, very obsessed with minute points that do not mean anything at all in the real world. The Leader of the Opposition would have been a perfect Aquinian scholar. He should have been there in the Middle Ages when people were asking how many angels could dance on the head of a pin! Time and again, the Leader of the Opposition asks question after question about what the Premier said one day. The Premier has acknowledged that one day when asked a question he gave the answer that these matters were before the Standing Committee on Procedure and Privileges. In a very dynamic situation with more information coming to light, later in the lower house, the member for Moore asked the Premier a question. The Leader of the Opposition again asked the Premier to clarify

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that answer. The Leader of the House representing the Premier got up and made it quite clear, reading in the answer that had been given in the other place. This whole idea that in a year or a week they are slightly different questions — Several members interjected.

The PRESIDENT: Order!

Hon ALANNAH MacTIERNAN: This is real pinhead stuff. It is about the minutiae, not the reality. I urge the member to look at the substance of the matter, which is whether any materials have been accessed by DPC staff. It has been made clear in those answers, firstly to the member for Moore and subsequently to this house, that no staff member of DPC has read any of the emails of current or former members.

Several members interjected.

The PRESIDENT: Members, when the Leader of the Opposition was on his feet, he was afforded quiet for the significant part of his speech and people listened to what he had to say. The minister does not have very long to speak. Please let her finish her speech and listen to her.

Hon ALANNAH MacTIERNAN: Our fundamental point is that we should get to the guts of the issues and ask questions about the guts of the issues.

Hon Peter Collier: Don't worry about Parliament!

Hon ALANNAH MacTIERNAN: It is not a case of not worrying about Parliament; it is about recognising that these are difficult issues. We recognise that the Standing Committee on Procedure and Privileges had to change its position. It originally directed an order towards the director general of the Department of the Premier and Cabinet and then had to rescind that. These are complex and difficult areas. We are moving on new terrain. It is absurd to attempt to deal with the minutiae rather than focusing on the clear and problematic issues. We should not be attempting to go through everything line by line, saying that there might have been a slight variation between one and the other, when the Premier has come out quite clearly and given the same answer in this place as he gave in the other place.

These are difficult times. Of course the culture of the Legislative Assembly is different from the culture of the Legislative Council. I ask members of the opposition to please not pretend that they sit in this place as some sort of neutral arbiters and that, on a day-to-day basis, they are not seeking to develop a political narrative to advance themselves in a future election, which apparently, on the basis of the secret polling of 100 people in 14 seats, they appear to be confident of winning. We all understand the role of the —

Hon Peter Collier: You're embarrassing.

Hon ALANNAH MacTIERNAN: Embarrassing—I love it! Hon Peter Collier has obviously been a highly embarrassed person all his life. His real critique is embarrassing. He thinks that we can really shame someone by saying they are embarrassing! As I have said to the Leader of the Opposition before, I have absolutely no evidence that he is this powerful figure within the WA community who commands this incredible respect and marshals those arguments. It is a very interesting psychological ploy of the member, which I think is worthy of a little introspection, to talk of shame.

Hon Peter Collier: You are laughable. You've got no respect at all. Listen to this response.

The PRESIDENT: Let us get back to the motion.

Hon ALANNAH MacTIERNAN: My response is to call on members opposite to understand that they are operating within a political system. They are all voted for and on a daily basis they all seek to, and no doubt advance, the good order and governance of this community. At the same time, they are actively out there seeking to promote their political views to their own advantage. That is just the reality of politics. We have acknowledged that there is a fundamental tension here. We recognise that. It is not easy to resolve it. On the one hand, we have the desire of the Corruption and Crime Commission to investigate the behaviour of former members—they are not former members of this side—and, on the other hand, we have the privileges of Parliament. We are not suggesting that this is easy. But there is no issue of disrespect from the Premier or from our government. We absolutely understand the bicameral nature of this Parliament.

HON NICK GOIRAN (South Metropolitan) [11.04 am]: This is an important motion before the house that has been brought forward by the Leader of the Opposition, Hon Peter Collier. We have just had a response on behalf of the government. I understand that the member who just spoke was the responsible minister looking after this matter on behalf of the government. The responsible minister, to the extent that she provides some form of defence to the grave concerns that are being expressed here about the ongoing disrespect shown by the executive, by ministers in the McGowan Labor government towards the Legislative Council, indicated that she is asking for matters of substance to be raised and not minute detail. Let me give the minister one example. For some time

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I have been pursuing a matter to do with criminal injuries compensation in Western Australia. This is compensation that would flow through to victims of crime. I ask the minister to tell me whether compensation for victims of crime is a matter of substance or minute detail. The minister responsible for that matter is Hon John Quigley, the Attorney General of Western Australia. I have been pursuing this matter for some time. Let me draw the minister's attention to the fact that because of questions I asked, the Attorney General said that he would conduct a review into the criminal injuries compensation system in Western Australia. When was that to be completed? It was to be completed in October 2018.

Earlier this month, I asked a question without notice of the Leader of the House representing the Attorney General, saying, "Where on earth is this report into the criminal injuries compensation scheme?", which the government said would be available and completed in October last year. In September this year, 11 months later, a response came back from the Leader of the House on behalf of the Attorney General saying that the draft report is under review. Would the minister believe where the review is at the moment? It is with the State Solicitor's Office and will be tabled in due course. It is no wonder the State Solicitor's Office has not had time to finish the report into a substantive matter for victims of crime in Western Australia. A plethora of people in the State Solicitor's Office, including law students, have been busy looking into emails of members of Parliament and determining whether they think that attracts parliamentary privilege. That is a much more important use of the time of the State Solicitor's Office than dealing with a matter that the Attorney General said would be addressed in October last year! He does not have time to deal with it. He cannot get people in the State Solicitor's Office to look at matters to do with victims of crime because they are too busy trying to do the job that should be done by the Standing Committee on Procedure and Privileges.

The minister and her government think that law students are well placed, well educated and well trained to determine whether emails attract parliamentary privilege. That is the problem with the government at the moment. The minister wants to talk about matters of substance. I am happy to have the debate any day of the week. I am happy for Parliament to be recalled any day of the week, and any time of the day or night I am quite happy to talk about matters of substance. The minister has put up a defence and tried to criticise the Leader of the Opposition, Hon Peter Collier, saying that he is dealing with minute matters. These are not minute matters; these are matters of substance dealing with parliamentary privilege. Because of the government's decision to divert the resources of the State Solicitor's Office to deal with things like that, it has continued to fail victims of crime in Western Australia.

That is not the only matter that is of grave concern to me with regard to the disrespect that has been shown systemically by this government to the Parliament of Western Australia and, in particular, the Legislative Council. I regret that Hon Martin Aldridge is away on urgent parliamentary business. I have listened with keen interest to the types of questions that he has been pursuing with the government and the constant disrespect that is shown to that member, particularly as demonstrated by the answers that he receives. We only have to look to some of the work that has been undertaken by the Auditor General of Western Australia. Perhaps the minister who has responded on behalf of the government considers that the work of the Auditor General is a matter of minute detail and not a matter of substance. I for one think that the Auditor General does work of substance; it is not a matter of minute detail. It was only yesterday, on 18 September, that the Auditor General's sixth report was released, "Opinions on Ministerial Notifications". The Auditor General's opinion states —

The decision by the Minister for Education and Training, the Hon Sue Ellery MLC, —

The most experienced member opposite —

not to provide Parliament with 2 documents previously released under the FOI Act was not reasonable and therefore not appropriate ...

Who was the member trying to seek that information? It was none other than Hon Martin Aldridge, MLC, who was pursuing some matters that he and his leader, Hon Mia Davies, had been pursuing. But once again, the most experienced member opposite, the leader of the government in this place, refused to provide information to Parliament and was caught out by the Auditor General of Western Australia: it was not reasonable and therefore not appropriate. Let members opposite not think that this is an isolated incident—not at all. Let me turn to the report of the Auditor General from February this year. In the fourteenth report, "Opinions on Ministerial Notifications", the Auditor General had this to say —

The decision by the Minister for Transport, the Hon Rita Saffioti MLA, not to provide Parliament with the *Taxi User Subsidy Scheme (TUSS) Review* report was not reasonable and therefore not appropriate ...

Let us not think that it is only Ministers Ellery and Saffioti who have this problem. It was interesting that the government decided today to have Hon Alannah MacTiernan as the minister who should provide the grand defence to this motion.

Hon Simon O'Brien: She is pretty experienced as well.

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Hon NICK GOIRAN: She has a lot of experience with opinions of ministerial notification and the Auditor General. As recently as January this year, in his thirteenth report, the Auditor General had this to say about that minister —

The decision by the Minister for Regional Development not to provide Parliament with any of schedule 7 (the proposal) of the FAA, was not reasonable and therefore not appropriate.

No doubt this is just minute detail. Who cares what the Auditor General of Western Australia has to say about these matters? One has to wonder why, as taxpayers, we even bother to fund the Office of the Auditor General when we get this kind of attitude from ministers of this government. These are just matters of trivial detail, Leader of the Opposition: “I can’t believe that you would have brought this motion on today to express grave concern!”

Some of these ministers actually have double form in this respect. I turn now to Hon Francis Logan, MLA. In the fourth report, from August last year, this was the Auditor General’s opinion —

The decision by the Minister for Emergency Services, the Hon Francis Logan MLA, not to provide —
Let us remember here —

Parliament with information about locations —

It is only information to Parliament about trivial matters, no doubt —

identified as the next priority for a Volunteer Fire and Rescue Station or a Career Fire and Rescue Station was not reasonable and therefore not appropriate ...

Who cares about the volunteer fire and rescue stations and the career fire and rescue stations? These are trivial matters; they are not substantive matters, according to Hon Alannah MacTiernan. Hon Fran Logan, the minister, was caught out yet again in April last year —

The decisions by the Minister for Corrective Services —

Perhaps it is too difficult for him to have two portfolios —

not to provide the information requested by Parliament on the cost savings from converting the Wandoo Reintegration Facility were not reasonable and therefore not appropriate.

Who else has been caught out in this ongoing systemic cover-up by this government? I note that Hon Jacqui Boyde reminded us that apparently the Premier had promised a gold standard of transparency. Why then do I have all these documents on my desk at the moment if we have a gold standard of transparency? Let us not forget about Minister Cook who has been caught out, and even the Treasurer, Mr Wyatt —

The decisions by the Treasurer, the Hon Ben Wyatt MLA, not to provide Parliament with the requested information were not reasonable and therefore not appropriate ...

If members want to find out when that was opinion was written, it was in May last year in the tenth report. That is yet another example from the Auditor General. I absolutely support the motion moved by Hon Peter Collier and I thank him for bringing it to our attention.

HON ALISON XAMON (North Metropolitan) [11.14 am]: I rise to make some comments about this motion. Obviously, we can talk about the quality of some of the answers that come back to us in response to our questions. Quite frankly, some of them are absolutely appalling. I particularly want to note the appalling answers I consistently get from the Minister for Corrective Services. I am also happy to give out okays and acknowledge a standard. I want to acknowledge that I personally get really good answers from Ministers Cook and Dawson. That gives an indication of the quality of answers that potentially could be given if there was a will by all ministers to do exactly the same thing. Clearly, that has not been the case. But I am not going to focus on that at the moment because that will take up all my time.

I want to make some comments, particularly about what I believe has been a distinct contempt of this Parliament, at least in terms of disrespect, that has been consistently shown by the Premier towards the Legislative Council. I counsel the Premier to perhaps be a little more circumspect in his commentary around the ongoing issue that this Council is currently having and the process that the Standing Committee on Procedure and Privileges is currently undertaking to protect parliamentary privilege. I cannot believe that we have had to have debates in this place about the importance of parliamentary privilege. I cannot believe that the Council has been put in a position of needing to defend a centuries-old tradition, which is there for good reason and is important. It protects us, which protects the people who we represent and allows them to speak fearlessly and put out there in no uncertain terms what needs to be said. I cannot believe that the Premier has made any suggestion that that should be compromised in any way, shape or form. The Premier is the person who needs to back off. The Premier needs to allow this Council to undertake its processes. It needs to allow our procedure and privileges committee to undertake its work. I note that the Procedure and Privileges Committee in the other place during this term of government has had to make some pretty hard decisions and undergo some pretty tough inquiries, but there had not been a peep from this

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place or any suggestion that we would interfere with those processes. We recognise that that is the business of the Legislative Assembly and it should be free to undertake that important work. That is exactly the same level of respect that must be paid to this Council as well.

I have watched with increasing despair as this matter of privilege issue that we are dealing with has rolled out, particularly as more information comes to light. One thing that I take particular umbrage at is the ongoing assertion that somehow this Council has committed an error by exposing an ongoing inquiry by the Corruption and Crime Commission. That is just a complete falsehood. The reason why the Council had to become aware legally that there was an ongoing investigation was that the President's hand was forced and she had a legal obligation to advise the Council of what was going on. The Corruption and Crime Commissioner knew that and the Premier should have known that. If the Premier did not know that, I will be starting to question the quality of the advice that perhaps is coming from the State Solicitor's Office on this issue. It was with absolute disbelief that I read the correspondence that came from the State Solicitor, particularly to this Council, about this matter. "Shrill" and "borderline hysterical" are the words that come to mind when I think about the deeply partisan and highly compromised correspondence that is coming from our State Solicitor to this place. These demands for an apology are absolutely beyond the pale. It is absolutely outrageous. Who does the State Solicitor think he is? If we need to talk about an apology, let us talk about the State Solicitor issuing an apology to Dr Cunningham and Ms Atoms for the State Solicitor's Office's ongoing persecution of those innocent citizens. If we are looking at model litigant guidelines, which this state needs, that is the sort of apology we should be talking about. Perhaps the State Solicitor's Office can turn its attention to this.

Clearly, there has been some suspect behaviour around legal advice that has been given perhaps to the director general of the Department of the Premier and Cabinet or perhaps to the Premier—we do not know. Certainly, when we look at the correspondence that has been tabled in this place, our confidence does not run high. Mr Darren Foster was put in a difficult position by the Corruption and Crime Commission when the CCC decided to disregard the agreement that had been reached with the Standing Committee on Procedure and Privileges on a process to determine parliamentary privilege, and the CCC went down its own path and put pressure on the DPC to release the emails in the first place. If Parliamentary Services were in full control of all things to do with members of Parliament, just like in every other state, there would never have been the ability to put that pressure on them. That is what we need here as a matter of urgency. But I recognise that that does potentially put a public servant in an invidious situation. The first thing a public servant in that situation would do is go to the State Solicitor and say, "Okay, I've been put in this position. What should I do?" There are a couple of avenues that could and should have been pursued. The most obvious one would have been to go to court. We do not know whether that advice was ever given, because we are not privy to that advice. Secondly, the public servant could have raised the issue with the Parliamentary Inspector of the Corruption and Crime Commission, or maybe even with the Joint Standing Committee on the Corruption and Crime Commission. There are a number of avenues that the public servant could have taken that are different from saying, "That's okay, I'll just take this upon myself. I will go through the former MPs' emails, I will make sure that my law students and clerks and the like can go through them, and we will determine what is privileged and what is not." That is an absolutely outrageous thing to do. It seems to me that the lawyer who was meant to be giving the principal advice on this has a vested interest in perhaps not drawing too much attention to what happened in that process. It seems to me that there are some questions to be asked about the quality of the advice given to public servants who are put in this position by the CCC.

We know that the Legislative Council has been drawn into all this only because we need to be able to deal with these issues of privilege. That is where this is all lying. What bothers me is that the further we delve into this, the grubbier and grubbier this is starting to look. Questions have been asked in this place that still have not been answered, and we need the answers to those questions. We have been told that no-one in the DPC has seen any of our emails, but we are yet to know whether anyone in the State Solicitor's Office, including law clerks and students, have access to our emails. I want an answer to that question. I want to know whether that has occurred. That is the level of transparency that is required and that this executive should be giving up as soon as possible. We need transparency around this. I want some answers and the Legislative Council wants some answers. The more and more information we get, the clearer it becomes that we have a deeply problematic situation, and I want to know what the government has to hide.

HON TJORN SIBMA (North Metropolitan) [11.24 am]: I was detained on urgent parliamentary business earlier, so I have not heard the entirety of this debate, but I was present for the contribution made by the Minister for Regional Development, which is always a masterclass in dissembling, disregard and disrespect for just about every single member of this chamber. She has made a political career out of that and it looks like she will continue on that trajectory. I think she does the government a disservice. Furthermore, this government does this entire chamber a disservice and has done from the moment it was sworn in. The Premier's claims to run an open, transparent and accountable government are a sick joke, more honoured in the breach than in the observance. There has been case after case after case of information being withheld from this place and misleading answers being provided to

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questions posed, and we do not even need to reflect on the most recent imbroglio between the Standing Committee on Procedure and Privileges and the executive government. It goes back to the machinery-of-government changes; changes to the public sector senior executive service; and the removal of people like the CEO of Lotterywest, who we are informed was removed due to mutual agreement, but whose name we understand appeared on a hit list of public servants that the former Public Sector Commissioner dutifully took notes on. Answers have not been provided in a timely or accurate way. We have been forced to explore other means and to submit freedom of information requests, and then, when we do, we are criticised for creating a backlog. Do government members know what would stop the backlog of freedom of information requests? The government could stop the backlog by answering the questions that are put to it. Answer the questions! What is it about the McGowan government's strange relationship with information such that it protects its own information but takes a very easy-breezy approach to information possessed by others? Why this strange relationship? What is the government hiding? I did not need to pose that question; Hon Alison Xamon and Hon Jacqui Boydell and other members of the opposition did. Every single member of this chamber on this side of the house is united in their view that the government treats them with nothing more than a disgusting contempt.

I have a rule about leadership. The fish rots from the head down, and I tell members, I can smell the stench over this side of the chamber. To concentrate, to dissemble, to claim that we are —

Several members interjected.

The ACTING PRESIDENT: Order!

Hon TJORN SIBMA: It is apparently not within the government's gift to sully its elevated mind with anything as sordid as detail.

Hon Peter Collier: Or the truth.

Hon TJORN SIBMA: Or the truth. To concentrate on matters demonstrates a bizarre obsession with details.

Hon Alannah MacTiernan: I am trying to make a distinction between pedantry and detail.

Hon TJORN SIBMA: That is an interesting contribution. That is an interesting interjection, is it not!

Hon Alannah MacTiernan: We have absolute pedantry, and if you cannot understand the difference between those matters, that is a problem.

The ACTING PRESIDENT: Order, members! The problem with accepting and reacting to interjections is that you lose control of the debate. Hon Tjorn Sibma, I suggest that you direct your remarks through the Chair.

Hon TJORN SIBMA: Thank you very much, Mr Acting President. I will, of course, be guided by your sound wisdom.

The Minister for Regional Development displayed a contempt for this motion. She dismissed it by saying, "Here we go again. The opposition is bringing forward this motion." Why do we have to bring forward these motions? We bring them because the government provides the reason. When is the government going to treat this chamber, the other chamber, this Parliament and these institutions with some respect? Its continued disrespect is affecting its reputation in the community. The government should keep going the way it is going and we will see how we all fare in 2021.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [11.28 am]: The government does respect the Legislative Council and the processes of the Legislative Council. We also respect the Western Australian people. What is lacking from the other side of politics —

Several members interjected.

The ACTING PRESIDENT: Order, members! Hon Darren West.

Hon DARREN WEST: We respect the Western Australian people, we are fixing the finances of their state, we are getting people back to work, and we are getting Western Australia back on track, and that is what matters to the people.

Motion lapsed, pursuant to standing orders.