
# Parliamentary Debates
**(HANSARD)**

FORTY-FIRST PARLIAMENT
FIRST SESSION
2021

LEGISLATIVE COUNCIL

Tuesday, 26 October 2021

# Legislative Council

Tuesday, 26 October 2021

**THE PRESIDENT (Hon Alanna Clohesy)** took the chair at 2.00 pm, read prayers and acknowledged country.

## CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2021

*Assent*

Message from the Governor received and read notifying assent to the bill.

## RUSSELL WOOLF — TRIBUTE

*Statement by President*

**THE PRESIDENT (Hon Alanna Clohesy)** [2.03 pm]: Good afternoon, members. I rise to mark the sudden passing earlier today of a unique Western Australian, Mr Russell Woolf. As members are aware, Russell was a long-time presenter on Western Australian ABC radio and television. He was a central part of our everyday lives through his broadcasts right across our state over many years. He was also an important part of local community and sporting clubs, infusing his particular joie de vivre in all that he did. Whether we knew him personally, were interviewed by him, or simply knew of him through his work, we all feel as though we have lost a dear friend today. On behalf of this chamber, I offer our deepest sympathy to Russell's much-cherished wife, Kylie, and daughter, Bronte, and all his family and friends, including those at the ABC.

Vale Russell Woolf.

Members: Hear, hear!

## PARLIAMENTARY SITTING DATES 2022

*Statement by Leader of the House*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [2.05 pm]: President, I rise to inform members of the parliamentary sitting dates for 2022. Next year, 19 sitting weeks are scheduled for the Legislative Council. As is the usual practice, the dates are divided into autumn and spring sittings. Generally, the house is scheduled to sit for two or three weeks, followed by a one-week or two-week recess, sitting around scheduled school holiday periods. There will be a six-week break between late June and early August. Autumn sittings will commence on Tuesday, 15 February 2022, and conclude on Thursday, 23 June 2022. Spring sittings are scheduled to take place from Tuesday, 9 August 2022, to Thursday, 1 December 2022.

For the information of members, I table the 2022 parliamentary sitting dates.

[See paper 821.]

## HYDROGEN-FUELLED TRANSPORT PROGRAM

*Statement by Minister for Hydrogen Industry*

**HON ALANNAH MacTIERNAN (South West — Minister for Hydrogen Industry)** [2.06 pm]: The McGowan government is powering ahead with projects to turn Western Australia into a global clean hydrogen leader, with two major initiatives launched over the last week.

On Friday, we opened expressions of interest for our $10 million hydrogen-fuelled transport program to accelerate uptake of hydrogen trucks, buses and other commercial vehicles, and to boost the rollout of hydrogen refuelling infrastructure. Hydrogen vehicles, with shorter refuelling times and the ability to travel longer ranges and carry more weight, present a "big zero" emissions transport option for Western Australia. The hydrogen-fuelled transport program will help WA's transport industry to take the leap to hydrogen, and to get more refuellers and more vehicles on the roads. We are calling on transport operators, manufacturers and hydrogen producers to team up on a project that will include hydrogen vehicle procurement and operation, and the installation of refuellers. Importantly, getting a hydrogen transport project up will create offtake for local hydrogen production, helping us to ramp up the local hydrogen industry, and getting us closer to net zero emissions.

Yesterday, we joined Woodside to announce H2Perth, a $1 billion project that is fully funded by Woodside, which will become one of the world's largest clean hydrogen and ammonia production facilities. H2Perth will be built on about 130 hectares of industrial land in the Kwinana–Rockingham Strategic Industrial Area, commercially leased from the state government. Although the project will involve some blue hydrogen production, it will increasingly take renewable energy off the south west interconnected system, underpinning massive investment in new wind and solar on the SWIS as the project moves to requiring up to three gigawatts of renewable energy. The scale of this project will also help to secure the local manufacture of critical components, including electrolysers. We are proud to work with a Western Australian company in Woodside to deliver one of the world's first major clean hydrogen production facilities in WA.

## PAPERS TABLED

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

## ESTIMATES OF REVENUE AND EXPENDITURE

*Consideration of Tabled Papers*

Resumed from 14 September on the following motion moved by Hon Stephen Dawson (Minister for Mental Health) —

> That pursuant to standing order 69(1), the Legislative Council take note of tabled papers 534A–D (2021–22 budget papers) laid upon the table of the house on Thursday, 9 September 2021.

**HON DR BRIAN WALKER (East Metropolitan)** [2.13 pm]: I was pleased and a bit dismayed to receive three large volumes of the budget. It was the first time this had ever come across my desk, and fighting my way through it, I realised that an enormous amount of work had been done. From the very beginning, I have to say that I will not oppose the motion at all. I will support the motion, but not perhaps in the way that the government expects. I know it is surprising! The first thing the government has done here, and very properly so, is fulfil its election promises. This fact leads me to reflect on why people would oppose the budget because other election promises that other parties made are not reflected here, and that is right and proper. I have the same discussion with my wife, every week actually, about where our money should rightly be disposed of, and I am always wrong. Something that we have to acknowledge is the issue in housekeeping of spending less than you earn. I was very pleased to see this large budget of $5 billion and the spending around that. It is very sensible. The government is getting the bang for the buck.

I first have to say thank you to the Premier for supporting giving adequate financial advice to those who are less fortunate and who are having struggles in their own personal budgets. Uniting WA is an organisation supported by COVID-relief funding. I visited Uniting WA and was very pleased and impressed to see how much it actually does for those of us who are struggling financially. Of course, when it comes to managing finances, it can always be better. This is one area in which I really want to look at how we might improve things in the future, because for the moment, I am happy to say that things are trundling along reasonably well, plus or minus. I will make some exceptions to that shortly. What I really want to say in this first, initial introduction is that we need to beware of the Premier of New South Wales and the Prime Minister in Canberra, because it is very evident that the attack on GST has now started. As our Premier pointed out, we are not the ATM of Australia, but the attack is still going to be inevitable. For years, they have required, requested, demanded that our dollar goes to support other states, and now, all of a sudden, New South Wales is suggesting that despite getting 94¢ in the dollar, it ought to get more of WA's proportion of 70¢ or something like that in the dollar. There is no equity there at all. My parents are Scottish, and I have a tinge of a Scottish accent. It reminds me a little bit of the Scottish–English issues when the English say—they are exploiting Scotland, of course—"Scotland is too small, too weak, too stupid to be able to manage on its own." This is patently untrue, of course, as is this east–west divide in Australia of the east needing our money so it can manage us better. Therefore, starting off with that, we need to actually look out for ourselves first, and this is where the budget is really focused: managing the Western Australian budget with Western Australian money.

The budget is about the future. Although it may reflect the past, it starts by looking at the future by way of the future estimates. Where are the main issues and the 80–20 principle? Everyone is saying that there is not enough money, but where do we start to actually make real improvements? Managing the one major issue and then moving to the next after that—have we done that? We have done that to a degree, but I would put to members that there are areas in which we need a lot more input and which would give a lot more buck back. For example, if we look at homelessness in our state and the loss to the economy of those who are struggling to find a home, would it be financially sensible to provide everyone with a home and they could then start working and producing for the state? What about the people who are suffering from the abusers in society and domestic violence and similar things? If we were to support those people more appropriately, would they be able to supply more in the way of revenue to the government with the taxes that they would pay on their hard-earned dollars? Therefore, to a degree, it could be better—perhaps even a lot better. There will be more of that, I think, in the near future.

On the issue of health, as a doctor, I look at the wellness and health aspects first of all. I was going to point out page 309 of budget paper No 2, volume 1, paragraphs 2 and 3, but that was dealt with last week in the estimates. The bottom line is that we have failed to plan for enough resources in the health service. We cannot say that this issue belongs to one side of government or the other. I spoke about this recently. We have a system that is not doing well and because most people in government have not worked on the front line, they cannot understand where the wastage happens. That is understandable. If you are dealing with things from afar and you are applying measures that you think ought to be appropriate but you do not understand what is actually happening at a granular level on the front line, then you are going to find that your choices may be less well informed. For example, I listened to a report on ABC news. By the way, President, I must say thank you for that vale to Russell Woolf. I was distressed to hear the news. I think I share the views of all here that we have lost a dear friend, and it hurts me personally. In the report today in the news, they were talking about the bypassing of women in labour to other hospitals—62 cases in 90 days. The president of the Australian Medical Association was speaking about this and said it represented

a lack of resources. But I saw in the budget how many millions of dollars' worth of resources are being put in and how much more it is. Imagine my surprise when I found out that on closer examination, it actually represents $70 million less in real terms to the health department.

I have a further point about the health service, and I have mentioned this before. There is bureaucratic bloat. In my time I have dealt with bureaucrats in the hospital services and have been universally unimpressed with their ability to manage health. They might be able to manage FTEs and budgets, but they are certainly not able to manage health. I listened last week to the CEOs of the various regional hospitals give their bland reassurances that all was well, but the morale in all of the areas has plummeted, so people offering the actual services are not feeling well, they are not doing well, they want to resign and they want to move away because their system is not appropriate to the needs of the patients they have sworn to look after. They have dedicated their lives to caring for people who come in under difficult circumstances—near death, wishing to die or with illnesses that need to be treated. If we are unable to fulfil our vocation of helping people to survive with quality of life, if that is forbidden to us because of the system, we feel personally affected, and morale, of course, will plummet. In fact, at one hospital I worked at I knew personally that every single nurse below the level of nurse manager wanted to resign her position because she felt undervalued, untrusted, not cared for and unsupported.

I am very pleased to hear that no-one from the opposition supports this, because this is across the boundaries. It does not matter which government is in power; it is the same system. All governments, when they look at the budget, ought to ask the people who supply the service, not those who administer it, because they are devolved; they are separate. They do not understand what is going on. I put it to members that this is across the board; it is institutional and we can see the results with our own eyes. There is wastage in every area. That is our money being wasted. All the good effort in the budget is resulting in less bang for your buck. There are other workforce issues—demoralised, demotivated, deskilled health professionals. They are like that because of bureaucratic diktats. I mentioned a few weeks ago in this very chamber that all children under the age of two with a fever are required to be sent off by Royal Flying Doctor Service. Members can imagine that if someone is not allowed to get clinical experience in managing people, they will deskill. In fact, if I leave medicine for, say, one year, I am required to undergo a measure of retraining so that I keep my skills up to par. We are being demoralised, demotivated and deskilled because the bureaucratic bloat insists on protecting management backsides and keeping within the budget. People must be aware that it is not about health. We talk about the health system, but it is being run by people who do not appreciate health.

Another area that impacts the workforce is the bullying that is rampant in the health service. There are many examples. People from many different levels attempted to bully me, and everyone I know who has worked in that system has at one stage been bullied. Of course, that will affect performance. It affects morale, and the bottom line to our budget is then impacted, is it not? We also have bottom-line thinking from people who have never served on the front line. If there are generals in charge in the military who have never held a weapon or stood in front of the enemy to defend themselves from attack, how are they prepared to understand what is going on at the front? They might have the theory from books, but they have no real-life experience. This is what we can expect. At some stage, every general would have been a second lieutenant and would have experience on the basic squad or platoon upwards and would understand what is going on. This does not happen in the health service, at least not much. I recall that in one area where I worked, clinical patient services were managed by a person who in a previous life was a speech therapist. She was a fine lady, but she had no understanding at all of the clinical implications of diagnoses, unless it involved speech. They are removed from the realities of medical care and, critically, they are not responsible when things go wrong. They simply point; they blame. There was an example in May when East Metropolitan Health Service blithely said that there was to be a $10 million budget cut in the hospitals; that is, it would remove that $10 million from the front line and it would not impact frontline services. That is utter idiocy—complete ignorance of the realities of frontline work. Staff who were demoralised and demotivated as a result of that were then left unmanaged. This, of course, results in increasing costs and decreasing returns, which, by a business definition, must mean that the health sector must fail. It is inevitable. It is inevitable that if the only solution is to pump more cash in to prop up a system, it will at some time fail. Looking at the budget, the question is: are we spending the money to the maximum effect or are we keeping the status quo until the point of no return comes and things happen? We must give thought to this.

Not a word of criticism is meant here, by the way. This is simply the impact that we must be aware of. As professionals in the parliamentary system, we must take note and begin to put the right people in place to have the right thoughts to make a new direction available to us. This is not a simple thing. I have said before that I cannot do this; I am not qualified for that. As a matter of principle, preventive medicine trumps reactive medicine. For example, people could avoid having heart attacks if alternative diet suggestions are made to them when they are younger. Exercise might be used as well as proper medication to prevent these things happening in the first place. The cost of managing a heart attack is more than the cost of preventing it in the first place. We could then maybe address the food processing industry, which, I would put, is a major cause of much illness. If that is the case, the food processing industry is causing a deficit in the health budget. Could we not transform the food processing industry to work more efficiently and more in the direction of giving us health, and to increase profits at the same time that it decreases the costs to the health budget? Again, I suggest that we give this some serious thought.

What about the work environment? Members all know that I used to live and work in Germany. I was a GP there. I was fairly early into my career when someone came in and said they wanted to apply for Kuraufenthalt. I say it in German because there is no appropriate English word for it. "Kur" is a cure—taking of the waters in a specific bath. "Aufenthalt" means "stay". Every couple of years, German citizens are allowed to leave work for four weeks and attend a spa for muscle recovery, mental health, asthma treatment and other aspects of health—four weeks! They come back rejuvenated and are able to continue working very effectively for their companies. It is not wasted money; it is an investment in the workforce.

**Hon Alannah MacTiernan**: Is that on top of annual leave?

**Hon Dr BRIAN WALKER**: It is on top of that, yes.

It is a wonderful idea. It came from Chancellor Bismarck in 1873, so Bismarck was not a baddie. That is wonderful. It is very ancient—or at least a couple of hundred years old—but it is something that really ought to be looked at. Can we look after the health of our workers better? Would it be more profitable? We might even ask whether a four-day working week would be useful. This is beyond the scope of the budget reply.

What about looking at the chemicals in the environment? We talk about wellness in society and a sustainable environment. In this building just now, we are exposed to 4 000 chemicals that do not belong in our bodies, about which we know nothing, but we have become used to them because they are part of our lives. They are in the exhibits on the walls, the carpets and the things we are wearing. People who have multiple chemical sensitivities discover that they cannot tolerate this; it aggravates their asthma, skin problems or mental health issues, and it affects them greatly at work. What about a safe environment in which we are not exposed to toxic chemicals? I am thinking about our future and our children's future. They are going to be producing the taxes that we will depend upon in the future. We need to give this thought, and I am sure that people on all sides do think about this. I am simply pointing out that there are more things that we could and should do, because it greatly affects our bottom line. I am pointing out that money is not the real solution. It is about changing the way that we think. There is a kind of fundamental law that making a change is not about working harder; it is about thinking differently. I put it again to the house that if we have a different approach to our budget, if we think differently about how we manage our population, ourselves and the budget, then we will have different outcomes. I put it to members that time and effort spent here will pay dividends.

We could speak about mental health issues. I spoke earlier about how we could have a better return by treating issues before they become a major problem. I mentioned heart attacks; mental health is another case in point. We spend a tremendous amount of money and effort in managing the mental health of our population, but the causes of mental health—I am not talking about psychotic processes, but rather the general mental health issues that most of us are going to experience at one time in our lives—are actually psychosocial issues within our environment: the stresses we have at work or at home, the difficulties in managing on a lower income, the difficulties in managing job security and the pressures in maintaining relationships. Members can take it from me as a prescriber that the treatments that we have for these issues are not great. If someone comes to me with a mental health problem and I give them a simple antidepressant of whatever flavour, it will not actually do that much. There are some improvements once someone finds the right medication, but I am sure that members of the house who have taken these medications at some time will probably say, "Actually, it isn't that great. It hasn't fixed the problem." No—it is inefficient and expensive. What is more—we have talked about driving impairment—these medications can actually result in increased traffic accidents and accidents at work, so there is death and destruction as a result of this.

Of course, there are novel alternatives, and I will bore members more with these successful alternatives. There is psilocybin—magic mushrooms—which has an immediate response on post-traumatic stress disorder, MDMA, and microdosed LSD. I am not talking about hallucinogenics of the hippie era; I am talking about the proper use of medication for mental health issues. These, combined with psychotherapy, give an astronomical improvement over conventional approaches. We could seriously cut these costs of failing to treat mental health illnesses if we just got our heads out of the sand and stopped criminalising plant-based medicine.

I will move on. I could talk about agriculture. I have no time to enter that debate, but there are considerable concerns within the agricultural sector about the blockages to what people within that sector would like to do. People often complain to me about the bureaucratic red tape preventing things from happening. Let us move on to education, on which I can spend little time as well. The first word here, of course, is to stop wasting money and to cut bureaucratic red tape and get streamlined. I am sure that members have heard before of cutting bureaucratic red tape; it is a common problem. I am glossing over that, because I think that others are better qualified to speak about this. But, looking at the budget in the future, one of the areas that I saw reflected a little is innovation and our innovative ideas. Here, we need to be active. If we look at the budget as managing the status quo, keeping things the same, adding or subtracting to the budget to fulfil election promises, we are going to get more of the same—a flavour here, a flavour there. We are not going to get any advance. The world is moving on. Western Australia must move on. Failing to be innovative and adaptive will consign us to the dustbin of history. Our budget bottom line can be spent as much as we like. We are not going to flourish because we are falling behind.

Members know what I am going to say now. I am going to talk about hemp as a multibillion-dollar business. I will speak a little bit more about this later. The refusal to put aside the roadblocks stopping this innovative, multibillion-dollar business option results in less money for health, education and agriculture. We will become more dependent on our major source of export—iron ore—which means that we will be more dependent on foreign influences, and that means, following this kind of budget, that we will be less safe.

A lot of work has been done. I particularly reference hemp. I give thanks to the minister, but I question: How much is the minister fighting the *Yes, Minister* culture of status quo? How much effort is spent trying to overcome the hurdles and blockages that are put in our path by well-meaning people for whom the status quo is important?

This leads on to the next area I would like to mention, which is sustainability. I alluded to this earlier when I talked about innovation. In particular, I will talk about sustainability with iron ore and the Chinese relationship, but before I go on to that, I was distressed earlier to hear mention made of the difficulty in getting crops off the paddocks because we do not have access to backpackers because of the blockage due to COVID. I made the point, and I will repeat it now, that if we are dependent on foreigners coming into our country to help us feed ourselves, we are not self-sustaining. North Korea is doing better than we are when it comes to self-sustainability, allegorically. This puts us at risk. When things happen, we are dependent on other countries, and that means that we are not an independent sovereign country. This bothers me. By definition, we are then vulnerable and at the mercy of outside forces, whether from Asia, Canberra, or, indeed, the United States. I think that developing this is a matter of priority. This should be a major focus in our budget.

The article by Hon Penny Wong in *The West Australian* of Wednesday, 6 October, said that we must look to our national interest. She said, and I quite agree with this, that we must take the politics out of our international interests. It is not about politics; it is about relationships. Here, we must focus on Western Australia first. I do not want to echo the words of Trump—"America first"—but we need to put the priorities of Western Australia first and foremost, because it is our state. We live here. We depend on ourselves. When it comes to international relations, Canberra is looking towards the Pacific and America, whereas here, we are a part of Asia, are we not? We are in the same time zone as Jakarta, Kuala Lumpur and Beijing. Our holidays to Bali are cheaper than our holidays to Broome. Our exports go to Asia and our imports come from Asia. Business relations are developed within Asia. We are an Asian nation, but not according to Canberra. Members might say that international relations is a federal issue, but it impacts on our bottom line in Western Australia, because the decisions taken in Canberra affect us here. Our major trading partners are in Asia; they are our immediate neighbours. We need them. It is not in our best interests to put them off-side. We all know what happened recently. The loss of our barley exports, for example, was not due to the fact that the barley crop failed or that there was an enemy within China who said that they would not take it anymore—no. As a puppet of America, provoking the bear to get a response resulted in billions of dollars lost. Really, any sensible China-aware person would have known that that would happen.

It might have been a politically astute move to make friends with America, but I put it to members that America is not our friend. I would be very wary of that nation. Trump and his allies remain strong. If we had 70 million of those Americans applying for Australian citizenship, they would fail on character grounds: racist, xenophobic, intolerant of other religions and races, aggressive and violent. They would not be allowed into Australia; not as residents or citizens. We all know what would happen if things turned a bit sticky and Australia was not working in US interests: it would leave us in a heartbeat. Look at its allies in Afghanistan—how they were left in a heartbeat. Would that happen to us? Damn right, it would. It is not our friend.

I have American friends—they are very friendly people—but as a nation, we do not have friends. In fact, we do not have enemies. There are states, and it is our duty to have a relationship with them. The US is a flawed superpower, and it is not the only choice. It is not even the best choice. It is a failing empire, and if we align ourselves with a failing empire, we are going to go down with it. Our bottom line will not help us one bit if we go down with a failing empire. That relationship puts us in danger—financial danger and social danger—and makes us a pariah in the region.

We are looked upon as a world polluter. Yes, there are only 25 million of us, but proportionately, in terms of pollution, we are dirty. I heard Boris Johnson on the radio this morning saying that we are a major exporter of coal, as though that were a measure of praise. It is actually a matter of shame. Until recently we had no carbon plan, and even when one was eventually produced under duress, it was a very grudging carbon plan for 2050, even though 2030 may be too late.

This is not working with the world; it is not building relationships. It is aligning us with the US, whose main interest is, of course, the US, not Australia. Look, for example, at the submarine deal. First of all, the federal government seriously upset a major power in Europe, the French, and that irritation and anger continues today. It also reflects on how well we interact with Europe. How well will our businesses go with Europe if we are to be seen as an unreliable partner? Do we actually care? "Oh, no," the current government says, "we're going to align ourselves with America; it's our saviour." It is not. Then there was the $200 billion expense of the submarine deal. Today I read an ABC online news article titled "American-dominated panel advising government on submarines as Defence eyes US and UK choices for nuclear fleet". We are not even allowed to know how much we are paying them; it is a secret. That money comes out of Australia and makes us poorer, and therefore makes WA poorer.

We need to see the US, in the context of Asia, as not being a so-called friend forever—nor, indeed, as a sole solution; it is not. I personally think that stationing a lot of American troops in the north of the country does nothing but make us a target. It offers the US the chance of another market in which it can sell its expensive machines, but it does not help Australia. Call me a rebel if you will, but Canberra is not looking out for WA first. The fact is that business in Western Australia is dependent upon Asia, but the eastern states seem to have priority.

I will again here reference the "Prime Minister of New South Wales"—I am, of course, being facetious—who seems to have made a decision that will affect all of Australia. Our Prime Minister is sitting back, primarily interested in New South Wales. We do not have power in Canberra that is looking out for us. We need to do it for ourselves, and our budget needs to reflect that. The costs accrue to us, and the profits go to Canberra, especially if it puts the USA's interests above our interests.

It could be said that China leads the way. The Belt and Road Initiative is well known to us all, and I refer to Senator Penny Wong, who said that there is no scenario in which China does not matter. We must engage with China—not as an enemy, not as a friend, but as a nation. We in WA need to lead in that regard, because Canberra is not leading. It is failing us in WA. We need to encourage inward investment from Asia, from China in particular, but also from Indonesia and India—the major states in Asia. Western Australia needs to develop more focused diplomatic efforts into Asia; not from Canberra, but from Western Australia, because it is with us that Asia will have a relationship. Later, once Canberra comes to its senses, we can maybe think about expanding that into Canberra, but for now it needs to be WA leading the way.

Indonesia is our nearest neighbour, and even Indonesia is backing away from Australia as we fail to be the leader that we could and should be. We need to lead Canberra to accept that direction, and if it does not, we should lead on our own; but I do hope it follows us, because that will benefit us, financially and socially. It will open us up for better financial rewards—inward investment and outward exports—and also for innovative approaches and new areas of production such as, for example, the hemp industry. Take away our areas of concern about certain parts of hemp, open the plant up to general use, and a multibillion dollar industry could balance our iron ore industry and make us less dependent on exports of iron ore. That is a wonderful example of what we could do with a variety of products. I was speaking this morning to people who would be happy to help us develop that. I am talking here about people in the Middle East and Europe who would be very keen to see us develop that industry, because WA is one of the best places in the world, not only to live, but also for agriculture. Our air and water is remarkable.

What would happen then? As I see it, it would reduce the issues we have around Canberra currently beating the drum of war. If there is one thing guaranteed to gain more votes for a failing Prime Minister, it is to unite us by putting a false threat in front of us to combat. It is all well and good to do that to win votes, but if that path succeeds, it will cost us money and possibly lives. I do not want to see a single Western Australian life wasted on someone's election bid. I do not want to see a single Western Australian dollar wasted on someone's false alliance with a nation that means us no good but sees us as a pawn in its approach to the world. We are better than that; we must be better than that. Pursuing innovative industries will give us a larger bottom line and more ability to manage our own affairs, and allow us to be a more sustainable and an independent leader in Asia.

To summarise, I will say that this budget is appropriate, even though improvements could be made. My wife would be the first to say that my suggestions are wrong, but I will leave that to the parliamentary body! In particular, as I have mentioned, the Department of Health is failing, and that must be addressed. Chucking more money at a failing health department is no solution, and that applies to both sides of politics. I ask, I beg, I plead for people to begin to think cooperatively, innovatively and independently about how we might improve the health service. The health, wellness and lives of the people of WA, whom we have sworn to serve, depend upon it. What is currently happening is putting us all at risk. It is missing the point to simply say that ambulance ramping is bad or that there are not enough resources. Yes, we have these problems here, but it is not with the actual health service, but in the way it is organised. The thinking has to be changed. We are clever enough; we can do it now. But if we do not, change will be forced upon us, and I would far rather that we did it in our time, of our own volition and under our own control, rather than having circumstances dictate the urgency of fixing the health system.

I mentioned how our bottom line is being affected by Canberra, and this matters, because we in WA are neglected; we all know that. There is a hidden desire in Canberra to take our GST from us, because it is not managing its own budget well enough. It does not have our resources and it is jealous, but we are not the ATM of the eastern states. We must focus on becoming self-sustaining—not being self-sustaining but becoming self-sustaining—because currently we are not and that puts us at risk. We must focus on developing relationships within Asia, most especially with China, but with every Asian nation. People in Asia are our neighbours and they can be our potential allies. We work with them and live with them. We need them and they need us. We in WA must take action in the face of Prime Minister—I was going to say the Premier of Australia—Morrison, who fails to have the best interests of WA at heart. I do not blame him; he is not from here, but we are, so we need to stand up, take action and lead the way. In summary, I support the budget. I welcome what has happened. Thank you.

Debate adjourned, on motion by **Hon Colin de Grussa**.

## CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT (ELECTORAL EQUALITY) BILL 2021

*Second Reading*

Resumed from 14 October.

**HON TJORN SIBMA (North Metropolitan)** [2.51 pm]: I rise potentially a little earlier than anticipated this afternoon to speak to the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. First and foremost, I confirm that I am the lead speaker for the opposition and, to be very clear from the outset, we oppose this bill in the strongest possible terms. President, for administration purposes, I note that I am seemingly untimed, which is wonderful, but I do not think that is strictly in accordance with the standing orders! I will continue.

This bill is grounded in deceit and developed through a process with unseemly haste, a process that has made a mockery of the concept of genuine consultation. It is sad to say that its inevitable passage and execution will consolidate a partisan advantage for WA Labor and impose a dominant metropolitan bias in this chamber. That is what will be accomplished with the inevitable passage of this bill. It should be dwelt upon with some measure of seriousness that the nature and disposition of this Parliament will inevitably be transformed. We are, up until today at least, the Parliament of Western Australia. The passage of this bill will transform this Parliament into the Parliament of Perth. That is axiomatic and inevitable. It need not be this way, but this is what will occur. This bill will pass at the cost of communities and industries beyond the Perth latte belt. It will ensure that the chambers together and individually will be—this is an unfortunate choice of words, but they have common usage—deaf and blind to the realities faced in regional Western Australia. My fear is that the passage of this bill will render this chamber, in particular, mute about the challenges, disadvantages and special circumstances that are the very stuff and reality of life beyond the Perth metropolitan area—or at least beyond the south-west segment of this state, where the majority of the population resides.

When it is appropriate to do so, I will apply the principle of charity—this discipline was drummed into me as an undergraduate student—which seeks to find the best in the argument put forward by your proponent. One of the propositions in this bill is that a whole-of-state electorate will be of absolute benefit to every Western Australian; that is the argument put forward by the government. My initial reaction to this—I am yet to be convinced—is that, effectively, introducing a member for everywhere will result in a member for nowhere. A member for everything for the whole state will be a member of no fixed address in terms of a constituency. Perhaps the only thing that I can rely on is the further entrenchment of individual or party interests rather than the advancement or advocacy of interests and concerns experienced outside the metropolitan area. To be consistent with this application of charity, I must focus on what I consider to be a positive attribute of this bill. The bill is irredeemable, but one small part commends itself; that is, the abolition of group voting tickets and the introduction of a model—it is one form—of optional preferential voting, which will be to the advantage of the Western Australian electorate and community at large. Questions will be asked at the appropriate time and clauses as to why this particular optional preferential voting methodology has been chosen to the exclusion of other similar systems. I will note in passing but not dwell on the fact that it would appear at least to be more onerous than that obligated by the Senate voting system. I want to reinforce at this point that the abolition of group voting tickets will go some way—perhaps not the whole way but a substantial way—towards putting profit-seeking preference whisperers and a cavalcade of political desperados seeking office out of business. If there is one element of this bill that commends itself, it is absolutely that dimension.

That has also been the Liberal Party's position for a considerable time. My ex-colleague Hon Simon O'Brien, who is thought fondly of in this place and who was the last opposition spokesperson for electoral affairs prior to the election, argued that point on many occasions inside and outside this chamber and he wrote op-eds to that effect as well. This dimension of the proposed reforms and the terms of reference, which were set by the Attorney General in his function as the Minister for Electoral Affairs, was also seized upon in the Liberal Party's submission to the Ministerial Expert Committee on Electoral Reform. We have been consistent politically, both inside and outside this Parliament, about the obvious need to rid ourselves of the scourge of gamesmanship that goes on with the exchange of preferences—absolutely. I doubt any of my colleagues will take any exception to that. Unfortunately, as this bill is constructed, it is impossible to cleave what I would determine to be the very positive and self-recommending element away from everything else. But I think that if the government were so minded to bring forth a simple piece of legislation that dealt with only that dimension, it would pass with the unanimity of the house. Unfortunately, that is not the case.

I should also say, because the Liberal Party has been so consistent on this matter—I will reflect here not in any injudicious way and not imputing the character of the individual at all—that it is very clear that Hon Wilson Tucker's election to this chamber has precipitated this very radical overhaul to our electoral laws. But should his election to this chamber have come as an absolute surprise? I do not think that it did, at least insofar as a potential outcome for the East Metropolitan Region in 2017 is concerned. This chamber came very close to having a member of the Fluoride Free WA Party among its membership. The challenges and issues posed by the unseemly transaction of preferences through our group ticket voting system has been known for some time. A government was re-elected that four years ago had an opportunity to deal with that matter but chose not to.

The invocation of this great sin—to be voted into this place on the basis of 98 primary votes—contains a measure of confected outrage, because the government is deliberately conflating two different issues. The inevitability of outlier sort of outcomes with respect to the way that preferences have been garnered is conflated with malapportionment or regional weighting of votes. These are two very different issues. Although we can agree on the sins of the former, the alleged sins of the latter are up for debate. My thesis and the thesis of others is, as unfortunate as it is, that the election of Hon Wilson Tucker—who I consider to be, in the very short time that I have known him, a thorough, consistent and honourable person who takes seriously his duties as much as they may have come as a surprise to him—has meant that he has been used as a scapegoat for a broader strategic agenda. It is not a hidden agenda at all. I do the government this credit. It has been on the Labor Party manifesto for some 120 years or so, but "their strategic objective" has been used with a sin that could have been prevented had the government been minded to act earlier. We can have reasonable debates in this chamber, and outside it, about the appropriate structure and balance of representatives in the upper house. The way to do that is to be open and accountable with people, particularly during elections.

In the latter days of the Roman republic, after Caesar had crossed the Rubicon and dispatched his rivals, he was offered the Crown on three occasions and he denied it thrice. I think it was Mark Antony, if my recollections of late antiquity and whatever I recall of William Shakespeare during English lit serve me correctly. That was because the Roman Republic, at its birth, had dispatched its kings and the fear of kingship and the fear of being thought an aspirant to any sort of regal role was one that people undertook on pain of death, which is why an obviously power-hungry individual such as Julius Caesar wanted to at least go through the pretence of not wanting to be made king. But he denied his two aspirations on only three occasions for show. The Premier, perhaps cast in the role as a latter-day Caesar, denied his true ambition to reform—I will say "change" because I have said before that "reform" is the most abused word in the entire Australian political lexicon. However, I will use the word in this instance. He denied his intention to reform the upper house not once, not twice, not thrice, but I think on seven occasions in one particular interview. I might be wrong, but that has been relayed to me, and I saw it subsequently on the only televised election debate. Like an incantation: "It is not on our agenda. It is not on our agenda. It is not on our agenda." It was put on the agenda, but not out of nowhere.

It was not the smokescreen that the Premier claimed at the time, with the disassembling, the dismissal, all the kinds of tactics used by a very trusted, very experienced politician who does not want to be called out, who does not want to be held accountable for his true ambition. At least seven times it was denied. If anything proves that there is no mandate for this bill or dissolving regional representation in Western Australia, it is the Premier's own deeds, words and actions throughout that campaign. There is no mandate, but there is a solution to the problem—should the government wish to take up an opportunity it dismissed in the lower house—that will be put to members again in some form during committee consideration, and that is to hold a referendum and to settle the question one way or another way. I will get to this later, but it was quite obvious that the Labor Party did not have the strength of its convictions during the election. Perhaps it has rediscovered them now; and, if so, the opportunity presents itself. I will put it in as sober terms as I can: there is only one way that the Labor government can legitimise this overhaul of the Electoral Act since it did not take it to the election, and that is by agreeing to a referendum.

I want to talk about the process to some degree because this has contributed to the form and substance of the bill that we will contemplate. I think it is worth at least a passing reference to the speed at which the government has moved. I categorise it as indecent haste and compare this indecent haste to its growing list of other problems that do not appear to be being tackled with the same laser focus or speed.

The election was held on 13 March, from memory. On 28 April, the Minister for Electoral Affairs appointed the Ministerial Expert Committee on Electoral Reform, comprising four members. The composition of that committee has been canvassed previously in this chamber and no doubt will be canvassed again briefly. All I will say is that the views of the three academic members of that committee on the matter of regional representation, or malapportionment—however one likes to categorise it—are very well known. They have published either individually or collaboratively with other academics. Their view is that electoral laws should be overhauled in Western Australia, particularly those relating to the election of members to the state's upper house. On 28 April, the minister put together his hand-picked team and gave them, I think, two terms of reference. The first was effectively the question of how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council, and the second was to inquire into and provide recommendations concerning the distribution of preferences in the Legislative Council's proportional representation system.

I remember asking who drafted those terms of reference and to what degree the members of the panel were consulted on the questions they were effectively being asked to answer. It became apparent that the terms of reference were drafted out of the minister's office. That is fine, but an impartial observer would have to say that the fix was in; the questions were set. The questions were posed in such a way as to obligate only one possible answer. I think the chair of this committee, Hon Malcolm McCusker, AC, more or less conceded that at a press conference on the day, strangely, that coincided with the tabling in Parliament of the report from which I have just quoted—the *Ministerial Expert Committee on Electoral Reform: Final report*. The opposition was kindly briefed on the report by the committee. At least one of its members then had to go to the media conference to announce the same, and also to announce to us

all that the bill would be introduced on the subsequent day in the Legislative Assembly. I understand that that press conference was called short, with the Premier citing business of the house; it was over almost as soon as it began. I recall reading one or two days after that the characterisation of that process and the press conference as being somewhat underhanded. I think it was Peter Law who made that assessment. I do not find him to be an unfair judge of people. He certainly is not one of those rusted-on, permanent critics of the government. He considered that to be a pretty unseemly way to deal with something so substantial.

A process of consultation was not done on this bill, but it was done for the purposes of the report, within a two-month period. Strangely, a discussion paper was released at some point in between, which I found to be an odd way to approach this. I think there was also a moderate extension. We were advised that, overall, 184 submissions were received. I remember being rather interested in who had made submissions and who had not. I make the point now, if I have not done so before, that the WA Labor Party did not make a submission. Maybe that would have been superfluous; I do not know. Apparently, 184 submissions were received. Not all of them were published. As I was going through them, I got to a point where I had a running tally, from 128 submissions, of things that I had read to a varying degree of detail, just to get a sense of the sentiments on the questions posed. The figures I am about to read in are my own calculations and are not from the full suite of submissions; they reflect about 80 per cent of the submissions that were received.

Of the 128 submissions on which I based these figures, 101, or 79 per cent, opposed group voting tickets outright. Fifty-nine of the 128, or 46 per cent, were pro the one vote, one value sentiment, which effectively will be implemented and executed by this bill through the creation of the whole-state electorate. Fifty-seven of the 128 submissions that were received and published, or 45 per cent, argued for the retention of regional representation. It also needs to be said that not every submission was of equal quality or tackled the terms of reference. Some submissions did not pass any judgement on the principal questions that were asked. But, essentially, the overwhelming number of respondents were in favour of kicking out the preference harvesters. However, the issue of having a whole-of-state electorate or a one vote, one value electorate versus the need to retain regional representation was effectively split down the middle, if we go on those submissions alone. But things can change. My issue is not to debate the percentages, but to state the obvious themes. On the one hand, on the first question, there was unanimity of view. On the other hand, on the second question, there was quite a degree of entrenched disputation. My recommendation would have been that the government should legislate where it had consensus, but because it did not take this matter to the election, it should hold a referendum on the issue on which there was an apparent clear divide. If the government is the believer in its argument that it purports to be, and if it believes in its capacity to persuade the population rather than dictate to it, then I think it has no other alternative. However, it is again worth focusing on the merits of the argument.

I want to divert from the process now and focus more on the bill and its substance. I think it is worth asking an open question; that is, what purported sin does this bill propose to fix? We have a juxtaposition of views. The government says that the current system is malapportioned and effectively is a grievous and undemocratic anomaly. In fact, similar words were used in the second reading speech, from which I will quote. It states —

> Members, this bill is steeped in equality, and democratic values. Malapportionment that benefits a select minority is a grievous and oppressive injustice to all other voters.

That is the government's case. We say, to the contrary, that the present system, despite its imperfections, protects vulnerable, isolated and marginalised communities outside the metropolitan area. Its virtue is the establishment, effectively, of an equity floor. It recognises differences in access to services at the very least—the distances that have to be travelled. The government's position is a strict, literalist interpretation of equality. That, I think, is how we can conceptualise the two arguments.

The question as far as I am concerned, and I think as far as my colleagues in the opposition are concerned, is: what is actually the best system for Western Australia—a state that is vast and has a sparse, but concentrated, population? That is the question. I put it this way. If I lived in another jurisdiction, whether it be Europe, the United States, or potentially another state in Australia, with a smaller land area and a more evenly distributed population, and it had an upper house, I would accept the government's argument. But I do not accept the fact that a neat, almost puritanical, model of alleged democratic equality should be imposed on a system that is just a virgin. There is a case to be made for Western Australian exceptionalism. We all invoke that case from time to time to suit our argument. If we are to have an upper house at all, one that is weighted to provide appropriate representation from regional areas is the one we should stick with.

Members might think, "You would say that. You're from the Liberal Party. You're from the opposition. You're just here to oppose." But I am not the only one who says that. I want to cite and read in where I can some passages from a submission that was made by the ex-Australian Senator Andrew Murray. I thought it was, as individual or personal submissions go, a highly nuanced piece of work. There are elements of it with which I would have a disagreement, but I think the general theme of his contribution, and the arguments that he made around regional representation and the advantages of retaining the current system, are worthy of reading in. Therefore, I will, with some indulgence, quote from this document, and I will provide it to Hansard subsequently.

Mr Murray says this —

> In theory the Legislative Council regions could be abolished and members elected on a state-wide basis, as for the federal Senate, but this idea should be discarded. Inevitably this would result in the Legislative Council members being predominantly Perth metropolitan residents.
>
> For reasons long and well-argued elsewhere, the regional model for the Legislative Council should remain. There is no call for its abolition by politicians or the public.
>
> There is no political or public demand of note for the numbers of Legislative Council members to be increased or decreased.
>
> If one vote one value were introduced in the Legislative Council regions, and the same number of members retained, then the number of metropolitan members v non-metropolitan members would have to rise, and the latter would have to fall.
>
> Why that is desirable is not clear, apart from simply honouring the principle of one vote one value.

He goes on to say —

> Nevertheless, apart from breaching the principle of one vote one value, there is no evidence to indicate that the present system of malapportionment in the Legislative Council regions creates any concern for voters at large, nor is there any evidence that it has had deleterious effects on the functioning of parliament and government.
>
> Prima facie there is reason to accept that there is merit in enhanced regional representation in Western Australia.
>
> The precautionary principle should apply—if no harm is being done, and there are no benefits through major change, why risk harm being caused by that change?

I think that is a sober and salutary note, and probably on the very top shelf of personal submissions provided to that committee. The fundamentally underscores our argument that the system in Western Australia, as imperfect as it is, and as offensive as it may be to academics with a very puritanical view of how a polity should function, is a system that has worked for Western Australia and continues to work for Western Australia.

Indeed, I make this point, too. I am a metropolitan member. In my approaching five years as a member of Parliament, not once have I been approached by one single member of the vast swathe of the North Metropolitan Region, which Hon Dan Caddy also has the honour of representing, complaining about this issue—not once. I do not think that is a public demand for what the government is proposing here. I know that the government has an objective and ideological demand to fulfil, because this has been part of the Labor Party's platform for countless years, but it is not one that is within even the top 20 issues confronting regular Western Australians. It is certainly not an issue that has ever been raised with me in the time I have been a member.

On that point, is this really the kind of issue to which the government wants to devote its energy, or to prioritise? I think we have at least five more sittings weeks scheduled, with the risk, potentially, of a sixth. I know that there is other legislation that the government wants to get on with. There are other issues confronting Western Australians that are top of mind and will probably benefit from the focus and energy that the government is devoting to this particular measure—a measure that no-one has asked for, and that the government told no-one about until after the election. We can reflect on the issues that were raised last week during our estimates process, both inside and outside the chamber, about why Western Australia is a laggard when it comes to the vaccination rollout rate; the episode-by-episode revelation of further dysfunction within our health system; the un-remediated problem of homelessness; and the revelation, I think last week, that only two per cent or three per cent of the COVID stimulus budget has been spent; and, needless to say, the extraordinary blowout in the capital and operating costs of Metronet. These are issues. These are problems. These are matters, however, that the government has chosen to deprioritise. It has elevated this issue to the exclusion of all other issues. I find that absolutely extraordinary, particularly considering where we are in the electoral cycle. There is no need to do this in such a hasty way.

I want to talk a bit more about the actual problems with the bill and the propositions countenanced therein. It probably does not require much reinforcement, other than the fact that the erosion of regional representation will effectively end regional representation in this chamber. That follows axiomatically. That is not to say that the Legislative Council will not have members who are based in the regions and who will do their best, but we will not have 50 per cent of the members of this chamber whose most exclusive job it is, aside from the scrutiny and review of legislation, to represent the needs of the regions. We just will not have that. That will not occur.

It is untrue to say that the proposed changes will have an effect only on the so-called unrepresentative swill in this chamber. It will have an effect on the lower house as well. That is because clause 19 of this bill seeks to delete from the Electoral Act section 16H(1) and (2). That section describes the six current regions of the Legislative Council, and the metropolitan area of Perth. That is the important bit. That will effectively mean the abolition of all descriptors. The removal of reference to a metropolitan zone will allow for future redistributions to extend rural Legislative Assembly seats into outer metropolitan suburbs. Effectively, those communities of interest will exist in those, I will

call them, "buffer seats" and the character of the non-metropolitan seats will be transformed by this bill. They will be urbanised in a way not previously contemplated even under the metropolitan region scheme. Therefore, it is not true to say that this bill is about reforming the upper house; this bill is about removing or diluting regional representation across Western Australia, including in the lower house. If there is one practical application of this bill that should give us pause for thought, that problem would rank among them.

The other problem established through the abolition of regional definition and regional representation and the establishment of a whole-of-state electorate is that it lowers the quota required to be elected into this place to begin with. As much as members may decry what is accused of being the apparent undemocratic nature of our regional divide composition, one of the benefits of having six members for six regions is that we establish a floor of 14.28 per cent of the vote required to get into this place to begin with. That is obviously a quota the further down the list you go that can be surmounted but only through an exchange of preferences in ways, which we have determined that we are in violent agreement with, that are unseemly. But the government is establishing a dangerously low quota of I think it is 2.68 per cent.

**Hon Martin Aldridge**: Six-three.

**Hon TJORN SIBMA**: I stand corrected. It is 2.63 per cent. With 2.63 per cent of the vote, a person gets in this house.

Major parties, from time to time, including the government, have dismissed minor parties, particularly single-issue parties, and their obsessions. In fact, members in this house have been dismissed and treated in a condescending way by the government on occasion as well, even in this forty-first Parliament. If the presence of minor parties in this chamber is so appalling, so egregious, why would the government make it easier for them? That is exactly what is being done. I understand, to some degree, why it is being done. It is because the only remedy to that, if we are going to have a statewide electorate, would have been the introduction of staggered terms. Electing members for eight-year terms is a political argument that is very difficult to sustain, so I can understand why the government, in a way that is consistent with one of the recommendations in the report, turned down that option. But a quota of 2.63 per cent is where some of the danger in the bill resides.

During briefings with department officials, it became clear that there is a view that someone could probably get elected to the upper house on 1.5 per cent —

**Hon Dr Steve Thomas**: Or one per cent.

**Hon TJORN SIBMA**: Or one per cent. There is an argument to be made for political plurality, but that is not the argument that the government wants to make. I think the government is opposed to that. But this is a problem. What will happen, for example, if the composition of this chamber in 2025 is somewhat different? What will happen if we have something that is akin to the tone and character of this chamber in the fortieth Parliament and we have a crossbench that could exert itself and holds the balance of power? This is where it becomes potentially dangerous for governments but also very risky for regional communities, particularly those whose incomes are derived through primary industries, extractive industries or agriculture and the like, which are the antithesis of the party ethos of one of these parties that holds the balance of power. What in this bill, for example, really genuinely thwarts a motivated animal justice party or an end live export party or anti-vaccination or anti–mandatory vaccination party? This is the problem, which was absolutely avoidable through the retention of the current system. This is the absolute risk posed through the implementation of a whole-of-state electorate.

I also want to reflect on something that I found interesting. It is, again, something that nobody ever asked for and that is more politicians. If this bill passes, we may well be gifted a thirty-seventh member. I find that problematic, and there is a range of problems with it. What it will potentially do—much against the character and the longstanding practice of this chamber—is turn the role of President into a more partisan role. It also has a marginal impact of reducing the quota allowed but, frankly, the increasing quota, which again from retaining the membership at its current level is still appallingly low, nevertheless exacerbates the problem in a minor way. But there is absolutely no sound case made for that other than to get a potentially contentious partisan President. It is an outcome that has been argued against by well-experienced and previous long-term holders of that role.

There are also quite obvious implications for the Western Australian Electoral Commission. I have not had the opportunity of a briefing with the Electoral Commissioner yet, which one might consider to be an absolute oddity considering the fact that this bill proposes changes to the Electoral Act. It was made clear in the departmental briefing on the bill, rather than on the report, that staff could not answer questions as to how deeply the commission had been consulted. I refer back to the report of the Ministerial Expert Committee on Electoral Reform, which had an annexure of its table of consultations. Electoral commissions were consulted but they were the ones in South Australia and New South Wales and they were consulted ahead of the time when the Western Australian Electoral Commissioner was consulted, and that was just on setting the questions of voter equality. The application of those principles and their operationalisation and the establishment of a very low quota runs the very obvious risk of expanding the ballot paper to an infeasible, disproportionately large and unwieldy size. It also necessitates a communications campaign, on behalf of the commission, telling people how to vote in a way that is kind of similar but still a bit dissimilar to how a ballot might be cast for the Senate at a federal election.

Obligations are also placed on the commission to regulate the formation and currencies of a party. I am not making this the principal focus of this address, but I think it is worthwhile for studious and committed members of this place to look into because in the course of the briefing, and I might express a degree of naivety here, I was alarmed at the fact that party lists of names would have to be provided to an Electoral Commissioner, not just once, but on a regular basis. During the course of debate, we will —

**Hon Dan Caddy**: It is easy, your party is highly centralised—two people have the list.

**Hon TJORN SIBMA**: I will accept that interjection and treat it for what it is worth. I joined a party that is against the handing over of personal information on compulsion. We are a party that treats privacy seriously. I am genuinely concerned about the Electoral Commission's capacity to retain personal information identifying party affiliations, particularly when it was not consulted on the obligation. You can be as smarmy as you like, but I hope you consult with them and provide them with resources to safeguard that information.

**Hon Matthew Swinbourn**: I hope you are not directing that at me.

**Hon TJORN SIBMA**: I am addressing that at you because you are a very constructive and helpful —

**Hon Matthew Swinbourn**: You called me smarmy.

**Hon TJORN SIBMA**: I am not calling you smarmy, do not worry.

**Hon Matthew Swinbourn**: I think they are the words that came out of your mouth.

Several members interjected.

**Hon TJORN SIBMA**: I said "smarmy remarks".

**Hon Matthew Swinbourn**: I did not make a remark.

**Hon TJORN SIBMA**: I know.

**Hon Matthew Swinbourn** interjected.

**Hon TJORN SIBMA**: Do not get excited! Your time for excitement will come, member!

It is problematic and underscores the fact that a radical transformation of electoral laws is occurring without the principal independent agency responsible for ensuring fair elections being consulted in the process, and I find that more than discourteous; I find it very worrying.

One of the other clauses of concern in the bill is clause 23. I will refer to the explanatory memorandum, as it deals with this. I found clause 23 to be particularly bracing and a strange counterpoint in light of the fact that this measure was not taken to the election. I quote the explanatory memorandum —

> … modifies the previous s. 16M by now including ss. 16C and 16D of the Act and ss. 5(2) and 18(2) of the CAAA.

This is the operative bit —

> These provisions cannot be altered or amended by any subsequent Bill unless that Bill is passed with absolute majorities in both Houses. The new provision s. 16M is designed to entrench electoral equality in the Bill and lend certainty and stability to the law.

I find that completely unnecessary. If I can say this as well: it is more than just passingly hypocritical, because the only party here that has introduced uncertainty in the law is the government, by changing it; but the government wants to have its way and not change it forevermore. I do not know why that is strictly necessary in legal terms. I will put that question when we get to that point during the Committee of the Whole House process.

Not lastly, but penultimately, I want to refer a little bit, as has become my custom and practice, to some of the breezy assertions made in second reading speeches. I have never criticised a representative minister or parliamentary secretary in this place for reading them, because they are obligated to read them, but there are a couple of passages that, because they were uttered by the Minister for Electoral Affairs, took my breath away

**Hon Martin Aldridge**: Just two?

**Hon TJORN SIBMA**: There were a couple. It is not the whole thing, but I will reflect on this. At page 6 of the speech, it says in bold —

> **It is important to understand the role of the Legislative Council** The primary role of the Legislative Council is to be a house of review.

I found that sickly comic because the discharge of that very function, that very responsibility, in the course of the fortieth Parliament was never met with open arms by the government. In fact, whenever we had the temerity to act in accord with our primary role, the primary role that the minister tells us we have, we were consistently criticised up hill and down dale. Liberal members in the upper house were the great big bogeymen holding the

McGowan government back from its manifest destiny. But now there is a function for us! A function has been found! Coincidentally, that function has been found when Labor has a majority in this chamber. Life is more than passing strange, but I could not let that one go!

There are also some other assertions. I think I have talked about the overreach in language when the minister claimed —

> … **this Bill is steeped in equality, and democratic values.** Malapportionment that benefits a select minority is a grievous and oppressive injustice to all other voters.

I think a lot of claims can be made in this place. As imperfect as the system we have is, it may be the least bad options of all the imperfect systems that we could devise, but I think there has not been a sufficient well-balanced case to say that we are grievously oppressing people. If that was truly a motivator for the bill, I would have expected to hear from the Premier and other members in the course of the election campaign, and I absolutely did not hear that. The second reading speech also claims —

> **At its heart, this Bill seeks to restore the franchise of the individual over particular sectional interests.** The basic unit of the community is the citizen. It is the citizen to whom the franchise should attach.

I might put it to you, Acting President, that those are pretty highfalutin words. If there is a sectional interest entrenched through this bill, it is the sectional interest of the Labor Party, because it is a viewpoint, frankly, held by no-one else. Taken together, this is a demonstration of overreach. I have to categorise it this way: reasonable suggestions and motions put in the other chamber were rebuffed, and they were referral to committee, the conduct of a referendum, the striking out of some offensive passages and the seeking of clarity on other issues. This bill was rushed through with unseemly haste. The gag was brought in, the guillotine came down, and the bill was delivered up to us. This is a government for whom the world is not enough, and this bill is just another example of the government flexing its muscles. I think it to be, in a serious way, a vulgar display of power. But we need not be a vulgar chamber. As much as I think this bill is irredeemable, perhaps some of its more offensive attributes can be moderated. Perhaps it could be scrutinised, if only to the degree that the important role and function of the Electoral Commission is countenanced in the most appropriate way. One way to do that is to refer a bill to a committee. Whenever we tried this last time, we were denied; we heard screaming and lamentation. I am comforted by the fact that the Minister for Electoral Affairs thinks that we are a house of review. Since the government has no mandate, and since there is no obvious urgency for the passage of this bill forthwith—effectively, we will get to that—and because I recognise that the government has other business that it needs to get off the notice paper before the end of this year, I move the following motion.

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

**HON TJORN SIBMA (North Metropolitan)** [3.49 pm] — without notice: I move —

> That the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 28 February 2022.

I have signed that and I table that.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [3.50 pm]: Acting President, I appreciate the courtesy. I indicate to the house that the government will not be supporting this motion before us today.

The development of the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 that is now before the house is marked by the process that the government entered into. It appointed an expert panel that issued a discussion paper, took submissions and considered those submissions before making recommendations to the government. In addition, members of Parliament have been offered briefings by the Electoral Commissioner, who is an independent parliamentary officer. Actually, he is not part of the oversight, as in the Ombudsman, but certainly he is independent and acts independently.

In consideration of the bill that is now before us, every member of this place will have the opportunity to examine the bill in detail in the committee stage, and that is as it should be. It is the case that there are certain things that a committee would consider and actions that a committee would take. One would be to call for submissions. That has already been done. Another would be to hear from experts. That has already been done. It is also the case that on matters like this, essentially, the question comes down to how members resolve the political issue at the heart of this bill, and no expert is going to be able to answer that question for members opposite; they will have to make that decision themselves. Political parties will have to make those decisions themselves. The people in this chamber have stood as candidates, many of them several times. They hold senior positions in their own political parties, and many of them have held those positions for many years. We are best placed to debate how the mechanics of a bill like this will have effect, because we are the ones who do it. This is our business. Although there may be people on the outside who have, for example, an academic point of view about one element or another of a bill like this, actually, the question that needs to be resolved—one that the legislation committee cannot resolve—is what political position members should take on this. No legislation committee is going to be able to resolve that for members.

In the past, the Standing Committee on Legislation has looked at particular clauses of bills and provided an understanding of how they might work. Actually, the people in this room who will be doing the examination in this chamber are the ones who already know how those elements can, may and will work, because it is our business. We do it all the time. Frankly, the legislation committee is not going to be able to resolve those issues, either. Having come to an understanding of what a particular clause means as it has been drafted, members will come to a position about whether they support that clause politically or not. No committee will be able to help members resolve that.

During my 20-something years in this place, referral motions have sometimes been used as a mechanism to delay. This is nothing more than that. For those reasons, and the reasons I have outlined, the government will not be supporting the referral.

**HON MARTIN ALDRIDGE (Agricultural)** [3.55 pm]: I thought for a moment, then, that the Legislative Council was going to agree to discharge this bill and actually fully undertake the responsibilities that the parliamentary secretary outlined in the second reading speech that he delivered to this place. Just reflecting now on the arguments from the Leader of the House—not the member in charge of this bill—which I jotted down as quickly as I could, it is interesting to note that, effectively, that argument would mean that we have no purpose for a Standing Committee on Legislation. Perhaps that is the view of the government, because, so far in this Parliament, as we approach the end of its first calendar year, as I understand it, we have not given one scrap of work to the Standing Committee on Legislation. Perhaps it is now the government's position that the scrutiny function of this place shall exist solely within these four walls. The Leader of the House said that this is our business and that this is a political decision. I have a different point of view. What about the 1.8 million or so voters out there? Do they not have an interest in the design of our political system?

**Hon Alannah MacTiernan** interjected.

**Hon MARTIN ALDRIDGE**: The minister will get an opportunity in a minute. In 43 minutes and 30 seconds, it will be her turn to go.

I would argue that this ought not be exclusively our business or our political decision. In fact, every voter in this great state should take an active interest in the design and nature of the democratic systems that elect people and regulate people to its respective chambers.

The Leader of the House also said that it is our business to examine the clauses, and the standing committee cannot resolve that for us. I ask: then what is the role of the Standing Committee on Legislation? I have seen many good reports, particularly in the last Parliament, from the then hardworking members of the Standing Committee on Legislation on recommendations for change. Those recommendations were adopted not just by non-government members but by the government itself, which realised the errors of its ways and the errors of its drafting. Have we simply converted back to the approach that was taken on the voluntary assisted dying legislation, which is that this bill is perfect, cannot be improved, has no fault or flaw and should be passed immediately forthwith without the scrutiny of the Standing Committee on Legislation? That is what it sounds like to me.

The final thing that the Leader of the House said was that this is simply a mechanism for delay. This is an interesting point. I want to pause here and reflect on this point, because I spent my first term as a government backbencher, and I watched many, many debates, even debates in which the Labor opposition agreed with a government bill, whereby we went through every second reading speech, one by one, and all members had to speak for the entirety of their time, which resulted in many of them reading *The West Australian* on frequent occasions. Every single member spoke. Then we got to the final member, who got up and moved the referral motion to discharge. Then what did those members do, particularly for those of us who were not here? They all got up and spoke again for the entirety of their time. They were encouraged to make best use of their time. That was delay. That is not what Hon Tjorn Sibma has done as lead speaker for the opposition. He indicated at the earliest opportunity the opposition's intent to refer this bill to the Standing Committee on Legislation for much better consideration and scrutiny than it has been given to date.

It is my pleasure to stand in support of Hon Tjorn Sibma's motion. First of all, we need to establish why the consultation aspect of this process was so deeply flawed, and why the motion and the argument put by the honourable member should be supported. As Hon Tjorn Sibma said, the government clearly has no mandate for the policy of the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. In fact, worse than that, the Premier denied the policy on numerous occasions, one of which was only days before the election. On that occasion he said, seven times in one interview, that he would not do the exact thing that he is now doing. At the same time, every Labor candidate was out there telling voters to trust the government, trust McGowan and to vote Labor for the first time: "You can trust us." Does Hon Darren West remember that? I still have the member's infographic saved; I might table it later.

The voters of Western Australia were actively misled at the last election. The Minister for Electoral Affairs admitted as much when he released the Ministerial Expert Committee on Electoral Reform's report on the same day as he gave notice to introduce this bill. He said that it had been on the agenda for about 120 years; it is just that no-one in the Labor Party was brave enough to admit it in the lead-up to 13 March.

The government claims that there is no further consultation to be done: "It's done; we've publicly consulted." I am pretty sure that is what was reiterated just now by the Leader of the House. It should be noted that the consultation, as slim as it was, was limited entirely to the ministerial expect committee process. We need to reflect upon that committee. It was appointed by cabinet on 27 April 2021; the government lost no time after the election. The election was on or about 13 March, and I am not sure on what date cabinet ministers were sworn in and how many cabinet meetings had been held by 27 April, but it is fair to say that this was one of the highest, if not the highest, priorities of the returned Labor government.

The committee was established on 28 April 2021 for an eight-week term of appointment. The entire duration of the ministerial expert committee was eight weeks, from announcement to report. The committee sought public submissions via advertisements in *The West Australian* on 1 May and, as I understand it, on two other occasions. Apart from a government media statement, I am not sure that there was any other advertising of the fact that invitations were being extended for submissions from the public within the constrained time frame given to the ministerial expert committee. On 14 May, two weeks into the public submission period, the committee strangely released a discussion paper. It was not released on 1 May, when public submissions were first called for; it was released two weeks later—two weeks into the eight-week review. Interestingly, of the 184 submissions received, 28 were received prior to the release of the discussion paper.

I turn now to the composition of the committee itself, because we are going to hear a lot about it. The government has already used it in defence of its position to not allow this house to fully undertake the scrutiny function with which it is charged. I draw members' attention to the second reading speech delivered by the honourable parliamentary secretary, in which he qualified the so-called independence of the committee. He stated —

> This bill, the electoral equality bill, is based on the recommendations of the final report by the independent Ministerial Expert Committee on Electoral Reform. I say "independent" in the following context. The government set the policy question—how to best achieve electoral equality in the Legislative Council. It then asked a panel of leading experts in electoral and constitutional law to turn their independent minds to providing the Minister for Electoral Affairs with the best way to achieve reform, drawing from their extensive expertise in the complex fields of constitutional law and psephology. It was called a ministerial expert committee because its purpose was to inform the minister. However, the question put to it was resolved using the independent exercise of the members' collective intellect. The committee called for public submissions and published a discussion paper to elicit responses from the community. A total of 184 submissions were received, the vast majority of which were published online.

This expert committee had qualified independence. It had to report in accordance with very well-crafted terms of reference to achieve the desired outcome of the government's policy. It was not able to exercise independent thought or examination beyond the very explicit terms of reference with which it was provided. This point was made quite obvious and was referred to earlier in this debate by the chair of that committee.

This was a committee of so-called experts, hand-picked and personally selected by the Attorney General. Three of the four members—the chair excluded—have long advocated for the policy outcome pursued by the government through this bill. They have not brought unbiased, independent thought to the consideration of this issue, because to a significant extent their views were predetermined and consistent with the Attorney General's views.

Two members of the committee have links to former Labor governments. I refer members to question without notice 88. One of the two committee members had been chief of staff to the Minister for Housing and Works; Local Government and Regional Development, between 2001 and 2004. Another had been a senior policy adviser to the Department of the Premier and Cabinet between 2005 and 2008. This information was provided in tabled paper 176, in response to question without notice 88, and I encourage members to review it. In the second part of question without notice 88 I asked —

> (2) Are any of the committee members previous or current members of the Labor Party or staff to Labor members of Parliament?

If one were setting up a committee of experts and wanted to make sure that it was free of any claim of political association or bias and was truly independent to the extent that the terms of reference would allow, I would have thought the answer to this question would be a simple no. But the answer that I received was —

> No committee member is currently a member of the Labor Party.

It is interesting, because if the answer was a simple no, the government would have said no. The answer implies that at least one member of the Ministerial Expert Committee on Electoral Reform had been a member of the Labor Party. I have spoken in previous debates about this issue and about the political neutrality that is applied to the WA Electoral Commissioner and his officers in the conduct of elections. I have also reflected previously on how somebody who applied for an electorate officer position in my office was advised by the Western Australian Electoral Commission that taking such a position would have disqualified them from providing future services at elections on the principle of political neutrality; nevertheless, you might not be able to process ballot papers on election day, but you can certainly be one of the Attorney General; Minister for Electoral Affairs' experts recommending reform of our electoral system.

It is interesting the way in which the Western Australian Electoral Commission was sidelined throughout this process. I think there is a significant opportunity for the Standing Committee on Legislation to genuinely and properly engage with the chief electoral officer of this state. We know from the annexure in the Ministerial Expert Committee on Electoral Reform's report that engagement with the Electoral Commissioner occurred on one solitary occasion, 10 June 2021, which was almost a week after consultation with the Electoral Commissioner of New South Wales and almost two weeks after consultation with the Electoral Commissioner of South Australia—one occasion. It beggars belief that in establishing the Ministerial Expert Committee on Electoral Reform a reasonable person would not appoint the Electoral Commissioner to that committee. Who in Western Australia is better qualified to inform the government and ultimately the Parliament in the design and particularly the operation of our electoral system?

**Hon Darren West**: Malcolm McCusker.

**Hon MARTIN ALDRIDGE**: Why is Malcolm McCusker, QC, more eminently qualified than the Electoral Commissioner of this state to advise on these matters, Hon Darren West?

**Hon DARREN WEST**: Because he is a former Governor and he knows about elections. He is better qualified—far better qualified.

**Hon MARTIN ALDRIDGE**: That is an interesting but extraordinary interjection. Hon Darren West believes that simply because a person is a former Governor of this state that they are more eminently qualified than the Electoral Commissioner of Western Australia to advise the government on electoral reform. That is absurd.

Another observation I would make about the ministerial expert committee process—the government's sole consultation, which the government will defend its decision to oppose referral upon—is that not a single member of the committee resides in regional Western Australia.

**Hon Dan Caddy** interjected.

**Hon MARTIN ALDRIDGE**: We are getting really worthwhile interjections from government members today. I am sure they will get told to tighten their lips before too long.

One would think that along with the Electoral Commissioner of Western Australia, the government would identify an eminent regional Western Australian to advise it on the terms of reference. Clearly, that was not the case, and that is a real opportunity for the Standing Committee on Legislation to consider. It is also interesting to note that despite the constrained eight-week period that was allocated, no ministerial expert committee members, none of whom live in regional Western Australia, left the city—not a single occasion. It was too hard: "Heaven forbid we might have to hop in a car and drive to Esperance or up to Halls Creek." I am sure that we could have attracted them to Broome or Margaret River, and this is the problem that we face with this process and the design of the electoral system that the government intends to ram with brute force through the Legislative Council. That is not the first occasion on which the committee members were invited to leave the Perth metropolitan area. As members of the previous Parliament would be aware, we received correspondence from the three experts on this committee on 20 February 2019; in fact, there were 12 signatories to the letter. I will not read the letters now, but in my response to them I invited them to spend some time in regional Western Australia to understand our towns —

**Hon Darren West**: Bindoon.

**Hon MARTIN ALDRIDGE**: — communities, constituencies and the challenges faced in representing regional people. Hon Darren West thinks that this is all a big joke. He does not think the people of Bindoon deserve representation, but I remind him that Agricultural Region is much more diverse. In fact, his electorate office, which is—where is it based, Hon Darren West?

**Hon Darren West**: It's in Northam these days.

**Hon MARTIN ALDRIDGE**: Northam! How far is Northam from Perth?

**Hon Darren West**: About 100 kilometres.

**Hon MARTIN ALDRIDGE**: There we go! That is the depth of government members with respect to this issue. They are deeply conflicted but, worse than that, they have to defend a government decision resulting from a deeply flawed process. They will probably argue that it is a well-designed process because they do not want scrutiny of this decision, just like they did not want scrutiny of the decision before the last election. None of them were brave enough to do what Hon John Quigley did, which was to say, "This has been on our agenda for 120 years; of course we want to abolish regional Western Australia!"—none of them. Interestingly, even the day after the government's announcement, which, I think, might have been a Tuesday or a Wednesday, I heard from journalists about Labor members walking into Parliament and getting door-stopped on the steps. Many of them—some spoke to the media—held phones to their ears as they rushed past the journalists. What happens, members, when you hold up your phone? The screen turns on and, if you are not on a call, it is quite obvious that you are not on the phone.

We heard moments ago from the Leader of the House that the public submission process has resulted in 184, I think the number was, submissions. According to the government, that process was sufficient. It had three ads in *The West Australian* and received 184 submissions in eight weeks—let us get on with it. In my briefing just recently,

I asked for a breakdown of the submissions. I thought this would have been something the government would do, surely. I heard Hon Tjorn Sibma, who has obviously turned his mind to this as well, quote some figures based on his analysis. The advisers at the briefing rattled off a whole bunch of numbers, but the first two headline numbers that I was able to write down were: 62 submissions supported so-called equality and 79 did not. I then asked for the government to provide the full set of numbers to me, because it was obviously too many to write down quickly. A commitment to provide them was not made.

**Hon Matthew Swinbourn**: When was your briefing, member? What date was it? If I recall rightly, it was Friday afternoon.

**Hon MARTIN ALDRIDGE**: Today is Tuesday.

**Hon Matthew Swinbourn**: Today is Tuesday, yes.

**Hon MARTIN ALDRIDGE**: The advisers had the numbers written on the page. It would take about 10 seconds to copy and paste them.

**Hon Matthew Swinbourn**: You always act in good faith, don't you?

**Hon MARTIN ALDRIDGE**: Honourable member, I have received the follow-up information from my briefing. This was not part of it. That is okay; we will get to it when we get clause 1. It is interesting that the government likes to run these surveys and polls on COVID sponsoring shutting down the forestry industry, puppy farming and electoral reform, but the numbers that were given to me at my briefing by the government do not support—as small as they are—the actions that will be taken in this bill. That is probably why it did not make it to the second reading speech.

These reforms, in my view, should have been taken to the election. Absent that, at the very least, there should be a proper ventilation of the issues contained in this bill, which is not small. Those members who have bothered to pick it up and look at it will know that many issues are considered by this bill. Some of them relate to the terms of reference of the ministerial expert committee. Some do not. Some align to the recommendations of the ministerial expert committee. Some do not. That is an interesting point because the government's position is that it does not need a standing committee to look at the matters because it had 184 public submissions and a panel of experts that advised the government, and it is acting; except in many respects the government is acting inconsistently with the recommendations and particularly the narrative of the ministerial expert committee in its report. I would think that is worthy of further consideration, consultation and examination by the standing committee.

To remind members, the Standing Committee on Legislation consists of Hon Sally Talbot, Hon Steve Martin, Hon Kate Doust, Hon Shelley Payne and Hon Dr Brian Walker. I say that because these five members of the Standing Committee on Legislation are waiting for some work to do. I would think that a bill of this nature and form, and the process by which we have arrived at this position, the time constraints—I do not think there are any. I did not hear that in the government's response. There are no time constraints. This is not a COVID urgent bill. The sky is not going to fall if we do not pass it by Christmas.

**Hon Dan Caddy**: Hey, no *Chicken Little* references!

**Hon MARTIN ALDRIDGE**: That was quite good, Hon Dan Caddy.

A referral to the Standing Committee on Legislation ought not to be opposed. The government should not fear; three of five members of the standing committee are members of the Labor Party. Also, unlike the ministerial expert committee, three out of five members of the standing committee are regional members.

On the issue of timing, it was confirmed to me during my briefing on Friday that indeed to achieve the structural reforms sought in this bill, it needs only be passed prior to the next election. There is no time constraint. Some aspects of the bill would be impacted; namely, they go to the requirement that a party be registered and confirm its registration more than 12 months prior to the issuing of the writ. The other aspect is probably less obvious—that is, the impact that this bill will have on the construction of the Legislative Assembly. Obviously, the time imperative there is to have the bill passed. I am not sure whether it is the express intent of the government to affect the Legislative Assembly, because it appears absent from its second reading speech and explanatory memorandum, but I think an unintended or intended consequence of the passage of the bill in its current form is that it will impact on not only the Legislative Council regional electorates, but also the Legislative Assembly regional districts. We know that the redistribution process ordinarily occurs 18 months after an election and is typically complete as soon as practicable two years after an election. I note the motion moved by Hon Tjorn Sibma just now requires the Standing Committee on Legislation to report by no later than 28 February 2022. It is obviously clear that there is no constraint on any aspect of this bill being in full force and operational, if that is the government's will, at the next election or at another appropriate time in between.

It seems strange to me that the government is afraid of allowing the Council to properly consider this bill. I do not think that the position outlined just now by the Leader of the House is adequate. A bill developed with such significant haste and in unusual circumstances ought to be considered by the standing committee. Outside this chamber, politics aside, I am sure that every member would say, hand on their heart, that bills are improved after scrutiny by the

Standing Committee on Legislation. In fact, on the occasions when we have referred bills to the Standing Committee on Legislation, I would find it difficult to identify a circumstance in which a bill has not been improved, and often improved with the acknowledgement and support of the government.

In my view, electoral reform is best achieved after careful consideration and, where possible, with consensus. On that point, it is interesting that at my briefing on Friday, I learnt of the desire of the Minister for Electoral Affairs to engage with parties about future reforms. I thought that was interesting. Why was the minister not prepared to engage with parties on these reforms, either before or after the election? In my view, electoral reform is not done by deceit. It is not done with haste. It is not done with the brute force of the numbers gifted to the government by the people of Western Australia. As I said, there are matters in this bill that were not recommended by the ministerial expert committee. They were not part of the terms of reference. The recommendations were made and the report was released post–the public submission period, so what opportunity is there for the people of Western Australia, whether as individuals, organisations or any other form they may take, to respond to the committee's report and the government's position, which I must say has been different on several instances?

Debate interrupted, pursuant to standing orders.

[Continued on page 4740.]

## QUESTIONS WITHOUT NOTICE

### SYNERGY — GENERATION UNIT

**827. Hon Dr STEVE THOMAS to the minister representing the Minister for Energy:**

I refer to question without notice 783 asked on 13 October 2021 on the capital values of Synergy generation.

(1) Are any of the impairment values given in answer to the question impairment losses?

(2) If yes, which ones?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question. The following information has been provided by the Minister for Energy.

(1)–(2) Yes, the impairment values reflect the Australian accounting standards.

### TRANSPORT — FOOD AND DRINK ADVERTISING — INCOME

**828. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Transport:**

I refer to income received by the Department of Transport through unhealthy food and drink promotions.

(1) What was the total income generated from unhealthy food and drink advertising in 2019–20 and 2020–21?

(2) Will the minister please advise whether any advertising contracts that allow unhealthy food and drink promotions have been extended or awarded within the last two years?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. On behalf of the minister I advise as follows.

The member is asked to clarify what he means by "unhealthy". It is hard to do the maths if you do not know what you are counting!

### WESTPORT FUTURE PORT RECOMMENDATIONS — CONTAINER COMPOUND ANNUAL GROWTH RATES

**829. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Ports:**

I refer to the answer to question on notice 250 asked by me on 19 August 2021.

(1) Can the minister confirm there is formal modelling regarding the forward projected container-based truck movements on the restricted access vehicle 4 freight route for the individual years from 2020–21 to 2029–30?

(2) If yes to (1), can the minister please explain why this modelling was not tabled as part of the answer to question on notice 250, asked on 19 August 2021?

(3) Will the minister now table the modelling; and, if not, why not?

(4) If no to (1), why has no formal modelling been undertaken; will any formal government modelling be undertaken; and, if yes, by what date will this be completed?

**Hon SUE ELLERY replied:**

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

(1)–(4) As mentioned in reply to the member's previous question, the Westport office is continuing to develop updated long-term container trade forecasts. Following this process, further refinement of truck and rail movement assumptions will be undertaken.

CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT (ELECTORAL EQUALITY) BILL 2021

**830. Hon TJORN SIBMA to the parliamentary secretary representing the Minister for Electoral Affairs:**

I refer to the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021.

Since the McGowan government has no mandate for stripping parliamentary representation from Western Australian regional voters, will it put this seismic change of electoral law to the democratic test of a referendum; and, if not, why not?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. I provide the following answer on behalf of the Minister for Electoral Affairs.

I reject the premise of the honourable member's question. The electoral equality bill will enhance the representation of all Western Australians, regardless of where they live.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

**831. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:**

I refer to the answer to my question without notice 697 in which the parliamentary secretary informed the house that as at 31 August 2021, there were two children in the care of the CEO of the department whose whereabouts and living arrangements were recorded as unknown and who were not in regular contact with their caseworker.

(1) Has the child whose whereabouts were unknown for 40 days as at 31 August been located?

(2) Has the other child whose whereabouts were unknown for 84 days as at 31 August been located?

(3) If yes to (1) or (2), when?

**Hon SAMANTHA ROWE replied:**

I thank the member for some notice of the question. I provide the following answer on behalf of the Minister for Child Protection.

(1) Yes, on 3 October 2021.

(2) No.

(3) Please refer to the answer to (1).

JOINT ADVISORY COMMITTEE — PARTNERSHIP FORUM EARLY YEARS WORKING GROUP

**832. Hon DONNA FARAGHER to the parliamentary secretary representing the Minister for Community Services:**

I refer to the answer to question without notice 633 asked on 7 September 2021 regarding the joint advisory committee, which stated that a review was being undertaken of the committee's terms of reference.

(1) When did this review commence, and has it now been completed?

(2) If not, can the minister advise when the review is expected to be completed; and, if not, why not?

**Hon SAMANTHA ROWE replied:**

I thank the member for some notice of the question. I provide the following answer on behalf of the Minister for Community Services.

(1) The review commenced in August 2021 and is still underway.

(2) Not applicable.

POLICE — VACANCIES

**833. Hon PETER COLLIER to the minister representing the Minister for Police:**

(1) What were the officer vacancies in each of the eight districts in the metropolitan region on 1 July 2021?

(2) What were the officer vacancies in each of the seven districts in regional WA on 1 July 2021?

**Hon STEPHEN DAWSON replied:**

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

The Western Australia Police Force advises that a response to this question cannot be provided within the time frame. Should the honourable member require a response, it is requested that this question be placed on notice.

HYDROGEN INDUSTRY — H2PERTH — KWINANA

**834. Hon Dr BRAD PETTITT to the Minister for Hydrogen Industry:**

I refer to the media statement of 25 October 2021 titled "WA to become global clean energy powerhouse", which announced Woodside's plans to establish a hydrogen and ammonia production facility in Kwinana.

(1) What is the expected percentage of hydrogen that will be produced at H2Perth by —

(a) renewable energy;

(b) non-renewable energy; and

(c) steam reformation?

(2) What is the expected quantity of carbon offsets required to achieve carbon neutrality for the project?

(3) What carbon offsets will be used to achieve carbon neutrality?

(4) What is the expected increase in emissions for WA as a result of this project?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question.

(1)–(4) I do hope that we are not going to go down the normal Green path of making the best the enemy of the good. Here we have a real step forward—something actually very tangible in this hydrogen production space—and I hope we are open to this incredible opportunity. To begin with, my understanding is that around one-third of the hydrogen production will be from the renewable energy sources off the grid, but that will build over time. It will start off with around 250 megawatts, which is a pretty significant block of renewable power that it will be taking off the south west interconnected system, and build up over the next five to six years to around three gigawatts of renewable energy that it will take off the grid. That will actually underpin some massive investment in renewable energy projects right across the south west interconnected grid area, which as the member knows goes from north of Geraldton to Esperance.

That is a very exciting project. That will actually allow us to get something up and running very quickly, and get more hydrogen refuelling capability, which will be serviced by green energy. That will help us underpin what we are trying to do with trucks and buses and other forms of transport.

Member, this is a great project. As I say, we acknowledge that at the beginning, some of it—about two-thirds—will use blue hydrogen rather than green, but it will have a significant component of green, and one that will build. I would love to see the Greens, for once, get behind something positive and support this great initiative.

ABORIGINAL CULTURAL HERITAGE BILL — DRAFT

**835. Hon WILSON TUCKER to the Minister for Aboriginal Affairs:**

Minister, on Saturday I attended a rally organised by Indigenous stakeholder groups who are concerned about what they consider inadequate consultation in the drafting of the upcoming Aboriginal cultural heritage bill. They feel the consultation period has been too short, and that important First Nations' voices have been ignored. Can the minister advise the house of what Aboriginal stakeholder groups he has met with during consultation on the draft Aboriginal cultural heritage legislation?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for the question. The honourable member is showing his inexperience in this place by asking a question without notice looking for detail. If he honestly wanted to find out who I have met with in relation to this bill over the past few months, or, indeed, who the last minister has met with over the past few years, he should give us some notice so that we can give him an answer.

GERALDTON HEALTH CAMPUS

**836. Hon MARTIN ALDRIDGE to the minister representing the Minister for Health:**

I refer to claims from the Australian Nursing Federation this week regarding staff shortages in the midwest, as reported by ABC News on 25 October in an article titled, "Nursing union says inexperienced staff are working in understaffed Geraldton ED".

(1) What is the authorised nursing FTE level for Geraldton Regional Hospital?

(2) What is the current nursing FTE level for Geraldton Regional Hospital?

(3) How many staff at Geraldton Regional Hospital have been rostered for more than 80 hours in the last fortnight, and how many have been rostered for more than 100 hours?

(4) Noting the state government's $5.8 billion budget surplus, what specific measures is the minister taking to increase staffing levels at Geraldton Regional Hospital?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. It is not possible to provide the requested information in the time required and I therefore ask the honourable member to place this question on notice.

PRACTICAL DRIVING ASSESSMENTS

**837. Hon JAMES HAYWARD to the Leader of the House representing the Minister for Transport:**

I refer to the pass rates of practical driving assessments.

(1) What was the pass rate at each testing location in the state —

(a) for September 2021; and

(b) for August 2021?

(2) How many learner's permits were issued in the 2020–21 financial year?

(3) How many provisional driver's licences were issued in the 2020–21 financial year?

**Hon SUE ELLERY replied:**

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

(1) Pass rates at driver and vehicle service centres for the months of August and September 2021 are consistent with the figures provided in the answer to question without notice 262 asked on 15 June 2021.

(2) The number was 16 469.

(3) The number was 42 838.

SOBERING-UP CENTRE — BROOME

**838. Hon NEIL THOMSON to the Minister for Mental Health:**

I refer to the recent decision to close Broome's only community sobering-up shelter, which had capacity for 24 beds, and concerns about the temporary loss of the service.

(1) When did the minister become aware of problems with the shelter?

(2) What measures has the minister put in place to replace the centre?

(3) What capital or grant funds have been allocated towards a replacement of the existing service?

(4) What date will the minister commit to for the opening of a replacement centre?

**Hon STEPHEN DAWSON replied:**

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

(1) The Mental Health Commission provided advice to my office on Thursday, 14 October 2021, that the centre was deemed structurally unsound and required closure.

(2)–(3) I am advised that the Mental Health Commission has been actively working with the owner of the building and with Lotterywest to advance options to redevelop or replace the shelter as well as forming interim solutions such as transportable buildings to accommodate services.

(4) All efforts are being made to find a suitable building to relocate the service. In the interim, the provision of services will continue via outreach. The MHC is actively engaged with key Aboriginal leaders and services in Broome to discuss and plan options and responses. The MHC is convening a daily meeting with key Broome stakeholders to progress efforts to secure alternative accommodation for the sobering-up shelter immediately and in the longer term. The meeting will also be a forum to work together to raise and resolve issues arising from the closure of the sobering-up centre on other services in the area and on the community as a whole.

CORONAVIRUS — SOCIAL HOUSING ECONOMIC RECOVERY PACKAGE

**839. Hon STEVE MARTIN to the Leader of the House representing the Minister for Housing:**

I refer to the recently released Auditor General's report, *Roll-out of state COVID-19 stimulus initiatives*.

(1) As of September 30, how much of the allocated budget had been spent on the following initiatives —

(a) construction of up to 250 social housing dwellings and purchase of off-the-plan units for supported housing programs;

(b) maintenance programs for 3 800 regional social housing properties;

(c) refurbishment of 1 500 social housing dwellings; and

(d) deferment of payments and waiving of interest costs for Keystart customers?

(2) If the full allocated amount has not been spent for (a) to (d), what is the reason for this?

**Hon SUE ELLERY replied:**

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

(1) (a)–(c) Information contained within the Office of the Auditor General report is now at least eight months out of date and the package was never designed to be fully spent or allocated by March 2021. Maintenance and refurbishment programs require significant planning and in most cases require relocation of tenants, vacation of the property or significant disruption to the tenant. The social housing economic recovery package is a targeted economic and social stimulus measure that is primarily focused on refurbishment and maintenance of social housing. The program was designed to support jobs in the WA construction industry over a number of years, while improving the life span and quality of homes available for social housing.

As at 30 September 2021, a total of $68.6 million has been awarded, supporting an estimated 365 jobs and generating approximately $141.8 million in economic activity, including construction of 62 new homes, worth $18.1 million; refurbishments of 398 homes, valued at $30 million; and maintenance works on 4 134 regional homes, worth $20.5 million.

A $92.8 million SHERP grants program is currently open to the community housing sector to deliver new social housing, refurbish existing ageing social housing, and provide maintenance to remote Aboriginal communities. This grants program comprises $33 million for approximately 100 community housing sector new builds, up to $5 million per development; $46.5 million for approximately 500 community housing sector refurbishments, up to $500 000 per property; and $13.3 million for remote Aboriginal community maintenance works, up to $100 000 per property.

(d) From the onset of the COVID-19 pandemic until September 2021, Keystart waived interest on 12 loan accounts for a total value of $75 053. Deferral of payments—principal—is not recognised as a cost, as these amounts are capitalised into the loan balance and repaid over the remaining term of the loan.

(2) The 2021–22 budget allocated a record $875 million spend in social housing, with a total investment of $2.1 billion over the next four years. This includes innovative approaches to delivering more social housing, including the delivery of modular and pre-fabrication housing, and repurposing affordable housing in the short term.

As part of the 2021–22 budget process, the SHERP budget has been re-profiled to provide a sustained pipeline of work for industry over the next four years. Recent economic stimulus measures to keep the Western Australian economy strong during the global pandemic have been highly effective, with around 27 000 homes approved for construction last financial year, including 4 000 in regional areas. This has supported thousands of additional jobs and is expected to increase housing supply over the coming months.

THORNLIE–COCKBURN LINK

**840. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Transport:**

I refer to the Thornlie–Cockburn Link project.

(1) What was the original total cost and project time line from commencement to completion of the project at the time that the first contracts were signed?

(2) What works of the project have been initiated and completed to date?

(3) What changes of scope have been applied to the project since the McGowan government was elected to power in March 2017, and what is the proposed cost of each of those changes in scope?

(4) Have there been any cost over-runs on the original scope of work during construction of the project; and, if so, what are these?

(5) What is the current expected total cost and project time line for commencement to completion of the project?

**Hon SUE ELLERY replied:**

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

(1)–(5) The COVID-19 pandemic continues to disrupt supply chains with particular pressure across the civil construction industry. Combined with record low unemployment and a record number of road and rail infrastructure projects, Western Australia is experiencing incredible demand across our construction and infrastructure sectors. Following extensive consultation and the skills summit hosted by the state government in July this year, the state government made a decision to review the asset investment program to ease pressure on industry, extend Western Australia's economic boom and support jobs into the future. As part of this, several project schedules have been adjusted to ensure the sustainability of the asset investment program, including the Thornlie–Cockburn Link.

I note the member's comments in the Legislative Council on 14 September 2021 in support of this approach by the state government, and I quote —

> … the extension of some of these projects is probably not a bad idea, economically speaking. It is probably quite reasonable of the government to extend the time frame on some of its Metronet projects so that it is a bit less in competition with the private sector … it would be quite reasonable for them to occur …

Works started on the Thornlie–Cockburn Link in late 2019, with completion now expected by late 2024. Significant works are underway, including relocating critical underground infrastructure, relocating freight rail lines to the northern portion of the corridor, building a wider and higher Ranford Road Bridge, various enabling road works such as the completed Karel Avenue Bridge, site works at the future Ranford Road and Nicholson Road stations, and preparatory works to widen the Mandurah line tracks. No material changes have been made to the scope of the project, and although the cost to deliver the project continues to be monitored, the budget remains as $716 million.

ENVIRONMENTAL PROTECTION (COST RECOVERY) REGULATIONS 2021

**841. Hon TJORN SIBMA to the minister representing the Minister for Environment:**

I refer to the draft Environmental Protection (Cost Recovery) Regulations 2021.

(1) What protections are in place to prevent the Department of Water and Environmental Regulation from over–cost recovering or, colloquially speaking, price gouging when setting user fees for environmental assessments?

(2) How will fees be set and structured to avoid the potential for cross-subsidisation of other DWER or other government functions, which are explicitly referred to as "comprising departmental costs" in the consultation draft, when these matters were not contemplated in the Environmental Protection Amendment Bill passed in the fortieth Parliament?

**Hon STEPHEN DAWSON replied:**

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

(1)–(2) The head power enabling cost recovery in section 48AA of the Environmental Protection Amendment Act limits the use of cost recovery to meet the costs incurred by the Department of Water and Environmental Regulation in respect of the referral, assessment and implementation of proposals under the EP act. In addition, for the purposes of transparency, cost-recovered revenue and expenditure will be reported on by DWER annually.

The DWER-proposed pricing model for part IV of the Environmental Protection Act 1986 is based on a detailed analysis of the actual costs incurred by DWER in managing the referral, assessment and implementation of proposals under part IV the EP act. This model was developed by an external consultant, and further independently tested by Ernst and Young, which concluded that the underlying assumptions used to develop the model were logical and reasonable.

CORONAVIRUS — MANDATORY VACCINATIONS — MEDICAL EXEMPTIONS

**842. Hon NICK GOIRAN to the minister representing the Minister for Health:**

I refer to the commonwealth government's COVID-19 frequently asked questions on exemptions to mandatory COVID-19 vaccination in residential aged care.

(1) Is the minister aware that the South Australian public health order sets out that a temporary medical exemption can be granted for persons who are pregnant?

(2) Is pregnancy a reason for a temporary medical exemption from receiving the COVID-19 vaccine in Western Australia?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Health.

(1) Yes.

(2) Exemptions on the grounds of pregnancy were previously available from the commonwealth's Australian Immunisation Register. The Australian Immunisation Register immunisation medical exemption form, IM011, however, has recently been amended with regard to exemptions due to pregnancy. The form now provides that a medical exemption due to pregnancy applies to live attenuated vaccines only. None of the approved COVID-19 vaccines are live attenuated vaccines. Therefore, pregnancy alone is no longer grounds for a medical exemption. This accords with the current advice from the Australian Technical Advisory Group on Immunisation, or ATAGI, and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, or RANZCOG, which is that pregnant women should be vaccinated.

SCHOOL HEALTH NURSES

**843. Hon DONNA FARAGHER to the minister representing the Minister for Health:**

I refer to the answer to question without notice 731 asked on 15 September 2021 on the funding allocation for school health nurses employed by the Department of Health and the statement that the final budget for the 2021–22 financial year will be advised in the coming weeks.

(1) Has the final budget now been confirmed for the 2021–22 financial year; and, if yes, what is the total amount allocated for the provision of school health nurses?

(2) If no to (1), what is the indicative budget that has been provided for the provision of school health nurses?

(3) If no to (1), when does the minister expect the budget allocation to be finalised?

**Hon STEPHEN DAWSON replied:**

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

(1) The budget allocation for the provision of school health nurses for the 2021–22 financial year is $18 160 392.

(2)–(3) Not applicable.

ARMADALE COURTHOUSE AND POLICE COMPLEX

**844. Hon PETER COLLIER to the minister representing the Minister for Police:**

I refer the minister to the media release on 31 March 2020 of the former Minister for Police, Hon Michelle Roberts, and Attorney General, Hon John Quigley, titled "Foundations laid for new Armadale Courthouse and Police Complex". In particular, I refer to the first sentence in the release, which states —

> In a major milestone for the McGowan Government, the first major concrete pour has today taken place at the new Armadale Courthouse and Police Complex.

(1) Has the Armadale Courthouse and Police Complex been completed?

(2) If no to (1), what is the proposed completion date of the complex?

(3) Where in the 2021–22 budget is there a line item for the complex?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. The question I have says "13 March 2020" but the honourable member said "31 March"; nonetheless, I have an answer. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advises —

(1)–(2) The construction of the Armadale Courthouse and Police Complex is well underway, with practical completion anticipated in 2022.

(3) It is on page 417 of volume 2 of budget paper No 2 of the *Western Australia State Budget 2021–22* under "Works in Progress", "Land and Buildings Infrastructure" and the line item "Armadale Courthouse and Police Complex".

PUBLIC HOUSING — WAITING LIST

**845. Hon Dr BRAD PETTITT to the Leader of the House representing the Minister for Housing:**

I refer to the Auditor General's report titled *Roll-out of state COVID-19 stimulus initiatives: July 2020—March 2021*, which found that during that nine-month period when Western Australia's public housing waitlist was increasing, only two per cent of the $319 million budget allocated to build new social housing and refurbish existing ones was spent.

(1) What were the barriers that prevented the Department of Communities from spending the committed $319 million?

(2) To date, how much of the $319 million has been spent and will the minister provide a breakdown of these expenditures?

(3) If the $319 million has not been fully spent, when will the remaining funds be spent and what projects will it deliver?

**Hon SUE ELLERY replied:**

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

(1)–(3) Information contained within the report from the Office of the Auditor General is now at least eight months out of date and the package was never designed to be fully spent or allocated by March 2021. Maintenance and refurbishment programs require significant planning and in most cases require relocation of tenants, vacation of the property or significant disruption to the tenant. The social housing economic recovery

package, or SHERP, is a targeted economic and social stimulus measure, which is primarily focused on the refurbishment and maintenance of social housing. The program was designed to support jobs in the WA construction industry over a number of years, while improving the life span and quality of homes available for social housing. As at 30 September 2021, a total of $68.6 million has been awarded, supporting an estimated 365 jobs and generating approximately $141.8 million in economic activity, including the construction of 62 new homes, worth $18.1 million; refurbishments of 398 homes, valued at $30 million; and maintenance works on 4 134 regional homes, worth $20.5 million.

A $92.8 million SHERP grants program is currently open to the community housing sector to deliver new social housing, refurbish existing ageing social housing and provide maintenance to remote Aboriginal communities. This grants program comprises $33 million for approximately 100 community housing sector new builds, up to $5 million per development; $46.5 million for approximately 500 community housing sector refurbishments, up to $500 000 per property; and $13.3 million for remote Aboriginal community maintenance works, up to $100 000 per property.

The 2021–22 budget allocated a record spend of $875 million in social housing, with a total investment of $2.1 billion over the next four years. This includes innovative approaches to delivering more social housing and the delivery of modular and pre-fabrication and repurposing affordable housing in the short term. As part of the 2021–22 budget process, the SHERP budget has been re-profiled to provide a sustained pipeline of work for industry over the next four years. Recent economic stimulus measures to keep the WA economy strong during the global pandemic have been highly effective, with around 27 000 homes approved for construction last financial year, including 4 000 in regional areas. This has supported thousands of additional jobs and is expected to increase housing supply over the coming months.

NURSES AND MIDWIVES — RECRUITMENT

**846. Hon MARTIN ALDRIDGE to the minister representing the Minister for Health:**

I refer to the media statement of 22 October titled "Major new advertising campaign to bolster health workforce", which states —

> Western Australia's current recruitment drive has already seen almost 1,000 new nurses and midwives join the WA Health system since January this year.

(1) On 1 January 2021, how many nurses and midwives, by FTE, were employed in the WA health system?

(2) Currently, how many nurses and midwives, by FTE, are employed in the WA health system?

(3) Of the almost 1 000 nurses and midwives recruited since January, how many have been recruited —

  (a) within Western Australia;

  (b) interstate; and

  (c) internationally?

(4) Please provide a breakdown of the almost 1 000 nurses and midwives by health service provider?

**Hon STEPHEN DAWSON replied:**

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

It is not possible to provide the requested information in the time required and I therefore ask the honourable member to place this question on notice.

SOUTH REGIONAL TAFE — COURSE AVAILABILITY

**847. Hon JAMES HAYWARD to the Minister for Education and Training:**

I refer to the licence to operate forklift truck course offered by WA TAFE.

(1) When is the next available date it is possible to participate in the licence to operate forklift truck course at South Regional TAFE?

(2) How many people have completed the licence to operate forklift truck course in the period 1 July 2020 to 30 June 2021 at each TAFE location in the South West Region?

(3) How many people are currently on the waitlist to participate in the licence to operate forklift truck TAFE course in WA?

(4) How many staff members does WA TAFE employ to deliver the licence to operate forklift truck course?

**Hon SUE ELLERY replied:**

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

(1)–(4) The licence to operate a forklift truck unit of competence is combined with 16 different training packages and 109 different qualifications. It is also offered by TAFE colleges as a standalone skill set. At South Regional TAFE, a total of 204 people have completed the MAA82 forklift skill set as a standalone course in the

period from 1 July 2020 to 30 June 2021. South Regional TAFE is working towards being able to deliver the forklift skill set at Bunbury campus in early 2022 and welcomes any direct inquiries from constituents in the member's electorate. I invite the honourable member to contact my office if he has any queries.

*Point of Order*

**Hon MARTIN ALDRIDGE**: I rise because on 13 October 2021 I asked question without notice 802 to the minister representing the Minister for Health about health worker restrictions on access directions and the vaccination of the healthcare workforce. The response I received was that the information could not be provided in the time required and that I would receive an answer by 28 October 2021. I have since become aware of an article published in *The West Australian*, on Monday, 18 October in which the answers I sought were provided by the minister to the media. I ask that the minister do the honourable thing and provide those answers to Parliament.

**The PRESIDENT**: There is no point of order.

## CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT (ELECTORAL EQUALITY) BILL 2021

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

Resumed from an earlier stage of the sitting.

**HON MARTIN ALDRIDGE (Agricultural)** [5.03 pm]: In concluding my remarks on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 there are a few things I want to put on the record that would be quite useful for the Standing Committee on Legislation to contemplate. I want to reiterate this point: the government may well think that the public submission process of the Ministerial Expert Committee on Electoral Reform is consultation enough, but there has been no consultation done on the report of the ministerial expert committee nor on the bill before us—none. As I have also said, there are matters in the bill before us that were not contemplated by the terms of reference of the ministerial expert committee; therefore, they naturally have not been consulted on. Members of the committee should examine how, under a whole-of-state electorate, 37 members representing everyone will enhance the representation that regional Western Australia receives in this place or how we should support, resource or, indeed, incentivise a system adopting that structure. I draw members' attention to page 42 of the final report of the ministerial expert committee. There is a section headed "Facilitating a regional presence of MLCs". This section of the report culminates in recommendation 5, which states —

**That the measures discussed in Chapter 4 be considered, to improve the electoral system.**

As far as I am aware, there is no contemplation by media statement or the bill before us about the way those matters will be addressed to ensure that these 37 members at large will be adequately resourced and supported to meet the challenges of servicing such a large and diverse electorate. When we get to the Committee of the Whole House stage of this bill, I am sure the government will not have given that aspect consideration. One of the simple questions I asked in my briefing was: how much will the thirty-seventh MP of the Legislative Council cost the taxpayers of Western Australia? That is a simple question—simple enough I would have thought—that could not be answered. This could be a matter that the standing committee could encompass in its considerations—not only how to best resource and support 37 members at large, but also how much the thirty-seventh member of this Legislative Council will cost the taxpayers of Western Australia. It would be interesting to know whether there has been any engagement with the Salary and Allowances Tribunal, the Department of the Premier and Cabinet or the Parliamentary Services Department—the three bodies or agencies principally responsible for those matters. Will it be the government's position—it is not clear—that in adopting a New South Wales–style system we will not need electorate offices of upper house members? We will just build another tower across the road, like the department is doing at the moment, and put them all in there.

**Hon Alannah MacTiernan**: I think that is where a lot of these members want to have their offices. A lot of National and Liberal members will want to move to West Perth. You cannot dig them out of West Perth!

**Hon MARTIN ALDRIDGE**: It is interesting that these types of interjections come from this minister, the minister for everywhere. I think she might be the chief architect of this member-at-large model, because she has pretty well been a member for everything. I tell members what, she is clocking up the miles on the government jet visiting her holiday house in Albany—she's clockin' 'em up!

Several members interjected.

**The ACTING PRESIDENT**: Order! Hon Martin Aldridge only has a couple of minutes left in his address.

**Hon MARTIN ALDRIDGE**: These are important questions, as much as members of the government might like to trivialise them. These are important questions that members should have answers to before casting their vote on this bill.

I am concerned that this will be the beginning of an extremely slippery slope of, firstly, disconnecting members of this place from their constituents, whether they be regional or metropolitan. Over time, I think we will see a reduction in resourcing provided to members of the Legislative Council. I suspect in perhaps 10, 20 or 30 years from now—I hope I am proven wrong—there will be a growing argument on whether Western Australia should adopt a unicameral system.

Members might think that I am being alarmist, and I am going to finish on this quote. I draw members' attention to the contribution of Hon Don Punch, the member for Bunbury, to this debate in the other place on 12 October. Members should listen carefully, particularly members of the government, the colleagues of Hon Don Punch. He said —

> I have worked in the public service for both Liberal–National and Labor governments, but I am pretty certain that in all that time the upper house has not made one skerrick of difference to the lives of Western Australians. The differences are made in this house where government is formed.

He went on to say—

> I can certainly say that the upper house has not contributed in any way to achieving better outcomes for regional Western Australia.

Those comments should stand condemned. I hope that colleagues of Hon Don Punch reflect on his contribution and stand in this place together with me in rejecting them.

This bill ought to be considered by the Standing Committee on Legislation. The government cannot advance one good reason not to support that position. There is no time constraint. This bill is the result of a deeply flawed process that lacks consultation, particularly post the release of the Ministerial Expert Committee on Electoral Reform's report. It should particularly be the focus of the Standing Committee on Legislation to consult with, visit and understand the views of voters and non-voters who live in our non-metropolitan regions. The government has nothing to fear. This motion should be supported unanimously.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [5.12 pm]: I would like to thank Hon Tjorn Sibma for his passionate contribution today and for the motion that we find ourselves debating, that this bill be discharged and referred to the Standing Committee on Legislation for review.

When I viewed the motion of Hon Tjorn Sibma, the first thing I did was look at the standing orders to see whether this is the appropriate place for the review. Before I get to why it should be sent to the committee, let us just make sure that the committee can accept it and the review could potentially occur. The role of the legislation committee is to consider and report on any bill referred to it by this house. Obviously, that is in order. I note that term of reference 4.4 on the committee's website, which is extracted from the Legislative Council standing orders, states —

> Unless otherwise ordered, any amendment recommended by the Committee must be consistent with the policy of the Bill.

I note that the standing orders of this committee have changed, so, in my view, we are able to ask this committee to look at the entire functioning of the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, largely I think on the basis of the standing orders and the changes instituted by the government on the recommendation of the Standing Committee on Procedure and Privileges. Where do we go to in terms of that? The Standing Committee on Legislation's terms of reference are in the standing orders under part 4 of schedule 1, "Committees". I note that the website has not necessarily kept up with the changes that have occurred, because if members look at their copy of the standing orders—the clerks make sure that the books in front of us are the most up-to-date—there are only three sections under section 4, "Legislation Committee". They are —

> 4.1 A *Legislation Committee* is established.
>
> 4.2 The Committee consists of 5 members.
>
> 4.3 The functions of the Committee are to consider and report on any Bill referred by the Council.

There have been some alterations in that section as to the functioning of the committee. Members will note that the website includes the term of reference —

> 4.4 Unless otherwise ordered, any amendment recommended by the Committee must be consistent with the policy of the Bill.

That is no longer in the standing orders. I understand that this was done to make it uniform, so that it would be consistent with all the other committees. What it does, on the good word of the government and the committee in this particular case, is make sure that the legislation committee has been freed up to examine policy and policy direction that is not necessarily in line with the intent of government. I think that is a particularly good thing.

I also note that the committee's website makes reference to Legislative Council standing order 128(2). The website states —

> The Committee is prohibited (by Legislative Council Standing Order 128(2) from considering a bill's policy unless the Legislative Council orders it to do so.

I was a little concerned about that for a while, given that we are suggesting that the legislation committee does indeed look at the policy of the bill. However, if I go to the standing orders and read out section 128, which is the section on referral to committee, section 128(2) actually states —

> Unless otherwise ordered, if a Bill is referred under (1) after the second reading of the Bill has been agreed, the Committee shall not inquire into the policy of the Bill and may only recommend amendments to the Bill that are consistent with the policy of the Bill.

As far as I am aware, given that I have sat through the debate so far, the second reading of this bill has not been agreed to. Given that we have not had agreement on the second reading, under standing order 128(1), we can refer this bill to the legislation committee. Standing order 128(1) states —

> At any time after the second reading has been moved and before the third reading has been moved, a motion without notice may be moved to refer the Bill to a Standing or Select Committee.

That is exactly what has been done—a motion without notice has been moved after the second reading has been moved but before the second reading has been agreed. I will read standing order 128(2) —

> Unless otherwise ordered, if a Bill is referred under (1) after the second reading of the Bill has been agreed, the Committee shall not inquire into the policy of the Bill …

It would appear that Hon Tjorn Sibma has chosen that golden moment in proceedings—after the first and second reading of the bill but before the second reading has been agreed—when, with the new standing orders implemented by the Standing Committee on Procedure and Privileges, the legislation committee would be free to examine the policy of the bill before the house. I am not sure whether that was necessarily the intent of the procedure and privileges committee when it made these recommendations, but we are certainly going to appreciate and hope that it was with good intent and definitive will that the committee did precisely that, because it then allowed the legislation committee to examine not only whether the bill was functional, but also whether the bill before the house is the appropriate policy in any particular position. That is why I think it is important for the house to support Hon Tjorn Sibma's motion tonight. The many questions on this legislation that have not been addressed raise the issue of whether it is an appropriate response to the questions around the election of Legislative Council members.

It was made plain in the Ministerial Expert Committee on Electoral Reform's report that the committee was hamstrung in respect of what it could look into. It refers quite frequently to the terms of reference, which were very short. The report states, at page 8 —

> The Committee was asked to review the electoral system for the Legislative Council of Western Australia and to provide recommendations:
>
> 1. As to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council.

Jumping to annexure 1, the same statement is repeated at page 45 —

> Recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council;

Obviously, only one policy agenda was allowed to be examined by the Ministerial Expert Committee on Electoral Reform. In fact, the committee in its report also made reference to the specifics of electoral equality. At page 20 it states —

> Unlike the Whole of State option, it is impossible in a system with more than one Legislative Council region to achieve *exact* equality of electors per member, and even if it were possible to get 'close' to equality (as in Victoria), the electoral roll is not static. It *may* be argued that if a regions-based system were used, allowing a 10% plus or minus variance from the Average District Enrolment (**ADE**) would (approximately, not absolutely) achieve 'electoral equality'. However, the Committee's brief is not to recommend a system that 'nearly' achieves electoral equality.

The committee was quite adamant that it was not restricted to "close" to electoral equality or "nearly" electoral equality, but had to deliver electoral equality, as defined by the government. I was present at the press conference at which the chair of the committee, Malcolm McCusker AC, CVO, QC, stood with the Premier and the Minister for Electoral Affairs and was asked a couple of times about other options and proposals. He was quite adamant that the committee had been told to design a system that delivered electoral equality. So, this committee was not able to look at all the other possible options that might have been assessed.

The question is: what should the Legislative Council refer to the Standing Committee on Legislation, and what should we expect from that committee? Having done our homework, we can set aside the proposition that the Standing Committee on Legislation could not examine the general principles of the bill; we know that it can, under the new Legislative Council standing orders. In examining the principles of the bill, it might be asked to look at a number of things. We are not yet at the stage of the formal second reading debate on the bill, but we are considering Hon Tjorn Sibma's excellent referral motion.

What should the Standing Committee on Legislation look at to report back to this house? I would have thought the first thing it should look at would be the impacts of the legislation, as it is proposed by the government. The impacts might vary depending on one's definition of "representation". If representation is simply the number of voters per electorate and the performance of a given member of Parliament does not really matter, obviously the government has hit the sweet spot with this bill. If outcomes and performance do not matter and it is simply about the number of votes per electorate, this bill fits the bill. However, if representation means, for example, access to a member

of Parliament or equality of access to a member of Parliament, we have to ask: what is a constituent's capacity to meet with a member of Parliament, or the capacity of a member of Parliament to visit communities regularly, not just occasionally on a trip between major centres? What is the capacity of members of Parliament to have some experience of their communities? What is the capacity of members of Parliament to have some experience of regional communities' industries?

When we get to the substance of the second reading debate, we will be focusing in great detail on what it means to be a member of Parliament. Is it, as is so often portrayed, a game of raw and brutal numbers such that the ways in which parliamentarians perform and the outcomes for the community do not matter? Does it not matter whether health or education services are inadequate or adequate? Does it not matter whether roads are smooth and safe or just gravel and full of potholes so that people occasionally roll down the side? All those things might be reflective of a constituent's ability to communicate with MPs. It might just be that the broader community thinks access is critically important.

If that is the measure by which we define representation, regardless of whether it is a 200-kilometre trip for a constituent to see a member of Parliament, or that the member is a rare and occasional visitor to their communities, towns and local governments, perhaps the Standing Committee on Legislation might at least comment on that. Perhaps the legislation committee might be able to form a view as to the adequacy of representation in regional areas. Again, we will go into this in much more detail in the not-too-distant future.

I pose this question to members for regional electorates: is it the case that your services and facilities are much better than those in Perth because you have a disproportionate level of representation in the Legislative Council of this state? Are the health services provided in the wheatbelt, north west, south west or great southern better because you have a disproportionate level of representation and your vote is worth four times that of someone in metropolitan Perth?

**Hon Darren West**: Carnage. Absolute carnage.

**Hon Dr STEVE THOMAS**: I accept that Hon Darren West will not understand, but if I did not speak on things he did not understand, I would remain silent in Parliament for most of my career.

**Hon Sue Ellery** interjected.

**Hon Dr STEVE THOMAS**: I am responding to the standard of response I get. The Leader of the House did not hear it.

Several members interjected.

**The DEPUTY PRESIDENT**: Order, members!

**Hon Dr STEVE THOMAS**: The legislation committee would have the capacity to examine whether representation is actually measured by votes, performance, services or the standard of living of the people who are being represented. That would be an interesting question for the committee to look at.

The second question the committee should look at is: who benefits from the current proposal? Who will get an increased benefit from the current proposal? If the current system is disproportionately bad and the outcomes are negative for the state of Western Australia, what increased benefit are we going to see from the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, which is before the house today? Who will get an increased benefit? When all the votes are equal, which, given the numbers in the chamber, they will be, and we move from a system in which, in theory, half the members of the Legislative Council are elected from regional areas to a quarter if we go strictly on the numbers, who benefits and how will that benefit be measured? Will we see even better services in the metropolitan area because we are shifting another nine members, effectively, to be elected from the metropolitan area? Should we expect to see an increased benefit to the community in Perth because of that additional representation? How will we measure the benefit and who will be getting that benefit? That interests me deeply. Who will gain a benefit out of this, obviously apart from, it would appear, the Labor Party, because as the Minister for Electoral Affairs, Hon John Quigley, said in the press conference—again, I was there listening to him—it is the achievement of 120 years of Labor Party ambition. Surely, if it is the achievement of 120 years of Labor Party ambition, it is obviously going to benefit the Labor Party, as you would expect. This issue has been in the blood lines of the Labor Party for a long time. It started in the lower house and it is coming to the upper house and the Labor Party will achieve this.

**Hon Dan Caddy**: The make-up of this house has changed over 100 years to benefit Western Australians as a whole and we continue to evolve. Are you saying this is worse now than —

**The DEPUTY PRESIDENT**: Order, members! This is starting to move beyond interjections. Leader of the Opposition.

**Hon Dr STEVE THOMAS**: Thank you, Deputy President. Although Hon Dan Caddy is not right necessarily, he makes a valid point. It is absolutely the case that it has changed over time and it is not specifically change that we should be frightened of—it is the reasons for that change and the changes themselves. We need to find out whether it is good or bad change. We should never necessarily be frightened of change just because it is change, but

who benefits from it and what is the reason that this change is coming in? It cannot be denied that the Minister for Electoral Affairs stood at the press conference and said, "This is the culmination of 120 years of Labor Party ambition." That is precisely what he said.

**Hon Darren West**: That's got nothing to do with it.

**Hon Dr STEVE THOMAS**: Why was it a Labor Party ambition? It is absolutely the long-term ambition of the Labor Party to shift votes out of regional areas—it has always been the case. It achieved that in the lower house with legislation that went through in 2005 and it will achieve it in the upper house with legislation that will go through in 2021.

**Hon Dan Caddy**: Everyone in the regions will still get a vote; no-one is losing their vote. We are not shifting votes.

**Hon Dr STEVE THOMAS**: I am happy to take that interjection.

**Hon Dan Caddy** interjected.

**Hon Dr STEVE THOMAS**: I am happy to take the interjection, because the member is right —

*Point of Order*

**Hon SUE ELLERY**: Deputy President, I draw your attention to the motion before us and ask you to listen carefully to the comments being made by the current speaker. He is not addressing the motion before us.

**The DEPUTY PRESIDENT**: The honourable Leader of the House has moved a point of order. I have been listening carefully to the Leader of the Opposition's contribution and I do not believe at this point in time that there is a point of order. However, I make the point that the member is not ably assisted by the consistent interjections to which he is responding. I ask that members listen to the Leader of the Opposition in relative silence and I encourage the Leader of the Opposition to desist in responding to interjections.

*Debate Resumed*

**Hon Dr STEVE THOMAS**: Thank you, Deputy President. I believe that I have made it very clear all the way through in attempting to address the motion why the bill should go to the Standing Committee on Legislation and what the committee should present. It was interesting that the interjections immediately went back to the level of representation being represented by how many numbers, which is exactly how I started this debate. The interjection was, "Is it okay that you've got four times as many voters for one than for others" and that took us immediately back and proved my point that these are the things that the committee should look at. In particular, the committee should consider who will benefit from this process, which was precisely where I got to. I will try not to court any more interjections, Deputy President, but the reality is that the most recent interjections prove my point—that is, the committee should look at who will benefit from this legislation.

The committee should also look at the negative effects of this representation. Again, if the committee considers this bill and makes a decision about whether representation is simply about numbers or outcomes, it can decide whether there are better outcomes for some people and negative outcomes for others. That would be a very useful debate. The committee would be well served by working out whether people will be disadvantaged if the effect of this legislation is a significant shift of representatives from regional to metropolitan areas. That is something else that the committee should look at. It should also look at the impacts on everybody, particularly in regional areas where there is likely to be that shift. There is general acceptance—the government does not like us talking about it—that this bill will see a shift of Legislative Council membership out of regional areas and into the city. The government works very hard to suggest that that is not the case. I was around for the debate in the Legislative Assembly when the then Labor government did exactly the same thing down there. The Labor government was at that point very keen that no-one talked about the potential impacts on regional seats as it shifted eight seats from regional areas into the metropolitan area. The committee should look at those impacts.

Most importantly, the committee should look at the alternative models that the Ministerial Expert Committee on Electoral Reform was precluded from looking at. The committee was given zero flexibility to look at various options, so somebody should look at those options. I was at the press conference when Malcolm McCusker said, "I had no freedom to look at any other options." It may well be that he very carefully believed in the statewide Senate model. But the ministerial expert committee was given no other options. It was written in the terms of reference and it has been stated publicly by the chair that the panel was given one option and that was to review and deliver the state government's policy in this area, which is uniform across-the-state equal representation. The Standing Committee on Legislation would be free to examine other models and it would have the capacity to look at whether other models might deliver not uniform equal proportional representation—not necessarily 2.63 quotas across the state—but other models that could partially deliver the government's agenda, if that agenda is to deliver more equality, without necessarily stripping capacity and resources from regional areas. The Standing Committee on Legislation would be able to review that because, as we have discussed, under the standing orders it has the freedom to question the policy presented to it, a freedom that was denied the ministerial expert panel. It is absolutely the case that the Standing Committee on Legislation could look at alternative models that it could proceed with, and it may well

come back and recommend an alternative model. I can understand why the government would not want that. The government would not want its preferred option questioned. When the Labor Party gets the opportunity to deliver its 120-year-old dream, it does not flinch, and I understand that. I get that the government will not blink on this because this, as the Minister for Electoral Affairs said, is the realisation of a 120-year-old dream.

The motion before the house is a good motion. To refer this bill to the Standing Committee on Legislation to look at the various options and offer potential alternatives should be too good an opportunity to miss if the Legislative Council's intent really is to deliver the best outcome for the people of Western Australia. I think that is what has been missing in much of the debate so far. We have managed to turn this, in my view, far too easily into a party-political debate. I think we need to remember that it is for the people and the community of Western Australia that we function and exist. It is for that reason that the Council sits here. We should be able to surpass that party-political aspect. There is plenty of commentary from the conservative community that is looking at this very much from a party-political perspective, but we do not have to. I will talk about it in more detail in my second reading address. The measure of political outcome is critical to this debate. The measure of success and whether this is good for the people of Western Australia should, in theory, be our primary function. We start each day with a prayer that says that we hope what we will do will be for the best outcomes and the benefit of the people of Western Australia. I am not convinced that the bill before the house has necessarily gone through that scrutiny. The Standing Committee on Legislation could look at whether this legislation will be the best outcome for each person, including those people in regional Western Australia, who stand to lose significant access to their members.

For those reasons, I think this is an excellent motion moved by Hon Tjorn Sibma, and I am very keen to support it. I suspect that those opposite have very little interest in it, but it is with a great degree of pleasure that I ask all members of the chamber to consider supporting this motion to have a genuine and real review of the Legislative Council's electoral options in this state.

**HON JAMES HAYWARD (South West)** [5.42 pm]: I stand to support the motion to refer the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 to the Standing Committee on Legislation. I do not expect to take too much time, to be honest, but I think a few points need to be made.

Members have heard verbatim from this side of the house that the Premier went to the election saying that electoral reform was not on the agenda. He repeatedly said it, and the view of Western Australians going into the election was that what we are dealing with now would not happen. We know that next it was sent off to the ministerial expert panel. We heard some other members speak very competently about the connection of those people, some of them with ideological views that already predetermined, largely, the outcome. Hon Malcolm McCusker also said, not only at the press conference but at a briefing session that we were part of, he felt that the panel had no other choice given the very, very narrow terms of reference the expert panel was given. Hon Malcolm McCusker at our briefing told us that a significant number of documents were put aside and not read. People went to the effort of putting in a submission, and he said at our briefing that many of those the committee looked at and if they did not meet the rules —

**Hon Sandra Carr**: The terms of reference.

**Hon JAMES HAYWARD**: Terms of reference—I thank the member very much for that. If a submission did not meet the terms of reference, it was put aside.

**Hon Dan Caddy**: That is why you have terms of reference, member.

**Hon JAMES HAYWARD**: I thank Hon Dan Caddy. He accepts that is the case. The member accepts, then, that people who made efforts to write submissions that did not agree with the predetermined outcome that the government wanted had those submissions put aside. The argument now is to send the bill to committee so that the people who put the effort into writing submissions that were not considered will have the opportunity, through the committee process, to turn up and give evidence. That is the reason that this bill should go to the committee. It should because the Premier said it was not on the agenda, but we know the reality is that it was and is; otherwise, we would not be here now. People feel that they have not had the opportunity to participate in the process albeit because the terms of reference that were set by the government were so narrow. There is an opportunity now to investigate those things through the committee process.

Another thing that Hon Malcolm McCusker said at our briefing was that the committee would have liked to consider other matters, including the effect of the bill on regional people. He said in our briefing that he had some sympathy for the position of regional people and the challenges that might be before them. But he said that they were not able to pursue, look at or interrogate those because of the terms of reference. That provides a very good opportunity for the Standing Committee on Legislation to consider matters that are wider than those narrow terms of reference. It would give a little more credibility to the process than just ramming it through, because it would give people the chance to have their say and go on the public record.

I would like to make some other comments. During our briefing with the Electoral Commission, there was some discussion about exhaustive votes. We are going to discover, no doubt, over the next couple of days as we talk about votes and how they exhaust after the commission can no longer find a pathway, if you like, because the person electing

the members has chosen only a single party above the line or a limited number of steps, which creates a very difficult proposition for the Electoral Commission. It said to us in the briefing that it would take a considerably longer time to work out who was elected and who was not. The reason for that is, of course, every individual who votes will have their own permutation of potentially what that voting pattern might look like because they will do it individually. Some will exhaust sooner than others. Potentially every single person will have a different permutation. That will make counting votes significantly more challenging as well.

But one of the things the advisers said is that under this new system whereby votes exhaust, the last, as I understood it, maybe 20 per cent, which means six to seven spots, will probably not have a full quota. Hon Matthew Swinbourn is shaking his head; he does not agree that is the case.

**Hon Matthew Swinbourn**: I do not think we said 20 per cent. I do not think it was 20 per cent. I think it was the last maybe one, two or three. But we will get to that more in committee when the time comes, I am sure.

**Hon Colin de Grussa** interjected.

**Hon JAMES HAYWARD**: I am sure the committee could get to the bottom of it. My calculations say the number will be around 20 per cent. That is based on working out the positioning under the current system. We have six regions of six members and out of those, generally, the last two spots are filled by a preference flow, and that preference flow will be affected by the fact that votes exhaust. That is where the 20 per cent comes from, but perhaps that can be tested and no doubt in the debate in the next few days we will discover more about it.

The point I am making is that some of those spots, particularly the last one, might be filled with as little as half a quota. In fact, we do not know how small the quota could be to fill that last position. The government has based its argument on malapportionment, but it is bringing in a system that will deliver malapportionment, because those last seats will not have a full quota. People will be elected to this house without a full quota, but that will be okay under the government's system. That is something to think about as well in terms of malapportionment. It is something that the committee could investigate and look at. It could perhaps crunch some numbers based on some projections or look at the New South Wales model in terms of the rate of exhausted votes. There is actually a fair bit of work that a committee could do to be able to bring this legislation through.

The other thing I would say is that if we are going to push legislation through this house, surely we want it to be enduring. I am sure the government would like the changes it is making to stay into the future. For legislation to be enduring, we need to go through a robust process to make it as strong as possible; otherwise, when the numbers change back the other way, it could potentially be tipped out and started all over again. Surely, that is not a good use of our time or the government's time, or good for our democracy either. There is a real opportunity for a committee to take evidence, dig around with a bit more freedom than the expert committee had, and report back to this house with some responses that could potentially improve the legislation and certainly make it fairer. It could consider some of these elements.

I will wrap up with that. I encourage members to consider sending the bill to the committee. That will not add a great deal of extra time to the process. There is certainly plenty of time before the next election. I think it could potentially bring about a better outcome and give more people the opportunity to participate.

**HON NICK GOIRAN (South Metropolitan)** [5.52 pm]: I rise to support the motion moved without notice by my colleague Hon Tjorn Sibma, which would see the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 discharged and referred to the Standing Committee on Legislation. There are a number of good reasons that this ought to happen, and I encourage members to give this matter proper and serious consideration. Indeed, I can think of at least five good reasons that this bill ought to be referred to the legislation committee. As I embark upon consideration of those five reasons, I note that I was away on urgent parliamentary business when the Leader of the House made some comments on this motion without notice. However, I have had the opportunity to be made aware of the comments that she made. I understand that the Leader of the House indicated that the government will not be supporting the referral. A number of reasons were provided by the Leader of the House, including the existence of the panel, which I want to address in a moment. The Leader of the House also alleged that the motion moved by the honourable member was merely a mechanism for delay, and I also want to address that erroneous assertion.

The first reason the bill ought to be referred to the Standing Committee on Legislation is that Western Australians have been misled. That should be reason enough for the Legislative Council, as the house of review, to immediately refer this matter without an extensive debate. The people of Western Australia deserve better than to be misled by their leaders, but that is precisely what happened over the course of this year. I draw to members' attention, in the event that they have forgotten, that on 12 February this year, there were repeated reports in the media of the Premier's assertion that this issue was "not on the agenda". I draw to members' attention the article from *The West Australian* entitled "Mark McGowan says electoral reform 'not on agenda' as Nationals claim Labor will overhaul Upper House voting". It is dated 12 February this year and starts by saying —

> Mark McGowan has stopped short of giving a guarantee that Labor won't pursue electoral reform of the Upper House after the State election.

It goes on to say —

> The West Australian asked the Premier if he would guarantee that Labor would not pursue Upper House electoral reform.
>
> His written reply did not give that guarantee and instead only said that electoral reform was "not on our agenda".

The article then went on to quote the Premier, who said —

> "All of our election commitments —

For the benefit of *Hansard*, I really think that that "all" should be underlined and bolded. The Premier said —

> "All of our election commitments will be known in coming weeks. Electoral reform is not on our agenda," Mr McGowan said.
>
> "Our priorities right now are focused on keeping WA safe from COVID-19, creating jobs for Western Australians and ensuring our strong economic recovery continues."

There was no problem whatsoever with the member for Rockingham telling the people of Western Australia in February this year that the government's priorities were to keep focused on WA being kept safe from COVID-19, creating jobs and ensuring that our strong economic recovery continues. There was no problem with him saying that to the people of Western Australia in February this year, or that the issue of electoral reform was not on his agenda. There was no problem with him saying that, but a problem arises because he did the opposite after the election. We do not take issue with him saying to the people prior to the election that this was not on the agenda, but we do take issue with the fact that no sooner was Labor on the Treasury bench once again, the highest priority for the government, it would seem, was to do the very thing that the member for Rockingham said was not on the agenda. That is the definition of misleading the people of Western Australia. That, in itself, is reason enough for the matter to be referred to the legislation committee.

Let us test the assertion that there is support for this legislation by sending it to a committee. Why would the government fear that type of process? What does the government have to hide that makes it so scared of this bill going to a committee for a short space of time? What is it? The Leader of the House did not address that issue in the short response she provided earlier. She did not address the fact that the Premier of Western Australia had misled the people. It was not addressed. That could be because it was awkward to try to defend the indefensible, or it could be that the Leader of the House thinks it is fine for the people of Western Australia to be misled. It could be one of those two things, but either way, the opposition is very clear in saying that the people of Western Australia deserve to be treated better than this—they deserved to be able to rely on the member for Rockingham's words prior to the election. If he said that something was not on the government's agenda, they were entitled to rely on that being true. That is the first reason that the bill should be referred to the legislation committee.

The second reason that the bill ought to be referred to the legislation committee is that the Ministerial Expert Committee on Electoral Reform, or as I refer to it, the panel, was handcuffed by the government. It was all well and good for the Leader of the House to use, as one of her two justifications for the government opposing this referral, that this panel, this expert committee, had released a discussion paper, received submissions and the like, until we realise that that particular expert committee had been handcuffed by the government. It was nothing like an inquiry by the Standing Committee on Legislation, which would not be handcuffed by the government, because as a creature of the Parliament of Western Australia and as a creature of the Legislative Council, it would be able to do its job without fear or favour and in accordance with the terms of reference provided to it by this chamber, not by the executive. If members are in any doubt whatsoever as to whether the Ministerial Expert Committee on Electoral Reform had been handcuffed, they might be very interested to know of the public comments made by the chair of that committee at the time the final report was distributed in June this year. I want to take members to a recent article in *The West Australian* from 25 September.

*Sitting suspended from 6.00 to 7.00 pm*

**Hon NICK GOIRAN**: The motion before us would be of particular interest to anyone who serves on the Standing Committee on Legislation. Prior to the suspension for the dinner break, we were considering this motion that has been moved by my colleague Hon Tjorn Sibma that would see this bill, the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, referred to the Standing Committee on Legislation. Earlier this afternoon, the mover of the motion provided an explanation on behalf of the opposition alliance for why this should occur. Prior to the suspension, I indicated to members that in my view there are at least five very good reasons why this motion should be supported by all members, but, at the very least, by a majority of members in this place. The first of those reasons is that it is very clear, in accordance with all the public reports since February this year, that Western Australians have been misled by the McGowan government and, in particular, they have been misled by the Premier of Western Australia, the member for Rockingham. Before the suspension, I indicated to members that I would refer to some of the media reports that confirm the promises and commitments the Premier made prior to the election, specifically that this type of matter currently before us was not part of the government's agenda.

Having dealt with that, I was addressing the second of the five reasons, and that is that the government has utilised and commissioned the Ministerial Expert Committee on Electoral Reform. The proposition that has been put forward by the Leader of the House is that that is the key reason why it is not necessary for the Legislative Council to discharge this bill and refer it to the Standing Committee on Legislation. In effect, the Leader of the House is saying that this type of work—the issuing of a discussion paper, the receiving of submissions and the deliberating on the topic—has already been done by the ministerial expert committee. The point I was making prior to the suspension was that this fundamentally misses the point that the panel was indeed handcuffed by the government. I draw to members' attention an article in *The West Australian* dated 25 September this year. The article is titled "Principle test of one vote, one value". Some of the comments are as follows —

> When Labor wrote the terms of reference for an inquiry into the electoral reform —

I pause there to remind members that the inquiry that has been referred to in the terms of reference is the one contained in the final report of the Ministerial Expert Committee on Electoral Reform from June this year. The article continues —

> that McGowan steadfastly said was not on his agenda, it made the linchpin very specific: "The Government now asks the Committee to review the electoral system for the Legislative Council and provide: Recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council."

The article goes on to say —

> Malcolm McCusker, head of the committee whose three other members were all opponents of Upper House "malapportionment"—that's the opposite of electoral equality—belled the cat at the release of its report.
>
> McCusker … made it clear the fix was in from the start. Only one outcome was possible once the terms of reference predicated everything on "electoral equality".
>
> "Mr McCusker said the 'whole-of-state' model recommended by the committee was 'almost inevitable' given the terms of reference devised by the McGowan Government which sought options for electoral equality in the Upper House," this paper reported last week.
>
> The high-minded ideal of "electoral equality" must surely now be Labor's adopted and overriding principle. It achieved the moral objective for the Lower House in 2005 and now pursues it for the Upper House.
>
> So how would it work when applied to the Senate which the McCusker committee noted is an analogous single electorate to the system it has recommended for the Legislative Council?

The article goes on to provide some commentary on that matter, which is better dealt with when we continue the second reading debate on this matter. The point is that we have the highly unusual situation in which the government has implemented the ministerial expert committee to look into this issue but has handcuffed the committee with its terms of reference, so much so that the head of the committee, Mr McCusker, has essentially conceded that point when quizzed about it at the release of the report. With due respect to the Leader of the House, whose premise for opposing this motion moved by Hon Tjorn Sibma was that it was unnecessary because the work of this expert committee essentially made any work done by the Legislative Council's Standing Committee on Legislation redundant, she fails to recognise that the Legislative Council committee would not be handcuffed in the same way.

This matter also requires us to consider whether the McGowan government has a history of producing top-quality legislation. The Australian Labor Party, when on the Treasury bench, has a history of producing flawed bills to amend our electoral laws. Members need go no further back than the immediate last Parliament, the fortieth Parliament of Western Australia, and the forty-seventh report by none other than the Standing Committee on Legislation. That committee, which Hon Dr Sally Talbot chaired in the last Parliament, tabled a report on the Electoral Amendment Bill 2020 in November last year. The point should not be lost on members that, in the last Parliament, members were concerned that the McGowan government was looking to change electoral laws and so they sought for the bill to be referred to the Standing Committee on Legislation. It is very telling that, when this was undertaken in the last Parliament, it was opposed by the McGowan government. That is why, when the Leader of the House made some remarks earlier today opposing the referral, I thought to myself, "This is groundhog day. We have heard this before." There is an electoral amendment bill before the house. The opposition is suggesting that it could benefit from some supplementary scrutiny. The Leader of the House and WA Labor is saying no; in effect, "This is a flawless piece of art that cannot be critiqued or criticised. There is no need for it to go to the Standing Committee on Legislation." It might interest members who were not here in the fortieth Parliament that the second reading of the Electoral Amendment Bill 2020 started in August. It was transmitted to this chamber on 13 August and was first read on that same day by the then Minister for Electoral Affairs, none other than Hon Stephen Dawson. The bill came on for debate on 8 September and it continued on 9 and 10 September until such time as former member Hon Aaron Stonehouse moved that the bill be referred to the Standing Committee on Legislation. The motion that he moved, rather similar to what we have before us now, read —

> (1) That the Electoral Amendment Bill 2020 is discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 9 October 2020.
>
> (2) The committee has the power to inquire into and report on the policy of the bill.

My former colleague Hon Simon O'Brien moved an amendment to that motion to extend the date. He deleted "9 October" and substituted it with "12 November". All of this is to say that the motion, as amended, passed the Legislative Council in the fortieth Parliament by the barest of margins. It passed with 15 votes to 14 and the bill was indeed referred to the Standing Committee on Legislation. In the last Parliament, we had an electoral amendment bill. The Labor government said, "We don't want this looked at by a parliamentary committee. We certainly don't want it looked at by the Standing Committee on Legislation." The Legislative Council said, "Notwithstanding the objections of the Leader of the House and the Labor government, we want it referred anyway." It just got there by 15 votes to 14. What was the outcome? What was the outcome of the report and the referral of the Electoral Amendment Bill 2020 to the Standing Committee on Legislation in the forty-seventh report? It might interest members who have not had the opportunity to peruse and consider this report to note that there were no less than 16 recommendations made by the committee. This flawless piece of art that was known as the Electoral Amendment Bill 2020, which the Leader of the House and her team said in the last Parliament should not be referred to the Standing Committee on Legislation, resulted in this report that I have in my hand. It has 81 pages and includes 14 findings and 16 recommendations. Such is the quality of the work, draughtsmanship and scrutiny of the McGowan government and the caucus that, despite the resistance, the committee did its work and found flaw after flaw or matter after matter that required further explanation by the government.

I would think that that would be enough to make members pause and consider this. Given that the people of Western Australia understood repeatedly in February this year that this was not on the government's agenda, given that Mr McCusker has effectively said that his committee was handcuffed because of the terms of reference, and given that the McGowan government has form in producing electoral bills in this house that, when they are reluctantly referred to the Standing Committee on Legislation, are found to be flawed—that is three good reasons to send this bill to the committee. However, that is not according to the Leader of the House. She provided only two reasons. She provided the erroneous reason about the fact that this work had already been done by the panel, ignoring the fact that it had been handcuffed. The second reason that was provided was the assertion that somehow this motion by Hon Tjorn Sibma was nothing more than a mechanism to delay.

Let me test the veracity of that assertion by the Leader of the House. I do not know how many members have stooped to actually read the bill that is before the house, but if they have not, it might be a good idea to fully exercise their duty and do so. It is affecting only the composition of the Legislative Council after all. It is some 61 pages in length. It is 97 clauses. For a moment, I would like to draw clause 2 to the attention of members. This is the commencement clause. If members read the entirety of clause 2—it is only lines 5 through to 9, so it will not take too long—they will see that this bill will commence in its entirety, which means all 97 clauses, on the day after assent. All 97 clauses will be fully operational. That means that whether this bill receives assent before Christmas or early next year makes absolutely no difference whatsoever because that is a more-than-adequate lead time for this matter to be addressed before the next election. Members will be aware that the next election is not scheduled to occur until March 2025, so it makes no difference whatsoever to why this bill needs to be fully operational prior to Christmas 2021 or early 2022. There is no harm in the referral motion. Contrary, again, to the erroneous suggestion put forward by the Leader of the House that this is somehow a mechanism for delay, I note that the referral motion before us calls upon the Standing Committee on Legislation to consider and report by no later than 28 February 2022. Had it said 28 February 2025, I could understand why the Leader of the House might be outraged and say that this referral motion was some form of mechanism for delay. But in the circumstance in which clause 2 of the government's bill confirms that this matter will be fully operational within a day of assent being granted, there is no good reason why this matter ought not to be referred to the Standing Committee on Legislation for consideration and report by the end of February next year.

I note, quite apart from the reasons why this bill ought to be referred—the misleading of Western Australians prior to the election, the fact that the so-called expert panel has been handcuffed, the fact that not only does the government have form in producing bills of this nature that are flawed, but also it will do no harm to the time frame for the implementation of these so-called reforms—any referral, if it were to be agreed by the house today, will benefit the government because it will be able to expedite some other bills that are currently before the house. I find it astonishing that the McGowan government would obstruct this bill going to the Standing Committee on Legislation for further scrutiny and, by doing so, prevent a number of other bills from being considered by the house this week and what I anticipate may be a number of weeks next month.

One of those bills is the Administration Amendment Bill 2021. If this bill were referred to the Standing Committee on Legislation this evening, and if the government decided, we would be able to deal with the Administration Amendment Bill tomorrow. The president of the Law Society of Western Australia recently wrote to the McGowan government complaining about the fact that the Administration Amendment Bill continues to be delayed and continues to be buried by the government. The president of the Law Society has appealed to—in fact, he has pleaded with—the government; I might add, it is not the first time. There has been continuous advocacy on the Administration Amendment Bill because it will have a meaningful impact on dozens of Western Australians every week, but it has been continued to be buried by the government. Indeed, I note, that even in this week's *Weekly bulletin* that bill has not been given any particular high standing, but there is no prospect of getting to it at all this week because, instead, the government has said this bill is the top priority.

Even if the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill is not referred to the legislation committee this evening, it could not sensibly be considered to be a higher priority than the Administration Amendment Bill, which would have a meaningful impact on Western Australians as quickly as this week if the bill were passed; whereas, the bill before us cannot, whatever measure of benefit is prescribed to this bill, meaningfully take effect until the next election, another three and a half years away. We have the opportunity this evening to decide whether we want to benefit Western Australians immediately with respect to some other legislation—for example, the Administration Amendment Bill—or whether we want to continue to defer that benefit for those individuals so that the McGowan government can make some point, which is not evident to any fair-minded Western Australian, that apparently this has to be debated and passed before Christmas.

I mentioned earlier a key reason that I think that this bill ought to be referred; that is, Labor governments have form when it comes to introducing flawed bills. I have already referred members to the flawed Electoral Amendment Bill 2020, which was the subject of the forty-seventh report of the Standing Committee on Legislation, but there was also the eighth report of the Standing Committee on Legislation in the thirty-sixth Parliament. The Chair of the Standing Committee on Legislation at the time was none other than Hon Jon Ford. The report titled *Report of the Standing Committee on Legislation in relation to the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001* is fairly extensive. Members may not have the opportunity to peruse and consider it before we finalise the consideration of this bill, but for those members who do have some spare time, I encourage them to do so. It is 205 pages in length; but, very interestingly, the report is about two bills—the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001. The legislation went to the Standing Committee on Legislation for a short period and was third read in December 2001. It might interest members to know that two years later, on 13 November 2003, the High Court ruled the bills invalid.

We have a very interesting set of circumstances here—Labor governments, whether in the thirty-sixth Parliament or the fortieth Parliament, have a demonstrated history of producing electoral amendment bills that are deeply flawed. The deepest flaw possible is the High Court ruling bills invalid, or there is the less flawed version, which is the McGowan government at the last election and the forty-seventh report of the Standing Committee on Legislation. Might it be that that is part of the reason the Leader of the House and the government are so resistant to this bill going to the committee? Might it be that there is history and form that confirms that when they produce these electoral bills, they end up with flaws and there are problems that need correcting? But the arrogance is so palpable that in the forty-first Parliament, under no circumstances could we possibly let the Standing Committee on Legislation fulfil its role and duty to Western Australians to consider these important laws, which were supposedly not on the agenda and which have been considered by an expert panel that effectively said that it was hamstrung and handcuffed because of the terms of reference.

This 97-clause bill would benefit immensely from scrutiny by the Standing Committee on Legislation. I served on this committee in the last Parliament. Indeed, Acting President (Hon Dr Sally Talbot), it was chaired by you in that last Parliament, and, if my memory serves me correctly, it is also chaired by you in the current Parliament. This committee has the opportunity to enhance the legislation before us.

I would like members to consider this point: if the matter were to be referred tonight to the Standing Committee on Legislation and we then had the benefit over the rest of this week and indeed when we returned next month to progress the government's other so-called legislative priorities, we could come back in February and the Standing Committee on Legislation could give us a report, but it would not compel the government to agree with anything in the report. The government will still have complete control of the agenda, complete control as to the timing and passage of the bill next year, and complete control as to what amendments are agreed to, if any. But as a house of review, we would then all have the benefit of expert advice from the Standing Committee on Legislation, which will have had the proper time to interrogate the bill, to call witnesses and to seek submissions without being fettered by terms of reference that handcuff it. We will be the better for it; the government will be the better for it, because its legislation will have the opportunity to be improved and it will not affect its time line in any way whatsoever—if anything, it will help the government progress other bills in the interim. So why the resistance?

Will another member of the government respond to these concerns? The only response that has been provided so far is from the Leader of the House, who made two simple points—saying, in effect, that this referral was redundant because of the work of the Ministerial Expert Committee on Electoral Reform and that it was a mechanism for delay. That has now been demonstrated to be inaccurate, so there must be some other reason why this bill's referral to the standing committee is going to be opposed. What is it? Let us remember that this government promised gold-standard transparency. So, as part of that gold-standard transparency, it should not be asking too much of the government to provide a reason. Could it be that the government is fearful that there is not the support in the community for this legislation? Could that be the case—or is there overwhelming support for the legislation? If there is overwhelming support, tell us about it. We know much about this government. We know there is a fair obsession with polling, so it has probably already done that—provide it. It should at least do one of the things that the Standing Committee on Legislation would be able to provide to us, which is indication of some form of support within the community. If the community is so supportive of abolishing regional representation, there should be no problem providing that information. Sadly, there has been no indication from the government on these matters.

The last matter I want to turn to is that I think we would be all the better for the Standing Committee on Legislation providing to us two critical pieces of information. The first is: to what extent is the 97-clause bill before us consistent with the recommendations made by the Ministerial Expert Committee on Electoral Reform in its final report? It has been suggested to me that elements of this bill are in fact inconsistent with the *Ministerial Expert Committee on Electoral Reform: Final report*. If that is true, we need an explanation about those matters and those matters ought to be tested—all the more in circumstances that, supposedly, this matter was never on the agenda in the first place, and all the more in circumstances that the government is saying to us, "We don't want the Standing Committee on Legislation to consider this bill any further." We need an explanation. The best forum for that explanation would be via an inquiry by the Standing Committee on Legislation.

The other matter that I think the house would benefit from is for the Standing Committee on Legislation to do a reconciliation between the government's Electoral Amendment Bill 2020 in the fortieth Parliament and the bill currently before the house. Again, it has been suggested to me that very few, and possibly none, of the elements of the bill in the fortieth Parliament have found themselves into this bill in the forty-first Parliament. That being so, that in itself warrants some form of inquiry. Why was the time of the fortieth Parliament wasted by the government considering the Electoral Amendment Bill 2020, which the government at the time opposed referring to the Standing Committee on Legislation? Why was all that done in circumstances in which the government said there was no problem, there was no fault, and that all these things were delaying tactics? Why not bring those matters on now? Were there any redeeming features in the Electoral Amendment Bill 2020 that warrant consideration at this time when the house is being asked to urgently consider the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021? These are all pieces of information that the Standing Committee on Legislation could provide to us, but only if the matter is referred to it.

In conclusion, I indicated to members that there are in my view at least five reasons why this bill ought to be referred to the Standing Committee on Legislation. I think that any fair-minded person who looks at the history books since February this year will recognise that the people of Western Australia were misled by the member for Rockingham when he consistently said that this matter was not on the agenda. That is reason number one. Reason number two is that the panel that the government relies on as the key foundation block for this bill was handcuffed. We only need to look at the remarks by the chair of the Ministerial Expert Committee on Electoral Reform. Reason number three is that we have a political party that, when in office, has form in producing flawed pieces of legislation regarding electoral amendment. Reason number four is that we know there will be no harm done by a referral, as all the government's implementation can occur well in advance of the next election. Lastly, this referral will enable other higher priorities to be addressed by the Legislative Council this week.

**HON NEIL THOMSON (Mining and Pastoral)** [7.38 pm]: I rise to also commend this motion to refer the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 to the Standing Committee on Legislation. In my thoughts about this, I want to reflect a little on the pace at which this process was undertaken and how it reflects very poorly on the government and, may I say, reflects poorly on the Ministerial Expert Committee on Electoral Reform. I know that the members of that committee came with serious academic credentials. I would expect that in their quiet moments, they would reflect upon this recommendation within the broader context of electoral reform that we see across the world. There are many places where electoral reform has occurred and I will speak later in my discourse about the process that was undertaken in my homeland of New Zealand with the introduction of mixed-member proportional representation in the 1990s.

**Hon Darren West**: This is not your contribution to the second reading; you have to talk about the referral.

**Hon NEIL THOMSON**: I am going to speak about why I recommend that this bill goes to a committee. It is important to refer it to a committee to salvage something from this very shoddy process and apply some appropriate rigour to it to ensure that we have something that we can be proud of to some extent going into the future.

Often we in this place hear about the Labor government's desire for co-design. We see many examples almost on a daily basis of how things are being co-designed. For example, I think there is a genuine attempt to co-design a marine park. Co-design is an important concept, because it implies that there is an engagement with the very people the changes will affect, to the extent that those people can have a say in that process and all matters relevant to that process can be considered. We have in this place a bill that has not been co-designed. I do not think anyone in this place could possibly think that about a process that was hatched with terms of reference that looked as though they were written on the back of an envelope for a committee that was seeking submissions by 8 June. The election was on 13 March and the final date for submissions was 8 June. I went through the list of submissions on the website. I counted approximately 20 from organisations and there were a number of submissions from individuals. There were not a lot of submissions. Those opposite might take comfort in thinking that people do not care or think that this is important enough to put in a submission, but I think that people have not participated in this process simply because they have not been given the opportunity to do so or to think about the implications of what has been proposed.

When I travel the region far and wide, I talk to people about this issue and I get a combination of views. First, I get the view of resignation: "This government will do whatever it likes; there's nothing we can do about it."

**Hon Darren West**: What has this got to do with the referral?

**Hon NEIL THOMSON**: I am sure the member opposite who is interjecting at the moment would probably hear the same points. The view of resignation is: "There's nothing we can do about it." Another view is: "Really; this is happening? Are these the implications of it? We hadn't thought of that." Then there is this very strong view that is put to me: "This is wrong and is going to result in a bad outcome for the regions in particular."

We saw the lightning speed with which submissions were sought—by 8 June. Certainly, there was a lot less time than was applied to the co-design process for the Buccaneer Archipelago, the proposal for which is still with the minister. I understand that that process has taken two to three years. This is no reflection on that process, but there have been two to three years of detailed submissions and consideration for an environmental matter compared with about two months of consultation on something that is so fundamental. It is about the way we trust our basic democracy to function, how we in this place and those in the other place represent constituents, and how the views of our communities are taken account of in legislation, regulations and policies.

I have gotten to know members opposite over the last few months and I know that they are decent people and want to leave a legacy. The academics on the Ministerial Expert Committee on Electoral Reform may be looking over their shoulders and thinking about the other sorts of reforms that have happened around the world. I suggest that they might not want to put this on their CV. This is not something that they would want to be proud of, because the panel's terms of reference were simply not broad enough and there was not enough time to consult widely and bring people along. In our democracy, we must bring people along with us on the journey. We cannot just pronounce edicts and expect people to follow; we must bring people along on the journey. By referring this bill to a committee, we will provide the opportunity for some modicum of involvement. I do not think it is ideal. A more ideal process would be to take a much longer journey on this because it is so fundamental.

I will outline the process that occurred in New Zealand after I left in 1985. New Zealand had a system called first past the post. First past the post was applied to a single chamber.

**Hon Sue Ellery**: You know you're not making a contribution to the second reading. You need to keep telling us why it should go to a committee.

**Hon NEIL THOMSON**: I have other things to talk about at the second reading stage. I am asking you to listen.

**Hon Darren West**: You need to talk about the referral.

**Hon NEIL THOMSON**: I want to pause. This is about the amount of time we have taken to get to this point.

In New Zealand, the issue had been bubbling along for a hundred years, just like this process has done. There had been discussions about it in the 1950s. People were not happy with the emphasis placed on the two-party system. In 1986, New Zealand had a royal commission that looked at a range of options. It was absolutely fantastic. In 1992, New Zealand had a referendum that basically asked a simple question: do you want to change the system? Eighty-five per cent of the New Zealand public said, "Yes, I do." A mandate was given to the Electoral Commission and the government of the day to undertake a review of the options to provide a much more balanced representation in the Parliament of New Zealand. In 1993, a binding referendum with a model was presented to the community and that passed with a mere 54 per cent, so it was a close-run thing.

The important part of that, and the reason I want to refer this bill to a committee, is that in putting it to a referendum, the 46 per cent who opposed the model were able to accept that that was the verdict of the people. There was a proper process. When I go back to New Zealand, I do not hear people complain about mixed-member proportional representation. It is a complex system, but it allows for a variety of representation, with people representing regions and people representing specific electorates. It is not unlike the system we have here, but different because we have two houses, one representing regions and one representing electorates. The outcome was that in 1996, the first election was held using that system, and it has governed New Zealand since. It was given detailed consideration and people were brought along with it. There was broad acceptance of the outcome so when it comes around to elections people feel that their views are heard and they are able to embrace that outcome. It is very important to retain confidence in our democracy.

I will speak specifically about this proposed process because I think referring it to the Standing Committee on Legislation will enable the committee to call witnesses, as I understand it. People will be able to be called and that will provide a broader range of submissions. I have been on the phone today making some calls to follow up on some of the conversations I had earlier. I looked through the list of submissions to the Ministerial Expert Committee on Electoral Reform and noted groups such as WAFarmers, the various local government authorities and the Regional Capitals Alliance of WA were the main organisations that presented to the expert committee, as did some individuals. The thing about those organisations is that they are all well geared up to respond. They have staff; they will see that something is happening and be able to put together a submission very quickly and respond with a detailed report within the two-month time frame.

**Hon Darren West**: So what's the point of the referral?

**Hon NEIL THOMSON**: Clearly, the member opposite who keeps interjecting does not understand that people out there do not have the same resources and cannot make the same responses. I have spoken on the phone to Aboriginal

corporations, for example, and to land councils, and they have not put their mind to this in a big way. They are just starting to ask questions about what this will do to their representation. It is particularly pertinent given the challenges they are facing such as the Aboriginal Cultural Heritage Bill, which will come before this Parliament. They are beginning to see that, potentially, that legislation might have a more detrimental effect on them when they complain about the lack of representation and co-design. They are seeing that this will impact on them. In the same way, they will not have a say about the Aboriginal Cultural Heritage Bill to come before this place. I am sure even members opposite will have some reservations about that bill but, clearly, they will not be able to speak about it because that is the way the party line works. They cannot speak against their own bill but at least because of this arrangement in which people are dedicated to certain regions and have close connections with those people, they will be able to raise issues and be in regular contact and represent their views. I am not saying it is perfect. I see the lack of representation even under the current system.

**Hon Darren West**: Speak for yourself.

**Hon NEIL THOMSON**: Again, the member opposite keeps interjecting. I do my best to listen to the people of the Mining and Pastoral Region. It is a massive area but I get around it as much as I can and listen to what people say. It is important that this issue is dealt with at the very least through the legislation committee. That committee can call on witnesses, call on Aboriginal corporations, call on prescribed body corporates—people who do not have the capacity to knock up a submission in two months when it is advertised through *The West Australian*. We see appalling arrangements at the moment when even some of the COVID material is put through *The West Australian*. Nobody from these communities reads *The West Australian*. It does not get to those places.

Several members interjected.

**Hon NEIL THOMSON**: The government might be comfortable running its process through *The West Australian* but at the end of the day communities need to be engaged in a proper way. They need to be talked to in situ. I repeat it because I would hate to be those professional academics with this review sitting on their CV when they compare the process that happened in New Zealand and other jurisdictions where there was serious academic thought and engagement. It is an embarrassment. I would hate to be those academics. I am pleading with members opposite to agree to this motion because in some way this motion will help retrieve their reputation by saying that they are serious about engagement, serious about co-design and serious about talking to people on the ground and will not leave a legacy that is an embarrassment to them all because they just knocked up this bill and pushed it through without any thought. Let me say that so many other things could have been included in the terms of reference. I do not know what would be possible, but I hope the standing committee could look at a broader range of issues.

There is talk of 98 votes, how many votes I got or whatever happened or someone got 5 000 votes—whatever. I look at how much the quota was for the Mining and Pastoral Region, but do members know that if they look at Aboriginal participation, they will see that only 69.7 per cent of Aboriginal people are enrolled to vote. That is on the Electoral Commission website. Along with the Northern Territory, Western Australia has the lowest rate of involvement in the electoral process. It is an absolute shame and embarrassment for this place that it is so low. I know that if we took out people of Aboriginal descent who live in the south west and in Perth, the rate would be much lower. I am sure the rate in communities like Warburton and Balgo is around 50 or maybe 40 per cent. I do not know. The ministerial expert committee did not look at that or think about that issue, which is vital when it comes to representation and how many people are enrolled to vote. Do members know that when we put on top of that the number of people who voted in Mining and Pastoral, the rate was below 70 per cent. It was sitting around 72 or 71 per cent at the previous election, and it dropped below 70 per cent. I spoke to a number of people, and people are frustrated. I spoke to people in communities who said that they went fishing; they got right out of the place because they felt that they would not be able to have a say in the process. To me, that is a very serious issue that the expert committee should have thought about. The committee should have considered how to increase participation, as I was.

**Hon Kyle McGinn**: We were out there getting people signed up. What are you talking about? It's absolute rubbish.

**Hon NEIL THOMSON**: The statistics show it to be true. This is not about partisan politics. This is not about Labor versus Liberal. This is about participation in the democratic process. I think it is a stain on the expert committee's academic reputation. I will repeat that over and over because I know how much academics treasure their reputation and I think this is something they will regret. I say to members that this is their opportunity right now to support this motion for the bill to be referred to the Standing Committee on Legislation so that the committee can call witnesses—people who were not involved in that submission, who could not make submissions due to distance, time or resources. The disenfranchised people of our community can be enfranchised by the work of the standing committee.

I personally think the committee needs more time to consider the bill. I would like to see it have at least six months because I think its members need to get on a plane, visit some of these communities and sit down and talk to people in these communities about the impact of this legislation on them. It will impact them in the long run. I will talk about this during the second reading debate. Tonight I want to speak about why I want this bill referred to a committee. That is what I am presenting today.

My plea to members is to please reconsider your opposition to this motion, for the sake of your own reputation and legacy, so that you can put your hand on your heart and say that you did something worthwhile to improve democracy in this place and not absolutely ram something through, which will show up the arrogance of this government into the future. I want to say one last thing. I look at the title of this bill—the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. I want to be in this place the day we put a "Constitutional and Electoral Legislation Amendment (Electoral Equity) Bill" before this place and it is passed. That will be the day that the stain of this bill will be undone. We now have an opportunity to make good that stain and deal with it through this proposal. I commend the motion to the house.

*Division*

Question put and a division taken, the Acting President (Hon Steve Martin) casting his vote with the ayes, with the following result —

Ayes (8)

| | | | |
|---|---|---|---|
| Hon Martin Aldridge | Hon Steve Martin | Hon Dr Steve Thomas | Hon Wilson Tucker |
| Hon James Hayward | Hon Tjorn Sibma | Hon Neil Thomson | Hon Nick Goiran *(Teller)* |

Noes (20)

| | | | |
|---|---|---|---|
| Hon Klara Andric | Hon Sue Ellery | Hon Ayor Makur Chuot | Hon Matthew Swinbourn |
| Hon Dan Caddy | Hon Peter Foster | Hon Kyle McGinn | Hon Dr Sally Talbot |
| Hon Sandra Carr | Hon Lorna Harper | Hon Martin Pritchard | Hon Dr Brian Walker |
| Hon Stephen Dawson | Hon Jackie Jarvis | Hon Samantha Rowe | Hon Darren West |
| Hon Kate Doust | Hon Alannah MacTiernan | Hon Rosie Sahanna | Hon Shelley Payne *(Teller)* |

Question thus negatived.

*Second Reading Resumed*

**HON WILSON TUCKER (Mining and Pastoral)** [8.06 pm]: I rise to give my speech in the second reading debate on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. I feel compelled to speak today, considering I have been called out as the reason behind this historical reform that is before us today. As I have previously mentioned, I find these comments very flattering, but I think all members would know that they are not true.

I was recently referred to as Mark McGowan's stalking horse on this issue by a political reporter, which I thought was amusing. By now, I think we are all familiar with the circumstances surrounding the introduction of this bill. We have the Premier's broken pre-election promise. We also have the Labor Party's historic win, giving it control of both houses and putting this issue that we are dealing with today back on the agenda.

During my last five months in this role, I have learnt a few phrases and words of wisdom. Two of these are applicable when we talk about this bill today. I will share those with members now. Firstly, "If you are going to break a promise, do it early in the term and hope that voters will forget by the next election." There is a significant amount of outrage in regional WA. The timing of this bill does not feel like a coincidence. Indeed, I do not believe that anything the government does is by accident. Secondly, "You do not form a committee unless you know the outcome of that committee", and that is exactly what we saw with the expert panel given very tight terms of reference and very fixed marching orders. It produced a result that was predetermined and benefits the government. It really does raise the question: how interested do we think the Labor government would be in achieving electoral reform if it did not benefit the government? I think we all know the answer to that question. Taking the moral high ground on this issue and pursuing voter equality rings hollow when it produces an outcome that will benefit the Labor Party in the next election and certainly in elections to come.

I am not going to spend much time talking about the political exercise and the machinations behind this bill. I want to focus on the bill itself, and really from the lens of a minor party representative. Group voting tickets in preferencing is apparently the reason Labor decided to overhaul this system. It is unfortunate that the issue of GVTs is being contemplated with the issue of one vote, one value in the regions. I just want to state that I am not here to defend group voting tickets. I fully acknowledge that there is an issue with the preferencing of candidates. I think Western Australia could do a lot worse than a tech worker who believes in a time zone shift. I fully acknowledge that given the circumstances we find ourselves in with a global pandemic, there is the propensity with the GVT system to elect someone to this place without broad community support and that they could use this seat as a mouthpiece to spread misinformation that is against health advice. I welcome the expert panel's recommendations on GVTs and I am glad to see that they have been adopted as part of this bill.

I want to touch on optional preferential voting. The proposed system will allow for above-the-line voting and below-the-line voting. It is in a way a reflection of the current system. Antony Green—who does not need any introduction in this place—commented that when governments put in a new voting system, voters tend to vote conservatively until they understand that system. That will mean that in the next election, voters will vote above

the line more when they would ordinarily vote below the line. When people vote above the line, it tends to favour more established parties. Certainly, in the metropolitan areas we will see a greater concentration of those votes, which favoured Labor in centre-left seats.

A lot has been said about regional voting. I have had unofficial conversations with members around this issue and their comments were to the effect of, "Wilson, if you are keen on being re-elected, you should ignore the Mining and Pastoral Region for the next three years and focus on the metro area." I am wearing two hats: I am a regional member and the leader of a minor party. As leader of the minor party, the issue I represent is more popular in metro areas, so the low-hanging fruit—the path of least resistance for me—would be to ignore Mining and Pastoral and focus on areas with a high concentration of voters and certainly voters who back the issue I support. I do not intend to do that. I take my role as a member for the Mining and Pastoral Region for the next three years seriously. Certainly, setting up a 37-member single state electorate will open the door for people trying to appeal to voters on populist issues in the metro area. I will give an example of this. If an Independent candidate living in Broome, who has been a Kimberley resident for their entire life, wants to win a seat in the upper house and, by magic and happenstance, picks up the 14 000 votes of every voter who lives in Broome, it would still not be enough to get a quota, or indeed half a quota, to have a chance of picking up a seat. That means candidates will have to appeal to a wider voter base, and the easiest way to do that is to adopt a populist issue and appeal to the highest density of voters, which will be in the metro area. That will be a by-product of a 37-member electorate.

I turn to registration and re-registration. Currently, 500 members are required to form a party and that is not changing at all. What is changing is the re-registration requirements. Parties will be required to get 500 signed declaration forms from their members, which is different from the current process in place. Parties will have 12 months to do that as well, which is very time restrictive. It is unrealistic to expect that parties canvassing their member base to get them to fill out these forms will get 100 per cent of their members to submit those forms. If a party has just scraped in with 500 members, it is highly unrealistic that all members will provide those forms back. The question is: how many members does a party need to re-canvass to provide forms to meet the requirement of 500 members? A political party has a couple of options open to it to re-engage with its member base and get them to complete these forms. Taking into account that we do not know what format the form will take—it will be decided by the Western Australian Electoral Commissioner; it could be electronic or printed—if they are printed forms, there will be a lot of restrictions and hurdles to overcome, especially for regional members, in circulating those forms and getting them back.

It could be an email campaign—so an email blast out to a party's members. Looking at the breakdown for government and politics, the email click-through rate for a campaign is 5.5 per cent. If we run that up to six per cent, for every 100 members, a party would get six responses. If we extrapolate that, a party would need 8 300 members to get 500 forms returned as part of an email campaign. Another option open to parties is doorknocking. This presents a significant hurdle for minor parties; we just do not have the resources to do this. We are in the middle of a global pandemic as well, and I am not sure how comfortable people would be having strangers knock on the door, requesting they fill in forms. Again, it is highly impractical in regional WA, unless a party has an army of volunteers to doorknock and get those forms returned. Another option is direct mail. The response rate for direct mail is roughly 4.4 per cent. Again, if that is extrapolated, it means a party would need 11 380 members to retrieve a response of 500 forms using mail-outs. There is also a cost element to mail-outs; typically, it is $2 to $3 per letter for a mail-out. Let us be conservative and say it is $2. If a party has to send out forms to 11 000 members to get 500 returned, that means it will cost the party $22 000. Social media has about a three per cent response rate. The other option is phoning members. Again, there is obviously a restriction for smaller parties that do not have an army of volunteers to call and engage with members. If a party is warm calling—it has a passionate, engaged member base that it is reaching out to—the phone conversion rate could be as high as 25 per cent. If we look at political parties and be conservative, we see that realistically it would be around 12.5 per cent. Let us round that up to 13 per cent; that still means a party would need 4 150 members if it was contacting them by phone. Adding up these figures and then, to be conservative, adding, say, a 10 per cent overlap from these different channels, it is 2 000 members. That is being extremely conservative; I think realistically that number would be a lot higher. A party would need to have a minimum of 2 000 members.

There is also a $12 000 fee incurred to run in an election. If a party wants group candidates, under this legislation it will need five members and $2 000 for the registration fee. That is $12 000 to contest the election. If we look at the other communication channels, my napkin maths comes to about $37 000. It would cost $37 000 for a party to re-canvass its member base to be eligible to run in the next state election. What this means for the Daylight Saving Party and certainly a lot of other political parties is that unless they dedicate significant time, resources and funds to re-canvassing their member base for the next 12 months, they will be deregistered. In my case, I will be forced to become an Independent. Certainly, this is not an issue for a major party that has a million-plus dollars coming to it as donations, but, again, it will really impact grassroots parties, minor parties and Independents in WA politics moving forward.

I have a few recommendations. I am sure they will fall on deaf ears, but I will say them anyway. We have an existing Western Australian Electoral Commission system to validate members. If a registered party does not have an elected

member and contests an election, the WAEC will validate that the party has 500 legitimate members. The WAEC will phone them and extrapolate the numbers and satisfy that requirement in its mind. The bill says that the current system is inadequate and it artificially raises the bar, just for the sake of it, to force minor parties to not be able to contest an election.

We also have e-voting. There was a recommendation by the expert panel on e-voting. It was along the lines of: if the government is realistically trying to achieve equality, it should also adopt e-voting to increase participation in our democracy. We are seeing in the Mining and Pastoral Region a 72 per cent voter turnout. That is a lot lower than the 85 per cent turnout in the other jurisdictions. E-voting can be used side by side with the more traditional means of voting. Certainly in the Mining and Pastoral Region there are difficulties holding an election by the standard means of mail-in ballots and going to the polling booth on election day. E-voting, as recommended by the committee, could be used in conjunction with our traditional means to enhance our democracy and help the voter turnout.

In closing, I do not think this will come as a surprise, but I cannot support the bill in its current state. I welcome the changes to the group voting ticket system, but, as a regional member, and certainly as the leader of a minor party, I do not believe that the restrictions around the requirements for re-registration have been fully considered and fleshed out. In my opinion, it will signal the death of grassroots activism and political parties in WA.

**HON MARTIN ALDRIDGE (Agricultural)** [8.21 pm]: I quote —

> It is not on our agenda, I've answered this question many times, it's not on our agenda, we care deeply about country WA and the issues of jobs, health, education, important infrastructure other sorts of things that we will implement.
>
> …
>
> Well, I'll be clear, I'll be clear again, it's not on our agenda enhanced regional representation will continue and this is just another smoke screen by the Liberals and Nationals.
>
> …
>
> No like I said before it's not on our agenda.
>
> …
>
> It's not on our agenda we support enhanced regional representation.
>
> …
>
> As I said it's not on our agenda, we support enhanced regional representation.

Those quotes might sound repetitive, because they are. That was the Premier of Western Australia just days out from the state election speaking at a media conference in Albany on Tuesday, 9 March. The Premier said explicitly, seven times in one interview, that the very thing that is before the Legislative Council today was not on the government's agenda. It is now clearly obvious that this matter was not only on the agenda, but also a high priority of the government. As I said earlier tonight, about that same time, the Labor Party was also appealing consistently to voters who had never voted Labor for the first time, to trust and have confidence in Labor. The government shared an infographic with a quote from the Premier that said this —

> If you're thinking about voting for me and WA Labor for the very first time this election, this is my message to you:
>
> You should feel confident in that decision.
>
> My promise is simple—I will lead a sensible, responsible, experienced Government.
>
> We will keep our promises, and properly manage the finances.
>
> And we will always keep WA strong.

It is now obvious that not only did Labor have a plan before the election, but also it deceived voters in appealing for their trust. For many of them, perhaps for the first time in their lives, they voted for the Labor Party. Local members and candidates shared this post in unison; it was orchestrated. Hon Darren West said on 21 February —

> If you're considering voting WA Labor for the first time, Mark McGowan makes this commitment to you.
>
> I've known Mark for over 20 years. He keeps his commitments.
>
> He's a great bloke, a great Premier and he'll keep WA strong.

It is interesting to consider the point at which we have arrived today, particularly now that we are now onto our third Minister for Electoral Affairs, that we have this bill that has been prioritised by the government. The government's choice of electoral affairs minister is also interesting. I remind members that on Wednesday 12 August 2020—not long ago—this house passed a motion in this form —

> That this house —
>
> (a) notes the false and misleading claims of the Attorney General on 28 May 2020;

(b) notes his repeated failure to provide full, frank and reliable information to the Parliament;

(c) expresses its concern about the suitability of the member for Butler to continue as Western Australia's first law officer; and

(d) acquaints the Legislative Assembly accordingly.

As far as I know, that remains a resolution of the Legislative Council. It was passed by a vote of 20–12, with every single non-government member in this place at that time supporting the substance of that motion. I suspect that was critical in the Premier's choice of electoral affairs minister. Who better to get the job done—the job that will deliver the plan that was well and truly considered and developed prior to the last election?

It is no wonder, when circumstances like this occur, that voters have little faith in what parliamentarians say. They have little trust and little faith, and it has been that way for a long time. I draw members' attention to regular surveys of community attitudes towards professions. The one that I have this evening is a Roy Morgan survey from 2021 that shows, again, state MPs ranked amongst insurance brokers, real estate agents, advertising people and car salesmen. It is interesting that we join car salesmen in the rating of professions for ethics and honesty, because it is obvious and clear that the voters of Western Australia were deceived at the last election and they bought a dodgy second-hand car. That is what happened. The Labor Party and its candidates were not brave. If ever there was an extraordinary election to put something brave and honest on the agenda—the Labor Party's 120-year-old plan for electoral reform—I suspect the Labor Party would still have been elected, but at least it could stand in this place and say it was honest with the voters of Western Australia in the lead-up to the last election. It did not do that; it did the opposite.

I want to reflect on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill, which is order of the day 16 according to the notice paper. That means there are 15 other orders before it, 14 of them bills. However, this bill is the government's highest priority amongst the 15 bills, by my count, that stand on our notice paper. It is interesting that two of those bills are the appropriation bills. I would have naturally thought that the highest priority of a government at any time would be to pass its appropriation bills, particularly in the uncertain environment that we are in. I would have thought that maintaining the flow of cash to government and government services during an unprecedented and extraordinary state of emergency would be the government's highest priority. I would have thought that the COVID-19 response bill that was introduced into the Legislative Assembly to extend the emergency powers would have been the government's second-highest priority, Instead, we are here debating order of the day 16, the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, a bill that the Labor Party deceitfully told Western Australians ad nauseam at the last election that it would not introduce.

I made some remarks earlier tonight during the referral motion and I do not intend to restate them but I want to make some important points. One is that this bill is by no means urgent. It is clear and obvious that government members will use the brute force of their numbers in this house, just like they did in the other place as they gagged and guillotined, to ensure that they achieve the end that they desire. It is not an urgent bill. As I said earlier this evening, this bill can be contemplated in the fullness of time, in my view preferably with the consideration of a standing committee, and still be passed next year without impacting on any provision in the bill. Members must ask why this bill is so urgent. The view that I just expressed is not mine alone; it was a view that was put to me in response to a question that I asked at my briefing with the advisers. Their view was that it only needed to be passed before the next election. Obviously, some provisions like the registration of parties would preferably be passed 12 months before the writs were issued for the next election. I believe there is clearly an intended consequence, not an unintended consequence, of also disrupting the regional districts in the Legislative Assembly; therefore, it will be the government's intent to pass this bill before the distribution process kicks off, which is 18 months after an election. We have adequate time. This bill should not be prioritised over the appropriations or the COVID emergency powers bill, yet it is. I think the real reason that this bill is being prioritised is that government members know the deceit that they are engaging in in this chamber tonight. They know. They hope that the sooner they clean up this mess by sweeping it under the carpet or washing it away, voters will not remember their betrayal in three years.

Earlier tonight, I canvassed quite extensively my views around the ministerial expert committee process and I do not intend to rehash them. However, the government made a deeply flawed suggestion when it said that this bill is pure, perfect, well consulted and well informed because it had appointed a ministerial expert committee. The term of appointment was eight weeks. I am pretty sure that the public submission period was only four weeks. The discussion paper was released two weeks into that four-week process, after it had received 28 of the 184 submissions. I am not sure that anybody could stand in here and say that, based on that information, this was a proper process. That is before I even get to the flawed terms of reference and the questionable previous associations of committee members to not only Labor governments but potentially the Labor Party. At least three of the four expert committee members had well-entrenched views on the matter that they were asked to consider. Of interest, I was advised at my briefing that 62 of the 184 submissions supported the government's so-called electoral equality and 79 did not. It would be interesting to get a more fulsome account of the government's analysis of the 184 submissions so that we could understand that if this is the only consultation that the government is going to undertake, what is it that people said about different aspects of the terms of reference. Keep in mind that not all the submissions are public.

I want to turn to some of the limbs of the bill, which I think in the limited time we have are going to be best explored during the Committee of the Whole stage. The explanatory memorandum groups them into a number of categories; I think there are 11 in total. Obviously, the first category is the whole-of-state electorate, which is a matter that I intend to return to. The second is the increase in the number of Council members from 36 to 37, which can be found at clause 6. The explanatory memorandum suggests that this is to make it easier for a government to form a majority in both houses. I find this interesting because some of the information I have read suggests it is unlikely that any government will form a majority in both houses, yet this is the basis upon which we will increase the membership of the Legislative Council to 37 members. The second reading speech, along with the government media statement, refers to it as providing the Presiding Officer—the President—with a meaningful vote. This is one of many matters that have been adopted in this bill which cannot be found as a recommendation of the ministerial expert committee. It is also not costed. At the briefing, it was not possible for the government to tell me what the cost of an additional member of the Legislative Council would be, which I find quite extraordinary. Nor is it known what the cost will be to taxpayers in making 37 members of this Legislative Council effectively members at large of Western Australia. That will need to be adequately resourced and they will need to be supported in those roles.

It is also interesting to reflect on other jurisdictions that have upper houses. South Australia has 22 members, an even number; New South Wales has 42 members, an even number; Tasmania has 15 members, an odd number; Victoria has 40 members, an even number; and the Senate has 76 members, an even number. I am not the sure that anyone would argue that we should follow the Tasmanian electoral system, but it is interesting to note that South Australia, New South Wales, Victoria and the Senate all have even numbers. I think that that is not by chance or coincidence; I think that it is by design. I have been taught two things—two key features—about the construct of upper houses. One is that in a Westminster system they are typically half the size of a lower house. Strangely, the Legislative Council is not. The Legislative Council has 36 members to the Legislative Assembly's 59. The government wants to increase that to 37, so it will further increase the ratio between the upper house and the lower house. The second reason for an even number of members is that the President, once elected, does not have a deliberative vote, unless it is a casting vote, and that avoids as best as it can a tied vote. In fact, in my time in this place, which goes back to the thirty-eight Parliament, I do not think that I can recall an occasion on which that has occurred.

I have received some subsequent information from the parliamentary secretary and his advisers, who sought advice from the Legislative Council in relation to the President's casting vote. It was confirmed that since 2000, the President has used the casting vote three times—that being on 10 October 2000, 22 November 2000 and 26 May 2005. That is, effectively, three occasions in 20 years; in fact, two of those occasions were more than 20 years ago.

How meaningful is that? What is the cost of the government's meaningfulness? I think that the office of President should be impartial to the best of that person's ability, recognising that we are all elected here through the process of politics. Engaging the President more frequently in casting votes of this chamber does not achieve that principle. It says to me that if we want to create a situation in which the President is likely to exercise a casting vote more frequently, we would need to seek to engage the President more frequently in the political decisions of the chamber. I think that would be a wrong decision and the government would need to give a better justification for that matter.

The third issue that the explanatory memorandum canvasses is with respect to "The Council cannot continue to operate", which is a matter that, in the interests of time, I will explore further in Committee of the Whole. But it obviously arises from the change of regions—from six to one—and the procedure that will occur if a vote fails in the one region, as will be the case under this bill, which is obviously the entire state of Western Australia.

The fourth issue considered in the explanatory memorandum is abolishing group voting tickets and full preferential voting. Some of the conversations I have had outside this chamber have been interesting. They have very much been steeped in democratic principles—that is, the government is only acting in a principled way; this is simply a matter of principle. It is difficult to ascertain what voting principle is preferred by the government, keeping in mind that this work is entirely the government's and no-one else's. What principle does the government prefer when there is a system that is fully optional preferential voting above the line and semi-optional preferential voting below the line, and there is fully preferential voting for the Assembly? It would appear to me there are three principles for the voting systems of both houses, but also above and below the line for the Council.

Group voting tickets, as members will be aware—I think this is found in the explanatory memorandum rather than in the second reading speech—were originally born out of reforms to the Senate, which flowed to other state jurisdictions. At that time—I think it was adopted in Western Australia in 1989—the motivation for group voting tickets was to improve voter formality in upper house elections. In that respect, I want to reflect on to what extent the government considered the impact on that very issue. It was introduced to address informal voting. It is now being used—or manipulated—for another purpose by political parties. If we abandon it, what will the risks be to formal voting in particular? I draw members' attention to the Western Australian Electoral Commission *2021 State general election: Election report*, which shows that over the last five elections the Legislative Council has had a steady decline in informality. In 2005, it was 3.18 per cent. At the last election, it was 1.95 per cent. In comparison, the Legislative Assembly, which has similarly seen a decline, has gone from 5.24 per cent to 3.76 per cent in informality at the last election. Despite what I would argue is probably a simpler ballot to complete, the Assembly has a higher level of informality—in fact, it is almost double that of the Legislative Council.

A key performance indicator, quite rightly so, of the Electoral Commission in the conduct of elections is voter turnout and formality. I asked a question about this in my briefing and was referred to a table in the ministerial expert committee report, but the extent to which voting informality may be impacted by the changes we are talking about does concern me, particularly when we are deviating from the Senate reforms, which are similar to, but not the same as, what we are contemplating in this bill.

My view on the exhausting of votes has changed over the years. Once upon a time I held the view that, as much as possible, votes should count except for perhaps when we get to the last distribution of preferences for the final position in the Agricultural Region, let us say, and there is always a bunch of votes that are left with a stranded candidate, and they will be exhausted and not elect anybody. My view has moderated somewhat over time; that is, there may be circumstances in which voters do not want to vote for somebody under any circumstances. I must say that I am one of the rare few, as I suspect are other members of this chamber, who has always voted below the line. Sometimes I go through a couple of ballot papers to get it right, but I know who I want to vote for and I know who I do not want to vote for, and I generally then fill in the dots in between. I am interested to know from the government what the predicted rate of exhausted votes will be under semi-optional preferential voting below the line or optional preferential voting above the line.

At the briefing, I was referred to the ministerial expert committee's report at table 13, on page 33. I did not have time to reflect on this at the time of the briefing, but it does not answer the question I seek an answer to. Table 13 flows from table 12 on the prior page, and is an analysis of the 2016 Senate election by state. I remind members that, under the Senate system, electors are instructed to vote by marking at least six boxes above the line or at least 12 boxes below the line. It is not surprising, when we look at this comparison table, that nationally 81 per cent of people voted above the line and numbered six boxes. That does not answer the question that I ask about the rate of exhaustion that we will see through these modified changes. That will have a direct impact on quota, and the number of votes one will require to get elected, which will obviously be a lower quota, the higher will be the exhaustion rate. The fifth limb of the explanatory memorandum talks about the grouping of candidates for the purposes of the ballot paper. Currently, two or more candidates and registered political parties can appear as a group above the line. The ministerial expert committee agreed to a minimum of three; the government has landed on five. This is one of those aspects in which the government says it is consistent with the MEC report, because it is at least three, being five. I guess that is technically correct, but also if it landed on 37, instead of five, by the same argument that would also be technically correct because it is more than three. There are concerns around the ballot paper, and I will focus on this area when we get to Committee of the Whole House. Antony Green, in his submission to the MEC and also in his post-government decision commentary, articulated quite well some of the risks associated with the path the government is heading down.

At the briefing, I learnt that the Western Australian Electoral Commission will have quite significant levels of discretion in designing and constructing ballot papers. One of the key elements of that will be to ensure that the ballot paper remains usable by voters, particularly with a view to minimising informal voting, but also in a form that makes it scannable. One of the benefits of our current above-the-line group voting ticket system is that it makes the job much easier for the Electoral Commission in counting and determining the outcome, because most people vote by marking one box above the line. As easy as that may be for the Electoral Commission currently, it still takes several weeks for the Electoral Commission to determine the outcome of an election. Under a system in which we have one ballot paper for the entire state, with who knows how many parties, I assume major parties will have anywhere north of 20 candidates listed below the line. We do not know how wide the ballot paper will be, whether the first column will go from one to 10, the next column 11 to 20 and the next column 21 to 30; these are all matters for the Electoral Commissioner to work out. Members should keep in mind that the Electoral Commissioner was consulted once by the ministerial expert committee quite late in its review.

The sixth and seventh limbs are grouped together, and they go to party registration requirements, an issue that Hon Wilson Tucker spoke about tonight. This will need to be explored further in Committee of the Whole. I am not necessarily convinced that it will have the desired impact on, I guess, reducing the number of parties that are created soon before an election. The 12-month arrangement is part of that, as well as the increase in nomination fees and also the way in which parties are going to now need to demonstrate unique members in a different way. I will explore that a little later, but I want to understand the impact that will have not only on the resources of the commission, as I would have thought it will be more administratively burdensome, but also on parties. I am interested to know whether there will be some sort of electronic consideration for these declarations or whether it will all be paper.

The eighth limb is parties contesting an election. I have said previously that registration must occur more than 12 months prior to the issuing of the writ. One of the things I would be interested in understanding more about, and whether the bill is deficient in this respect, is whether it will prevent a party from changing its spots moments before an election. A party may have enduring registration, it may be, say, the "Climate Change Party", which then changes its name, through an amendment to its registration, to the "Stop Live Export Party". What would be the impediments for a party engaging in a name change like that? A number of such changes have occurred since the 2017 election, which I intend to explore later.

The ninth limb is that the nomination requirements will increase from $250 to $2 000, and capped at $10 000 for groups of five or more candidates. Again, this is an area in which the government has deviated from the ministerial expert committee's recommendation. The ministerial expert committee recommended a figure of $1 000 and the government has landed on $2 000. The final two limbs, 10 and 11, relate to provisions whereby a death of a candidate occurs before the close of polls and after nominations; and the death of a candidate after close of the polls and before declaration of the poll.

In the time that I have left, I want to return to the issue of the whole-of-state electorate. The government is taking the wrong approach and its position is not defendable. Its public position in defence of what it is doing is that regional Western Australia will be better represented with 37 members of Parliament. That is nonsense. Hon Wilson Tucker, in his contribution, made it quite clear from a personal perspective, completely out of self-interest, that if he wants to get re-elected to this place in the forty-second Parliament, the reality is that 75 per cent or more of his voters will reside in the metropolitan area and that is where his focus should and most likely will be. Nothing has been said by the government about how members will be supported to represent the entire state. This will result in meaningless representation. It will result in members being less accountable to their electorates and increasingly more accountable to their parties, even more so than they are currently. That is the reality that we face under this whole-of-state system.

If members read only one of the 184 submissions, I encourage them to read the submission of Antony Green. He quite succinctly points out in his submission the way in which we could still achieve the government's policy intention of mathematical equality whilst preserving some semblance of regional representation. That would also go some way to addressing some of his concerns, some of which I have articulated this evening, particularly about the perverse outcomes that might occur from electing all 37 members at the one election in terms of both the quota required to get elected—that is, 2.63 per cent—and the form and construct of the ballot paper.

On that first issue, I am advised that 2.63 per cent, based on the last election voter turnout, would be in the order of 38 000 votes. I was advised at my briefing by the government advisers that if a candidate or a group of candidates achieved half of that number, they would be in with a reasonable chance. In effect, if a candidate gets around 1.3 per cent, or about 20 000 votes, they would be in a pretty safe position for election to the Legislative Council. It is interesting the way that the Premier has conflated these two issues of addressing the election of Hon Wilson Tucker and the way in which the design of this system will inherently advantage Hon Wilson Tucker. I find that quite strange; the government's stated position is conflicted in so many ways. Antony Green predicted in his blog after this bill was tabled that based on the New South Wales experience, there could be four or five members who get elected in that exact position. Currently, that figure is somewhere north of 14 per cent and we are moving towards 2.63 per cent.

In the time that I have left, I want to talk briefly about some of the regional impacts that are likely to occur. There was an interesting opinion piece in *The West Australian* of 14 September by Councillor Michelle Rich, who was—I am not sure whether she still is—the president of the Shire of Serpentine–Jarrahdale. She said in this opinion piece —

> The terms of reference for the State Government's Ministerial Expert Committee on Electoral Reform—demanding electoral equality—are contestable.
>
> It is the Local Government sector's experience that equality has many facets.
>
> Different levels of State Government services provided to different communities exemplify inequality, as does the varying distance to be travelled to access services and elected representatives.
>
> Focusing on equality only in terms of the number of electors in a Legislative Council region neglects to recognise the social, societal, economic, and geographic reality among Western Australian communities.
>
> Electoral equality, established on the basis of the number of electors, in the Legislative Council will reduce political representation of rural and remote communities.

This is not a shire councillor from what I would call a remote area of Western Australia, but I think it goes to the comments that were made by Hon Tjorn Sibma earlier this afternoon. As a metropolitan member, he said that he had never had advocacy or representation to him suggesting that the metropolitan area is deserving of being, and should be, better represented by more members of Parliament.

Acting President, I seek leave for an extension of time.

[Leave denied for the member's time to be extended.]

**Hon MARTIN ALDRIDGE**: That is unfortunate.

There are other regional representation issues that I do not think have been well considered, but the government's response is effectively, "Well, it'll be up to the parties to ensure that good regional representatives are preselected." I have no faith in that occurring in the short term, let alone the long term, particularly when we hear about the preselection processes of members on the other side of this place happening in the middle of the night when there is no member involvement.

Several members interjected.

**Hon MARTIN ALDRIDGE**: I have no confidence in the long term that the government will genuinely seek to preselect regional champions to ensure that we have some form of meaningful representation in our regions. It may well be the case that they support factional allies to get preselected and elected, and then buy a holiday house in Broome, Margaret River or Albany and become quasi-regional members. That might be the case, but these are the problems that regional people face—the issues of geography, education, health, services and local government that are not being addressed now and certainly will not be addressed under this regime.

**HON PETER COLLIER (North Metropolitan)** [9.06 pm]: I stand to make some comments on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 and say at the outset that I am emphatically opposed to it. The government has absolutely no mandate whatsoever for this bill and no authority for it. It is fatally flawed in every respect—in its genesis, in its structure, in what it says and in what it intends to achieve.

I will make most of my comments on the intent under this legislation to move towards a single electorate for the Legislative Council. I would like to go through the genesis of that process and look at why there is an enormous amount of hypocrisy on the part of members opposite on this issue. Members opposite have shown their complete disdain for the Parliament since March 2021; the Parliament is nothing but an inconvenience to them. We are seeing the rapid—not even gradual—erosion of the last vestiges of the parliamentary system before our very eyes; this is another example of that. Make no mistake: the government and members opposite have absolutely no mandate for this piece of legislation. The COVID mandate the government received in March 2021 did not have, even in fine print, "Oh, and by the way, we're going to change the Electoral Act." It did not have that; it was nowhere to be seen. In fact, as Hon Martin Aldridge and a number of other members have said, the Premier insisted, ad infinitum, that electoral reform was not on his agenda. It was like an onion; he just kept repeating himself, over and again. That was unmistakably what the Premier said.

Immediately after the election, he changed his tune, as did the new Minister for Electoral Affairs and Attorney General, Hon John Quigley. On 30 April 2021, the Minister for Electoral Affairs released a media statement headed "Ministerial Expert Committee to advise Government on electoral reform". It stated, in part —

> Former Governor Malcolm McCusker AC CVO QC will lead a panel of four eminent electoral and constitutional law experts appointed to help the McGowan Government modernise the outdated Electoral Act 1907.
>
> The Government has kicked off the independent process after anomalous outcomes at the March 2021 State election demonstrated the current system was not operating in the best interests of democracy.

I will get to that in a moment; the hypocrisy of that has no bounds. It continues —

> The committee is seeking submissions from the public and all stakeholders before 5.00 pm on Monday, May 31, 2021.

A month later it is asking for submissions to change the Electoral Act of Western Australia. We are not talking about a little modification; we are napalming the whole thing and starting again. The public of Western Australia get the single-figure salute yet again from this mob because they want to go ahead with their agenda without a mandate and change the electoral system. Let us make it quite clear; the Ministerial Expert Committee on Electoral Reform is not independent. I have said over and again that I have great respect for Malcolm McCusker. He can stand alone with respect on the ministerial expert committee. The other members have already laid claim to the fact that this is exactly what they wanted. This sham committee that was established, which gave the entire public of Western Australia one month to pass comment, is nothing but an absolute insult.

**Hon Darren West**: Ask Mr McCusker.

**Hon PETER COLLIER**: Ask Mr McCusker; he said himself that the whole-of-state model recommended by the committee was almost inevitable given the terms of reference devised by the McGowan government, which sought options for electoral equality in the upper house. Go figure! The chair of the expert committee said that. He basically said, "We've been sidelined; we've been cornered; we've been told what outcome they want." What else could they say? I have long said, as a teacher, a tennis coach or whatever, if we work on the process, the outcome will take care of itself. In this instance, the committee worked on the outcome and then did the process; they completely reverted. This whole thing is an absolute disgrace. To watch this place decimated by you guys is very frustrating.

Let me see where it all came from and the real motivation behind all this. Ask the man himself, the man who said that he had no reason to change the electoral system. The Premier of Western Australia, on 16 September 2021, stated in the Parliament —

> The legislation we brought in deals with the terrible rorting that goes on in the upper house. The vote weighting in some regional electorates within the lower house remains unchanged. That is the situation. The terrible vote rorting in the upper house is an assault on democracy. It is a corrupt system in the upper house. It is corrupt and it offends every democratic principle, what is going on in the upper house. The fact that some people's votes are worth six times that of other people's votes is wrong and offensive to democracy!

He says later on; because he goes on and on, as he usually does —

> When the history books are written about this period, the fact that Liberal and Nationals members wanted to have a corrupt system in the upper house will bring shame upon all of them.

That is the man who has a PhD in verbal overreach! This is the same Premier who referred to Liberal MLCs on this side of the chamber as terrorists; the same Premier who will crush and kill the COVID virus. Let us see how he crushes and kills the virus when the borders eventually open. He will be the only person on the face of the earth who can crush and kill the virus. That will not happen, I can tell members. Let us look at the ambulance ramping then and see where the problems are. This is the same Premier who refers to people in the other place as "morons".

**Hon Darren West** interjected.

**Hon PETER COLLIER**: Hon Darren West thinks it is funny. He is the Premier of Western Australia, and he calls people terrorists and he calls us corrupt. Apparently, we created this terrible corrupt system.

Let us investigate, shall we, where this current system came from, of this corrupt upper house, which members opposite are all part of and recipients of. According to the Premier, it was the terrible Tories who did it. Let us look, shall we. I will tell members where it came from. In January 2001, Richard Court went into the election saying there would be no electoral reform. Geoff Gallop, an honourable Premier, came out and said, "We'll go for one vote, one value; we'll reform the electoral system." That is what he did. On 1 August 2001, Hon Jim McGinty, then Minister for Electoral Affairs; Attorney General, introduced the Electoral Distribution Repeal Bill. To get one vote, one value, that bill would take two members out of Mining and Pastoral—reducing the numbers in the Legislative Council—reducing it from six to four; three out of Agriculture, reducing it from seven to four; and three out of the South West, reducing it from 10 to seven. Therefore, the metropolitan region would increase from 34 to 42 members and the regions would be napalmed. That was the one vote, one value system of Hon Jim McGinty under Hon Geoff Gallop. A deal was done with the Greens to have six members for each of the six regions in the upper house. This came from the Labor Party. Both the Liberal and National Parties vehemently and absolutely opposed that legislation because it was wrong and rorted. What happened next is that the Legislative Council's Standing Committee on Legislation—in those days the legislation committee did something and earned its money, not like the money for nothing from this mob because it will not refer a bill to it—produced a report, and I highly recommend that members opposite read that report. Let us look at the members of that committee to see how stacked its membership was. The committee started its report on the electoral system of Western Australia on 24 May 2001 and reported six months later, remembering that the Ministerial Expert Committee on Electoral Reform napalmed the current Legislative Council after calling for submissions within a month and reporting in two months. At least this committee gave the people of Western Australia some respect. Let us look at who was on the committee, shall we? Fancy these terrible Tories writing a bad report about the electoral system. Wait on! Hon Jon Ford, a Labor member, was the chair. Hon Giz Watson, the deputy chair, was a member of the Greens. Hon Kate Doust, the former President of this chamber, was also on that committee, as was Hon George Cash, an eminent former President of this place. Hon Adele Farina —

**Hon Martin Aldridge**: What happened to her?

**Hon PETER COLLIER**: I do not know what happened to her but she is no longer here. Hon Adele Farina was a Deputy President of this chamber. Other members included Hon Peter Foss, a former Attorney General, and Hon Paddy Embry, MLC. That is hardly the gentry of the Tories. It was a well-qualified and experienced group of people who looked at the electoral system. Members have to read this thing; it is full of pearlers. Let us look at what it said about the vote weighting of electoral regions. It states —

> The current system in the Legislative Council comprising Members representing regions within the state gives some guarantee that certain regions, particularly those that are remote from Perth, will always have some representation in the Western Australian Parliament, regardless of population. This is provided for by an electoral system that builds in substantial rural vote weighting, that is, a situation in which parliamentary seats have unequal number of electors, in favour of the non metropolitan areas of the State. There are 2.8 times as many voters per Member of the Legislative Council in the metropolitan area compared with the rest of the State. This is done primarily to ensure that rural areas are provided representation and that rural interests are not overwhelmed by the metropolitan interest which is numerically dominant.

Hear, hear! I could read this report all day—it is gold! It looked at various models—fancy doing that! The committee looked at a number of models. It was not told that it had to look at only one model, which says that everyone has to be in the one system.

**Hon Darren West** interjected.

**Hon PETER COLLIER**: I am not listening to you. I never listen to your interjections; you are full of rubbish. The report states —

> A number of models for the Legislative Council were canvassed during the inquiry. These and some others are examined. These are:
>
> … Status Quo or Current Model: Six Regions with either five or seven Members, proportional voting.
>
> … Proportional Voting with Equal Voter Representation Model.
>
> … Single Region Model: 34 Members, proportional voting.

It looked at it as an option —

> … The Greens (WA) Model: Six regions with six Members, proportional voting.

The government eventually accepted that —

> … Provincial Model: 17 regions of two Members, preferential voting, staggered elections.
>
> … Part Provincial Part Direct Election model: Part proportional, preferential in non metropolitan.
>
> … Abolition and Incorporation Model: Abolish Legislative Council and incorporate seats into the Legislative Assembly.

Look at that! It looked at seven different models to try to come up with the one that would be the best. How can that not be fair when all those eminent members—two former Presidents of this place, a former Deputy President, a former minister of the Crown and a former Attorney General—looked at it?

Six months later, with hundreds of submissions, the committee looked at the legislation. Let us look at what the committee said about the single region model, which is what we have now. It stated —

> 7.28 A single region model comprises one electoral district only encompassing the entire State, elected on a proportional system.
>
> 7.29 The Committee does not support this model.

I repeat —

> The Committee does not support this model.

The report states, in part —

> 7.40 The current structure of the Legislative Council provides equal numbers to city and country regions of seventeen each, although the six regions do not have equal representation. This system of regional representation has adequately represented regions, and provides a balance between wealth and agricultural production and individual franchise.

That is why we have the various representatives for the regions and why we have those for the metropolitan regions. It is because we are unique in Western Australia. The regions deserve special privileges and representation. That is why they have always had it. That is why this expert committee decided that the status quo should prevail. The report continues —

> 7.41 The regions as they currently exist are based on a set of criteria with a primary concern being community of interest. Community of interest includes general land-use practices. Community of interest was a principal concern for many submissions to the Committee. Community of interest should therefore remain the primary determinant in redistributions, and serve as the basis for any systems of qualitative regions.

That is not because the Premier wants to have it and says to the Attorney General, "Go off and do it", with a nudge and a wink because they got their thumping majority due to the COVID mandate. It continues —

> 7.43 The principle of representing qualitative regions regardless of their population numbers would be better served by equalising the representation across all regions. The simplest way to equalise the qualitative regions of the Upper House is to even out the current disparity between the North Metropolitan and South West Regions, with seven representatives each, and the five representing each of the other four regions.

It is saying, "Let us try to equalise the balance in the upper house." It is not saying we should get rid of them. It is saying we should equalise the balance. That is what we ended up with. That is how we ended up with the six by six. I very much doubt whether anyone on the government side will read this stuff. If anyone ever wanted a reason why we should not accept this bill, they should go and read this report. There is so much in this report. It continues —

> 7.57 As stated above, the current system in the Legislative Council comprising Members representing regions within the State, gives some guarantee that certain regions, particularly those that are remote from the metropolitan area, will always have some representation in the Western Australian Parliament, regardless of population.

Is that right? Regardless of population, they deserve representation. It continues —

> 7.58 Whilst the status quo will be broadly preserved in the Legislative Council, of major concern to many is the effect that the change to the distribution of seats for the Legislative Assembly will have on regional representation in Western Australia. The majority of submissions received from people in regional Western Australia vehemently oppose the legislation on the grounds that their parliamentary representation will be reduced.

> 7.59 Regional Western Australia's economic and social situation is currently strained and the fear is that reduced representation may result in a worsening of this situation. Shires and local councils of regional Western Australia who made submissions to the Committee stated that their major concern is that the increase in the number of politicians in the metropolitan area will mean that all decisions regarding the allocation of government services will be dominated by the metropolitan region, at the expense of the country.

Hear, hear! I continue —

> 7.63 As Mr Strange —

From the Pastoralists and Graziers Association —

> stated in an exchange with Hon Peter Foss MLC at the hearing in Bruce Rock:
>
> > *"**Mr Strange: …** Bruce Rock should join the twenty-first century next year and be connected to the mobile telephone service. Council had to contribute $80 000. In 1994, the principal of the Bruce Rock District High School wanted an extra classroom. The Education Department was not forthcoming, so the local community raised the money to build one with the help of the council. In 1995, the Education Department wanted all preprimary facilities located on the school grounds, but were only prepared to provide a transportable donga-type building. The local community raised the funds to build a high quality purpose-built facility. The perception that we have been advantaged by the current electoral system in the bush astounds me. The basic services such as roads, health, emergency services, education and telecommunications, which are expected or just happen in highly populated areas, have to be fought for in the bush and, if they are still not forthcoming, the locals pay. We feel that we are already disadvantaged by living in the country. Any further reduction in political representation can only lead to a further weakening of our position.*

Thank goodness this committee listened to the people of the regions. Another point made was —

> It is argued that even with the current system of vote weighting in Western Australia effective representation for the constituents that each Member jointly represents is reduced due to the geographically large regions that exist. Hon Mark Nevill, former Member of the Legislative Council, told the Committee, at the hearing in Fitzroy Crossing, of the difficulty in servicing the Mining and Pastoral Region. He informed the Committee that due to the size of the electorate remote areas are neglected:
>
> > *"If you look at those areas that are remote, they are rarely visited by politicians. … The massive electorates are not necessarily serviced by members."*
> >
> > *"I worked very hard to try to represent the federal seat of Kalgoorlie, even as a Labor Party member. We never had a sharing of the workload. People said that Tom Stephens looked after the Kimberley, Tom Helm looked after the Pilbara and I looked after the goldfields.*
> >
> > *… Members do not represent that whole area. Try as much as I could, and I enjoy visiting communities in the desert areas, I could never really properly represent the Pilbara area. I did a reasonably good job of the Kimberley, and a good job of the goldfields and Murchison areas, but a pretty miserable job of the Gascoyne and a pathetic job of the Pilbara. It was too much work getting around".*

A member of the Labor Party said that. It goes on and on, members. This is not a report from the terrible Tories; this report is from eminent members of the Legislative Council from across party lines. It goes on, but I have to move on. Let me tell members what the committee's findings were. The report states —

> A minority (Hon Giz Watson MLC) of the Committee is of the view that a regional system comprising six regions of six Members is the most desirable system for the Legislative Council.

That eventually happened because the government did a deal with the Greens, but what was the unanimous recommendation of this committee? It states —

> **The Committee recommends retaining the current balance between regions based on the metropolitan areas and non metropolitan areas in the Legislative Council.**

Go figure. The Legislative Council came up with this magnificent report after six months. It had hundreds and hundreds of submissions. Not one submission from the regions said that they wanted to change the system. They all supported it. Now, you guys will do it in two months, with one month for submissions, and you will napalm the Legislative Council and disenfranchise the regions. Make no bones about it, that is exactly what the government is doing. Let us look at the vote. The legislation went through. One vote, one value went through both houses, but the government did not have an absolute majority, which was not a legal majority. The then Clerk of the

Legislative Council, Laurie Marquet, sent the matter to the Supreme Court to get a ruling to see whether Parliament had the authority to change the Electoral Act without an absolute majority. The Supreme Court ruled that the bill could not be given royal assent if it did not have a constitutional absolute majority. It was ruled out of order. The government tried to be too smart by halves, so Laurie Marquet, the then Clerk of the Legislative Council, sent it to the Supreme Court.

Hon Geoff Gallop, the Premier of the day, appealed to the High Court. I remember that vividly, because I chaired a Liberal Party committee called the Defence of Democracy Committee. We raised a couple of hundred dollars to help fund support for the case against the state government. We won. The High Court upheld the decision of the Supreme Court of Western Australia, so the legislation was ruled invalid. The government was trying every way it possibly could to get its legislation through. The Supreme Court of Western Australia ruled that it was invalid and could not move to royal assent. The High Court validated that decision. The government was back to square one. Then we had the 2005 state election. After the 2005 election, there was a window of opportunity for the government with the old Legislative Council. As we all know, the new membership took over on 22 May. In that window of opportunity of two months, the government had a member up here by the name of Hon Alan Cadby, who became an Independent. With the Greens, he then gave the government an absolute majority.

Hon Geoff Gallop made the one vote, one value legislation a priority ahead of the Address-in-Reply. He bulldozed it through—guillotined it overnight—then sent it here and it passed.

**Hon Darren West** interjected.

**Hon PETER COLLIER**: The member should listen to this. He is not going to like this. It is our fault, of course. The Premier said that, remember? This terrible report from the Tories actually was not from the Tories. Sorry; the Premier is wrong there. Hon Jim McGinty could not be a party to this because it was the Tories who did it; surely, it was the Tories who won the vote. On 5 April 2005, he stated in his response to the second reading speech at 2.26 am—they sat all day to get it through; they guillotined it—in part —

> I for one expected to be enjoying breakfast here tomorrow morning as the sun came up over the scarp. I think we will fall a little short of that and, in a sense, that is a pity. When in years to come members sit back and tell their grandchildren about the day that the legislation that finally brought democracy to Western Australia was passed, it would have made a nice little postscript to say that we sat through the night to do it and had breakfast as the sun came up over the scarp.

It almost sounds like Hon Jim McGinty supported this corrupt legislation. I thought we introduced that corrupt legislation, because that is what the Premier said in Parliament the other day. That cannot be right. Hon Jim McGinty continued —

> Thirdly, it sought to provide for a restructuring of the Legislative Council to add two seats to provide for a move towards greater equality of voting rights in the Legislative Council, but to retain the six regions that currently exist and reorient the regions in the city area.

The system that the Premier calls corrupt, which was in the legislation passed in 2005, is how everyone in this chamber got here. Hon Jim McGinty must have crossed the floor because apparently we are the ones who created it. We are the ones who corrupted the system. Let us have a look; I am going to name and shame those who voted for it. Who else crossed the floor with Hon Jim McGinty? This is not good enough, guys. Do not worry; I will take care of your moral fortitude! Let us have a look at who voted against it first. Twenty-three members voted against it and they were all Liberal. Thirty voted for it and there was only one who was not Labor—that is, Dr Elizabeth Constable. There were 30 members who voted for this corrupt electoral system; let us see who they were. Of those, most have left. Let us see who is still here. This is from *Hansard*. Mrs M.H. Roberts, the current Speaker of the Legislative Assembly; Ms M.M. Quirk; and Ms A.J. MacTiernan voted for this corrupt bill. Mr J.R. Quigley, the current Minister for Electoral Affairs, who thinks this system is corrupt, and Mr M. McGowan voted for the legislation. The man who stood in Parliament two weeks ago and called us corrupt for supporting a corrupt electoral system voted for the exact electoral system that created the current Legislative Council. What an absolute load of nonsense to come in here chest-banging and carrying on about this corrupt system. Over and again we hear how terrible this corrupt system is and that we are supporting it, but the Liberal and National Parties voted against it in 2005. Every single Labor member, including the current Minister for Electoral Affairs and current Premier, voted for it. The electoral system that you guys are banging on about is of your creation. It is of your genesis. It is your baby. Let us not get too precious about that, everyone.

The other thing that the government goes on and on about is a comparison between our electoral system and other systems. In fact, the report itself referred to it at one stage. I cannot believe it did this; I mean, this was pretty bad. The report refers to whole-of-state electorates and states —

> It is the system used in NSW and SA for elections to the Legislative Council. In Federal Senate elections, the whole of WA is one electorate, and those elected are Senators "for WA", not for any district or region of WA.

That is garbage. That is like saying I am elected for the whole of the north metropolitan area and not for the areas of Warwick, Kingsley and Wanneroo. Of course I am elected for the whole of the North Metropolitan Region! The Senate is a national house of Parliament. Of course the senators are elected for their states, which I will get on to in a moment.

Let us look at the corrupt system upon which our system has been based. The Westminster system of Parliament is over 800 years old and was constructed fairly loosely on the Magna Carta. Apparently, that is a corrupt system; our bicameral system is based upon a corrupt system. Let us look at the British system to see how corrupt it is. That is exactly what the Premier has said; he said it is corrupt. The British system, of course, has about 650 members in the House of Commons, who provide local representation. The British system does not have a constitution. It has voluntary voting. It has first-past-the-post voting, which means that the most preferred candidate does not necessarily win. The British system has the House of Lords, which is a house of gentry. The House of Lords basically offers suggestions; it cannot block legislation. But does that make the British system corrupt? Why does the Premier not come out and call the British system corrupt? Why does he not say that? That is what our system is based on.

What about the American system? This is even better. The Americans looked at the Westminster system when they formulated their constitution after independence in 1776. Let us see whether the American system of government is corrupt. The American system of government has a written Constitution with a Bill of Rights. It has voluntary voting, so not everyone votes. It has a first-past-the-post system of voting, so the most preferred person does not necessarily win. It has a federal system of government, so it dissipates into regions like ours does in Australia. That is a great thing to have. But let us look at the American Congress—the equivalent of our Parliament—to see whether it has a system in which everyone is equal. I am sure most members already know where I am going with this. There are 100 senators in the United States—two for each state. Every state has two senators. California has a population of 39.5 million people; it is the most populated state. Texas has a population of 28 996 000 and Florida has a population of 21 477 000. Each of those states gets two senators. Let us look at the least populated states. Wyoming has a population of 579 000 people, Vermont has 624 000, and Alaska has 732 000. Each of those states has two senators as well.

**Hon Dan Caddy** interjected.

**Hon PETER COLLIER**: I am not taking interjections from you, I can tell you! Madam Acting President, I am not taking interjections.

**The ACTING PRESIDENT**: Order, members!

**Hon PETER COLLIER**: The United States has two senators for every state. The Premier is banging on about the fact that we do not have so-called one vote, one value here because the Mining and Pastoral Region has significantly fewer people than the North Metropolitan Region. The analogy is absolutely profound.

**Hon Dan Caddy** interjected.

**Hon PETER COLLIER**: I will wait for the member to have his say in a moment. He cannot read the paper in the chamber.

Government members cannot make that analogy and do it accurately. My point is that if members say that the Legislative Council in Western Australia is corrupt because we have more people in the North Metropolitan Region than we do in the Mining and Pastoral Region, they are on very, very shaky ground. Then we get to the Senate itself. The report talks about it. As I said, the report itself uses the Senate as an example. That is absolute garbage. The Senate was created as the states' house, in exactly the same way that the Legislative Council was created to look after the regions.

**Hon Matthew Swinbourn**: No, it wasn't. That's not right.

**Hon PETER COLLIER**: The current electoral system.

**Hon Matthew Swinbourn**: You said it was created for that. It was created in 1832.

**Hon PETER COLLIER**: The current electoral system was created to look after the regions. That is absolutely true. Members of the Labor Party stated it over and again, as has the report. If members opposite have not read their own report, perhaps they need to go and look at it.

The electoral system in the Senate is a perfect analogy. I remind members—I went through this briefly when we had another debate on it—that when the Senate was created, it was created in the federal system to ensure that the small states would not be disadvantaged, just the same as the regions would not be disadvantaged. The biggest issue in the 1890s in the Senate for the small states—Tasmania, South Australia, Western Australia and Queensland—was that they felt they would be completely disenfranchised. As we moved towards Federation, they fought tooth and nail to ensure that we had representation at least in the Senate. That is what they wanted, and the other states signed up to it. We were the last one to do that. We did not come through until 1900. The only reason that Western Australia signed up is that it saw that it would get equal representation in the upper house—the check and balance. That is what we wanted. We got six senators each.

**Hon Dan Caddy** interjected.

**Hon PETER COLLIER**: I am not taking the member's interjections.

There were six senators for each state, so we had 36 senators. As a result of the nexus section, over the ensuing 120 years the number of senators increased to 12 senators, but that has not changed the representation of the states. Every state still has 12 senators. The reason that we have done that is to ensure that the smaller states have representation. That is not unreasonable. That is not corrupt. We do not see the Premier out there carrying on about the corrupt system in the Senate. Of course he does not, because he has 12 senators from Western Australia, which is exactly the same number as Victoria and New South Wales. The whole reason for that is that it ensures the integrity of our parliamentary system. As a direct result of that, we now have senators who, ultimately—they will vote along party lines—look after the interests of Western Australia. If members take that analogy with everything that I have talked about with regard to the other two systems—the British and American systems—they will see that it is what is affectionately referred to as the Washminster system; that is, partly the Washington system and partly the Westminster system. We in Australia think that works.

I will finish on this: Australia has plenty of checks and balances. We have tremendous checks and balances, including compulsory voting, preferential voting, a federal system of government and a bicameral system of government.

In our bicameral system of government, we have a lower house, which looks after the states by population, and an upper house, which looks after the states in their entirety. That system has evolved over the last 200 years. It ensures that we as Australians do not feel that one state is more advantaged in terms of representation than another.

If we mirror that with the Legislative Council and the result, as I said, of an electoral system that has evolved over the last 100 and so years, we find we have a system that is working. We have a system that is a direct result of the decisions that were made by this Parliament. A raft of eminent members from all the major parties came to a decision that this system would better represent the regions. That is the system that we have now. That system will never be perfect, but at least under that system, people in the Mining and Pastoral Region do not feel completely disenfranchised because all the members who represent their region live in the city or are from metropolitan Perth. That has taken a long time, but it has worked. For the government to now come along and disingenuously decide that it will completely napalm that system, after one month of submissions and two months before a report is released, it does a complete disservice to the integrity of this Parliament.

Debate adjourned, pursuant to standing orders.

## HON NICK GOIRAN — FACEBOOK

*Statement*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [9.46 pm]: I want to make some comments tonight about dog whistling. For new players, the history of that term is that when someone blows a dog whistle, it can be heard only by dogs, not by human beings. That term has been adapted into a descriptor of the political tactic of making a statement that appears to be one thing, and is understood to be one thing by the many, but actually includes effectively a code that is attractive, and intended to be attractive, to a much smaller cohort in the community. It is used in the political world to send a message that many will take to mean one thing, but a select few will recognise it as code for something else. It is a political tactic. It is used to whip up and rally support for particular causes. It is used to whip up agitation in a select group, while appearing to the majority to be saying something that is effectively benign.

In recent days, we have seen a classic example of dog whistling posted on the Facebook page of Hon Nick Goiran, and it appears there now, under Facebook's rules, sponsored and paid for by the office of Hon Nick Goiran, MLC. It says —

> It speaks volumes that Premier McGowan has resorted to yet another edict. He has had more time than any leader on the planet to prepare & yet because he still can't competently articulate a plan, he has resorted to applying the big stick of coercion.
>
> Shifting the burden on employers & and employees places people in an extraordinarily difficult situation as individuals face a $20k fine with the penalty increasing to $100k for employers. All this at a time when businesses are already facing skills shortages.
>
> I have long said that I support vaccinations & and encourage every West Aussie to discuss the matter confidentially with their doctor before they provide their informed consent. As a matter of law, informed consent can only be provided in the absence of coercion. #ruleoflaw #informedconsent

Below that is a picture of the Premier receiving his vaccination, and a definition of the word "coercion" —

> COERCION:
>
> (noun) the action of making somebody do something that they do not want to do, using force or threatening to use force
>
> #RULEOFLAW

I think that is an appalling example of dog whistling on the public health policy of vaccinations by no less than the shadow Attorney General. The #ruleoflaw appears twice in the Facebook post. The dog whistle–effect code is

revealed if members look at the comments of those people who supported the Facebook post. It is really clear who it was directed to. It has been really effective in engaging those people it was directed to. Those are the people who have agitated in a really aggressive, abusive, threatening manner in the last couple of days.

I want to make it clear that some people are opposed to vaccination for their own reasons. There are some people who are still hesitant. There are some people who are ideologically opposed to vaccinations, but who do not need to resort to making threats against the Premier and his children and who do not need to resort to yelling and screaming in the faces of politicians, which is what happened to me this morning. There are many, many people who would be in that group who are worried about vaccinations who do not need to resort to this kind of tactic. However, in that Facebook post we can see the alternative Attorney General—who, if elected to government, would hold one of the most senior positions it is possible to hold in government—well and truly blowing the dog whistle. Members may form the view that it is Hon Nick Goiran; why would I expect anything less or anything more? I do not expect anything less of him. I think it is appalling, but I am appalled by many things he has done, particularly recently.

What I say to members of the Liberal Party is that if they genuinely hope ever again to be judged by the people of Western Australia as a moderate, sensible party worth voting into government, they must confront that dog-whistling behaviour—they absolutely must. The people of Western Australia will not entrust them with government while they allow that kind of appalling behaviour, deliberately whipping up supporters of the cause to threaten children. Put aside that they are the children of the Premier. If that is the kind of behaviour that they, as members of the Liberal Party, are prepared to tolerate from someone they say should be the alternative government, my friends, you will never return to government and you do not deserve to.

## PARLIAMENTARY FRIENDS OF PEOPLE WITH RARE AND UNDIAGNOSED DISEASES

*Statement*

**HON DONNA FARAGHER (East Metropolitan)** [9.52 pm]: I will take a slightly different tack tonight in rising to thank members of this house who attended last week's launch of the Parliamentary Friends of People with Rare and Undiagnosed Diseases. It was certainly a very stormy night but those who were able to attend would agree it was a great success. It was a success because not only was the courtyard literally full of people, but also, far more importantly, the night provided what I and the co-conveners of the group hope will be the first of many opportunities for members of Parliament to hear and learn more about rare and undiagnosed diseases and their impact on those members of our community who live with a rare disease, along with their families and carers.

The response to the launch was terrific. Despite the wind and rain, everyone turned up. There was certainly a very large cross-section of the rare and undiagnosed diseases community in attendance, including people who live with a rare disease, family members, health professionals and researchers, advocates, philanthropists and support organisations like Kalparrin, which I am delighted to be the new patron of.

I want to thank the Premier and the Leader of the Opposition for officially launching the Parliamentary Friends of People with Rare and Undiagnosed Diseases group, and, in particular, I want to acknowledge Hon Matthew Swinbourn. We have a full house tonight and I think everyone would agree that Hon Matthew Swinbourn has often talked very openly in this house about his son Mitchell and the challenges that he faces and that how, as a family, they are impacted by rare disease. I, and I am sure everyone in this house, would like to commend Hon Matthew Swinbourn for his very strong advocacy for, and commitment to, seeing this parliamentary group established. I know that Hon Stephen Pratt, who is out on urgent parliamentary business, and I are very pleased to be co-conveners of the group with him. I would also particularly like to recognise and thank Rare Voices Australia and members of the WA rare diseases community in supporting the establishment of this group, and the President and the Speaker for allowing it to be formed. In particular, though, I would like to acknowledge Dr Gareth Baynam, Kane Blackman and Andrew Bannister for the valuable role that they have already played in response to the group's formation.

Like Hon Matthew Swinbourn, who, on the night, spoke of his family's personal experiences, Kane Blackman, who is also deputy chair of Rare Diseases Australia, shared the story of his son, Finn. I will refer to an article that appeared on ABC online news after the launch, which captured a number of elements of Kane's speech. He indicated that his family's experience with rare disease started five years ago. The article states —

> "My wife Sarah received a phone call at 3:00pm on a Friday with the news our beautiful son Finn had a rare disease called Angelman syndrome," he said.
>
> Finn has one of the rarest forms of Angelman syndrome, which affects around one in 15,000 people. People with Angelman syndrome experience symptoms such as seizures, lack of speech, trouble sleeping and difficulty with fine motor coordination and learning.
>
> For many families like the Blackmans, even getting to a diagnosis was difficult.
>
> "We had a treating health professional say about our son, 'just call it cerebral palsy or autism', but that wasn't his disease," he said.
>
> "Families are on this diagnostic odyssey desperately searching for answers."

I hope that this group will help raise awareness and understanding of rare and undiagnosed diseases and the impact it has on those living with a rare disease and on their families and carers, families like the Swinbourn family and the Blackman family. There are around 7 000 rare diseases and around 200 000 Western Australians have a rare disease of which a high percentage, or 63 000, are children. As was said on the night, that is enough to fill Perth Stadium. I would just like to thank members again on behalf of the co-conveners for the very strong support that has already been provided to the group. We certainly look forward to keeping members updated on further work in the weeks and months ahead.

## SHIRE OF BRUCE ROCK

*Statement*

**HON STEVE MARTIN (Agricultural)** [9.58 pm]: I will not keep members long. I would just like to rise to make mention of the Shire of Bruce Rock and congratulate it on winning a community achievement award for regional Western Australia. The Department of Local Government, Sport and Cultural Industries Making a Difference Award was awarded to the Shire of Bruce Rock a couple of weeks ago. I visited Bruce Rock recently and for those members who are not aware what that community has been through, right at the start of COVID, just at about the point of lockdown, in very unfortunate circumstances, its only shop in town burnt to the ground. It was completely gone. The community was faced with no ability to access fresh food or groceries at all. People could not leave town to make their situation better, so, through the shire president, Stephen Strange, and CEO, Darren Mollenoyux, that small community got involved and built from scratch a grocery store in the town hall. It was supposed to be a temporary arrangement, some 18 months ago, but they are still at it. The CEO is now a shopkeeper as well as the shire CEO and the community facility is thriving. They are desperately seeking funding from various ministers to rebuild the store, but in the meantime the community has pulled together amazingly well and kept the facility afloat. They are to be congratulated. I just wanted to bring the matter to members' attention.

## VETERINARY PRACTICE BILL 2021

*Returned*

Bill returned from the Assembly without amendment.

## INDUSTRY AND TECHNOLOGY DEVELOPMENT AMENDMENT BILL 2021

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Darren West (Parliamentary Secretary)**, read a first time.

*Second Reading*

**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [10.00 pm]: I move —

That the bill be now read a second time.

The purpose of the Industry and Technology Development Amendment Bill 2021 is to ratify amendments to the Industry and Technology Development Act 1998, to permit use of Northern Australia Infrastructure Facility finance for government trading enterprises through changing the definition of "industry" in the Industry and Technology Development Act 1998 to include any activity undertaken by a GTE; and to remove the Technology and Industry Advisory Council from the Industry and Technology Development Act 1998 by removing references to TIAC, its members, functions and activities. The bill being introduced today is consistent with the government's vision to support resources development and economic diversification in northern Australia.

The Industry and Technology Development Act 1998 was established to encourage, promote, facilitate and assist the development of industry, trade, science, technology and research in Western Australia, to continue the Technology and Industry Advisory Council, and for related purposes. The Northern Australia Infrastructure Facility is administered under the ITD act, on behalf of the commonwealth. However, this prevents NAIF from being able to lend to government trading enterprises due to the ITD act's definition of "industry". This definition of industry relates to private industry and, therefore, excludes grants or loans being made to government-owned companies. This results in barriers to investment in government-owned infrastructure in northern Australia by NAIF. Although the state government does not have the same barriers to accessing financing markets that some private sector proponents experience, it is often asked to underwrite or otherwise support industrial development through the provision of infrastructure. This leads to the state either being exposed in relation to the infrastructure that the project proponent seeks, or requiring a guarantee from that proponent to de-risk the state's investment. Proponents without substantial balance sheets are often unable to meet the latter requirement.

Recently, proponents requiring substantial investment in state-owned common-user infrastructure have been unable to obtain finance—NAIF or otherwise—to develop that infrastructure due to the inability of banks to take security over state-owned assets. Development of this infrastructure by the state currently requires an assumption of the risk that if a proponent's project ceases production, that infrastructure will be underutilised and not make a return on the state's investment. Using NAIF as a vehicle for investment in GTEs potentially allows the state to share the risk of delivering this infrastructure with the commonwealth, unlocking opportunities to support projects that might not otherwise be supported by the state.

In response, the amendments to the ITD act revise the definition of industry to include GTEs. The amendments to the ITD act will remove blockers on investment in common-user infrastructure, helping to drive economic growth in the state's north as a state recovery initiative. In addition to assisting with the administration of NAIF finance, the amendments will also support the WA renewable hydrogen strategy and similar funding schemes managed by the Department of Jobs, Tourism, Science and Innovation. The current drafting of the ITD act requires the department to use different contracting mechanisms for disbursal of funds to GTEs, as use of the ITD act does not currently extend to funding GTEs. This will allow the department to streamline that funding so that it is all delivered through the ITD act, ensuring consistency in contracting and funding delivery.

The Technology and Industry Advisory Council is administered under the ITD act. However, TIAC was established in 1998 with an incredibly broad mandate and was unable to achieve the goals that are set out in the ITD act as it is currently drafted. The establishment of TIAC also predates the mass data availability and access to extensive research and expert insights that the internet now provides. Technology has progressed exponentially since the establishment of TIAC over 20 years ago and as a result, the mediums for access to technology and industry expertise have also clearly changed. Since forming government in 2017, the McGowan government has also set up numerous forums that are better suited to meeting the outcomes intended by the ITD act, including the LNG Jobs Taskforce, the Renewable Hydrogen Council, the battery and critical minerals industry task force, the steel round table and, more recently, the WA jobs task force and WA skills summit. To reflect these changes, TIAC was disbanded at the direction of the Premier, as the minister responsible for the ITD act at the time, on 31 August 2018. However, references to TIAC are still present in the ITD act. The amendments therefore also propose to remove these obsolete references to TIAC from the ITD act.

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

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

[See paper 822.]

Debate adjourned, pursuant to standing orders.

## SENTENCING LEGISLATION AMENDMENT (PERSONS LINKED TO TERRORISM) BILL 2021

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Matthew Swinbourn (Parliamentary Secretary)**, read a first time.

*Second Reading*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [10.06 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce to the house the Sentencing Legislation Amendment (Persons Linked to Terrorism) Bill 2021, which amends the Sentence Administration Act 2003, the Young Offenders Act 1994, the Criminal Procedure Act 2004 and the Freedom of Information Act 1992.

On 9 June 2017, the Council of Australian Governments, otherwise known as COAG, agreed to adopt a presumption against the granting of bail and early release orders—for example, parole—to persons who have demonstrated support for, or have links to, terrorist activity. The impetus for these changes was the increased incidents of terrorist-related violence perpetrated by persons with known links to terrorism who were on bail or parole when committing terrorist acts on Australian soil. These incidents included the terrorist attack in Brighton, Victoria, on 5 June 2017 perpetrated by an offender who was on parole at the time of the attack while serving a sentence for home invasion offences. This was preceded by the December 2014 siege at the Lindt Café in Martin Place, Sydney, by an offender who was on bail facing charges of sexual assault and accessory to murder.

The threat of terrorism is ever-present. In February this year, Australian Federal Police provided a submission to the federal Parliamentary Joint Committee on Intelligence and Security's inquiry into extremist movements and radicalism in Australia, which reinforced the need for ongoing vigilance. Statistics show that since Australia's national threat level was raised to "probable" in 2014, 138 people have been charged as a result of 66 counterterrorism-related operations around Australia. Additionally, authorities have responded to nine domestic terrorist attacks, and there have been 21 major counterterrorism disruption operations in relation to potential or imminent attack planning within Australia.

At a 5 October 2017 special meeting on counterterrorism, COAG agreed that the decision to adopt a presumption against the granting of bail and early release orders should be underpinned by a nationally consistent approach. To do this, COAG tasked the Australia–New Zealand Counter-Terrorism Committee to consult with each Australian jurisdiction to develop principles to guide the implementation of these presumptions. The first principle is that the presumptions against bail and early release orders should apply to categories of persons who have demonstrated support for, or links to, terrorist activity. The second principle is that a high legal threshold should be required to overcome the presumptions against bail and early release orders. The third principle is that the implementation of the presumption against bail and early release orders should draw on and support the effectiveness of the

counterterrorism team model. The fourth principle is that implementing a presumption against early release orders should appropriately act to protect sensitive information. These principles acknowledge that all jurisdictions have well-established and accepted practices and procedures in relation to early release orders and bail.

Western Australia has taken a two-stage approach to implementing the COAG agreement. The first stage was implemented by the Bail Amendment (Persons Linked to Terrorism) Act 2019, which received royal assent on 5 July 2019 and became operational on 1 January 2020. The bill before the house represents the second stage and accords with the principles agreed to by COAG.

The amendments to the Sentence Administration Act 2003 and the Young Offenders Act 1994, as proposed by this bill, will provide that persons with links to terrorism are subject to a presumption against an early release order. The bill ensures that terrorism-related risks are appropriately assessed before a person with links to terrorism is granted the privilege of an early release from prison or detention. These reforms are aimed at minimising the terrorism-related risk to the Western Australian community. For the purposes of the bill, a person falls under the definition of a person who has links to terrorism if a person is subject to certain terrorism-related charges, orders or convictions as defined in the bill. When the person has made statements or carried out activities that support, or advocate support for, terrorist acts, the person must be subject to a Commissioner of Police report to fall under the definition. A Commissioner of Police report is introduced in this bill to support decision-making by the chairperson of the Prisoners Review Board of Western Australia, or the Supervised Release Review Board, whichever the case may be.

The bill will create a presumption against early release orders by mandating that exceptional reasons must be shown before a person with links to terrorism is granted an early release order. This is known as the exceptional reasons test. To guide the exceptional reasons test, the bill will introduce special considerations that require an assessment of particular matters, such as the degree of risk posed to the community should the offender be released, and the nature and seriousness of the current links to terrorism and terrorism-related activities. The bill will enable the immediate cancellation of an early release order in the event of a prisoner or young offender becoming subject to defined terrorism-related charges, orders or convictions and in other specified circumstances.

A Commissioner of Police report may be provided for consideration by the board for any prisoner or young offender, including for persons with links to terrorism. This report could include information that has been shared between Australian intelligence and law enforcement agencies. New confidentiality protections have been included in the bill to protect terrorist intelligence information that may be contained within the Commissioner of Police report. For example, to ensure the protection of terrorist intelligence information, the bill requires that the board will be constituted by the chairperson alone when determining whether to grant an early release order for a person with links to terrorism and when considering a Commissioner of Police report that contains terrorist intelligence information. This will reduce the number of people who have access to terrorist intelligence information and protect against disclosure of such information that may impact current or ongoing national security investigations. The bill will also introduce strict protections to limit the disclosure of terrorist intelligence information in any legal proceeding relating to or requiring the disclosure of information contained within a Commissioner of Police report that the court is satisfied is terrorist intelligence information. Amendments to the Criminal Procedure Act 2004 will ensure that prosecutors do not overlook these protections. Further protections will also be provided by the bill's amendments to the Freedom of Information Act 1992, which will exempt Commissioner of Police reports from disclosure. Reporting requirements to inform the public and Parliament about the number of terrorism offenders released on early release orders are additionally subject to provisions that will ensure that protected and sensitive information, which includes terrorist intelligence information, is not inappropriately disclosed.

All other Australian jurisdictions have legislated to give effect to the 2017 COAG agreement. Each has taken a different approach to reform, having regard to their legislative frameworks. This bill will implement the second stage of the COAG agreement to tackle the terrorism risk when considering early release for a person with links to terrorism. It will ensure that, like in other states, Western Australia strengthens the nationally consistent approach to address and prevent the evolving terrorist risk.

COAG agreed that there should be a nationally consistent approach to the presumption against the granting of early release orders, but not through a legislative model of an applied law, nor through the adoption of model legislation. The legislation is instead based on the set of principles that were developed by the Australia–New Zealand Counter-Terrorism Committee. There is no impact on the sovereignty of the WA Parliament.

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

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

[See paper 823.]

Debate adjourned, pursuant to standing orders.

*House adjourned at 10.14 pm*

## QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ROAD SAFETY — ROAD CRASHES

**285. Hon Sophia Moermond to the minister representing the Minister for Police; Road Safety:**

(1) Between the years of 2016 and 2021, including all vehicle types, how many road crashes resulting in death or injury, were caused by impaired drivers?

(2) Between the years of 2016 and 2021, including all vehicle types, how many road crashes resulting in death or injury, were caused by unimpaired drivers?

**Hon Stephen Dawson replied:**

(1)–(2) The Road Safety Commission advises:

> Fatalities in crashes by behavioural factor suspected – Alcohol – 2020, 42 fatalities; 2019, 33 fatalities; 2018, 30 fatalities; 2017, 35 fatalities; and 2016, 62 fatalities.
>
> Total fatalities in crashes – 2021 (part year), 131 fatalities; 2020, 155 fatalities; 2019, 164 fatalities; 2018, 159 fatalities; 2017, 160 fatalities; and 2016, 196 fatalities.

The Commission is working to improve data collection and collation in a range of areas including in relation to impaired driving.

*Note*: Data is provisional and subject to change.

PLANNING, LANDS AND HERITAGE — EROSION — NORTHAMPTON

**292. Hon Dr Steve Thomas to the minister representing the Minister for Lands:**

I refer to the actions of the Department of Lands in soil removing lead contaminated soil from 19 Gwalla Street, Northampton in 2018, which resulted in significant erosion issues particularly in the North West corner of the block, and I ask:

(a) can the Minister confirm that the erosion has occurred and continues to occur;

(b) what corrective actions have been taken to fix the problem;

(c) what future corrective actions will be taken to fix the problem;

(d) have the owners of the block had to fix the erosion problems themselves;

(e) what compensation have the owners been offered or accepted for the problems created;

(f) has the Department of Lands abrogated its responsibility to the owners and, if not, why not;

(g) will the Minister for Lands review the problem and consult with the owners; and

(h) if no to (g), why not?

**Hon Alannah MacTiernan replied:**

(a) The Minister for Lands understands there was minor erosion on the property since the initial works and subsequent follow up works were completed.

(b) The original lead tailings clean up and replacements works were completed on the property in 2018. Further works were undertaken on four separate occasions throughout 2019 in consultation with the landowner.

(c) None.

(d) No, however any future erosion, including as a result of weather events such as Cyclone Seroja, is outside of the scope of the Northampton Lead Tailings Remedial Works.

(e) None. The State undertook all works under the program at no cost to landowners.

(f) No. The Department has successfully remediated the lead contamination from each land parcel that formed part of the Northampton Lead Tailings Project and returned each site to as near to original condition as possible at no expense to the land owners.

(g) The Minister for Lands has reviewed the issue raised by the landowner of 19 Gwalla Street and provided a written response in June this year.

(h) Not applicable.

ABORIGINAL CULTURAL MATERIAL COMMITTEE — SECTION 18 NOTICES

**293. Hon Dr Brad Pettitt to the Minister for Aboriginal Affairs:**

I refer to question on notice 2968 answered on 11 August 2020, and I ask:

(a) has the Department of Planning, Lands and Heritage completed the review of the relevant section 18 applications referred to in answers (a) and (b);

(b) if yes to (a), will the Minister table that review;

(c) if no to (a), why not; and

(d) if no to (b), why not?

**Hon Stephen Dawson replied:**

(a)–(d) The review is progressing; however it is taking longer than initially anticipated to review each of the 463 section 18 applications.

CORRECTIVE SERVICES — JUVENILE DETAINEES

**294. Hon Dr Brad Pettitt to the minister representing the Minister for Corrective Services:**

(1) How many children aged 10, 11, 12 and 13 years, respectively, have been in detention or on community corrections orders in Western Australia in the last year?

(2) How many children in (1) are also in the child protection system in Western Australia?

**Hon Alannah MacTiernan replied:**

(1) During the financial year 2020–2021, there were 146 distinct young people between the age of 10 and 13 years old, who were either in detention or were subject to a community corrections order, or had spent time on both.

| Age | Total No. of Young People | Community Corrections Order Only | Detention Only | Both Detention and Community Corrections | Avg Length of Unsentenced Stay in Days | Avg Length of Sentenced Stay in Days | Avg Length of Bail Order in Days | Avg Length of Court Order in Days |
|---|---|---|---|---|---|---|---|---|
| 10 | 2 | 0 | 1 | 1 | 2 | 0 | 48 | 0 |
| 11 | 11 | 4 | 4 | 3 | 7 | 0 | 5 | 164 |
| 12 | 34 | 15 | 5 | 14 | 10 | 57 | 17 | 157 |
| 13 | 99 | 46 | 16 | 37 | 11 | 158 | 19 | 151 |
| Total | 146 | 65 | 26 | 55 | 10 | 124 | 18 | 153 |

(2) Questions regarding children in the child protection system should be directed to the Minister for Child Protection. However, I can advise that during the financial year 2020–2021, there were 33 distinct young people between the age of 10 and 13 years old, recorded as being in the care of the CEO, and who were in detention, subject to a community corrections order, or had spent time on both.

| Age | Total No. of Young People | Community Corrections Order Only | Detention Only | Both Detention and Community Corrections | Avg Length of Unsentenced Stay in Days | Avg Length of Sentenced Stay in Days | Avg Length of Bail Order in Days | Avg Length of Court Order in Days |
|---|---|---|---|---|---|---|---|---|
| 10 | 1 | 0 | 1 | 0 | 2 | 0 | 0 | 0 |
| 11 | 3 | 0 | 3 | 0 | 6 | 0 | 0 | 0 |
| 12 | 8 | 0 | 3 | 5 | 10 | 0 | 0 | 131 |
| 13 | 21 | 2 | 9 | 10 | 10 | 295 | 0 | 142 |
| Total | 33 | 2 | 16 | 15 | 10 | 295 | 0 | 138 |

HEALTH — SCHOOL HEALTH NURSES

**295. Hon Donna Faragher to the minister representing the Minister for Health:**

I refer to the school health nurses employed by the Department of Health, and I ask, what is the total amount of funding allocated for the provision of school health nurses in the 2021–22 financial year and for each financial year across the forward estimates?

**Hon Stephen Dawson replied:**

I am advised:

For the financial year 2021/22 the funding for the provision of school health nurses has been allocated at $18,160,392.

There are no forward estimates regarding this funding as the funding allocation is determined annually.