

LEGISLATION BILL 2018

Second Reading

Resumed from 27 June.

MR P.A. KATSAMBANIS (Hillarys) [3.55 pm]: I rise as the lead speaker for the Liberal opposition to speak to the Legislation Bill 2018. I indicate at the outset that we will be supporting this bill in its entirety. We do have some issues that we would like to have some clarification around but, in the main, we think this is a good idea. On a personal note, I would probably say that this has been way too long in coming to Western Australia.

Essentially, the bill allows for official versions of Western Australian legislation, official versions of Western Australian regulations and subordinate legislation, as well as official versions of the *Western Australian Government Gazette*, to be provided in a non-paper form online. The bill also somewhat expands the powers of the parliamentary drafts people to make minor amendments to legislation as it is being reprinted. It replaces existing acts and therefore will be a standalone act when it comes into operation.

For a long, long time—since the Western Australian Parliament first came into being—subordinate legislation and government gazettes have had official status only when they have been printed and provided in paper form. The commonwealth Parliament and the New Zealand Parliament, and many other state Parliaments, including, I think, Queensland, Victoria and New South Wales, have moved to providing an official version online so people did not have to collect the official printed version. People ask why that matters. It matters because, particularly in legal proceedings and other formal proceedings, only the official versions can be submitted and provided. Although not the only reason, this has led to those infamous pictures that we sometimes see on the news during very high profile court cases of lawyers or their assistants wheeling lever arch files and tomes of legislation into the courtroom. As I said, it is not the only reason. The major reason is that massive paper chase that sometimes happens in litigation. Anyone who has participated in litigation of that form would know exactly what I am talking about. Hopefully with the passage of this bill, we will eliminate the need for legislation and regulation in government gazettes to be provided in paper form and we can rely on an official verified online copy of the legislation, which would help everyone, particularly in remote areas where it might be difficult to get the postal service to get them an official version of the paper piece of legislation. It would be much easier for them to be able to download it, assuming they had the NBN or some other form of satellite communication to enable them to access the internet in a timely and efficient manner.

I have digressed a little, but we should not underemphasise the impact of the Legislation Bill 2018. It will be a fundamental shift. At the moment—the Attorney General can correct me if I am wrong—there is no policy to discontinue the publication in paper form of legislation or the *Government Gazette*, but it may happen in the future. After the proclamation of this act of Parliament, online versions will become available and be relied on as official versions of legislation, official versions of the *Government Gazette*, and in time official versions of all other subordinate legislation that forms what we know as the law of Western Australia. I have said that it has been a long time coming, and it is a welcome move. As society has progressed, particularly in the twenty-first century, we have recognised that relying on something previously printed may not necessarily provide us with the most up-to-date information. That has always been the risk in relying on the paper form of legislation. I remember that when I started as an articled clerk, way too many years ago—before some of the members elected to this place were born—our office had bound volumes of legislation. Some private service would send us updates of particular sections of an act, and a clerk in the office would spend time chopping up these sections and gluing them into the book. I am not sure whether the member for Morley is laughing because she remembers this or because she finds it so unbelievably archaic; either way, I do not mind —

Mr D.R. Michael: It's still a similar system in local government for local government acts.

Mr P.A. KATSAMBANIS: Local government still has a similar system? I was about to talk about local government. The member for Balcatta, who has significant experience in local government, has attested that that is still the practice in local government. Someone will chop up these little pieces, find the right section of the legislation and then paste it in down the side. Amendments that turned a three or four-line section into a perhaps 20-line or 50-line section would be folded into the book, and off we went. For young articled clerks and young lawyers who were often sent by their superiors to track this legislation down, my goodness, it was an exercise in origami as much as it was an exercise in finding out the law and engaging in what we would consider to be legal practice. Thankfully, younger practitioners do not have that problem, but they still have to rely on the official printed version of the legislation, as do courts, tribunals, local government authorities and other people who need to rely on the body of subordinate legislation and other documents and enactments that form the body of law in Western Australia.

Extract from Hansard

[ASSEMBLY — Tuesday, 30 October 2018]

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Mr Peter Katsambanis; Amber-Jade Sanderson; Dr David Honey; Dr Tony Buti; Mr Zak Kirkup; Mrs Jessica Stojkovski; Mr Terry Healy; Mr Mark Folkard; Mr Chris Tallentire; Mr John Quigley

The implementation of the provisions of this bill will provide the capacity for anyone who wants to rely on Western Australian legislation or the *Western Australian Government Gazette* to access an official copy on an official site. That site will continue to be run by the Parliamentary Counsel's Office. That is good because that office is primarily tasked with creating and editing our legislation, and so it should run that site. I trust that, on the passing of this legislation, if it has not already been done, the government will provide adequate resourcing to the Parliamentary Counsel's Office to undertake the task of ensuring that the official online versions are kept up to date at all times. The Attorney General can fill us in on this during his second reading reply, but I imagine the website is already kept and updated, so we require the site to be given the official status and imprimatur that this bill will provide when passed. I have said that I think that is a good thing.

It is the same with the *Government Gazette*, which can be quite voluminous. During his second reading speech the Attorney General said that subscriber numbers for the *Government Gazette* have decreased over time. That is a recognition that people are accessing information online. I do not think the need for the *Government Gazette* has disappeared or that people are not subscribing anymore; I think they simply rely on the online version, although it does not have official status. That makes it even more important to give the *Government Gazette* and our legislation available online its official form, as this bill will and as other jurisdictions have already done.

In relation to the *Government Gazette*, unlike the stated intention of the government in relation to primary legislation, I note the comment at page 6 of the second reading speech of the Attorney General. The Attorney General said —

It will enhance the status of the version of the *Government Gazette* that most people access, and also enable the *Government Gazette* to move to online-only publication in the future as the continuing decrease in demand for the hard-copy version eventually makes publication in that format uneconomic.

The first part of that quote verifies what I have said, in that most people seem to be quite happy to access the *Government Gazette* online, although it does not have official status. Most of the people who access it would know that it does not, but the second part of the quote indicates the intention to move to an online-only publication. I seek from the Attorney General some clarification on the envisaged time frame for the *Government Gazette* to move to an online-only publication, because it is important for the public to know. Users who rely on the paper version should understand the period of time they have to convert to online, and make sure that they skill themselves up and resource themselves to access the gazette online. That picks up on the very useful interjection of the member for Balcatta about local government. I know some of the smaller local government authorities do not exactly have the greatest amount of resources. I would be completely dumbfounded if it were incorrect, but my guess is that every local government authority in Western Australia has online access. For many of the smaller local government authorities, so long as they upskill their people it would be a more productive use of their time to access the *Government Gazette* and subordinate legislation online than to continue to cut and paste bits of paper sent to them in the mail into the old statute books, as we call them. I notice the member for Balcatta nodding approvingly. This will be a good thing, but it is simply a matter of alerting the public and users of these important documents to the time frame within which it is envisaged that the *Government Gazette* will move to online only.

There is an issue with some of the subordinate legislation. To put it into context, this bill will give official status to online versions that will be published on a website run by the Parliamentary Counsel's Office. That is great for primary legislation, the *Government Gazette*, and even for subordinate legislation arising out of government departments. However, significant subordinate legislation is created outside of state government bodies by things such as local governments, which the PCO does not have any drafting access to. The second reading speech and the explanatory memorandum have commentary that a little body of work still needs to be done to make sure that that subordinate legislation—those by-laws and other things that local governments quite regularly make across Western Australia—is updated and loaded onto this new official website in a timely manner. I would appreciate an update from the Attorney General on where we are with that and how far we still need to go. That will determine when some sections of this bill will be proclaimed. The commencement allows for only the preliminary part to come into force on the day that the legislation eventually receives royal assent. Other parts of the act can be proclaimed on dates to be fixed, and different dates may be proclaimed for different provisions. That does not usually matter much in most legislation, but it has already been flagged that there is a body of work to be done. I am not misquoting the Attorney General, am I? A little body of work still needs to be done to make sure the PCO can easily access subordinate legislation made by authorities such as local government bodies and the like. I see the Attorney General nodding in agreement. We would appreciate an update on where we are on that. Over time, I think that this will be a better process. It is just a matter of lining everyone up, making sure that they are on the same page and that there are no gaps, so that people will not access out-of-date information through what is purporting to be, and will be, an official site.

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I have some other questions that I will probably run through during the consideration in detail stage unless the Attorney is able to address them in his summing up. It might be useful to go through them in the relevant clauses. Our body of law in Western Australia does not include just statutes, case law and subordinate legislation; it also includes imperial enactments, which apply by paramount force and became part of our law on 1 June 1829. Will that part of the law be published on the official site and made available, or are we simply to rely on the old tried and tested methods of research to find out what those enactments are and how they apply? How extensive is the definition of “law” in clause 4(d)? It states —

an instrument made under the Royal prerogative that applies in Western Australia and has legislative effect; Will it deal with letters patent or any other forms of enactment under royal prerogative? If so, will those instruments be published on this official site or are we simply to rely on the old tried, and I would say somewhat tested, method of poring through that relatively ancient body of law to find these things out? I think it is important because the answer to that question will determine whether this official site will be a complete repository of all law that applies in Western Australia or whether it will simply be a repository of the written laws passed by Parliament and subordinate legislation passed as provided for by Parliament. Will the rest of the law—that more ephemeral law—still need to be discovered outside the official site? I do not necessarily think that it all has to be put on the site, but we need clarity on whether it will or will not be so that people are not under any misapprehension and will not be surprised later by a royal prerogative, a letters patent or some sort of imperial enactment that they were simply not aware of when they accessed the official site. If all those instruments will not be put up, the site should have a disclaimer at the bottom stating that there may be some issues that would need to be considered in very rare circumstances.

In the main, this is a good move. It recognises modern reality and that sometimes relying on printed versions could mean that people are relying on out-of-date information. More and more people are accessing primary information online. If they want to print it, they can. If they do not want to print it, they can store it, save it or screen-capture it. I am sure that people such as the member for Dawesville can assist me with other ways in which that electronic information can be stored without being printed. People will be able to move that information around and use it as they see fit.

I do not think it is insurmountable, but another issue arises. We have seen that people like to replicate official sites and make the copies look like they are official. Nothing is more in the public consciousness than ticket sites. People google tickets to upcoming concerts. In my case, perhaps, it might be the Def Leppard and Scorpions concert coming up on Friday. For other people it might be Pink or Lady Gaga or whoever.

The ACTING SPEAKER: Tay Tay!

Mr P.A. KATSAMBANIS: Taylor Swift, is it? “Tay Tay” or whatever her name is. It is not my kind of music, as members can probably guess, but good luck to her.

Mr M.J. Folkard: *Shake It Up* is not you?

Mr P.A. KATSAMBANIS: It is not for me. It is not heavy enough for me.

People google “Taylor Swift tickets” or “Metallica tickets”, and the first few results are usually not the official sites, but some sort of secondary-seller sites. Some of them are good and some of them are not so good. We have seen some consumer issues around that. In the same way, the possibility exists for people of ill will to replicate any website, including official legislation sites. I therefore hope and expect that the government has turned its mind to that and implemented some form of protective mechanism, firstly, against copying a site, and, secondly, to alert the public to what is actually the official site; it is not a site hosted in the Dominican Republic or in Granada or wherever, but a site that has a “.wa.gov.au” in it and preferably some form of security layer in it such as https-type security layers and the like. Again, the Attorney General can enlighten us in that regard. I do not think it is too hard to see why in some limited circumstances someone might want to do that and alter the substance of legislation to erroneously perhaps assist them in whatever evil they want to achieve. We know that hacking is real; we know that hacking of governments is real. We do not want to see an opportunity for these people of ill will to in some way or other get their hands on the law of Western Australia and cause strife for ordinary law-abiding citizens for our court system, for the Parliament and for everyone else who is working to do this in a proper manner and to ensure that what we do through this bill is to make things easier for people to access official, real, real-time, accurate and up-to-date information in relation to the law of Western Australia.

The other area I want to touch on is the ability that exists today in the Reprints Act 1984, which will be repealed when this legislation comes into force, for the Parliamentary Counsel’s Office to edit legislation when it is reprinted. As the Attorney General rightly says in his second reading speech —

The PCO currently takes a very careful and conservative approach to the exercise of the editorial powers available under the Reprints Act 1984, and this approach will be adopted in relation to the enhanced

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editorial powers. If there is any doubt about whether the exercise of an editorial power would change the law, the PCO would not exercise the power. Any change would then have to be made by Parliament in the normal way, principally through a Statutes (Repeals and Minor Amendments) Bill.

That is somewhat reassuring, but the powers that this new legislation confers on the PCO are wider and broader than the powers it has for editing legislation currently contained in the Reprints Act 1984. Although I appreciate that the PCO takes a conservative approach, and that is welcome, I note also that it is not just the extension of powers that raises some concern about perhaps inadvertently changing the nature of the law of the land by editing rather than editing through legislation in the Parliament—the twin risk is both the expanded powers and the ability to more readily edit online versions. In the past, the PCO had to wait until an act was to be reprinted before it could activate the power to start editing it. Reprints do not happen all that often, especially for acts that are not used that often. I would say, again—it is probably an observation—the acts that are used less often are the ones in which mistakes, errors or old-fashioned language slip through more often than occur in acts used and updated regularly, usually through legislation. I am not being critical of the PCO or suggesting at all that it will go on some sort of whim or fancy of its own and start freelance-editing legislation. But it is quite clear on reading the second reading speech and the explanatory memorandum and reading the powers in this legislation that acts of the Parliament of Western Australia will be edited more frequently than was the case in the past. The power will exist for them to be edited more frequently—and I imagine they will be.

Again, I seek from the Attorney General some explanation: what sort of instructions, if any, is he likely to issue, beyond what he has said in the second reading speech, to the PCO about the exercise of those powers, and has the Attorney General considered some sort of mechanism to publicly inform users of legislation and this Parliament, which has passed the legislation, that minor changes have been made? I am not suggesting that we come back to Parliament and debate style changes or changes required as a result of a change of an act name in another jurisdiction, usually a commonwealth act or the like. Could we see a circumstance in which the PCO simply tables an annual list, or a quarterly list, of the legislation that it has updated, or some mechanism to alert people that the PCO has made a change? It would be a change that was not considered or passed by this Parliament. That might be well and good in all circumstances. I agree with the Attorney General that it is a much better mechanism than changing through a Statutes (Repeals and Minor Amendments) Bill in this house a reference to paragraph (1)(a) to mean paragraph (1)(b) because that was always the intention of the law. At the same time, people must be alerted that a change in our legislation has been made. I think that that is something that ought to be considered in this new regime. We will be moving to an online regime. It will make things simpler and easier, which means that changes can happen more frequently. It also means that communicating those changes can happen in a much easier, perhaps a bit less formal, but more informative, manner for all the users of primary and subordinate legislation.

I look forward to the Attorney General providing some sort of clarity around that. I hope he understands that these questions and matters that I have posed are to assist in the passage of the legislation, particularly to assist the users of Western Australian law in the future, and to avoid any unintended consequences as a result of new legislation that will do away with the old-fashioned way and bring in a new and, hopefully, what I think will certainly be a better regime. Depending on how comprehensive the Attorney General is in his summing-up, I may also spend a little time in consideration in detail on some specific clauses. We will see how we go. Overall, we think this is good legislation and the Liberal opposition clearly supports it and wishes it a speedy passage.

MS A. SANDERSON (Morley — Parliamentary Secretary) [4.29 pm]: I rise to make a contribution to the second reading stage of the Legislation Amendment Bill 2018—another good bill introduced by the Attorney General. It is essentially a machinery bill—we have seen a number of those through the house—but it is an important bill that contributes to keeping pace with recent expectations and work practices in that people rely more and more on online sources. The world has changed rapidly in the last 10 years in how we source information and no more so than in the area of internet and online technology. The member for Hillarys gave a good example of law clerks cutting out pieces of new legislation and sticky taping them in a book, and I laughed. I did not laugh because I had that particular experience, but because one of my very first jobs out of university 20 years ago was with a public relations firm in London. I do not think it was that long ago!

Mr P.A. Katsambanis: What, yesterday?

Ms A. SANDERSON: It feels like yesterday. My job was to cut out the newspaper articles that were relevant to our clients, photocopy them and then hand them around the office. That job does not exist anymore. It is such a great shame; it was really intellectually stimulating. I remember it really taxed me!

Mr J.E. McGrath: You probably read *The West Australian* back then.

Ms A. SANDERSON: I was in London, so not quite, but I do read it now.

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That job is completely irrelevant now and that demonstrates how quickly the world has changed, although I do not think things changed nearly as much in the 20 years prior to the last 20 years. All areas need to look carefully at how they operate within the modern context.

Essentially, this law is pretty straightforward. It enables legislation to be published online as the official record, the official legislation, and importantly subsidiary legislation, the regulations, are updated so that we always know that we have the most relevant and recently amended copy of any law. That is also important for accessibility for the community. We all live under the laws and it is important that the community is fully across and aware of those laws and any amendments that may have been made to them. Trotting down to the State Solicitor's Office or finding the latest version of the *Government Gazette* is not generally in the purview of the average citizen going about living their lives. We need to look at many things as a Parliament, government and legislature in how we relate to the community and how the community relates to us. We should seriously look at online petitions. It is very quaint to have actual signed petitions—nice, but quite quaint. I think we should look at online petitions, more streaming of committee work and more interactive online forums for Parliament to allow people to engage better. That is essentially how people engage now. There are different ways of doing things in government and Parliament. One of the areas that I am particularly interested in is participatory budgeting. It would be great to see local government trial some kind of participatory budgeting. People can do that online, or in person; there is a whole range of forums. This is one tiny baby step to modernising the laws that Parliament passes, and is very important in the day-to-day lives of people who use the laws, particularly lawyers operating in this space.

I want to touch on some of the legislation that we have seen in this place and the processes it has gone through. I will give an overview of what that legislation has meant and the kind of scrutiny it has received in this place. We have seen more bills in this place than in the same time frame of the previous government—probably two to three more bills. We are certainly not light on a legislative agenda, as has been asserted by members on the opposite side, but we are light on scrutiny and I think that is to the detriment of everyone in Parliament and the community. The Attorney General has probably been one of the most prolific legislators in this place over the last 18 months of this government and that has certainly formed an important part of the government's agenda. Legislation includes the Sentence Administration Amendment Bill 2017; the no body, no parole legislation was one of the first laws that we passed. It was a really important election commitment. Essentially, unless people who have been sentenced and convicted of the horrible crime of murder assist police with recovering the bodies or the remains of their victims, they are not likely to see parole. This was a key election commitment that we delivered very early on in the piece.

The Child Support (Adoption of Laws) Amendment Bill 2018, which was sat on by the previous government, was passed in this place. The Coroners Amendment Bill 2017 was another really important machinery bill that we needed to see in this place. I have a constituent who, the last I heard, was still waiting—more than two and a half years—for a coronial inquiry into her daughter's death. These sorts of machinery bills look pretty dry on paper but they make a difference for people. That bill streamlined a number of coronial practices to reduce some of the delays that people experience. For many families, coronial inquests are a form of closure that can draw a line under an incredibly difficult period. The Domestic Violence Orders (National Recognition) Bill 2017, which was also sat on by the previous government, brought us into line with the national recognition bill that allowed domestic violence orders to be recognised interstate. We had to push that through very quickly because the previous government sat on it, showing complete inaction on this issue. The Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017 honours the promise to crack down on crime and the drug trade and gives important powers to the Corruption and Crime Commission to fight corruption and organised crime, but very importantly enables the CCC to investigate members of Parliament, closing a loophole opened by the previous government. The Dangerous Sexual Offenders Amendment Bill 2017 provides that offenders need to satisfy the court that they will comply with conditions of release, which is much more in line with community expectations. The Court Jurisdiction Legislation Amendment Bill 2017 allows the District Court to handle matters previously reserved for the Supreme Court. It is another machinery bill that provides relief for some of those delays experienced by people who are going through the justice system so they can get their matter heard and be processed through that system. Another bill that we dealt with was the Corruption, Crime and Misconduct Amendment Bill 2017.

The Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Bill 2017 fulfils a really important election commitment around child sexual abuse and institutions. It is probably one of the bills that I am most proud to have passed as part of this government. It will make a tangible difference to survivors of child sexual abuse, many of whom are very elderly and unwell. It is important that they get some acknowledgement and restitution from those institutions. Other legislation includes two suitors' fund amendment bills, which are also machinery bills. The Historical Homosexual Convictions Expungement Bill 2017 expunges criminal records that never ever should have been imposed on people for being essentially who they are. The Financial Transaction Reports Amendment Bill 2018 allows the Western Australia Police Force to access information and

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documents reported under the commonwealth Anti-Money Laundering and Counter-Terrorism Financing Act. The Criminal Law Amendment (Intimate Images) Bill 2018 is another bill, and it is awaiting passage in the upper house. This is a really important reform in Western Australia; it is one that the federal government has sat on, wringing its hands, seemingly unable to make any movement. We need federal legislation around this issue. The bill criminalises the act of distributing an intimate image of someone without their consent, which is very relevant in today's community. The Administration Amendment Bill 2018 is an amendment to statutory legacy that increases the fixed net sum that a deceased spouse or partner is entitled to.

There is also the Child Support (Commonwealth Powers) Bill, the Legislation Bill we are dealing with now and the Gender Reassignment Amendment Bill, which we will deal with in this Parliament shortly—probably this week. The Births, Deaths and Marriages Registration Amendment (Change of Name) Bill includes changes in which dangerous sexual offenders, prisoners et cetera will require prior approval from a relevant supervisory authority prior to a name change. People will need to apply for a name change in their state of birth. It will also limit the number of times that someone can change their name. The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill was passed in this place but sent to committee in the Legislative Council. It is a scheme that cannot be changed by state Parliament. There is no real reason in the world why that bill needed to be referred to a committee and slowed down. The scheme is live. We need to enable Western Australian survivors to access the scheme. It clearly demonstrated a complete lack of leadership or control that members in the Legislative Council did not say, "This is an important bill with bipartisan support; we need to pass this bill for those survivors." The Constitution Amendment (Demise of the Crown) Bill has been around for a while. It was certainly around in the last Parliament. I recall dealing with it on the Standing Committee on Uniform Legislation and Statutes Review. We have also had the Statutes (Minor Amendments) Bill, the Gaming and Wagering Legislation Amendment Bill, the Sentence Administration Amendment (Multiple Murderers) Bill and the Residential Parks (Long-stay Tenants) Amendment Bill, which is something that the previous government grappled with. It failed to come to any good policy outcome for those tenants. I look forward to speaking on that bill because when my grandparents on both sides were alive, they lived in residential parks. I have a grandmother still alive who lives in a residential park. It is a really important form of affordable housing for many people.

In the debate on the Gaming and Wagering Legislation Amendment Bill the last time we sat, the member for Dawesville made ridiculous claims about the government not having any kind of legislative agenda and being light on legislation. I have clearly demonstrated that we have introduced more bills than those introduced in the same period by the previous government. The member made outrageous claims that we have no legislative agenda, which is just ridiculous. I want to outline the opposition's role. The role of opposition is to scrutinise legislation, clause by clause, to ensure it is appropriate, good legislation. It is a good and robust process, which was established by the Westminster system generations before any of us were born. In its role to closely scrutinise legislation, the opposition is absolutely failing. Many bills proceed straight to the third reading stage, bypassing the consideration in detail stage. Bills such as the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill went straight to the third reading stage. The Community Titles Bill, the Community Titles Amendment (Consistency of Charging) Bill, and the Human Reproductive Technology and Surrogacy Legislation Amendment Bill went straight to third reading with no scrutiny, despite all the protestations and chest puffing from members of the opposition about how they intended to forensically scrutinise these bills.

[Quorum formed.]

Ms A. SANDERSON: It took less than 15 minutes to pass both the Community Titles Bill—a bill with 273 clauses—and the Community Titles Amendment (Consistency of Charging) Bill. It took 15 minutes! The bills that do not get to the consideration in detail stage are simply not undergoing any kind of forensic or extended analysis. It is a totally lightweight effort. For the First Home Owner Grant Amendment Bill, we spent 54 minutes on the consideration in detail stage. It may be my experience in the Legislative Council —

Point of Order

Dr D.J. HONEY: Under standing order 97, I am utterly struggling to understand the relevance of any of these comments to this piece of legislation. It is just a sledge of the opposition.

The ACTING SPEAKER (Ms S.E. Winton): I do not think that is a point of order. Thank you. Continue, member.

Debate Resumed

Ms A. SANDERSON: Thank you, Acting Speaker. We are dealing with legislation in this place and the machinery of this place. The point I am making is that this place is not operating to its optimum because the opposition is absolutely failing in its role. For the Domestic Violence Orders (National Recognition) Bill, one hour and 40 minutes was spent on the consideration in detail stage. For the Dangerous Sexual Offenders Legislation Amendment Bill, less than two hours —

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Dr D.J. Honey: You're complaining about the lack of progress of legislation and you're filibustering your own piece of legislation.

Ms A. SANDERSON: It is uncomfortable to hear, member.

The ACTING SPEAKER: Thank you, member for Cottesloe.

Ms A. SANDERSON: Members opposite barely bother to turn up for work and when they do, they are not doing their job. A good opposition drives good government. It is good for the community. The very important Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Bill was held over because the shadow spokesperson was away on urgent parliamentary business. It is absolutely right that it should have been held over because he wanted to "forensically examine" the bill. But it was held over to be given 46 minutes of consideration. That is pathetic. The Duties Amendment (Additional Duty for Foreign Persons) Bill took one and a half hours. The Pay-roll Tax Assessment Amendment (Exemption for Trainees) Bill took one hour and 40 minutes.

Dr D.J. Honey interjected.

The ACTING SPEAKER: Member for Cottesloe!

Ms A. SANDERSON: Despite the opposition wanting to closely examine it, the Transport (Road Passenger Services) Bill took less than five hours—a 346-clause, 232 page bill. I recall in previous Parliaments that bills that big would take two weeks to get through. Members of the opposition need to do the research, do the work, and understand their policy area and what they are dealing with. This is a demonstration of the total vacuum of skill and motivation, and their absolute inability to do their job in opposition.

Dr D.J. Honey interjected.

The ACTING SPEAKER: Member for Cottesloe, I call you to order for the first time. I tried really hard to ignore you.

[Member's time extended.]

Ms A. SANDERSON: There is clearly no motivation. I absolutely reject any notion from the other side that this government has a light legislative agenda or is desperately scraping around for things to do. We have the alternative issue in the Legislative Council in which members refuse to pass really important pieces of national legislation like the National Redress Scheme. It is ridiculous. Members need to take a very good, hard look at themselves and do the jobs they are paid to do. I say this not for the interest of opposition members but for our interest, because good opposition drives good government. That is the purpose of this system. When members opposite are not doing their jobs keeping the government to account then it is not as easy for the government. We want to run a good government and we are running a good government. It is with absolutely no thanks to the current opposition. It is a reasonable expectation of the community that the opposition properly scrutinises these bills instead of leaving the heavy lifting to their colleagues in the upper house. That is what members opposite do. They say, "We'll move amendments in the upper house. We'll scrutinise it in the other place. We'll just leave them to do all the work over there in the upper house." I commend this bill to the Parliament. It is another good machinery bill from this government, which will help to modernise some of the Parliament's practices and allow those who operate in this space a much easier time to understand why legislation is relevant. I commend the Attorney General for his work.

DR A.D. BUTI (Armadale) [4.49 pm]: I also rise to contribute to the second reading debate on the Legislation Bill 2018. As all lawyers know, and as all of us in this house should know, ignorance of the law is no excuse; therefore, it is very, very important that we ensure that the citizens of Western Australia know what the law is. One way of knowing the law is to read the written law that is available as a result of legislation passed in this place. Our reformist Attorney General, Hon John Quigley, has introduced this bill to bring us up to date with modern technological times.

As the member for Morley stated, she had a job in the UK similar to a job I had at the Australian National University when I was going through law school. I spent three to six hours a week cutting up newspapers that were set aside in different categories and were then placed on microfiche. The member for Dawesville will probably not even know what that is!

Mr Z.R.F. Kirkup: Is it that tape thing?

Dr A.D. BUTI: Yes. One can become quite sick if one spends a long time going through microfiche. Times have changed. But seriously, as I said, ignorance of the law is no excuse, so it is important that people have access to the law. In my contribution, I will talk about the difficulties law clerks and legal researchers had 20-odd years ago when trying to obtain legislation and, more importantly, amendments to legislation. The whole idea of the bill before the house is basically to ensure that law in electronic form, in addition to law that is produced in hard copy, is considered to be the official law of Western Australia. As members know, the Parliamentary Counsel's Office and the State Law Publisher provide Western Australian legislation to the public of Western Australia in both hard copy and electronic form, but at the moment only the hard copy has official status. Under Western Australian law,

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generally, only hard-copy versions of legislation and the *Government Gazette*, in which subsidiary legislation is published, have official status; electronic versions of legislation on the Western Australian Legislation website and electronic versions of the *Government Gazette* have no official status. But as we know, people rely more and more on electronic versions of legislation, particularly the WA Legislation website. I would imagine that when the member for Girrawheen and the Attorney General first came into the house, the printed *Hansard* was really important, rather than the electronic version. Was there an electronic version of *Hansard* then?

Ms M.M. Quirk: When we came into Parliament it was written on stone!

Dr A.D. BUTI: Really? Very good!

I made my inaugural speech back in 2010 and at the end of that year I received correspondence from Hansard to ask whether I wanted bound, hard copies of *Hansard*. Do we still do that? I do not think so. There was the option then and it was available for maybe another couple of years. I only did it for one year so I could have at least six bound copies on the bookshelf in my office in case I ever needed a photograph taken; the copies that one never actually opens up to read! But I do not think that offer is available anymore. Is there still an offer for hard copies? It would be interesting to do a survey of members to see how many would take the hard copy form; those who are perhaps a bit more vain might take the hard copy form so they can have a nice presentation behind them; I am not sure!

Mr I.C. Blayney: They might also buy *Who's Who* to see if their name's in it!

Dr A.D. BUTI: That is right!

Times have changed. The bill before the house will do a number of things, some of which were outlined by the member for Hillarys. One important thing it will do is repeal the Reprints Act 1984. Basically, the new legislation will set out the responsibilities for publishing WA legislation. Importantly, the main thrust of the bill before the house is that it provides official status to both hard copy and electronic versions of WA legislation and electronic versions of the *Government Gazette*. I have to say that I have always found the *Gazette* a bit confusing to read, but it is good that the electronic version of it will have official status.

As we know, more and more people are using websites, so by making legislation available in that way, one would hope that it would improve public access to subsidiary legislation; it is really important that people have access to subsidiary legislation. Currently, as-made versions and consolidated versions of WA subsidiary legislation can be accessed through two channels—the *Gazette* and the WA Legislation website, which can be a bit confusing. Through this bill, subsidiary legislation will be made available in one place—the WA Legislation website. The production of hard-copy reprints will cease, and I think that is important because it also reduces the use of paper, which of course comes from trees. That is an important issue, and it will also reduce the budgetary impost on the state of Western Australia.

When I was an articled clerk—I came into the law a bit later, in the early 1990s—the ability to use computers to obtain legal resources was much more limited than it is today. Basically, it meant trying to find hard copies of legislation and amendments to legislation and so forth. I started as an articled clerk with Dwyer Durack—it is now a very different organisation in its current form—just prior to the 1993 state election. I started work around 6 January, and the state election was—I cannot remember—at the end of February. The North Metropolitan Region of the upper house did not submit its preferences in time for the Electoral Commission to authorise the printing of the how-to-vote cards. Dwyer Durack were the lawyers for the Labor Party and we made an appeal. We also acted on a pro bono basis for the Greens, which also wanted to lodge an appeal to the Court of Disputed Returns, which is, of course, a jurisdiction of the Supreme Court of Western Australia. We were trying to make the argument that the election was null and void for the upper house North Metropolitan Region because not allowing us to distribute how-to-vote cards was disenfranchising the voters.

I should say that I was a mature-age articled clerk, but there was a particular partner at this law firm who was quite a forceful partner, and he had responsibility for this matter. I remember him saying to me, “There’s a case on this point, and you’d better find it because your head’s on the line”, which was a bit hard when I had been working there for only a week! I remember spending all night in the firm’s library trying to access all the hard copies of various cases and law reports from around Australia, going to various pieces of legislation and *Gazettes* et cetera. Imagine if I could do that now; I could just put it into the computer, google it or go to the WA Legislation website and my job would have been made a lot easier. The end of the story is that there was no precedent or case to refer to, and we lost the case, and Labor lost the election. That was the 1993 WA Inc election, so Richard Court became Premier.

Dr D.J. Honey: A very good Premier he was, too.

Dr A.D. BUTI: He is a good current ambassador to Japan! If the member wants a bit of trivia, I used to coach his son in fitness training for tennis—Chris Court. I am not sure which son he is in the order of the family.

Written legislation is very, very important. What do we mean by written law? What do we mean by a bill? I refer to the online version of *Black's Law Dictionary*. Under the heading “What is BILL”, it states —

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A formal declaration, complaint, or statement of particular things in writing. As a legal term, this word has many meanings and applications, the more important of which are enumerated below. 1. A formal written statement of complaint to a court of justice. In the ancient practice of the court of king's bench, the usual and orderly method of beginning an action was by a bill, or original bill, or plaint. This was a written statement of the plaintiff's cause of action, like a declaration or complaint, and always alleged a trespass as the ground of it, in order to give the court jurisdiction.

...

In Scotch law, every summary application in writing, by way of petition to the Court of Session, is called a "bill."

Any written proposed law that comes before Parliament is also known as a bill. That is why this bill is called the Legislation Bill 2018, as it is trying to give official status to the electronic version of bills and subsidiary legislation, and to the *Government Gazette*, which of course prints the subsidiary legislation.

The Leader of the House, who introduced this bill on behalf of the Attorney General, stated in the second reading speech —

An important responsibility of government is to provide public access to accurate, up-to-date and reliable versions of legislation in a timely and efficient manner. This responsibility stems from the principles that everybody is presumed to know the law, and that ignorance of the law is no excuse. Neither of these principles can operate fairly and effectively if the law is not made publicly accessible. In Western Australia, this responsibility is carried out by the Parliamentary Counsel's Office and the State Law Publisher. Individual acts as passed and bound volumes of acts passed each year are published in hard copy and made available through SLP. Subsidiary legislation as made is generally published in full in the *Government Gazette*, which is published in both hard-copy and electronic forms. Reprints of acts and subsidiary legislation—that is, with their amendments incorporated—are prepared by PCO under the authority of the Reprints Act 1984 and printed and published by SLP.

This bill will bring all that written law into one easy reference site that will have official status. That is incredibly important. The second reading speech states also —

The WA legislation website provides public access to WA legislation in electronic form. Previously hosted by SLP, the website is now hosted by PCO. The work of maintaining and updating the collections of material on this website has always been undertaken by PCO staff. Under current WA law, generally only hard-copy versions of acts and hard-copy versions of the *Government Gazette* in which subsidiary legislation is published have official status.

One of the reasons people may be ignorant of the law is that they refer only to the original act and not the subsidiary legislation. Therefore, the changes proposed in this bill will make understanding of, and access to, the law much easier.

This bill will bring Western Australia into line with the majority of Australian and overseas jurisdictions. The second reading speech states also —

Electronic versions of legislation now have official status in the commonwealth, New South Wales, Queensland, the Australian Capital Territory, Victoria and New Zealand. In those jurisdictions, people wanting their own official versions can simply print these from the electronic versions available on the relevant websites.

That is fantastic. It continues —

For those people who want access to commercially printed and bound legislation, some jurisdictions have moved, or are moving, to a print-on-demand service.

[Member's time extended].

Dr A.D. BUTI: I note that under this bill, the restriction on the exercise of these editorial powers will remain. That is important. The law is the law. We do not want to provide unlimited editorial powers to change a written law that has official status. The second reading speech states —

Some of the proposed additional powers are as follows: to update references to the laws of other Australasian jurisdictions where the citations of the laws have been changed; to change expressions indicating gender to conform with current drafting practice, which is to draft in gender-free terms; to number or renumber provisions; to update references to things that have been replaced, such as statutory bodies; to change grammar, spelling or punctuation to conform with current drafting practice; to omit obsolete or redundant provisions of WA legislation, to incorporate validation, saving, transitional or similar provisions, when contained in amending legislation, in the legislation to which the provisions relate; and to make format or layout changes to ensure conformity with current drafting practices.

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The substance of the law is not being changed. The exercise of these editorial powers will not allow anyone to change the substance of the law—that is what the Parliament does. This relates to drafting and formatting issues and to citations from other jurisdictions. This bill will not change the current role or powers of the Joint Standing Committee on Delegated Legislation and the disallowance powers vested in each house of Parliament under section 42 of the Interpretation Act 1984.

The Evidence Act will need to be amended as a consequence of this bill. Section 53(2) of the Evidence Act deals with judicial notice and states —

Any paper purporting to be a copy of any Act of the Parliament of the United Kingdom or of the Commonwealth, or of any State, or of any Australasian colony, whether passed before or after the commencement of this Act, and purporting to be printed by the Government Printer, shall prima facie be deemed to be a correct copy of such Act without any further proof thereof.

Clause 58 of the bill, “Section 53 amended”, states —

In section 53(2):

- (a) delete “paper” and insert:
document (whether in printed or electronic form)
- (b) after “printed” insert:
or published

Clause 57 of the bill proposes to amend section 3 of the Evidence Act. Clause 59 proposes to amend section 57 of the Evidence Act with regard to proof of certain documents. It refers to evidence of any royal proclamation, order of Her Majesty’s Privy Council, order, regulation, despatch, or any other instrument. The member for Dawesville would be very happy about that. In the last couple of weeks, he would have been in ecstasy, would he not?

Mr Z.R.F. Kirkup interjected.

Dr A.D. BUTI: In the last few weeks, all the member’s dreams would have come to the fore.

Mr Z.R.F. Kirkup: All at once! Absolutely correct!

Dr A.D. BUTI: Section 57(1)(b) of the Evidence Act states in part —

by the production of a copy of such proclamation purporting to be printed by the Government Printer, or under the authority of Parliament;

Clause 59 of the bill proposes to amend section 57(1)(b) by inserting after “printed” the words “or published”. We can see that this legislation is consistent in referring to published or electronic versions, because of course if we are going to talk about an electronic version, we have to also mention the word “publish”, because an electronic version of itself is not printed, unless we print it off, obviously. The fact that it is on the Western Australian Legislation website gives it official legal status and that is because it is published—it is not printed—on the website. That is why there was a need for changes to be made to the Evidence Act when dealing with the legislation before us.

The Parliamentary Counsel’s Office proposes to take a staged approach to the implementation of the proposal to change the way WA subsidiary legislation is published. The material that the PCO drafts will be moved from the *Government Gazette* to the Western Australian Legislation website as a first step. The PCO will also consult with other agencies responsible for subsidiary legislation that the PCO does not draft, such as local laws, to determine whether this material should continue to be published in the *Government Gazette*, moved to the Western Australian Legislation website or published in some other way. It is important to note that the bill will not alter the process for the passage of legislation through Parliament. That is important. We will still be making the laws, as we have done since day dot, and this house will need to pass those laws. Then they will go to the other house to be passed and then they will need to be given royal assent by the Governor. That still remains; that will not change. This legislation is all about making the laws that we pass in this house more easily accessible to the public.

When I started speaking, I made the comment that ignorance of the law is no excuse. We need to ensure that people have the best possible access to the written law because the written law that is passed by both houses of Parliament is the law of the state. At the moment, the way we give primacy to hard copies of the law and we do not give official status to the electronic version makes access to the law more and more difficult. Also, if we do not give official status to the electronic version of the law, we are really not abiding by the advancements in technology. That is very important, and it also brings us up to date with other jurisdictions.

The second reading speech of the Leader of the House, delivered on behalf of the Attorney General, stated —

The PCO has consulted extensively on the changes that are proposed to be implemented in the bill. In 2015, the PCO wrote to key legal stakeholders affected by the proposals to modernise the processes for publishing

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WA legislation and sought their feedback. All those who responded supported the proposals. In relation to the proposed enhancements to editorial powers, the PCO issued a public discussion paper in December 2016 seeking submissions on those proposals. The discussion paper was made available online —

Naturally, of course —

and responses could be made by way of an online survey, email or letter. Emails inviting submissions on the discussion paper were also sent to a large number of legal stakeholders and others considered to have an interest in the proposals. Twenty-one submissions were received on the discussion paper. An overwhelming majority supported the proposed enhancements. There was some feedback on the proposals to enhance the current editorial powers. The PCO currently takes a very careful and conservative approach to the exercise of the editorial powers available under the Reprints Act 1984, and this approach will be adopted in relation to the enhanced editorial powers. If there is any doubt about whether the exercise of an editorial power would change the law, the PCO would not exercise the power. Any change would then have to be made by Parliament in the normal way, principally through a Statutes (Repeals and Minor Amendments) Bill.

That is really important. We need to have this editorial power because often we need to tweak the draft written form that is in front of us. It is like reading *Hansard*. Sometimes *Hansard* makes editorial decisions so that our speeches read better and sound better. Those same editorial powers are available under this bill, but it must be reiterated that we are not changing the law; that can be done only by Parliament.

In talking about the importance of legislation and online versions of the law, I will mention an article. It is not directly relevant to the bill before us, but it says that if we do not move this way, it shows how out of step we would be. This article from *Fortune* headed “Harvard Law Just Released 6.5 Million Court Decisions Online” states —

In a significant milestone for public access to the law, the Library Innovation Lab at Harvard Law School on Monday published more than 40 million pages of U.S. court decisions online.

The publication, which represents nearly 6.5 million state and federal court cases, is the culmination of a five-year project that saw Harvard slice the spines off a vast collection of legal reporter books in order to digitize them.

...

“It’s an opportunity to reconstruct the law as a data source, and write computer programs to peruse millions of cases,”...

While the legal corpus is available to anyone, it is presented in a format friendly to programmers rather than ordinary users.

It goes on to say that previously everything was available on LexisNexis. If any lawyers here have used LexisNexis, they would know that it is not always an easy instrument to utilise.

As the member for Hillarys mentioned, this is a good law—a good bill—that has been brought to the house by the Attorney General. It is important for a number of reasons. It is important because, firstly, it brings us up to date and in line with various jurisdictions in Australia and overseas; secondly, it helps reduce unnecessary wastage in the state budget by reducing the need to print hard copies of legislation to the degree that we do now; and, thirdly, and probably most crucially, it provides a friendly and more accessible avenue for the citizens of Western Australia to have access to the laws that we pass in this house and, more importantly, subsidiary legislation. As any person studying the law would know—I mentioned this before—often it is the subsidiary legislation that people forget to obtain. They also forget to obtain the most up-to-date act. They look at a previous act without looking at the amendments that may have been made. That can be fatal to any research someone may be doing to represent a client or when trying to represent themselves. As I stated, the fact that one does not know what the law is—that is, ignorance of the law—is no excuse.

We have an important obligation to ensure that the laws that we pass in this house are accessible to the citizens of Western Australia. I think this bill does that. It ensures that access to the law will be much easier after this bill passes both chambers of this Parliament. If it does, this bill itself will become law and the electronic version of it will have official status, and that is incredibly important. There are two other important things to know. First, this legislation will not change the way we pass legislation in this house. It will not change the status of this place or this government’s objectives to make its process more efficient and cost effective through more effective use of technology. Second, the legislation will improve the provisions of the government’s services to the public, thus creating administrative efficiencies across government and also reducing costs of all government agencies.

MR Z.R.F. KIRKUP (Dawesville) [5.19 pm]: I rise to speak to the Legislation Bill 2018. It is always good to speak after the members for Armadale and Hillarys. As the member for Hillarys has alluded to, the opposition

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does not oppose the Legislation Bill 2018—indeed, it supports it. Many speakers have mentioned the great need to modernise the ways of this Parliament, and this bill will go a good deal of the way to doing that. It will ensure that as many people as possible can access the legislation that governs them in the state of Western Australia. Similarly to the member for Armadale, I find the *Government Gazette* at times to be an unusual beast to go through. I have hot keys for things that I particularly search for now because it has become so arduous to go through.

Mr M.J. Folkard: It's near on impossible!

Mr Z.R.F. KIRKUP: Quite right, member for Burns Beach. Effort should also be made to try to modernise it.

The member for Morley spoke about petitions—another vein of modernising the operations of this house—and we should look at that. I find it extraordinary that if I get a petition that includes an email address or something like that, it is a lot harder to try to facilitate that tabling because I do not think people want their email address released to all and sundry. There should be a way to capture that. The House of Commons has a mechanism that when a petition reaches a certain threshold, it has to be taken on by the house through a committee investigation or the like. There have been some that I consider relatively absurd, like trying to stop the President of the United States from visiting the United Kingdom, but the house has to formally consider that petition. Nonetheless, that was the will of the people, and perhaps that is something that —

Mr P.A. Katsambanis: Freedom of speech.

Mr Z.R.F. KIRKUP: Indeed it is freedom of speech, member for Hillarys. Parliaments all across the commonwealth should look at that process in good faith, especially in Western Australia where the population is relatively technically able to access the internet and websites that matter to them; Parliament might be one of those.

The member for Armadale asked questions about a concern of mine around hard-copy documents. I do not know the answer to that question. I have Arthur Marshall's *Hansards* in my office; he put Post-it notes on them to mark his various speeches; Hon Kim Hames did that too. I inherited both sets of *Hansard*; I do not know whether I will get the opportunity to add to the collection. I can say with confidence that those of the former member, Dr Hames, sat there relatively unused, but Arthur Marshall's were well indexed and referenced. If a constituent came into his office and wanted to talk about a park, he would pull out the *Hansard* in which he had talked about that park, and that was to great effect.

Mr J.E. McGrath: I thought all members of Parliament did that!

Mr Z.R.F. KIRKUP: I am sure they do, member for South Perth, but the first member for Dawesville had his indexed and was able to get very quick access. It is great that we have printed copies of *Hansard*. I do not mind the cost; I would purchase them. I am a fan of hard-copy text. As much as my generation uses it and all my work is online, I still print out as many of my speeches as I can. I prefer the paper version; I still read books in the physical form. I think the hard copies of *Hansard* are great, and I would like to see that tradition continue. But I see the need for legislation to enable it to be published electronically. That makes a lot of sense.

The only concern I have about the Attorney General's proposal is around the security of the publishing of legislation. Clause 3, "Object of this Act", states that this bill will give official status to Western Australian legislation in both hard-copy and electronic format. By giving official status to both, we meet the public's expectation that it can access its legislation online. My concern is about the ability of anyone to manipulate websites and online legislation, and how that can be reconciled. Imagine if a sentencing magistrate or judge has possibly a more closed document management system to allow them to call the legislation up on their computer or whatever; a hard copy is much harder to interfere with. The concern I have is that if that is online, the website currently operated by the Department of Justice is okay, but it is not in great health in terms of accessibility. Some work carried out by a not-for-profit group showed that in a security sense, those websites are not particularly good. They rated a B on a scale of A to D, which I guess is not too bad, but if this becomes the official mechanism by which people can reference the law in Western Australia, I want to make sure that the website is as secure as possible, and that the legislation and online documents cannot be manipulated. It concerns me that the website is not in great health and the security is so lacking.

Some of the issues identified by the not-for-profit group—this is publicly available information; anyone can look it up right now, so I am not exposing any weakness that people are not already aware of—included a number of weak cipher keys. When we go to the legislation.wa.gov.au website through our iPhone, our browsers make a series of negotiations with the server to access the website and make sure it is secure and not in any way, shape or form malicious. It exchanges keys and cipher suites as part of that algorithm to provide a secure network connection. Unfortunately, through doing research, I found that the website has number of weak keys, providing the ability for that website to be interrupted while someone is accessing it. If someone uses TLS 1.3 protocol to get through to that website, they can be interrupted, and that is concerning. It means that right now the host site is vulnerable to being interrupted or hacked. Hacking is an issue right across the board. Bloomberg today reported

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that Cathay Pacific had years of data for passenger flight information hacked, so multibillion-dollar enterprises get hacked, and governments are no different. My concern is about official status being given to online legislation. I am sure the Attorney General is cognisant that if we are representing something online as being official, we need to guard against that being interfered with. That could be done for any reason, and we need to be aware of what that would look like.

Perhaps a solution could be Blockchain. The current printed physical legislation comes with a number of seals, or it can be watermarked or bound in a certain way; there are a number of physical representations that ensure that that document, which of course can be photocopied or printed differently, that came from the State Law Publisher is the document that was received and then used by a court, Parliament or agency. There is presently no authentication mechanism for online legislation. I suspect that to facilitate Blockchain, the government could partner up with a university. Blockchain could be a way of digitally printing a stamp—a golden key—on every piece of legislation, so that if there was a concern about the act that has been referenced, or to authenticate it, that could be looked up to make sure that the code issued and embedded is within the PDF or HTML5 or 3, I think it is at the moment. That could be properly authenticated to ensure that it has not been interfered with. All members are probably aware of Bitcoin, and that uses the same authentication technology. The reality is that we want to create, in effect, an unbreakable identifiable serial number for each document. It is very easy to do in an electronic sense—a lot easier than in a currency sense—for document management. The internal documentation that most financial institutions are legislatively required to work off use Blockchain to make sure that documents are authenticated in a digital sense. I have said a number of times in this place that I am absolutely in favour of making sure that our government and Parliament are more modern and accessible. But I am concerned that in Western Australia our websites and agencies are regularly under attack from malicious individuals, and sometimes foreign-state actors. Through questions on notice today, I found out that Busselton Water has been attacked more than 330 000 times since 11 March last year; that is an interesting situation. That could be any range of digital attack, but the reality is that if we give official status to online legislation, it would be prudent to make sure that the website that is hosting it has a security standard that is up to speed and scratch. At the moment, it is not as robust as it needs to be. I hope that when the government makes the transition after the bill is passed and comes into law, it will invest in that technology. I strongly recommend that the government look into something like Blockchain being embedded in those documents, so that when legislation is issued every copy has a unique identifiable element that can be recalled to ensure that the integrity of it is exactly how it is meant to be from the initial online publishing.

That is really the extent of my contribution. The member for Cottesloe will address some of the concerns of the member for Morley; I will not get to that point. But there is an inconsistency when the member for Morley stands and attacks the opposition and suggests that we sometimes hold up a bill that is incongruent with the government's designs, and also decides to criticise us for not interrogating bills. It is the opposition's role. Most of the time we try to work very collaboratively and in a good spirit with the government to make sure that legislation is passed in an expeditious fashion. The member for Cottesloe will go through this in much more detail and will no doubt be able to address the issue far better than I would be able to prosecute it. I make the point that the opposition does a great job with limited time and limited resources. When I say that this government has a vacuous legislative agenda, I need only to point to the wagering and gaming bill that was introduced when we last sat. We dealt with it over two weeks, and because the minister was not ready for the consideration in detail stage, two ministers spoke to the bill to filibuster. The government pushed it out and delayed it. I can point to bills like that —

Mr D.A. Templeman: My contribution was outstanding!

Mr Z.R.F. KIRKUP: Indeed, the member for Mandurah's contributions are always outstanding.

I realise the government tries to pump the brakes at times to suit its own designs in this and the other place, but that is relatively unprecedented. When we make points about a vacuous legislative agenda, that is what we are referring to. I commend the bill to the house.

MRS J.M.C. STOJKOVSKI (Kingsley) [5.30 pm]: I rise tonight to make a short contribution to the second reading debate on the Legislation Bill 2018. I want to focus on the people's Parliament. Members often go around Parliament with school groups and listen to the education team telling students who come through that this is a democratic Parliament and a Parliament that belongs to the people. If we look slightly above us, we can see the people's gallery. Anybody in the Western Australian community can come into our Parliament and view what we are doing here. We have also moved to broadcasting parliamentary sittings so that if they so wish, people who are not able to come into Parliament can see online what we are doing. This legislation is wrapped up in that process of digitisation and is in line with what the rest of the community is doing. It will allow people in the community to get proper access to legislation. Some legislation is available online now, but giving the legislation that is online the status of official legislation is important. It will give people confidence that they are looking at the most up-to-date information.

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Through their day-to-day learnings, many of my primary and high school students understand that sustainability is a big issue now and will be in the future. Having legislation constantly printed is not exactly in line with the mindset of paper appropriateness that we can see in the community. I run what I would term a paper-appropriate electorate office. When I arrived there the week after the election, no fewer than eight filing cabinets were in my office. I had four of them removed because I did not know what to do with them. In my mind, being paper appropriate means not printing every piece of correspondence or email and filing it, but moving to a system in which that is done online and on hard drives and backed up. That does not create excess paper that will not necessarily be needed or looked at. I still have four filing cabinets, but I use them mainly to store bits of electronic equipment. I am not alone in thinking this way. We do not need to use paper now in the same way that we did 10 or 20 years ago. This legislation is a good step for our Parliament and our government to become more paper appropriate in the digital age. It will also bring us into line with the community expectation that government funds be used in an effective and efficient manner. That was a foreign concept to the previous government, but it is great that the McGowan Labor government is focusing on that and making sure that every dollar we spend is spent to the best advantage of the community. I do not think that printing legislation that can be viewed online is the best use of those dollars. My primary and high school students understand the concept of sustainability. It is great that we will finally be in step with those kids who will be the future of the state. Some of them may even be future parliamentarians or Premiers of this state, and we should hand them an appropriate digital database of what we are doing. Reducing the costs of bringing us into the twenty-first century bodes well for us as a government. Particularly in this age when every dollar counts, reducing printing costs will be a great advantage.

In my days as a planning student, I had to deal with many pieces of legislation as part of my degree. After purchasing planning books, which cost \$150 to a couple of hundred dollars each, and environmental law books, the cost of purchasing the legislation that we needed was hard to justify. Why could we not just use the online versions? When we used the online versions, we could be confident that it was the most up-to-date information we could get. This will be helpful for students—not just planning students, but also law students and other students who rely heavily on legislation and refer to it for the many assignments in which lecturers require students to quote legislation. This will be a good step for them. The Labor government is all about reducing the burden of costs on people. As a struggling student, I would have appreciated not having to purchase legislation. Keeping it up to date online will help alleviate that.

I have worked in planning. Because there are so many technical pieces of planning legislation and regulations, it is really important for those who are working in the planning field in local government and private industry—statutory planning particularly—to be able to access the most up-to-date information online. It will be a real benefit to their jobs and will mean that the advice they provide to clients and proponents will be appropriate. Nothing is worse than getting outdated advice, making decisions on it and having to step back and go again when new information is found out. This is a good step for people working in industries that rely on up-to-date technical advice, particularly when they are dealing with people's lives. Planning is a big sphere, but when people are planning developments—to build a house or what to do with their piece of land—they are usually planning for their future, not just for a building that will be put in a particular place. This step will be really good for them.

Before I conclude, I want to commend our Attorney General. I think this is the twenty-fifth piece of legislation from his office that we have dealt with, which is a staggering amount. Some of the important pieces of legislation we have dealt with were the domestic violence bill, the child support bill, and the dangerous sexual offenders amendment bill, which are very important for our community. Most staggering is that the former Attorney General brought only 21 pieces of legislation to this Parliament in the entire six years that he was Attorney General. Our Attorney General has already introduced 25 pieces. I understand that another bill will be read in shortly, which will be 26 pieces of legislation in under two years. Although some have been what people term mechanical, they clean up legislation and make it a lot easier for the community to understand what the Parliament is talking about and what the Parliament means. It provides the community with clear guidance on legislation. I think this is another great piece of legislation, Attorney General, and I commend it to the house.

DR D.J. HONEY (Cottesloe) [5.39 pm]: I was not originally going to speak on this legislation but the member for Morley inspired me to speak. First of all, I support the intent of this legislation. It is clearly a step forward in many ways, although I have some concerns overall. I share the concerns of the member for Dawesville about cybersecurity. It concerns me when we rely on digital or electronic storage and distribution of documents that there is an opportunity for people of ill will to interfere with documents or to intervene in the access or distribution of documents. It is a topic that needs to be explored more in this place and elsewhere, and governments need to explain—any government, not exclusively this government—how we guarantee the security in that environment, because it is critically important. We are relying on these written records, although in this case, it will be electronic

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records, to describe the law. It will be used by practitioners, legislators and others. We need some guarantee that there is an extreme level of integrity to all of that.

I certainly share the member for Hillarys' concerns on the issue of notifying people of editorial change. I know the Attorney General is absolutely genuine in saying that he considers that those editorial changes will occur only when they do not have any legislative effect. My concern is that that will involve human judgement. As we know in this place, human judgement is not always correct. There are many times when people believe the changes they are making are minor but, in fact, they could have some legislative significance. I echo the member for Hillarys' call that there may be some method—perhaps it is intended by the Attorney General—of notifying people when editorial changes have been made, otherwise they could be seamless or invisible to people. In fact, people may not have a chance to scrutinise them and make sure the changes are as benign as I understand is genuinely intended.

The member for Armadale made a useful contribution to the debate, as did the member for Kingsley. I think the member for Armadale may be optimistic about paper. As someone who has gone from the period of producing documents before computers were widely available to the period of computers being widely available, I suspect the use of paper, particularly the use of high-grade, high-quality hardwood paper, has increased exponentially with the digital age. That is because along with the rise of digital devices has been the rise of low-cost, very fast printing devices. I am not sure this will save much paper but, obviously, it will provide for people who do not like using paper the opportunity to look at this and perhaps save paper. I am not sure it will save much paper in the long run, but I certainly understand the intent in terms of the immediacy that people can have these documents available online, as long as appropriate protections are put in place, so that they will be reading a true document.

I want to specifically respond to the member for Morley. Can I say that if the Attorney General's intent during question time today was to put pressure on the opposition concerning the passage of legislation —

Mr J.R. Quigley: Only with respect to one bill in the other place.

Dr D.J. HONEY: The member for Morley has provided the perfect rebuttal to that. I am sure that if this argument is prosecuted by the government publicly, we will be able to reproduce the member for Morley's speech from *Hansard* to rebut it and say that a significant member of the government is urging us to slow down; we are going too fast. I will go into that in a little bit of detail because, as the member for Dawesville said, overwhelmingly, we have had a cooperative approach. Much of the legislation was initiated by the previous government. Where we do not have a concern, our view is that we should facilitate the business of government and that legislation should pass quickly through both houses. However, as was stated by the member for Morley, we need to scrutinise some of that legislation. Hon Nick Goiran from the other place, an outstanding member of Parliament, is someone I have the greatest respect for, who takes his role extremely seriously and who makes sure that he scrutinises legislation properly. The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill was referred to the Standing Committee on Uniform Legislation and Statutes Review by the government as national uniform legislation and I understand it is the practice that that legislation should be referred to that committee. That is the practice in the other place. The committee will go through that in good detail and, as was encouraged by the member for Morley, perhaps the committee should apply extra scrutiny to that legislation.

In relation to the passage of legislation, some members here may know that the upper house delayed its sitting for a month this year. If the government has urgent legislation it wishes to get through, why it would delay the upper house sitting to consider legislation by a month into March is somewhat beyond me. I happened to grab today's Legislative Council notice paper and I see that the Building and Construction Industry Training Fund and Levy Collection Amendment Bill 2017 was adjourned on 6 September. It is an important piece of legislation that has not been progressed. Another one—the Corruption, Crime and Misconduct Amendment Bill 2017—was adjourned on 28 November 2017 and has not been progressed by the government. Can I say, the government has complete control of the legislative agenda in the upper house. The government decides what is looked at. We go to the Local Government Amendment (Suspension and Dismissal) Bill. Given all the commentary we have heard today in this place, we would think that was an important piece of legislation, but it was adjourned on 27 June 2018. The Railway (METRONET) Bill is another. We have heard a lot in this place about Metronet. When I came into this chamber, that was all I heard about.

Mr T.J. Healy interjected.

Dr D.J. HONEY: It was adjourned on 27 June, so perhaps the member for Southern River might like to encourage his colleagues who manage the other place to consider progressing that legislation.

As I said, I was pleased to hear the member for Morley's contribution because she has provided us with a complete rebuttal of any claim by this government that we are delaying things; in fact, she is urging us to slow the passage of legislation and consider it in greater detail. As the member for Dawesville mentioned, it is somewhat bemusing

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that the government filibusters on its own legislation. I recall that when I came into this place on the heritage legislation there must have been about 10 speakers on the government side on legislation that was not going to be amended. It had complete support of both sides of the house. That was a little strange and, of course, we heard recently further filibustering on the government side.

In conclusion, I support this legislation. It is clearly moving in the right direction. However, I do not support the government's claims around the management by the opposition of government legislation, nor do I support the claim of this government's efficient management of legislation.

MR T.J. HEALY (Southern River) [5.49 pm]: I rise to make some comments on the Legislation Bill 2018. This is very exciting legislation. This is a bill that improves public accessibility and ensures that the community has access to the laws of the land. It ensures that people can access online—or approach their local members of Parliament to print out—bills and, once they pass through this place, acts, making sure that they are available for people to scrutinise and access. This bill will repeal the Reprints Act 1984—I will refer to some of the second reading contributions of that very exciting legislation from the 1980s—and create a new Legislation Act. Currently, electronic versions of bills and acts on the Western Australian Legislation website and the electronic version of the *Government Gazette* have no official status and this bill addresses that. In the 128 years of this lower house, the Legislative Assembly, a number of bills have been passed to become acts of Parliament and at different stages of time the demand for the printed hard copy version will have changed. I imagine that the demand for hard copy versions of WA legislation has steadily declined over past years. This bill provides official status to both hard copy and electronic versions and brings us into a new era in legislation and access to that. I refer to some interesting comments from the 1984 legislation when the ministers at the time also discussed how that Reprint Act at the time brought them into the modern age. This bill will improve public access to subsidiary legislation. As a former high school teacher, I am not a lawyer, but my understanding is that the production of hard copy reprints is quite a cumbersome and extensive process. The production of hard copy reprints will cease. The Parliamentary Counsel's Office will have a more useful set of editorial powers so that WA legislation can be kept up to date, modernised and simplified. The public will not need to wait for the next available hard copy reprint. The member for Thornlie and I were both preceded in this place by Bob Pearce in the 1980s, the member for Armadale, which at the time covered Gosnells as well. He spoke on this bill and referenced that he, as education minister at the time, could not access the Education Act. The government printer was refusing to provide a copy of it because the government was talking about reviewing the act. The public, in accessing those things, will not need to wait for the next available hard copy reprint.

The bill brings Western Australia into line with the majority of other Australasian jurisdictions and many other overseas jurisdictions. This bill will change expressions when we need to indicate gender, such as Mr, Mrs, his and her, to conform with current drafting practice and replacements, making that a consistent application through legislation and other acts, allowing us to review them without having to reprint hard copies of every single piece of legislation when it comes time for reprinting. The bill supports this government's objectives to make the process more efficient and cost-effective through more effective use of technology that will improve the provision of its services to the public. The bill will also create administrative efficiencies across government and also reduce costs to all government agencies. We always use that term, budget repair, because as members know, we were left with such a disastrous set of books and any approach that we can take to help rectify the books and introduce cost efficiency is always a welcome aspect. I think it is important to draw members' attention to the annual reporting included in clauses 41 and 42 of the bill—for those playing at home. That is also a very key part. There is a five-year review built in to clause 42 to allow for a review of the process, if it needs any revision, and it will come back to Parliament in the annual reporting and that five-year review.

I would like to draw from a recent example. I want to thank the Minister for Health. I had a tour of Fiona Stanley Hospital last week.

Mr M.J. Folkard: And a great tour it was.

Mr T.J. HEALY: It was, member for Burns Beach. The chief executive on our tour discussed how Fiona Stanley Hospital has moved from hard copy records for individual patients to online records. He is a migrant from the United Kingdom and he spoke about how, when he was a senior executive in the United Kingdom health service, every few years when it needed to move and update records, it literally had kilometres of folders and records of documents that needed to be kept for five or 10 years, or for the lifetime of patients. I mention this aspect because it is very important that legislation is accessible and that we do not necessarily clutter members of Parliament's cupboards with acts and bills. It is important that we realise that we can transition; we do not have to have a paper copy of every single document, and it is very relevant that Fiona Stanley Hospital is leading the way in that regard. Speaking about Fiona Stanley Hospital, this is the first time I have had the opportunity to stand in this Parliament since the birth of my daughter at Fiona Stanley Hospital, three weeks ago today. I would like to reference some people who also have online medical records and certainly thank Fiona Stanley Hospital staff who made possible the very safe and healthy birth of my daughter Arya Veronica Chakulunta-Healy. I would like to thank Gabby Coody, our

Extract from Hansard

[ASSEMBLY — Tuesday, 30 October 2018]

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midwife; Joyce, our nurse; in the room where we had the surgery Vicki, our enrolled nurse; Joyce, our registered nurse; Dr Ed Fernando and Donna, our anaesthetist and assistant anaesthetist; Dr Ann Kasina, who performed the caesarean section and brought everything together, an incredible woman; Dr Venkata; our nurses Rebecca, Alis and Amy; technicians Helen and Donna; our second midwife, Elissa Spackman; and neonates Jacinta and Montgomery.

A member interjected.

Mr T.J. HEALY: I am not finished, member for Perth. In the recovery room, Chloe ensured that we were able to transition from a very stressful and exciting time; Elsa, our midwife and Rachael in the ward; Catherine, our other midwife; and of course, overall, Dr Rosie, who was there throughout the almost two weeks that we were in Fiona Stanley Hospital and the teams in wards 3C and 3D who cared for my wife, daughter and family. I want to thank them all for the work that they have done and the care that they applied to my family. Again, I mention that our records will be electronic, not paper.

I would like to reference how this bill affects some of my constituents as well. In the passage of this bill, I have a couple of examples: the long-stay park bill that will affect some Riverside Gardens residents in my electorate; the Metronet bill, the member for Cottesloe referred to a moment ago; the taxi bill recently; and also the budget papers. These are bills and discussions that members of the public approach my office for. They are very interested in and ask for copies and access to bills and legislation speeches. Part of the passage of this bill ensures that that is now easier. If people want us to, we are happy to print off copies of bills and sections that are relevant. A few constituents, some of my more senior residents, have come into my office to ask whether they can use our computer to look it up. Otherwise for those who are email enabled, we will email them a copy of the reference and the works. It is very important that they have access to that. It is very important that members of all our electorates have access to electronic versions of bills when they need them.

I wish to expand slightly. The member for Cottesloe also mentioned that the use of paper is certainly going to change.

A member interjected.

Mr T.J. HEALY: He is not credible, says the member for Perth. I decided to respond to that, so that we can get that response in *Hansard*.

There was commentary on the amount of paper we use. The member for Kingsley also discussed that transition for us from a paper office to an electronic office and the way we do our business and paperwork. Members would be very interested to know, as we head into the dinner break, that Australians on average, annually, will use around 400 million tonnes of paper every year. These statistics are from the Pulp and Paper Industry Strategy Group. Between 10 and 17 trees are needed to produce one tonne of paper. Key environmental issues arise with that amount of paper production, including water and energy use; emissions to water, land and air; greenhouse gas emissions; and recycled content of paper. On average, every Western Australian office worker will use about 10 000 sheets of A4 paper every year. Each tonne of paper that is recycled saves 13 trees, two and a half barrels of oil, 4 100 kilowatts of electricity, four cubic metres of landfill and over 30 000 litres of water. I am not saying that this is necessarily a conservation plan, but I can only imagine the reams of paper that are produced annually to create and reprint substantial amounts of legislation and reprints simply to meet a requirement that every number of years that legislative requirement is met. Members might also be interested, if they are fans of *The Office*, David Brent, and Michael Scott of Dunder Mifflin, would be —

Sitting suspended from 6.00 to 7.00 pm

Mr T.J. HEALY: I would like to continue my remarks from before the dinner break about this very exciting piece of legislation, the Legislation Bill 2018. I was discussing that the transition from the amount of paper versions to the electronic versions provided by this bill would certainly make David Brent and Michael Scott of *The Office* fame very unhappy. Dunder Mifflin would require them running or managing their own paper company and would be very disappointed with the amount of paper that would not be used.

I would like to refer to grammatical errors. Clause 34 of the bill is about wanting to avoid grammatical errors, and the provisions in this bill will allow us to fix grammatical errors and inconsistencies. The federal Parliament is a good link to that. I think it was on 15 October that the federal Liberal Party voted with Pauline Hanson's One Nation on that odd bill. Mathias Cormann called it an "administrative error". I thought I would throw that in as a quick plug. I am not sure whether this bill would assist in that case, but administrative and grammatical errors are certainly covered in clause 34.

Members of my community will also enjoy the ability to access all legislation online. If the federal government were able to fix the national broadband network and provide what it promised, more people in my electorate could download those bills and acts of Parliament a lot faster.

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I want to talk about the importance of transparency and accessibility. I mentioned at the beginning of this speech that the bill is about public accessibility to the law. In my time as a Gosnells councillor, there was an evolution of what council minutes were provided. The members for Balcatta and Bicton will appreciate that there was a time when we were provided with reams of paper for our council agendas. It was not uncommon for 200 or 300 pages of paper to be delivered by the council ranger to each councillor's house; there were 12 councillors in the City of Gosnells. Multiple versions of this had to be provided in hard copy. A few years ago in Gosnells, all that data was shifted to become available on iPads. It is a much more efficient way to peruse an agenda and get across areas of relevance and interest. It ensured we could tag and bookmark pages as opposed to creating reams and reams of information. I have mentioned in this place before that I was very proud to have proposed the first online gift register at the City of Gosnells. There was always a paper version, which sat in the council chamber in the council building. I also proposed, and got passed, the first online Gosnells travel register. Again, it was always kept in paper form but putting it online made it accessible.

I would like to refer to some of the fantastic contributions made in 1984. The Legislation Bill repeals the Reprints Act, as all members are aware. Joe Berinson was the Attorney General at that time. I find it very interesting that the second reading speech, which was delivered by David Templeman, the member for Mandurah, referred to bringing "the legal status of electronic versions of legislation into line with hard-copy versions". This was to allow for necessary improvements and the modernisation of legislation and bills. The funny thing is that in 1984 they said exactly the same thing. I would like to refer to a few contributions made by members during debate on the Reprints Act 1984. Members of the opposition bench may know the former Liberal member for Floreat, Mr Andrew Mensaros. I quote from Mr Mensaros' contribution to the debate in 1984 —

In today's world of technology we should direct our attention to the way in which this problem can be solved technologically.

He referred to the benefits of a word processor, back in the day, and the benefits of "loose-leaf standing orders". We all still have our loose-leaf standing orders. I find it very interesting that even back in 1984, members were discussing the benefits of adopting technology.

I have mentioned before one of my predecessors in this place, Bob Pearce, the former Labor member for Armadale, which included Gosnells. He noted in his speech —

... the Education Act is currently unavailable on the grounds that the old reprint has run out and there have been many amendments since the last reprint. As the government is reviewing the Act, the Government Printer has declined to print it.

The Minister for Education at the time could not access his own Education Act. That was certainly raised in the debate on the Reprints Act. In the upper house, a former Liberal member for Lower Central, Alexander Ashley Lewis, discussed how he used to have to cut out and glue amendments. I noted that the member for Hillarys and the member for Morley, in a rare moment of agreement, discussed their excitement of cutting out and gluing amendments into their standing orders and acts of Parliament. Hon Alexander Lewis mentioned that he used to have to cut out and glue amendments into his copy of legislation just to keep it up to date. He described it as being —

... pieces of glued paper like confetti right throughout one's Act. Really in this day and age of computers —

He says, in 1984 —

and other technology we should be able to get on with this. It will save the Government greatly in printing costs.

Again, that is interesting. Former Attorney General Joe Berinson also discussed the provisions that were being made in developments for computerisation. In the bill, there is provision to allow for technological updates.

We are still gluing items into our standing orders. I remember the recent question time when Liberal Party members were using their scissors to cut up bits of paper. Changes made today seem to echo the same things from the 1984 bill. We are still cutting and discussing why technological change should be incorporated. I find it interesting that 30 years down the track, we will be dealing with the same issues.

[Member's time extended.]

Mr T.J. HEALY: In my closing remarks, I would like to refer to gender-neutral language. Clause 30 of the bill refers to gender-neutral language being used. It specifically relates to the text and refers to the 2014 High Court decision that there are no such provisions in the Reprints Act 1984 to address matters of gender-neutral language within the act. I would like to read out the details of clause 30 from the explanatory memorandum. It states —

Clause 30 permits language that indicates, or could be taken to indicate, a particular gender to be expressed in a different way so as to be consistent with current drafting practice. So, for example, the words "he" or "she" could be replaced with the relevant noun. The following is an example:

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Current provision: A person must not obstruct a police officer in the exercise of his or her powers under this Act.

This could be changed to: A person must not obstruct a police officer in the exercise of the officer's powers under this Act.

I note that it is very important that gender neutral language is incorporated and noted in this part of this legislation. I think it is very important, as we move forward, that the Legislation Bill 2018 will allow these aspects —

Mr P.A. Katsambanis interjected.

Mr T.J. HEALY: It is a clause, members for Hillarys. I assume that he would have addressed it in his second reading contribution. This bill will provide for those changes and, of course, if we change other legislation, we will not have to reprint acts of Parliament in their entirety.

Finally, in preparation for my second reading contribution, I referred to a document from the Parliamentary Counsel's Office, "How to read legislation, a beginner's guide". Legislation is exciting to read. Acts of Parliament are very important to our daily lives. This document is dated May 2011, but I think it is still very relevant. To summarise, I will quote part of section 10 on page 8, which refers to Western Australian laws regarding bat poo, or guano. It reads —

Take removing guano. *The Criminal Code* s. 387 says —

387. Removing guano without licence

Any person who collects or removes guano on or from any part of the territorial dominions of Western Australia without lawful authority is guilty of a crime, and is liable to imprisonment for one year.

I refer to this simply because it has been a life goal for me to reference Ace Ventura in that fantastic movie in which the Wachati tribe worships guano. I think "Shikaka" is the item referred to, which is the bat poo. "Shikaka, Sssshhhish-kabab, Shawshank Redemption, Chicago". I commend the bill. Thank you very much.

MR M.J. FOLKARD (Burns Beach) [7.11 pm]: I rise to speak about the Legislation Bill 2018. I will approach it with a different perspective from that taken by other members this evening. The member for Southern River will take some beating, getting Ace Ventura into his kind words. I will approach it from my experience prior to coming to this place. The government has an important responsibility to provide access to accurate, up-to-date and reliable versions of legislation. In my policing career, that was probably one of the hardest things to find. In the old days, we had our statutes, and one of the jobs of the most junior officer or cadet in a station was to keep pieces of legislation up to date. I recall in my younger days that we had to sit our exams in a large hall in Maylands. There was upwards of 150 officers sitting their statutes and law exams. Most stations had only one set of statutes. I think the member for Kalgoorlie will remember this. With four or five people going for their exams, everyone would be fighting over those particular statutes. When I got to them and opened them up, there were bits of sticky tape and glue where old pieces had been pulled out. They looked like something out of *Dr. Seuss*. They had tags on them. When I opened up a certain section, the whole page would fall out. As I said, trying to find a reliable set of statutes in those times was very significant. This move to an electronic version is absolutely a star and a step forward.

Under current WA law, generally only a hard copy of official statutes is allowed. This also includes the *Government Gazette*, which is published on official sites. The electronic versions of the Western Australian Legislation website and the electronic version of the *Government Gazette* have no official status. I will tell members a bit of a yarn. Finding government gazettes is a challenge unto itself. As a young copper, I was relieving out at Wyalkatchem. I got this call saying that a gentleman was parked on a particular road and it appeared that he had his head on the horn. The person who found him was too scared to go near the vehicle. The local police received the call. I was relieving out there so I came crawling out of the pub, as you do, and climbed into the police car and out we went. We headed to a dirt road that led to the east of town and, sure enough, there he was. One of the old cockies had fallen asleep at the wheel and his car was still running. His head was on the horn. The person who found him was too scared to go near the car and wake him up because he had an old shot gun across the back of the car. I do not blame him! I did the approach and tapped on his window. This poor bugger wakes up and says, "Oh, bugger". This was in the old days when we used to use bags and crystals. People would blow into them and the crystals would turn a certain colour and go past a certain mark. They would turn green and they had to pass the line.

Mr K.M. O'Donnell: In front of the headlights.

Mr M.J. FOLKARD: Yes. In this particular case, it was a cigarette lighter—"We're sort of right there."

Mr Z.R.F. Kirkup interjected.

Mr M.J. FOLKARD: It was breath testing. Does the member for Dawesville know the term "Blow in the bag"? We did not have machines; people had to blow into a bag.

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Several members interjected.

Mr D.A. Templeman: Point of order! Is this a policemen reunion?

Mr M.J. FOLKARD: I must go on. He blew into the bag and went above the level.

Dr D.J. Honey: An excellent example of chemistry in action!

Mr M.J. FOLKARD: I will go further than that! Let me finish, member for Cottesloe. I found him; I found the shotgun. I tidied up the shotgun, got him into the back of the car and drove back to the police station. In the old days we used to have a breathalyser known as the Smith and Wesson. It is a square box about yea. Police officers who wanted to be qualified as a breathalyser operator had to go to the then Chemistry Centre and it would sign off that we knew how to use the equipment. We would also have to be gazetted in that particular place and we had to carry that gazette everywhere we went. I would put the man on, go to the fridge and grab a certain bottle, and little glass containers would flick off the top.

Mr K.M. O'Donnell: Ampoules.

Mr M.J. FOLKARD: Ampoules—correct. We would wind them in and people would blow into them. This gentleman blew and he was well and truly over the limit. I think he was DUI. He was a very nice gentleman, but they were what they were. We prepared the breath papers and wrote them up. Back in those days, we would have to bail them. When he came in the next day, he said, “Oh, jeez, I feel really sorry about last night. What am I gonna go?” We had to go digging through the station to find a copy of the Road Traffic Act 1974 and work it out. I said, “Have you been caught drink-driving before?” He said, “No.” I flicked through the right piece of legislation, running my finger down the page. It was a first-time offence. He had not been caught pissy steering—sorry, drink-driving! I said that he was looking at a 10-month disqualification period at least, but we could not counsel him on the value of the fine because that was up to the magistrate. I said, “Go and talk to a lawyer.” Sure enough, off he went and spoke to his good lawyer. We got a not guilty plea, which was a bugger! I prepared the brief. We needed to find three gazettes in that circumstance. The first was the gazette that said that I was an authorised operator so I could drive the breathalyser. The second was the gazette to say that the machine that we used was authorised under the act. I think there were only about half a dozen of them in the state at the time because everyone had lost theirs. The third one involved proving that the road he was on was actually a road that had been gazetted. To charge a person with drink-driving, unless under certain circumstances, we had to prove, first, that he was drunk; and, second, that his blood alcohol content was above the limit, that when he drove his car he had a licence and that he drove on an actual road. The only way to prove that that was a road was to have the gazette to say that road so-and-so is gazetted as a proper piece of infrastructure. I had all that stuff and I prepared it. Thanks to this legislation, we can now use the electronic form. Three gazettes are near on impossible to find and back in those days, near on 30 years ago, they were impossible to find. A guy would have a copy of the breathalyser gazette and he would not give it up for love or money! They would not accept photocopies back in those days; they had to have a proper copy of the gazette. Anyway, to cut a long story short, we got the conviction and the gentleman got a fine. Under the new police systems, that is all done electronically now, so it is a paperless system. Now they have a copy in the file so they just scan it into the brief; that is where the gazettes currently sit. They still need a gazettal for the breathalyser machine and they still need a copy of their authorisation—their breathalyser operator’s certificate, and to say that it is current. On more than one occasion they have been caught when they have not been current, and they have flipped it over onto the backside. The legislation also provides official status for both the hard copy and electronic versions of Western Australian legislation, and electronic versions of the gazette; happy days. If we had had that back when I was a young constable, it would have been great.

I will tell members another story. I was the officer in charge down in Wagin many years ago and I was patrolling one of the back roads. I think, from memory, we were looking for people who were stealing sheep—“duffing”, as the phrase has it. It was around harvest time and this big, green John Deere harvester was being driven down the middle of the road, directly towards us, and it was, “Ooh, this is going to get interesting!” As we passed the vehicle we saw that the cocky, in his wisdom, had hitched on the back of the harvester the spreader that goes on the front of the harvester; on the A-frame behind that he had his utility, for driving to and from the paddock; behind that he had his water cart with his fire extinguisher, which he was required to have; and behind that, he had his little caravan! He had the harvester at the front, the spreader directly behind that, the A-frame behind that with his vehicle on it, a trailer behind that and a caravan behind that—a very ingenious farmer! I am surprised we do not have any in this house, but that is what it is.

The problem was that four of the vehicles behind the harvester were not registered, he did not have any permits, and people cannot have that configuration. I turned the patrol car around and followed him for about 400 or 500 metres. The little caravan at the back was swaying a clear metre from one side to another as this configuration snaked down the road. The offence for this matter was driving a vehicle contrary to the vehicle’s standard regulations. There was not an infringement that fitted that particular space, so I thought, “What are we going to do? Four of the trailers are

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unlicensed, so, all right, this is a trip to the magistrate. I'll take a couple of photos." Luckily, I had a camera in the back of the car. We went back, he was summonsed, and off we went to the Narrogin Magistrates Court.

We got there and the police prosecutor, who was pretty sharp, said "I've never done one of these." I said, "Yeah, I bet you haven't. Neither have I!" We stood up in front of the magistrate and gave the brief. He pleaded not guilty, thinking that we were giving him a hard time. It was not because of the configuration of his vehicles; he thought we were being hard on him because we knocked him off for four unlicensed vehicles. I thought, "No, this ain't gonna work." On the day he engaged the local solicitor, the solicitor thought, "Yeah, you beauty. We'll do a bit of a trade. We'll plead not guilty to the unregistered vehicles—we'll cop that—but driving a road train, there's no way known; that's not gonna happen." I was sitting there, trying to explain to the magistrate, "You can't do this", and the magistrate said, "Why not?" We broke it down. As a young constable, I was taught that every offence has certain elements that must be proved. In this case, it was a vehicle, it was on the road, and the way that it was configured was unlawful. Those were the three things I had to prove, to prove the conviction, but we had a magistrate who was new to the bench and new to the country, and I would suggest that her experience in this space was minimal, at best. The other problem was that we had only one copy of the relevant statute. We had the prosecutor, the defence counsel and the magistrate all looking at this, and I was sitting at the back, going, "Do you want me to explain it to you?"

So, we cracked out the old whiteboard and drew a truck and said, "That is allowed." I then drew the combination that we found down the road and said, "That is not allowed." The magistrate would not allow us to refer to *Butterworths*, in which the case law actually sat. I had a historic copy, and she would not let us do it. She said, "No, we've got to stick to the statutes as is written." Well, happy days. But she did not get the fact that the configuration of how the vehicle was being towed was unlawful. In the end her decision was a fine for the four unlicensed vehicles, but in the matter of driving contrary to the vehicle's standard regulations, she actually went, "You know what? I'm going to stand that matter aside." She never ruled on it. Had we had an electronic version of the statutes, we all would have been able to view them. If they can carry them on an iPad—which I would suggest is where they will go—they will have a quick link to the database and the relevant statutes and everyone can look at it, rather than three people looking at the same statute.

Mr P.A. Katsambanis interjected.

Mr M.J. FOLKARD: We should have done this 100 years ago! This is modernising, for want of a better term, a piece of legislation.

I think the movement of the gazettes online is a good thing. I heard a couple of people talking about saving the forests and all that sort of stuff. Yes, I agree with that sentiment, but I am also a bit of a pragmatist. It will be easier to find, easier to use and, more importantly, easier to save. When we use the gazettes, we can save them and they are easy to access, which will make life a heck of a lot easier. It will also improve the quality of the reprints and make them a lot easier to use.

We had a bit of a laugh earlier on about the police exams, but in my office I would have four particular references: my *Butterworths*—an edition called *Cross on Evidence*, to which I would commonly refer.

[Member's time extended.]

Mr M.J. FOLKARD: In my drawer I would have three specific sets of legislation: the Weapons Act, the Restraining Orders Act and the Bail Act. I would get calls from everywhere and be asked particular questions. I would refer directly to the legislation and give answers to particular queries. People are not aware that significant changes occurred in the meaning of "peri-urban" in relation to the Bail Act. If a person is arrested in a peri-urban area, they can be remanded for further time—that is, for an extra period other than the seven days—because it is outside what is referred to as the metropolitan area. The member for Dawesville's patch sits in that space; so do the electorates of the members for Swan Hills and Pilbara. A lot of the member for Pilbara's electorate is in that space. We use the bail papers and we refer to them quite often.

The other one is the Weapons Act. A lot of the stuff that kids carry these days fits within different briefs. Depending on what type of weapon, they are either prohibited weapons or they fit within certain offences. We need to know about that so we can give guidance to officers so that they know what they are dealing with when they seize those particular weapons. By having this sort of stuff online, officers can access it whilst they are out on the road. It is a very good tool. Moving all this stuff online is definitely a significant change. Officers will be able to access it in a timely way. Most officers have smartphones and a lot of them carry tablets on the road so they can access information in real time and know what they are looking for when they are dealing with particular offenders. I think this is a really good piece of legislation. It is short, sharp and smart. I commend the Attorney General, and I think this is a very good piece of work.

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MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [7.31 pm]: I am very happy to rise and speak in the second reading debate on the Legislation Bill 2018. I follow the member for Burns Beach. We learnt about his experience as a serving police officer and the requirement to have ready access to legislation, and about the old days as a police officer. As someone who has worked in the environmental sphere, it has also been necessary to have a privately maintained set of relevant statutes, to have up-to-date regulations—not for the sake of prosecution, but just to be able to enter into the debate—to be able to respond meaningfully to a media inquiry, and to be able to discuss policy with public servants and others. This legislation brings to the fore the need to maintain up-to-date and accessible legislation, by making sure it will be there electronically. For most of my professional life, certainly since 2000, it has been possible through www.slp.wa.gov.au—the State Law Publisher statutes website—to download legislation. I have always had a preference for the PDF format. Although I know there is a choice to access the Word format, I always thought it was more solid-looking in the PDF version. It seems more like an accurate transcription of what I imagine is on the statute books and it is good to be able to use that, but I always had a nagging feeling that it was not the fully endorsed legislation. That is what this legislation does. It provides the real law in an electronic format. I, too, commend the Attorney General for bringing this legislation forward. There is a presumption in the community that we should be aware of what the law is and what the regulations say. To deliver on that, we need to make sure that the law is as accessible as possible, and that it is up to date in its accessible format as well. So, again, full marks to the Attorney General for doing that.

Over the dinner break, after flicking through some papers and contemplating what I might put into this speech, I realised that I am a little concerned about something. I did not want to disturb the Attorney General when he was at dinner, but I am concerned about some categories of subsidiary legislation. On the Parliamentary Counsel's Office website there are acts and regulations, or subsidiary legislation. There is a category of subsidiary legislation that I do not see on the Parliamentary Counsel's Office website currently and I am concerned about this because it is legislation that does have the force of law. There is no definition section in the Legislation Bill 2018, but I think that it is correct to call this legislation “subsidiary” legislation. I refer to part III of the Environmental Protection Act, “Environmental protection policies”. Section 33 of the Environmental Protection Act makes it very clear that environmental protection policies have the force of law. I think that meets the definition of subsidiary legislation—they are pieces of law. They have the force of law yet they are not listed on the website. I am concerned about that because currently four environmental protection policies are in force. One is the protection of the Peel–Harvey catchment. It reinforces a statement of planning policy that comes through the Planning and Development Act. There is also an EPP for Kwinana atmospheric waste, another for sulfur dioxide in the goldfields and another for the habitat of the western swamp tortoise. These pieces of law are not currently listed under subsidiary legislation. I am concerned about that. I hope that when the Attorney General has a moment, he can check with his advisers about why they are not currently listed with all the other bits of subsidiary legislation, because they are very important. To use the example of the Peel–Harvey catchment management, the EPP—it is not in the act—defines permissible nutrient loadings in terms of the nitrogen and phosphorous that can go down either the Serpentine, Murray or Harvey Rivers into the Peel–Harvey catchment. It is very important those definitions are in law and they are fully respected. I am not sure why the EPP is not listed in subsidiary legislation at the moment. Section 33 of the Environmental Protection Act, “Approved policies, status and revocation of”, states —

Subject to this section, a draft policy approved under section 31(d) has ... the force of law.

I am quite categorical about that: they need to be there.

It is very clear that organisations need to have access to laws in an electronic format. When we were in opposition, we would often track back and see how successive changes to legislation had been brought about and what the trends were. It was interesting to track back. I am curious to know whether there is a possibility to track changes and then see the tendencies. One example the member for Burns Beach touched on was the Firearms Act. Some governments have been contemplating changes to firearms legislation. I believe that is under consideration in Tasmania at the moment and that there is even lobbying to allow the use of semi-automatic rifles even though we have a National Firearms Agreement. I was encouraged to hear the current Premier of Tasmania shying away from a previous commitment he made in the Tasmania election to allow semi-automatic rifles to be used. It sounds as though he is pulling back from that position. No doubt he realised there is a National Firearms Agreement and that most Tasmanians probably would be appalled at any weakening or watering down of our firearms legislation. But we need to be able to track the trends with legislation, so it would be useful if that was a possibility as well. Yes, an update is provided and we have access to the very latest and most current piece of law, but it is good to be able to track back and see what was previously there and the amendments that have gone through. I realise that there is a risk with that in that people could be confused between the history and the current situation, so there would have to be some very careful clarity around what the current situation is. There is no doubt that accessibility through an electronic means really does help people. It will make it so much more accessible.

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I understand from the second reading speech the Attorney General gave that there are provisions in the bill to make editing changes. I am especially encouraged to see that this can in fact apply to the removal of things like gender-specific language. We now want our legislation to be framed in gender-free terms. That is a positive step, because it is in keeping with the wishes of the times. That is certainly a thing to be welcomed as well. We will have our errors corrected. I do not think we have seen it in this Parliament, but I know in the previous Parliament and the one before we would often find errors in the legislation as it came through to this place. We would endeavour to correct it, but things would still slip through and legislation would come back to correct something as seemingly minor as the absence of a comma or a connecting word, but nevertheless quite significant in pure legal terms. We have provisions in the bill for correcting errors in publishing. That is something that is to be welcomed as well.

I know that many people feel frustrated by the sense that legislation is obscure and is something that only well-qualified professionals can understand. Although we would always want serious legal issues to be determined by well-qualified legal practitioners, it would be helpful if people could at least have a first-pass look at a relevant piece of legislation. They could then begin to demystify something for themselves and look at which acts might be applicable before going to talk to legal professionals. They would then understand the advice they were being given and have a far more meaningful engagement. It might also mean that their conversations would be much more to the point and they would not spend money unnecessarily while they were just getting the background on a particular situation. I think that the whole ethos of making our legislation transparent and accessible is a really great feature of what we see before us.

I am happy to conclude my remarks. I look forward to hearing the Attorney General respond, especially to that point I made about some of the subsidiary legislation. Provisions might well exist in other acts, but I do have quite an interest in the Environmental Protection Act and part III of that act. I believe that those provisions have force of law, and should therefore be included under the subsidiary legislation heading in that part of the website that is going to be so critical to the maintenance of our statutes in Western Australia from hereon forward, or at least from when this legislation does finally go through both houses of this Parliament. I congratulate the Attorney General on his work and look forward to seeing this new step in legislative transparency for Western Australia.

MR J.R. QUIGLEY (Butler — Attorney General) [7.44 pm] — in reply: I rise in response to the second reading debate on the Legislation Bill 2018, which we have heard debated in the Assembly today, and I wish to thank members for their contributions. We have had contributions from the shadow spokesperson in this chamber, the member for Hillarys, and from the members for Dawesville, Cottesloe, Southern River, Kingsley, Armadale and Thornlie. They have all been supportive of the legislation, but with some issues or some queries raised.

I will just pause for a moment to think of one of the things that this legislation is doing. Under the current legislation, there is capacity for the Parliamentary Counsel's Office to do editorial changes. However, it is only permissible for the Parliamentary Counsel's Office to do editorial changes to hard copy, because we are dealing with 1984 legislation, as the member for Southern River pointed out. There is no capacity for the Parliamentary Counsel's Office to do an editorial change to the electronic copy, so we are out of sync here. What could happen is that the hard copy could have been subject to editorial change. If the numbering has been corrected in the hard copy, that will not be reflected in the electronic copy as we stand now. If counsel before a court is working off an electronic copy and the judge is working off a hard copy, they will be working with two slightly different copies, because parliamentary counsel did not have the statutory authority to effect the editorial change to the electronic copy. That is very important. It is also important that everyone has access to the latest version of the legislation. I can remember that as a practitioner I had to take particular care about whether I or my staff had the latest reprinted copy or whether they had done the necessary cutting and pasting into the act of subsequent amendments, lest we be caught short.

Mr P.A. Katsambanis: And when you saw the pile of papers that the clerks had to put into the book, you realised there was a big backlog.

Mr J.R. QUIGLEY: There was a big backlog. Once this legislation passes through this Parliament—it will certainly pass through the Assembly on the voices because everyone supports it—that will no longer be the case.

I want to deal with some of the issues raised by the member for Hillarys and to answer some of the questions he asked. If I answer them now, it may take us a shorter time in consideration in detail. We were asked whether there is any current timetable for the discontinuance of the hard copy of the *Government Gazette* and perhaps of the legislation itself. The government has no current policy to do this. People will still be able to order printed copies of the legislation through the State Law Publisher or another contracted printer. The gazette will continue to be published in paper form to those who want to buy it, but very few people today buy the *Government Gazette*. There is no time frame to move to an online-only copy and to dispense with the *Government Gazette*; it will still be printed.

The member for Hillarys also asked about the Western Australian legislation website and how often it is updated. I am able to inform the chamber that it is updated on a daily basis. As amending legislation is passed or made in

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the Parliament, or new legislation is enacted or made, the website is updated that day. The Parliamentary Counsel's Office aims to update the website as soon as possible after amendments or new legislation is enacted or made. It is very, very current.

From my notes, the member for Hillarys also asked when subsidiary legislation will be published on the WA legislation website instead of in the *Government Gazette*. The answer is to be found in the explanation of clause 10 in the explanatory memorandum, which states —

Subclause (1) also requires the publication of prescribed subsidiary legislation as originally made and with its amendments incorporated, and any other prescribed laws. Provision for prescribing the subsidiary legislation to be published on the website is because PCO proposes to take a staged approach to changing the way in which WA subsidiary legislation is published.

A large proportion of the subsidiary legislation that is currently published in the *Gazette* consists of material drafted by PCO. This includes regulations, rules for WA courts and tribunals, various orders, by-laws and most proclamations. Because this material is in a standard style and format, it can easily be published on the WA legislation website.

However, a significant amount of subsidiary legislation (such as local laws) and other material that is currently required to be published in the *Gazette* is —

Here is the text —

not drafted by PCO. It is not in a standard style and format, and publication on the WA legislation website would not necessarily be straightforward. Further, there may be alternatives to publication in the *Gazette*, other than publication on the WA legislation website, that would better suit the nature of the material or provide a better way of making it available to users (such as publication on a departmental website) —

Or a local government authority website. It continues —

It is intended that the material that PCO drafts will be moved from the *Gazette* to the WA legislation website as a first step. PCO will also undertake consultation with other agencies responsible for the subsidiary legislation that PCO does not draft, such as local laws. This consultation will be designed to determine whether this material should continue to be published in the *Gazette*, moved to the WA legislation website or published in some other way.

I have already mentioned that.

The next question posed by the shadow spokesperson, the member for Hillarys, was what imperial acts will be published on the WA legislation website. The answer is that some are already on the website. They are principally imperial enactments that have been adopted by Western Australian legislation. Some examples of imperial legislation that have been adopted and that are in force in Western Australia include the Bills of Exchange Act, the Civil Procedure Act 1833 and the Prescription Act 1832. Imperial enactments in force in Western Australia were examined by the WA Law Reform Commission in 1994 in its seventy-fifth report. The report did not consider all imperial legislation that might potentially be in force in WA and more work is required to identify it. Once a comprehensive list of those that should be retained is determined, these can be added to the website, but a list from the Law Reform Commission's seventy-fifth report will already go on the website.

The member asked about clause 4(d) and the definition of "law". Paragraph (d) relates to instruments made under the royal prerogative that apply in Western Australia and have legislative effect. At the moment, the only relevant instrument are letters patent, which are available on the website. In his contribution to the second reading debate, the member then raised the issue of copying official material onto a website. I am advised that it is not possible to prevent people from copying materials from the website. The website clearly identifies that it is the official WA legislation website.

The WA legislation website is protected by a high level of security to protect against hackers. The member for Dawesville raised this matter. The legislation used to be published on the State Law Publisher's website before it was migrated over to the WA legislation website, which, for those reading *Hansard*, can be found at www.legislation.wa.gov.au. Before the Parliamentary Counsel's Office assumed responsibility from the State Law Publisher for hosting the website, an independent consultant conducted a full penetration test. The entire website is locked down and is read only. The website is hosted behind a state-of-the-art Netscaler firewall managed by the Department of Justice. The website content is modifiable only by using security certificates held by the Parliamentary Counsel's Office and from a computer within the PCO network. The member mentioned other organisations that have had their websites and their databases penetrated, but, as I understand it, they were all websites on which people could either enter details or access the website, so the gate was open to a degree to allow users or other people to register or conduct business or whatever. Once that gate is open, the hackers can then force their way through, whereas this is a completely locked-down site and the independent

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consultants have not been able to penetrate it. As I said, the website is read only, completely locked down and sits behind a Netscaler firewall managed by the department. To date, we have not seen or identified any instances of the legislation database being penetrated for modification when it was on the State Law Publisher's website, and that was arguably a bit less secure than the current arrangements. However, I appreciate the points that the member for Dawesville raised.

The member for Hillarys asked whether the Attorney General would issue any instructions about the exercise of enhanced editorial powers. The answer to that is no, we will not be issuing instructions about the exercise of those powers, as those powers are exercised very carefully and conservatively now already—there are existing editorial powers—and rigorous quality assurance processes are in place to ensure that editorial changes are authorised.

It is worth pausing for a moment to look at division 2 of the bill, which deals with editorial changes and includes clause 25, "Updating references to law of WA or other jurisdictions". For example, one law might be repealed but it might be referred to in other enactments, so the Parliamentary Counsel's Office can amend the law by editorial change by wiping out reference to the law that has been repealed. Clause 26, "Things that have been changed or replaced", deals with when the name of an office holder may have changed, an office may have changed, or a place or locality may have changed over time. These editorial changes can be achieved by the PCO conservatively and responsibly going about changes in accordance with clause 26. Clause 27 deals with deemed amendments and permits a law to be changed to give effect to a provision of another law that provides that other laws are deemed to be amended in a specified way. Section 7(5)(a) of the Reprints Act 1984 confers a very similar power as that in this bill. Clause 28 deals with references to the provision of law. The drafting practice was to spell out references in the long form, such as "division 5 of part 2". The current drafting practice uses a shorter form—"part 2 division 5". Once again, the Reprints Act 1984 confers a similar power as that in this bill. Similarly, on the omission of referential words, these words are defined in subclause (3) as words that can identify the whole or part of a provision, or as part of a provision, of the law in which they appear—for example, "of this act", "the said" and "hereof". The current practice is not to use referential words because they are unnecessary. Once again, a similar power also exists.

We have talked about the power to amend gender so that "he" can be "person" or "his or her power" can be "the officer's power". That is in clause 30. Under clause 31, numbers, dates, times, quantities, measurements and similar matters can be amended. Clause 32, "Conjunctives and disjunctives", permits conjunctives such as "and" and disjunctives such as "or" to be inserted, omitted or changed so as to be consistent with current drafting practice. Once again, this is a replication of what is in section 7 of the act.

The PCO can also amend minor errors, inconsistencies, spelling errors, grammatical errors and typographical errors and can deal with the numbering of obsolete or redundant provisions. I will not go through all these in detail, but what is important—I think this answers the query of the members for Hillarys, Dawesville and, I think, Cottesloe—is that clause 41 requires the Parliamentary Counsel's Office to ensure that editorial changes made to a law are indicated in a suitable way. Clause 31(2) provides an example of that. Similar powers exist in the jurisdictions of the commonwealth, the ACT, Queensland and other states. Besides indicating in the act itself that there has been an editorial change, under clause 42, the annual report is to include a summary of all editorial changes made in the previous 12 months. Those two devices—one requiring the change to be noted in the electronic format and the other giving a compilation report at the end of the year in the annual report—deal with how we will know when an editorial change has been made. It is a fair question, but I think the bill deals with the members' concern quite comprehensively.

In addition to clause 41, which requires the Parliamentary Counsel's Office to ensure that editorial changes are indicated in a suitable way—there is an example of that in subclause (2)—and clause 42, which requires an annual report of the agency to indicate editorial changes, clause 44 requires the responsible minister, at the five-year mark after the passage of the legislation, to cause there to be a review, which will also then set out the number of editorial changes made.

The member for Thornlie raised an issue about environmental protection policies. Not all subsidiary legislation is on the website because, as I have said before, the Parliamentary Counsel's Office does not draft it all. The process of determining which subsidiary legislation should be moved from the *Government Gazette* to the website will consider whether the website is the appropriate place to publish this material or whether there is a more suitable way of making it publicly available. As I said earlier, this might be on the department's own website. I was just saying in response to the member for Thornlie's query about environmental policies that not all subsidiary legislation is drafted by the Parliamentary Counsel's Office and therefore is not necessarily in formats or documents that can be easily published on the Parliamentary Counsel's Office website because these policies are not drafted by the PCO; they are drafted by the department.

Mr C.J. Tallentire: EPPs are drafted by parliamentary counsel.

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Mr J.R. QUIGLEY: When they are drafted by parliamentary counsel, we will determine whether we can migrate them from the *Government Gazette* to the website. If they are drafted by parliamentary counsel, that will be a lot easier to achieve, but some departments are publishing subsidiary legislation pursuant to their act that is not done by parliamentary counsel, which makes it more difficult to take it from the *Government Gazette* straight to the website. I am advised by the Parliamentary Counsel's Office that it will actively look at whether it can be put on the Western Australian Legislation website or whether it would have to be made publicly available through a departmental website.

I was also asked about tracking changes. I think the member for Cottesloe—it might have been someone else—referred to tracking changes to legislation. The website includes versions of the legislation at particular points in time. An amendment can be made and a new version can be created so that the legislative history of the legislation is available. People can compare the new version with what has preceded it and the changes that have been made between each version of the act, so they will readily see the development of the legislation, its previous iterations, its amendments and the current version. This is important administrative legislation. It is not the sort of legislation we would take to an election campaign and say that if we are elected to government, we will introduce a legislation bill. People would just yawn and fall asleep if we delivered such a policy. In terms of the administration of law and giving citizens access to the law, this legislation will make sure that anyone who wants to access the law in Western Australia is getting the very latest version of what is passed in this Parliament together with all amendments. They will be able to get it from a very secure, solid WA legislation website that will be administered by Parliamentary Counsel's Office.

I thank members for their contributions. I thank and acknowledge that on this occasion the Liberal opposition—I do not think we have heard from the Nationals—has indicated it supports all the clauses in the legislation. Therefore, I commend the bill to the chamber and ask that it be read a second time.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mr P.A. KATSAMBANIS: At the outset, I thank the Attorney General for providing the information he did in his summary. Clause 2 is the commencement clause, and I spent a bit of time talking about that in my contribution to the second reading debate. The questions I am going to ask probably fit in at clause 2, but they also relate to the provisions at clause 10 about what is published on the WA legislation website. I think we can deal with it all here unless the Attorney wants me to split it up. I do not want to be asking how long is a piece of string, but we know a large part of legislation will be published on the WA legislation website, and that can be and is done right now. Then we have those bits of subsidiary legislation in particular that the Parliamentary Counsel and the Parliamentary Counsel's Office do not have involvement in drafting and may not necessarily have access to. It is that second thing I am asking about. I realise the process is spelt out in the explanatory memorandum: there will be a procedure for getting together with all the relevant stakeholders and working out a way forward. What time frame is it envisaged in which most or all of the subsidiary legislation on the site will be gathered up? I ask that in particular because the message we are sending today is that there is going to be a comprehensive record on an official website. As other speakers have said in the debate, a lot of legislation that people want to access is the broader term legislation rather than just the laws passed by this Parliament and it is subsidiary legislation. A whole host of it—I see the Minister for Local Government sitting there—is not available to Parliamentary Counsel right now, and a lot of it comes from local government. We all want this to work, so my question is: do we have a time frame for getting it done and what needs to be done by other parties—for instance, the Western Australian Local Government Association or any other bodies out there—so that we can look the people of Western Australia in the eye and say we have a complete record of all the subordinate legislation on the website?

Mr J.R. QUIGLEY: I thank the member. I think the answer is that it will take quite some time. I will give the member the history of this. As the member has seen from going to the legislation website, most enactments and regulations are already published. This whole exercise started under the previous government, and I am going back to September 2014. It was four years ago that the PCO initiated consultation with the Department of the Premier and Cabinet on an issues paper relating to the issues now reflected in this bill. This was because of the potential impact of the proposals on the revenue the State Law Publisher receives from the publication of the *Government Gazette*.

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Those consultations went on to June 2015 when the Premier confirmed that the DPC had assessed the impact of the proposals on the State Law Publisher operations and that the Director of Public Prosecutions supported the proposal to publish subsidiary legislation on the WA legislation website. In July 2015, still over three years ago, the PCO wrote to the justice sector stakeholders outlining the proposals and seeking feedback. It went to the heads of jurisdictions, the Law Society of WA, the WA Bar Association, the Australian Law Librarians Association, the Solicitor-General, the State Solicitor and the DPP. As the member can see, consultation on these proposals currently before the chamber started as long as four years ago. There will be ongoing consultations with all these different organisations and people who generate subsidiary legislation on an ongoing basis. We cannot, as the member says, look the public in the eye and say what is the end date. It is an ongoing process being prioritised appropriately by Parliamentary Counsel, amongst the other onerous tasks of generating the legislation that we are all waiting on for this chamber. That is all I can say. Parliamentary Counsel is working on it conscientiously. It will take some good while to finish the exercise. A fantastic start has been made, but it has already taken us four years to get to this point because of the complications.

Mr P.A. KATSAMBANIS: I appreciate the answer from the Attorney General and I recognise that this is a very time-consuming and laborious task. Perhaps I recognise that a bit more than most members in this chamber, because in my previous duty in the other place I was a member of the Joint Standing Committee on Delegated Legislation, so I have a fair idea of the various—I hesitate to use the term, but I think it is fair in this case—nooks and crannies of Western Australia that some subordinate legislation comes from. Is funding available to assist this process of the Parliamentary Counsel working with those disparate stakeholders or is it envisaged that additional funding may be required for the Parliamentary Counsel or perhaps for those stakeholders to assist them to get on board and to get their processes in place so they can provide the subsidiary legislation in the format required for it to be published on the website?

Mr J.R. QUIGLEY: No, the Parliamentary Counsel's Office is not seeking any particular budget allocation for this task because it is not something that the office can throw someone at to work intensively on. People have to be written to, they have to consider their position and then they have to get back to the office; it is an ongoing process of consultation, which will be kept up. The ambition is to have it all there. I think this is a fantastic start and I thank the opposition for commending the legislation to the chamber. The Parliamentary Counsel's Office has dutifully served this Parliament for over 100 years and it will keep on going until this exercise is completed. No extra budget allocation has been sought, because that is not the problem; it is having to wait for others to get back to the office and having to write to them back and forth. But the PCO will be diligent.

Mr P.A. KATSAMBANIS: I appreciate that. I have a final question to round off this issue. Parliamentary Counsel provide regular reports, as the Attorney General said in his summing up in second reading speech, but is it envisaged that progress on this matter will be reported in annual reports, or in some other way, to the chamber so we know how close we are to completing the task and perhaps who the recalcitrant parties are? I am sure that, despite the many and varied duties of the Parliamentary Counsel's Office and the Parliamentary Counsel, they do their job diligently and very well, so it may well be that we have some recalcitrant parties on the other side. What sort of reporting mechanism will there be to let us and the public know what sort of progress is being achieved in reaching that outcome that we all want to reach as soon as possible?

Mr J.R. QUIGLEY: Of course, no statutory provision for that is contained in the bill, as a member would appreciate. From the table, I have been consulting with the Parliamentary Counsel, Mr Lawn, and he said that he would be happy to give an update on the progress of the migration in an annual report.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Terms used —

Mr P.A. KATSAMBANIS: This is a definition clause, or as it is now written in most of our legislation: "Terms used". The term "current drafting practice" is defined as —

... the legislative drafting practice for the time being adopted by PCO;

We do not really get much of an opportunity to examine the PCO and its workings other than when we communicate with the office in order to get legislation or amendments drafted and the like. Is this legislative drafting practice in writing? Is there a style guide or a book or a recording of the practices, or is it something that is passed on in a non-written form from officer to officer in the PCO?

Mr J.R. QUIGLEY: There is a style guide for internal use. It is an internal document, but it is an ambition of Mr Lawn to get it into a format that can be made public. It is not yet public, but there are directives and helpful templates by way of a style guide—that is true. We are happy to answer any queries the member has about it; it is not a secret, but it is not in a published form at this stage.

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Mr P.A. KATSAMBANIS: I do not have any queries about it. I speak for everyone in this chamber and in this Parliament in saying that PCO does a wonderful job under sometimes quite stressful and urgent circumstances, and I commend it for that. The Attorney General mentioned an ambition of Mr Lawn and the office to make the style guide available eventually. Is there any time frame or any question mark about funding or the resources required, or is it simply one of those things that is perhaps not as high a priority as getting legislation or amendments to legislation drafted?

Mr J.R. QUIGLEY: The latter is true. It has to fit in with the more pressing priorities for this Parliament—that is, for example, the rewrite of the Evidence Act. I know that is —

Mr P.A. Katsambanis: Dear to my heart!

Mr J.R. QUIGLEY: Thank you. We have all this very complicated legislation we are trying to deal with as a priority, such as the Criminal Law (Mentally Impaired Accused) Act, and publishing the style guide is not at the top of the priority list, but there is an ambition to do it. By reason of matters beyond the control of this government, the previous government and the Parliamentary Council there were staff departures from the office by way of death and maternity leave, and interstate drafters have had to be contracted in. It would be helpful if in due course there were a published style guide for everyone helping the PCO and for the other agencies wanting to draft subsidiary legislation to use, but it has to take its position in the queue. It is the latter proposition that the member put to the chamber.

Mr P.A. KATSAMBANIS: I accept that answer. I would probably add to it by saying, in the nicest possible way, that there is a little bit of mysticism around parliamentary drafting. That is probably a good thing, but it can inadvertently lead to a situation in which we do not have highly credentialed and experienced staff, particularly through death, illness or sudden misfortune, and it is very difficult to replace them. A style guide would be helpful in that respect. I accept the Attorney General’s answer that there is an aspiration to publish that style guide and we will monitor how it goes.

Unless the Attorney General wants to add anything further, I will move on to the definition of “law”, which we spent a bit of time discussing during the second reading debate. The Attorney General gave good answers to some of the queries I had posed. I will focus on paragraph (d), which states —

an instrument made under the Royal prerogative that applies in Western Australia and has legislative effect;

I think the Attorney General indicated—as I have suggested is perhaps the case—that that definition would apply to letters patent. Firstly, will that definition apply to any instruments other than letters patent? Secondly, to speed things up, how confident are we that we have a comprehensive list of the letters patent, or any other instruments, that may apply in Western Australia?

Mr J.R. QUIGLEY: There is only one letters patent, I am told, which is 1986. We are not aware of anything else.

Clause put and passed.

Clauses 5 to 9 put and passed.

Clause 10: What is published on WA legislation website —

Mr P.A. KATSAMBANIS: Most of the issues I raised about clause 10 were either answered in the second reading response of the Attorney General or in the discussion that we had about clause 2. I thank the Attorney General and the Parliamentary Counsel who is assisting. I have a series of questions about the operation of clause 10(2), which reads —

The Parliamentary Counsel may publish on the WA legislation website any other material —

- (a) that is prescribed; or
- (b) that the Parliamentary Counsel considers appropriate for publication on the website.

My question is in two parts and relates to paragraphs (a) and (b). The first question relates to paragraph (a). Is the material that is prescribed, material that is prescribed under this bill or is it possible that material can be prescribed by other instruments or acts that fall into the category?

Mr J.R. QUIGLEY: It is matters prescribed under this bill, such as subsidiary legislation, but it could be standards that are prescribed pursuant to legislation—weights and measures or some such legislation.

Mr P.A. KATSAMBANIS: I was going to ask this later on. The Attorney General mentioned standards. I assume he was referring to standards with a lower case “s” because we know that a lot of our legislation often incorporates, regulations in particular, including the subsidiary legislation drafted by local governments, the standards with a capital “S”, being Standards Australia standards that are subject to copyright protection and other protections. It is a bane of many people’s existence that legislation prescribes documents that people need to source from a third party for which they have to pay. As I said earlier, I did my time on the Joint Standing Committee on Delegated Legislation and I know the impact that this has in practice on so many people. Is it possible to use the mechanisms prescribed in this bill and elsewhere to make Standards Australia standards publicly available through the Parliamentary Counsel’s

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Office website? If it is not currently possible, has any thought been given to getting a broad licence to do so, so that if a Western Australian clicks on a piece of subsidiary legislation that refers to Australian standard 937—if there is such a standard; I am just using that example for clarity—they can click on and get that standard rather than having to go to Standards Australia, pay a fee and sometimes subscribe to standards they do not want, which would make it easier for them to comply with the law that incorporates those standards?

Mr J.R. QUIGLEY: The simple answer to that is no, for two reasons. Firstly, the member mentioned licence but it is a copyright issue. We have a copyright issue with it. Secondly, if we put it on there, we will not be advised by their regulatory authorities of amendments to their standards and it would require standards made in Canberra and other jurisdictions being updated on this website. If a person goes back to that website, at least they are getting the latest. We cannot expect the Western Australian Parliamentary Counsel's Office to update the database of standards of another regulatory authority.

Mr P.A. Katsambanis: It can be done by hyperlink.

Mr J.R. QUIGLEY: Or by reference. There are a number of ways that people can access it, but it will not be published on this particular website.

Mr P.A. KATSAMBANIS: I understand we have those limitations with copyright and the existence of Standards Australia. As I said, the Joint Standing Committee on Delegated Legislation has looked at this issue on more than one occasion. I commend its reports to the house and to anyone who is interested in having the ability to have access to complete information about what is prescribed by legislation and subsidiary legislation. It is not as easy as it may appear. I recognise that Parliamentary Counsel and this Parliament have their hands tied by federal legislative provisions and copyright and licensing requirements.

I move on to the second part about any other material “that the Parliamentary Counsel considers appropriate for publication on the website”. Can I get an indication of what that other material may be and what sort of procedure would be used by Parliamentary Counsel to publish whatever other material is deemed to be appropriate?

Mr J.R. QUIGLEY: There is already other material on the website that Parliamentary Counsel considers appropriate; for example, “How to Read Legislation — A Beginner's Guide” is already on the website. When eventually the style guide is reduced to a publishable form, I have no doubt that Parliamentary Counsel will consider that appropriate to put on the website. Matters that help the public understand legislation in terms of how to read it, where to find it, et cetera, where appropriate, will be considered by Parliamentary Counsel to publish, as has already been the case.

Mr P.A. KATSAMBANIS: I do not usually get as troubled as other people by these matters, as the Attorney General knows. Is this a Henry VIII clause of some sort? Is this likely to fall foul for being a Henry VIII clause that contains an inappropriate delegation of power?

Mr J.R. QUIGLEY: Not at all, member, because, in fact, it is not allowing or making provision for Parliamentary Counsel to prescribe a law. It is just giving him permission—I should not be gender specific; that is, it is giving the Parliamentary Counsel of the day the permission to publish other materials on the website that are not law but for the information of the public. It is not like a Henry VIII clause that carries within it a power to make a law that will affect a citizen. It really is there to say to Parliamentary Counsel, “If you consider there are other relevant materials, you can publish them there.” If we look at the government of Western Australia's Department of Justice Parliamentary Counsel's website, it has down at the bottom, “How to Read Legislation”. That is not a Henry VIII clause giving parliamentary counsel power over another citizen's choices et cetera. If Parliamentary Counsel thinks there is other relevant material to help the citizens —

Mr P.A. Katsambanis: The style guide.

Mr J.R. QUIGLEY: — it has permission to put it there.

Clause put and passed.

Clauses 11 and 12 put and passed.

Clause 13: WA legislation website unavailable —

Mr P.A. KATSAMBANIS: This clause makes provision for occasions when the WA legislation website is unavailable. I understand the need for the clause. I do not have any problem with the inherent consistency of the clause as such. What concerns me, or at the very least comes to my attention, is thinking about why the website may become unavailable. It may well be because the website is under some sort of cyber attack. Without giving hackers any guide, I would imagine and hope that the information contained on the live website is replicated somewhere else, backed up and constantly monitored. If the website comes under attack, in practical terms that website is no longer available. Clause 13(2) reads —

If a law is published in an alternative manner under subsection (1) —

(a) it must be published on the WA legislation website as soon as practicable; and

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- (b) the day notified under section 12(2) must be the day on which it is first published in the alternative manner.

How would that work in practice if the Parliamentary Counsel has to set up a mirror site to make the legislation available for court hearings and other purposes at a time when the primary website is under threat or under attack by a hacker? How would that work in practice?

Mr J.R. QUIGLEY: I will just put aside hackers for the moment, because we have not yet had that experience, but what would happen if the website crashes? First of all, there is a complete backup of all the legislation and, depending on the nature of the crash and what the experts say, an alternative, mirrored website can be up and running in a relatively short time, because it is all contained on a backup database. I am informed by Parliamentary Counsel that there was a situation in New South Wales when the website was down for several days, and because laws do not come into effect until proclamation or subsidiary legislation is published, the New South Wales Parliamentary Counsel published the legislation on a noticeboard as an alternative to the website. It is not envisaged that the site would be out of action for more than a few days, given that there is a complete backup to the system.

Mr P.A. KATSAMBANIS: As the Attorney General would appreciate, a couple of days is quick, but if it is in the middle of court proceedings, it may require adjournment, with the inconveniencing of witnesses and jurors, and result in parties having to bear additional costs in proceedings as a result of having to wait. I know that again we are probably asking about externalities that we are not even sure of yet, but is there any current thinking about what might happen in the interim process? The integrity of the data is not being questioned; it just cannot be provided on the official website for crash or hacking reasons or for any other purpose. How quickly can we get it back up so that people involved in legal proceedings are not inconvenienced, and particularly those people who are paying for the legal proceedings do not endure additional costs?

The ACTING SPEAKER (Mr R.S. Love): Attorney General, before you reply, can I ask members to my right to keep their voices down please?

Mr J.R. QUIGLEY: It is a fair question. I do not want to be critical of the member, but I think he is taking it to extremes. If I look at it in a more practical sense, because I know the member is a lawyer himself, I do not think there would be a court case in which I have appeared in which I would not have downloaded the particular legislation that is before the court on that day. I would not want to be in court relying on a live feed or live connection, because the internet connections in the courts themselves are problematic. The member will know that the legislation website has a download facility. One member said today that they find the PDF very helpful, and I find that helpful. If we hit that button it downloads very quickly, so that we have the legislation there. If the whole system went down during a case I was involved in, I have in my iBooks the Evidence Act and all the legislation I regularly use, but, going into a court case, as the member's scenario envisaged, it is not necessary, but I think every counsel would download it and have it there.

Mr P.A. Katsambanis: You bet—I certainly would.

Mr J.R. QUIGLEY: Exactly—you would. I was not being critical in saying the member was taking it to extremes, but the normal person would download the legislation, especially in iBooks or PDF Pro. You can use your finger to highlight in yellow. With my old fingers, I usually highlight too many lines at once.

Mr P.A. Katsambanis: You would accept, would you not, that it is only in extremes that these provisions will ever come into force anyway?

Mr J.R. QUIGLEY: We must legislate for extremes. If we are taking it off the *Government Gazette* and we want to publish it somewhere so that the public can see it, there must be an alternative way to access it in an emergency, but as the member has rightly identified, we are dealing with an extreme circumstance.

Clause put and passed.

Clauses 14 to 22 put and passed.

Clause 23: Parliamentary Counsel authorised to make editorial changes —

Mr P.A. KATSAMBANIS: With the Attorney General's indulgence, I intend to ask questions on part 3 in one group. I am not necessarily sure that it will be helpful to anyone if we break it down into individual clauses. This part gives the Parliamentary Counsel the power to make editorial changes. By way of commencement, can the Attorney General highlight specifically what powers the Parliamentary Counsel currently does not have under the Reprints Act that will be gained by the passing of this bill? What are the new powers? What are the additional powers?

Mr J.R. QUIGLEY: I want to pause for a moment to say what a delight it is to have as my adviser at the ministerial table the Parliamentary Counsel himself, because I am getting it right from the top. I can list

slowly the 11 enhanced powers courtesy of my briefing note from Mr Lawn, who, for the *Hansard*, is our Parliamentary Counsel. The enhanced powers are as follows: firstly, to update references to laws of other jurisdictions where the citations of the laws have been changed. That is sensible, I am sure the member will agree. The second is to update a reference to a law, including a law of another Australasian jurisdiction or a provision of the law when the law or provision has been replaced. So that is updating the replacement of another jurisdiction. The third is to change expressions indicating gender to conform with current drafting practices, which is to draft in gender-free terms. I think I mentioned that in my second reading reply—that is, instead of saying “he or she”, just say, “the officer”, when referring to the law complaints officer. The fourth is to number or renumber provisions. The fifth is to update references to things that have been replaced, such as statutory bodies, when a statutory body has been replaced by another body. For example, before the Corruption and Crime Commission, we had another corruption body that was replaced. Other acts refer to it, so they can now refer to the new body. The sixth is to change grammar, spelling or punctuation to conform with current drafting practice. We know that spelling and punctuation has changed over the years. The seventh is to change the way a provision of law is referred to for conformity with current drafting practice. The eighth is to omit obsolete or redundant provisions of WA legislation. The ninth is to incorporate validation, saving, transitional or similar provisions when contained in amending legislation in the legislation to which the provisions relate. The tenth is to make changes that are consequential on other changes made in exercise of editorial powers; and, finally, to make format and layout changes to ensure conformity with current drafting practice.

Having detailed those 11 enhanced editorial powers, I again stress the provisions of clause 41, which require the recording of editorial changes. So if any of those new enhanced powers are used, clause 41 will require the recording of the editorial changes. I remind the chamber that when I referred to clause 42 in my second reading speech, I mentioned that will also have to be detailed in the annual report.

Mr P.A. KATSAMBANIS: I thank the Attorney General for reading out that comprehensive list. I note that the majority of what he read out is pretty similar to the proposals included in the discussion paper provided by the Parliamentary Counsel’s Office in December 2016 relating to enhanced reprint powers for Western Australian legislation. Have any proposals in that discussion paper not been incorporated in these changes?

Mr J.R. QUIGLEY: The discussion paper emits overwhelming support of all the stakeholders and because all the representations contained in the paper have received such overwhelming support, they have been included in the bill.

Mr P.A. KATSAMBANIS: I note there were 12 proposals and the Attorney General read out 11 changes. I note, in particular, that the Attorney General did not read out proposal 8, which was a proposal that the WA reprint powers be expanded to allow the correction of errors of a minor or technical nature. I think that power already exists as such. I am not questioning it; I just wanted to tick off on the fact that those proposals had been implemented, essentially, in full. But I draw the Attorney General’s attention—I am sure he knows this already—to his comments in the second reading speech, about the PCO taking a very careful and conservative approach to the exercise of the editorial powers that are currently available to it. It states —

... and this approach will be adopted in relation to the enhanced editorial powers. If there is any doubt about whether the exercise of an editorial power would change the law, the PCO would not exercise the power. Any change would then have to be made by Parliament in the normal way, ...

We believe that sentiment is always followed by Parliamentary Counsel’s Office. I do not have any question about its professionalism, efficacy, ethics or any of those issues, but is that sentiment expressed in this legislation or is it simply to be inferred by reading the legislation in conjunction with the second reading speech and the explanatory memorandum?

Mr J.R. QUIGLEY: It is the latter. We are dealing with division 2 and we can go through it. In its expression, we can see that relatively minor penalty amendments are constrained by the words of the bill. The bill actually gives examples of how to do that conservatively and what is permissible. In clause 28(1) “References to provisions of law”, it states —

- (1) The way in which a provision of a law is referred to can be changed so that it is consistent with current drafting practice.

The bill actually gives examples of how that is permitted to be done. It states —

1. A reference to “Division 5 of Part 2” can be changed to “Part 2 Division 5”.
2. A reference to “subparagraph (a), (b) or (c) of subsection (1) of section 4” can be changed to “section 4(1)(a), (b) or (c)”.

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For most editorial changes, it even gives examples of the conservative way that this can be carried out. I have never heard in my now 18 years in this chamber anyone say that there was editorial largesse, ever.

Mr P.A. KATSAMBANIS: I am certainly not suggesting that. My remaining questions are really around clauses 41 and 42. I am happy for the clauses to be moved. My questions are still about the same part of the bill, but it makes more sense to ask them discretely.

Clause put and passed.

Clauses 24 to 40 put and passed.

Clause 41: Recording of editorial changes —

Mr P.A. KATSAMBANIS: The Attorney General spent a little bit of time discussing this clause in his summing up of the second reading debate. Clause 41 is about the recording of editorial changes and clause 42 is about the annual report. I accept the Attorney General's explanation during the second reading reply. I also thank Parliamentary Counsel for his really good work and the work that his office does. It is excellent under sometimes very stressful and very trying circumstances, so I place on record my thanks to both the Parliamentary Counsel, Mr Lawn, and his office for the work that they do. I accept that they will indicate any editorial changes in a suitable way, usually by reference on the side or at the bottom of the page, but there might be other ways that it can be done.

The annual reporting is a good thing, but I seek a little clarity. Clause 42(1) states that the department means —

... the department of the Public Service principally assisting in the administration of this Act.

For clarification, is that the department now known as the Department of Justice? Which department is that?

Mr J.R. QUIGLEY: It does sit within the Department of Justice, formerly the Department of the Attorney General. Since the machinery of government changes, it is the Department of Justice.

Mr P.A. KATSAMBANIS: If there are any changes now, I imagine and expect that the executive orders would reflect a particular department that covers this act.

Mr J.R. Quigley: They are gazetted.

Mr P.A. KATSAMBANIS: Exactly. Clause 42(2) says —

The annual report submitted by the accountable authority of the Department under the Financial Management Act 2006 Part 5 must include a summary of editorial changes made to laws in the financial year to which the report relates.

What is the accountable authority? Which annual report are we looking at? Is it the annual report of the Parliamentary Counsel's Office or some larger annual report that incorporates the report of the Parliamentary Counsel's Office?

Mr J.R. QUIGLEY: The accountable authority is the director general of the Department of Justice. He signs off on the annual report of the Department of Justice and has the responsibility to do so under the authority of part 5 of the Financial Management Act 2006.

Mr P.A. KATSAMBANIS: Just to clarify for completeness, the accountable authority that will be publishing the annual report, as outlined in clause 42, is the Department of Justice. To further clarify, am I correct in saying that there will not be a separate annual report of the Parliamentary Counsel's Office?

Mr J.R. QUIGLEY: That is correct. It is a division within the Department of Justice report.

Mr P.A. KATSAMBANIS: That adds some significant clarity to what we were dealing with earlier in consideration in detail, so I thank the Attorney General for that. I obviously thank Parliamentary Counsel as well for his assistance in getting us to where we are. I do not have any further questions.

Clause put and passed.

Clauses 42 to 64 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR J.R. QUIGLEY (Butler — Attorney General) [9.04 pm]: I move —

That the bill be now read a third time.

Extract from Hansard

[ASSEMBLY — Tuesday, 30 October 2018]

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Mr Peter Katsambanis; Amber-Jade Sanderson; Dr David Honey; Dr Tony Buti; Mr Zak Kirkup; Mrs Jessica Stojkovski; Mr Terry Healy; Mr Mark Folkard; Mr Chris Tallentire; Mr John Quigley

MR P.A. KATSAMBANIS (Hillarys) [9.04 pm]: I do not want to hold up the passage of the Legislation Bill 2018. The second reading debate was useful and instructive. It sometimes got into some areas that would perhaps only loosely fall into the subject matter of the bill, but then again it did fall within the subject matter. I thank all members from both the Liberal Party and the government who spoke on the bill. I thank the Attorney General in particular for his very useful summing up of the second reading debate. I think the consideration in detail was useful. I think we gleaned some further information from that consideration that will help in the interpretation of this bill.

One question that I guess cannot be answered, not because of any lack of goodwill but simply because of the need to interact with various third parties, is the question of when we will gather up all the subordinate legislation and have it sit in one place, nice and easy and ready to go for everybody. I recognise that this is the best intention. Hopefully, the annual reports of the Department of Justice will tell us how far we have progressed each year and we can follow that up. If there are any recalcitrant third parties or simply third parties that do not have the physical, financial or technical capacity to do it, we will be able to identify them and help them along the way.

As I said in my contribution to the second reading debate, this has been a long time coming. Some states did this in the 1990s. Other states did it during the first decade of the 2000s. This is a good thing that is supported by all sides of the house. We look forward to our legislation having official status on the official website, and we will then look forward to the subordinate legislation coming on board as quickly as it possibly can.

MR J.R. QUIGLEY (Butler — Attorney General) [9.06 pm] — in reply: I thank all members for their contributions to the debate on the Legislation Bill 2018. If I might plagiarise the late Neil Armstrong, we have only been here for two or three hours so it is one small step for this chamber but one big step for the Parliamentary Counsel's Office to see this bill pass through the Legislative Assembly. It is a very big step for the Parliamentary Counsel's Office to see that we are taking the big step to go electronic. This bill is driven not by ideology but by our desire to see administrative reform happen in the administration of justice in Western Australia, so we hope that when the bill gets to the other place, it also receives careful consideration but efficient passage through the other place. I thank all members again. I want to particularly thank the Parliamentary Counsel for his assistance in not only drafting the bill but also attending the Parliament this evening to offer such good assistance during the consideration in detail stage. Thank you very much, Mr Lawn.

Question put and passed.

Bill read a third time and transmitted to the Council.