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(HANSARD)

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LEGISLATIVE COUNCIL

Thursday, 17 February 2022

Legislative Council

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THE PRESIDENT (Hon Alanna Clohesy) took the chair at 10.00 am, read prayers and acknowledged country.

PAPERS TABLED

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

NATURAL DISASTERS

Motion

HON MARTIN ALDRIDGE (Agricultural) [10.03 am] — without notice: I move —

That this house —

- (a) recognises the significant impact of recent natural disasters on Western Australian communities;
- (b) commends Western Australia's fire and emergency service workers and volunteers for their dedication and commitment in significantly challenging conditions; and
- (c) discusses strategies and initiatives to support the state's resilience and preparedness to combat natural disasters and other emergency events now and into the future.

I rise to recognise the significant number of natural disasters that have impacted Western Australian communities particularly over the last few months as this place has been in recess. There have been not only fires but parts of our state that have suffered from storms and localised flooding events. However, fire has obviously had the most significant impact, in my view, on some of our communities. There is literally no region in Western Australia that remains untouched from these events. As I said, the last four weeks have also been particularly challenging. I am led to believe that at one point on the weekend of 4 to 6 February, four level 3 incidents were being managed across the state, which is quite an unprecedented number of significant events—namely, the Denmark, Bridgetown, Corrigin complex and the Narrogin and Wickepin fires. Since then we have also learnt of other devastating fires that have impacted on the south coast, including in the communities of Jerramungup and Hopetoun.

Earlier this year, we saw fires in the Margaret River region and a significantly large fire through the Carnarvon–Gascoyne region of the state, which burnt for many weeks. Property loss has been significant in some of these fires—not just people's homes, but people's businesses, farms and farm buildings. The environmental impact is going to be quite significant. Having recently spent some time visiting the firegrounds in the wheatbelt, it is literally like walking on what we see in pictures of the surface of the moon. What has been left behind is quite a devastating impact in terms of the environment and significant livestock losses. Fortunately, although some of these events have been significant, no lives have been lost. There have been some injuries reported. I have seen reports of a gentleman who was quite badly burnt in one of the fires, and I understand that there was a collision between two fire appliances at another fire that resulted in seven firefighters requiring treatment.

The other thing that we need to reflect on is the mental health impact of these events on not only our firefighters and other first responders, but also the people within the communities. One shire president recalled the number of burnover situations that volunteer firefighters were in, particularly in the wheatbelt fires. For those of you who have fought fires or experienced fires impacting communities, a burnover event is very significant. I have heard stories firsthand from people who have said that if it were not for a change in conditions or the use of aircraft at some of these fires, the outcome may well have been quite something else.

The second limb of my motion also recognises the significant work of our fire and emergency services volunteers as well as our career staff across the state. That recognition is obviously not just confined to the Department of Fire and Emergency Services but also the local government fire services, through the bushfire service and fire services that are associated with the Department of Biodiversity, Conservation and Attractions. There are also a number of other agencies. Obviously, local government has many functions and it is an integral part of our emergency management system here in Western Australia. The Department of Communities plays an important role in not only establishing evacuation centres, but also supporting communities' recovery after natural disasters. In some of the more recent fires, the Department of Primary Industries and Regional Development played an important role particularly from an animal welfare perspective. Other agencies also played a role. The Western Australia Police Force was involved in assisting our agencies with evacuations and other similar responses, and some of our not-for-profit organisations such as the Salvation Army and the Country Women's Association were involved. They are often the ones providing welfare services to those men and women fighting or assisting in the response to those natural disasters.

I am sure members will have seen some of the vision from the events that occurred over the last few months. I must say that it is pretty compelling in supporting the statement that many of these situations presented very challenging conditions to first responders, particularly firefighters. There have been many stories from the firegrounds that I have had the opportunity to visit, and plenty of stories have emerged from people who took quite decisive action and made quick decisions, which led to many lives being saved and homes and stock protected, often in the face of adversity. If we look at some of the vision that I am sure everyone has seen circulating on social media, we can imagine the circumstances the firefighters face, in an environment in which there is often no power or telecommunications and significant difficulties with using radio communication networks. Really, all the odds are against them in some of these incidents.

At this point I also want to recognise the roles of both official and unofficial fire responders. The latter are often referred to as private fire units or farmer response units. They play a vital role. We could not provide the response function that is provided, particularly outside the Perth metropolitan area, without the support of these private fire units. These are private landowners who respond in the interests of not only their property, but also the properties of their neighbours and their communities. I put on the record my ongoing thanks for, and recognition of, the role they play in our emergency response capability.

I will spend most my time talking about the third limb of the motion, which I think is probably the most important one, with regard to how we can better prepare and respond and build greater resilience in our communities. Over the time I have spent in this place, a year would not have gone by during which we have not had a debate similar to this one. The locations and types of natural disaster may change, but the themes do not. I think it is worthwhile talking about some of the opportunities that exist. One of the things I want to talk about first is the need to always reflect on what has happened and how we can improve in future. The best way of doing this is often simply to ask the question: how could we have done this differently if we had our time again? This is applicable not only to major emergencies. Those who have had experience in serving in volunteer fire and emergency services—I know that a number of members in this place have—will be familiar with this concept: regardless of the incident, large or small, there is often an informal evaluation of how responders did, and how they could do things better.

It concerns me that there has been an increasing trend over the last few years away from formal reviews and inquiries, particularly in relation to large-scale incidents. Let me pose this question: can anyone point me to one publicly available independent inquiry into a WA natural disaster over the last five years? I was hopeful, when the Minister for Emergency Services rose during the opportunity to table papers today, that we may well have seen the first such report tabled in five years, but we are told that the government is still contemplating the report. I will come to that shortly.

We would not expect a full-blown public inquiry into every event; as I said, the review needs to be scaled to the type of event and the complexity of that event. But in my view, events such as the Wooroloo bushfire and tropical cyclone Seroja absolutely meet the threshold for a special inquiry to be established under the Public Sector Management Act. As we learnt during question time this week, the Wooroloo report was received by the government two months ago.

Hon Stephen Dawson: It was 22 December.

Hon MARTIN ALDRIDGE: Was that when it was formally provided? I understand that there were some informal —

Hon Stephen Dawson: interjected.

Hon MARTIN ALDRIDGE: Okay; I will reflect upon a question I asked last year and check that. There was a response from the former Minister for Emergency Services that he had informally received the report, which would suggest that he had received the report in some form.

The minister is right; the government received the report on 22 December 2021. It is now late February 2022 and we are still waiting for the government to contemplate this report, well after the Wooroloo fire event. I contrast that with the Waroona–Yarloop fire, which was a very devastating event. I am pretty sure that a special inquiry was announced during the actual response phase of the event, and within 170 days the government had received the report of the special inquiry. We will be almost through the next southern high threat period before we even learn about what happened in Wooroloo and how we might improve on our response to it.

Timeliness is a real issue here, not to mention some other flaws that I believe exist in this review. It is not a special inquiry under the Public Sector Management Act; a different model has been chosen by the government, and I will reserve my judgement on that until I finally see the report tabled in Parliament. The two technical experts who were appointed to lead the review are from the eastern states. Ordinarily, that would not be a strange thing to have happen, but in the circumstance of having had a controlled border for the last two years, these two technical experts have not been able to set foot in Western Australia to conduct their inquiry, so the entire thing has been done virtually, and I think that presents some challenges to the inquiry.

We are 10 months on from cyclone Seroja, and on Tuesday we asked the Minister for Emergency Services: is it not about time we got on with a review of what was probably the most significant natural disaster event in Western Australia's recent history? Ten months on, we are still finalising what appears to be an internal review of that event. There is no explanation that I can comprehend as to why these things are taking so long, or why

the government seems to be averse to the normal practice of establishing fully independent special inquiries under the Public Sector Management Act when dealing with very large events. It is a lost opportunity for all Western Australians when we fear the opportunity to reflect and improve.

There are a few other things I want to talk about today. I think our emergency services are approaching a crossroads. Every day we are asking more and more of our volunteers, in particular. I am sure members are already aware of this, but I will say it again: our responses to fire events outside the Perth metropolitan area, and sometimes within it, are overwhelmingly dealt with by volunteers. The volunteer model is changing. As I have said, our expectations of volunteers are increasing, and I do not think that is going to stop anytime soon. Our fire events are changing; they are becoming longer in nature and we are seeing longer commitments to campaign-style natural disaster responses. We are having to send strike teams in on rosters, week after week, and trying to stretch resourcing over longer periods. As I said in my opening remarks, to have four level 3 incidents declared at one time is an extraordinary circumstance for our state.

There are some other issues that I will touch upon; I have spoken about them previously: the implications of the work health and safety legislation and its accompanying regime, which will soon be introduced into Western Australia; and the increasing risks for local governments, who provide the bulk of our volunteers in the fire service area. When we finally see this long-awaited emergency services legislation, which has been on the boil for the best part of a decade, I understand there will be formal capacity for the transfer of local government fire services to the state, and that will be an interesting exercise to watch. Increasingly, local governments, particularly small local governments, are asking themselves about their capacity to continue to meet the demands and expectations of them.

Another thing I want to touch on is the impact of the loss of power and telecommunications. It has been disappointing that the government has announced an inquiry into the outages over Christmas that will be largely metropolitan focused. The loss of power is not uncommon during fire events. People need to understand the connection between the loss of power and the loss of telecommunications, not only mobile phones and landlines, but also radio communications. I think we are extremely vulnerable even outside of natural disasters. If a community loses power, it is often only minutes or hours before it loses the mobile service and thereafter the landline service. There certainly have been situations in this state when if there was an emergency, people would not have been able to call 000 and even if they could, I strongly doubt whether the state emergency services could have responded locally to those incidents because of the loss of power and lack of telecommunications. This has been an ongoing problem. I am sure that the minister will say it is all the federal government's responsibility, but we need to remember a couple of things. The first is that Western Power and Horizon Power are still owned by the state.

Hon Stephen Dawson interjected.

Hon MARTIN ALDRIDGE: No, I said that Western Power and Horizon Power are still owned by the state.

The second thing that we need to remember is that if the state cannot rely on the telecommunication services provided by Telstra and others, what is the government's plan B? The reality is that there are frequently days when people cannot call 000 and emergency services cannot respond, so how will the state do that? What is the state going to do about Western Australia's lack of power resilience? This was touched on in the regional telecommunications review, which was presented to the federal Parliament earlier this week. It is an opportunity whereby the state could do more. After cyclone Seroja, some 126 network sites went down because of the loss of power. I wrote to the Minister for Energy to say this was an opportunity for us to deploy more standalone power systems to this critical infrastructure, and we deployed one. After cyclone Seroja, one site out of 126 sites in the midwest got a standalone power system. That was the state government's response. We will have to continue to focus on this area because it needs to improve in the interests of community safety.

Another issue I will talk about is how we need to rethink the way we do recovery. There certainly has been a paradigm shift around the response phase, particularly after the Waroona–Yarloop fire. We now have pre-formed incident management teams. I think we need to look at something similar with the recovery phase. The recovery function is often left to local government under the emergency management arrangements. Obviously there are different models, depending on the complexity of the natural disaster, but we need to build significant capacity in this area. At the moment, many communities are in the recovery phase following natural disasters, some even going back several years. We need to build capacity in this space.

The last thing I will talk about on the issue of recovery relates to cyclone Seroja. I got some answers from the Minister for Emergency Services this week that show that less than one per cent of the \$104.5 million recovery package announced by the state and commonwealth government has been disbursed to affected persons, communities and businesses in the area—less than one per cent. It has been 10 months since tropical cyclone Seroja. That devastating natural disaster affected 16 local government areas across the midwest, the Gascoyne and the wheatbelt. I think the new Minister for Emergency Services needs to undertake a review into how that recovery model is working and also how we are going with providing financial support in particular and getting support to those communities that saw utter devastation during that cyclone. The \$104.5 million investment was, I think, the most significant recovery package announced by the state and commonwealth governments, and for less than one per cent of it to be in the hands of affected residents 10 months on needs to be reviewed.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [10.24 am]: I rise this morning to speak on behalf of the government on this motion. I appreciate the way Hon Martin Aldridge worded the motion and the tone in which it has been written because the government is very happy to participate in the debate and support the motion. I also acknowledge Hon Martin Aldridge because a little birdie told me that he was involved in fighting the fires over the past few months. He certainly was involved in fighting the Gascoyne fire. On behalf of myself, as the minister, and on behalf of the government and this house, I thank him for his service to the communities of the midwest and Gascoyne regions.

It has been an extraordinary few months in the emergency services portfolio. We have had significant natural disasters over the past few months. As the honourable member pointed out in his contribution today, we had the extraordinary situation of four level 3 fires happening at the same time as well as a pandemic. We found ourselves in truly extraordinary circumstances. At the outset, I place on the record my thanks to all those volunteer and career firefighters who were involved in fighting those fires. I will go into that further as we progress.

I have had the pleasure of getting around the state over the past two months in particular and visiting communities and talking to them, albeit in tragic circumstances. Thankfully, we have not seen the loss of life, but we have seen devastation and the loss of livestock in particular, which certainly has impacted very many people. I have no issue with reflecting on significant weather events and learning from them. I say at the outset that I have no problem with that. I think we always have to be able to learn from them, but I will not have a continual review of every fire because, to be honest, they are becoming more frequent than before and it would take up every resource of the agency to review every single one. Over the past few months, certainly since I have been in the role, Department of Fire and Emergency Services employees in Perth and around the state have been drafted to fight fires across the state. I would much rather people were out combating and fighting fires than in head office doing other things.

As the member indicated, power is lost during fires. I was a bit disappointed that the member shirked from tackling the telecommunications issue, because that has been a major issue for many communities, particularly in the wheatbelt over the past few weeks as they have battled fires. Telecommunications is the responsibility of the federal government and it is disappointing that the member did not take the opportunity to flag that he would raise that issue with the federal government on behalf of those regional communities. Although regional communities need power, there are other things that Telstra can do to make sure those responders have standalone power.

Hon Steve Martin is here today. He would have heard the same frustrations that I heard from people in some of the shires in his electorate. I know he has spoken to them because he reached out to me during the fires. People in places like Corrigin were frustrated because they were without telecommunications for days. They could not get messages out to people in the first place. People could not read the messages and updates from EmergencyWA or the state, and the council could not get messages out to the community because none of the telecommunications towers were working. Telstra and the feds need to take some responsibility for that. I am happy to work with them, as I have indicated. I acknowledge the office of Hon Bridget McKenzie, the federal Minister for Emergency Management and National Recovery and Resilience; Regionalisation, Regional Communications and Regional Education. Many members in this place would know her chief of staff, Lachie Hunter, who reached out at an early stage and his minister reached out later. I had the opportunity to relay to that office some of the issues that were raised with me around telecommunications. I was given the example of backup batteries lasting only minutes. There are options in this day and age. It is 2022, and there are all sorts of innovative options out there such as solar and others, yet we are not seeing the investment in them by Telstra. Having said that, Telstra has also reached out since my contact with the federal minister and is seeking to brief me. I have asked my office to organise that briefing to find out how we can work together. Yes, the state has a role in providing power and, as the member indicated, power goes out during significant weather events.

Hon Martin Aldridge: Minister, will you take an interjection?

Hon STEPHEN DAWSON: Sure.

Hon Martin Aldridge: You know that the Department of Fire and Emergency Services does not have standalone power systems on its radio sites either?

Hon STEPHEN DAWSON: DFES had no problem with communicating during the fires. That was not an issue.

Hon Martin Aldridge: Are you sure about that?

Hon STEPHEN DAWSON: Absolutely. That was not an issue. What was an issue, though, was communities not being able to communicate. Nothing has been raised with me about DFES not being able to communicate with those people they needed to communicate with.

I am happy to work with the feds and I am happy to take briefings, but, as I said, in this day and age, there is no excuse for not having backup telecommunications. These recent flood and fire events are becoming more common and we are seeing them in areas where they have not taken place before. The climate is changing. We need to be ready for it and we need to be on top of it. We need to provide those services to those communities that need them.

I want to acknowledge all the people who have been involved in combating or managing the fires over the past few weeks—people like all the volunteer firefighter organisations, the State Emergency Service, and even the Country Women’s Association, who have been out there cooking scones. We have had incredible support. Scones or scones? Tomato or tomahto?

Several members interjected.

Hon STEPHEN DAWSON: It depends! All right; I am not getting into it. I just want to thank them for their efforts. People like the farmers in particular communities—everybody. That is what happens in regional Western Australia. I was reminded of that fact everywhere I went over the past few weeks visiting fires and floods. People in regional Western Australia band together and just come out and help. They drop everything. They drop what they are doing, get out there and help their communities, and it is to their great credit.

Over the past few weeks, the Fire and Emergency Services Commissioner and I have been around the state, as I indicated. We have been up to Wooroloo to see how the recovery is going. We visited Northampton and Kalbarri in particular to see how the recovery from cyclone Seroja is going. The plan is to get out to Mingenew, Morawa and the other communities that were affected by Seroja over the next few weeks. We were conscious of not lobbying up to those communities while farmers were busy on their farms. I did not want to get in people’s way, but equally I am very keen to hear from those communities about their frustrations or otherwise with how things have gone.

I want to flag that the Wooroloo report has been led by the Australasian Fire and Emergency Services Authorities Council, which is the national council for emergency services in Australia. The public submissions opened on 20 August and closed on 8 October. The terms of reference were released in August, too. That report came to my office on 22 December. It has recommendations that traverse government. It has recommendations for the Minister for Planning and other ministers. When the honourable member was in government, he will have realised that it is not simply a case of me bringing something forward and putting something out. Ministers need to actually consult with their colleagues. I want to be in a position to be able to say: these are the recommendations; this is our response.

Hon Martin Aldridge: Can you give us a time line of when you think you will be able to table it in Parliament?

Hon STEPHEN DAWSON: I am hopeful it will be very soon, but my commitment is to provide a report and a response to it at the same time in the not-too-distant future. There are learnings in it that we will have to take on board, but equally they refer to a range of different government ministers’ portfolios, so we will release it in due course.

In Wooroloo, 135 properties have been cleaned up, more than 15 000 tonnes of material have been removed, kilometres of fence lines have been repaired, dozens of community events have been held and homes are finally starting to be rebuilt. We are seeing the bushland and the iconic hills starting to regrow, which is a good thing. That is all testament to the hard work of the people in those communities—the people on the ground—and the resilience of the local communities. They have risen to the challenge of rebuilding. The commonwealth and the state government worked together with the community recovery fund for that fire, but also the Lord Mayor’s Distress Relief Fund assisted in the Wooroloo and hills bushfire, with a significant amount being raised by the community of Western Australia and distributed to the applicants who were affected by that fire. I want to acknowledge the City of Swan and the Shire of Mundaring, which have played a key role in the recovery process.

I am conscious that lots of people want to speak today, so I do not propose to take my full 20 minutes. Over the past few weeks, I have been out to Corrigin and Narrogin. I want to acknowledge the shires out there, particularly Leigh Ballard in Narrogin. As well as being the shire president, he is also a volunteer and was involved in fighting the fires. I have to say, prior to this portfolio, we have had correspondence from a previous portfolio that was not the most pleasant, but certainly I want to acknowledge his contribution and his community’s contribution to fighting those fires. I also acknowledge the shires in the south west and the people who helped respond to the fires in their areas, like David Schober and Ceinwen Gearon in Denmark. Having been down to Denmark in the last few weeks, it was really important to see the support that the shire president, the shire and the people of that community gave to the community. People like John Bookless and Tim Clinch in the Shire of Bridgetown–Greenbushes also gave enormous support. Of course, it was not just fires. Floods have also happened over the past few months. The commissioner and I visited Broome and Fitzroy Crossing a couple of weeks ago just to see the impact of the floods there. Some places in the Kimberley had a year’s rain in a matter of hours. There was a significant investment in the road to Cape Leveque, for example. We flew over that and saw how bits of the road had floated away. We met with communities outside Fitzroy Crossing to see how, time and again at this time of year but particularly this year, they were cut off from communities, and the emergency services had to provide medication and food to those communities. I say thank you to those people, too.

I will finish off by saying to the local bush fire brigade volunteers, thank you. To the fire and rescue service volunteers, thank you. To the fire and emergency services volunteers, thank you. To the State Emergency Service volunteers, thank you. To the career fire and rescue services, thank you. To the Department of Biodiversity, Conservation and Attractions parks and wildlife officers, thank you for the role that you have played. Thank you to Main Roads, the Western Australia Police Force, all the local governments, the Department of Communities and the Department of

Primary Industries and Regional Development for their roles in the wheatbelt fires. I also thank the New South Wales Minister for Emergency Services, Steph Cooke, who reached out. Because we have previously supported New South Wales, the people there have been not only very kind but also supportive and have provided whatever resource we have needed.

We need people on the ground. Without people on the ground, we would not be able to fight these fires. We have had Black Hawk helicopters and large aerial tankers, and together they were the arsenal in our toolbox that helped fight the fires. I am very thankful that there was not more damage and destruction. To everybody involved, thank you very much. I thank Hon Martin Aldridge for bringing this motion to the house.

HON STEVE MARTIN (Agricultural) [10.39 am]: I rise to make a contribution to this excellent motion moved by my colleague Hon Martin Aldridge, and I thank Hon Martin Aldridge and the minister for their contributions. I start by recognising some of the impacts of the last month and, more broadly, over recent months. As we heard from the minister and Hon Martin Aldridge, we had four level 3 events a week and a half ago, and I will start by explaining what that looked like on the ground to the fire and incident controller at Narrogin.

On the Saturday, we had Denmark and Bridgetown roaring, so lots of resources were sent to that part of the state, and the Department of Fire and Emergency Services stood up eight extra staff in case something happened on the Sunday. An early phone call was made to those eight people on the Sunday. They jumped in a vehicle and headed east to Bruce Rock. Whilst en route to Bruce Rock, that particular incident controller was told, “Turn right. Something is happening at Narrogin—large-scale.” The Bruce Rock–Corrigin fire was in his path to get to Narrogin, so it was a long windy trip to dodge that fire front to get to the fourth fire front, and resources were stretched fairly thin on that day.

The impact of those four events and subsequent events on the south coast around Ravensthorpe, Hopetoun and Jerramungup, included damage to houses, buildings, farm infrastructure, livestock, topsoil, bush reserves and road sides. There was enormous damage right across those events. Local government and state government infrastructure was damaged. The recovery process will take months, and in many cases it will take years. Water pipes, powerlines et cetera were all damaged.

I would like to talk about some of the human impact of these recent events. Hon Martin Aldridge mentioned briefly the load on our volunteer network. I think we already have volunteer fatigue all over Western Australia, and events such as these highlight that. On Sunday night, the day of the fire, I happened to bump into a local St John Ambulance volunteer on the main street of Wickepin. He was in uniform, with the ambulance parked on the main street, waiting for the call. Had been there since 10.30 that morning when the fire started. He said that he just had to duck home, put on the orange uniform and fight the fire. So, that one particular gentleman did most of the day as a St John vollie—we only have a small pool—and at around dark he went home, changed uniforms and went out to be another sort of volunteer in a small town. That is some of the pressures our volunteers face.

As we heard from the minister and Hon Martin Aldridge, we simply cannot fight these fires without the volunteer network. The first five to six hours of all those events would have been fought by the locals. Those volunteer organisations would have been the ones who got to the fire first and did the best they could with the resources they had until the professionals arrived; and thank goodness the professionals did arrive. The staff on the ground plus the air support prevented significant damage and probably loss of life; they certainly saved more buildings, more houses, more livestock. I would like to pay a special tribute to the air support that some of those fires received. The fixed-wing and helicopter support, particularly in the Wickepin–Narrogin fire, was remarkable. It certainly prevented significant damage on the ground. From where I was standing, it looked to be a very risky task to hover over a farm, discharge, suck up water, in the smoke, charge off, drop it on the fire and race straight back to the dam. Well done in particular to those pilots and all the staff on the ground.

In an event such as that, everyone gathers around, so we had the shire staff, police with roadblocks, the St John Ambulance people and the pilots, and very quickly afterwards, in the recovery, people like vets assist. I believe a crew of volunteer vets assisted with the fairly awful task of euthanasing damaged livestock, so a very big thankyou to them. The volunteer presence in the recovery process is at least as admirable as the volunteer presence on the day of the fire. For those members who are not aware, in a fire of that scale, that fire is contained, but it is certainly still burning or smouldering for at least a week. For probably 10 days, a roster of volunteers will be on the ground, almost 24 hours a day, to make sure that fire does not break out. In Bridgetown, Denmark, Jerramungup, Narrogin and Bruce Rock, a roster of volunteers will be working on the firegrounds. Resources are drawn from all over the state—for example, Farmers Across Borders. I believe Sam Starcevich and her crew on the south coast are arriving in Corrigin with hay and fodder this Saturday. That is some of the wonderful work those people do. When Hon Martin Aldridge and I got to Corrigin, the locals were swamped; the phones had not stopped ringing with people offering food and feed and fodder for livestock, and that process will take place for many months.

In the limited time I have left, I mention some of the lessons we can learn from these events. I will touch on telecommunications. The minister mentioned who is responsible. I do not think the people in Corrigin were particularly interested in which section of government was responsible when the SMS notice to evacuate reached

half the town on the network and not the other half. I understand entirely that telecommunications are a federal issue, but the state government has made some wonderful and useful contributions over many years to the royalties for regions program and the tower network. Keep rolling it out, minister. It is money very, very well spent. So, obviously, there is an issue with the towers going down. We can argue again about who is responsible. I do not care. Fix it. There is also an issue about lack of coverage. Again, most of the towers, at least in the fire I was at, stayed online, but there was no coverage so it really did not matter if we did not have a signal. Communication is vital.

If Western Power's lines played a role in igniting that fire, we need an investigation. I asked that question yesterday, and that appears to be underway. We need a quick response and a quick solution to find out what happened. If there is an opportunity for those farmers who will be underinsured for fencing, livestock et cetera to be compensated, I would like to see a quick result.

I refer to resilience and preparedness going forward. The question is whether the minister initiates a review. I tend to agree that there have been a number of fires and another review is probably not all that useful. The reviews will take place on the ground. Lessons will be learnt. The locals will work out how to do a better job next time.

It is not entirely correct to say that these are new events. The Brookton fire, 20 years ago, was at least as big. The Kukerin and Esperance fires were also big. We fight these fires in regional WA and we will continue to do so. The locals will learn valuable lessons and do a better job next time. Any assistance the state could provide in that role would be useful, particularly in the recovery. With cyclone Seroja, there was a great effort in the first two, three, four, five and six months, but they are still battling there, so we need to pay attention for a little longer.

I will conclude my brief contribution by again thanking everyone who turned up on the day and has been turning up ever since, including the volunteer firefighters and the professional firefighters. The Country Women's Association would be alarmed to know that they were making scones —

Hon Alannah MacTiernan interjected.

Hon STEVE MARTIN: Absolutely—scones. I was appalled by that remark.

The pilots of the choppers, Main Roads, SES, the CWA with their scones, and every single person who turned up on the day did a wonderful job. Sam Starcevich made a remark about her organisation and the hay, and she summed it up by saying it is just what we do. We need you to do it and to keep doing it, and that will continue into the future. On behalf of everyone in this place, I would like to conclude by thanking everyone who turned up. Thank you.

HON DR BRIAN WALKER (East Metropolitan) [10.51 am]: Before I start, I also want to give my thanks to the Minister for Emergency Services, who spoke very movingly. This would reflect well on all members of all governments who see the tragedies occurring in front of us and do their utmost whatever political persuasion to serve the people of this state. We have two very similar motions before us today, and I will speak more at length to the second motion. Regarding this one here, I refer to paragraphs (a) and (b). Everyone will recognise the significance of the impact of recent natural disasters. Not a single person with a functioning brain and compassionate heart would disagree with that. Secondly, I commend Western Australia's Fire and Emergency Services workers and volunteers for their dedication and commitment. As several speakers have mentioned, I, too, have personally witnessed what goes on. The amount of effort and dedication that occurs needs no further explanation. Members across the chamber will share that point of view.

I want speak more at length about paragraph (c). Although I thank Hon Martin Aldridge for bringing this entire motion before us, this is where my focus will be in my very short contribution, bearing in mind there are plenty of other speakers who wish to comment. First of all, the praise for all—we depend on volunteers, and the volunteers just now are also suffering greatly because they are extended. They are being stretched beyond the limit of human ability, and they are still managing that.

This calls to mind the stories my parents told of the efforts they made in the Second World War, and all in such crises and catastrophes. People in times of crisis stand together and support and help each other and show those elements that are so powerful and reinforcing of the human nature that is to be good to our fellow man and woman.

I would like to begin with a short message to suggest that we might also want to look at solutions. There are plenty of solutions we could look at. In particular, I am thinking here about communications, which are so important. I vividly recall in Kununoppin having to choose the particular tree under which I stood to get a mobile signal when dealing with emergencies—patients to be emergency transported—and finding it difficult to get communication. That has since been fixed with a tower that at times runs out of diesel and leaves us again bereft of communication in certain areas. Knowing where I come from in the cannabis community, it is not just something that is used to entertain people or to heal people, but as the ministers here well know, the hemp itself can be made into a number of extensively tested and very useful preparations; in particular, hempcrete. It is a mixture of hemp herbs and lime sand. It is used as a material for construction and also installation. If anyone has been in such a house—I am sure several members have—in winter in the south west, which is not the warmest place in the world, they will find that no central heating is required. In those same houses in the middle of summer with 40-degree temperatures there is no need for air conditioning because the house itself is automatically insulated by the very nature of this substance.

It is also fireproof. I can show plenty of examples of where intense heat has been applied to it and no deterioration of material has been found. I have spoken before in this chamber about the possibility of examining this further. I have no evidence yet, because it has not yet been tested, but it would make sense to me, as someone who has lived in the wheatbelt and seen the salmon gum trees surround the town in which I was living, and was aware that should a spark hit that place, in a dry summer with lightning strikes, the whole town would have been lost, including the hospital at which I was working. We would have stayed behind to evacuate the patients and fight the fire as best as possible. However, at what point do we say that we must run away before it becomes too dangerous to leave our homes?

When it is too dangerous to leave their homes and people have been doing their best to save their properties or the lives of animals and humans, how do they find shelter? We are told to find a suitable room far away from the fire with plenty of blankets and water to dampen the area. I think lack of oxygen and the radiant heat would be the main problems they face. We could research—I put to members that we should research—the possibility of using hempcrete to build fireproof shelters where people who are seeking shelter from the fire at a point when they can no longer escape can find secure shelter. This needs to be researched. It is a solution that might allow a little more time for people to, first, defend their property and livestock and, second, to find secure safety in the face of the conflagration. I have urged the government in the past to look at this and I would heartily recommend this yet again. It is a matter also for industry. It gives jobs and places for people to find a sensible solution to one of the problems that confronts us every year.

I am sure that other solutions could be found. I applaud the government's approach, which is to get out of the way of business and let it happen, let it work. However, fire safety is clearly an issue for the whole of state and the whole of government; indeed, for all sides of government as a result. I take this opportunity to ask the government to do everything it can to increase hempcrete research and availability to build houses for normal people.

HON JAMES HAYWARD (South West) [10.55 am]: I stand to make a contribution on this excellent motion. I am pleased the government will support it and to have heard the words of the Minister for Emergency Services. I do not want to take too long on this motion. I understand that a lot of others would like to speak and I would like to facilitate that. The south west is a beautiful place. It has lots of bushland and tremendously tall trees and forests, but they can be very scary places in the midst of a bushfire. As we all know, it is critical that a bushfire is put out as soon as possible and the faster we can respond to bushfire emergencies, the better the outcome will be. In regional communities, as has already been discussed by many speakers this morning, that mateship and sense of community is alive and well. Very often the first people to turn out to fires are neighbours, farmers and local volunteers. They are there in the first instance trying to fight the fire. Fighting fire is like going to war. It is unpredictable and dangerous and one does not know what the fire will do next. The reality is, as in a war situation, it is all hands on deck to achieve the right outcome and put out the fire.

This morning I spoke briefly to the captain of the Brunswick Junction Fire and Rescue Service, Colin Keys. Colin is a fantastic guy. He is a volunteer in the volunteer fire and rescue service and also with the Bunbury State Emergency Service and St John Ambulance. He is a very busy man and I would like to give him a shout-out today because the level of community support he has shown is exemplary. He has 25 people in his little brigade. He tells me that eight of them are ladies, which is fantastic, and that number is growing. His brigade performs a fire and rescue role and in a bushfire it looks at the urban–rural interface—those places where buildings and structures are near bushland. During the recent fires those in the brigade were left during the initial stages of the Bridgetown fire to be the on-call service for the south west for the regional population while the other fire crews attended.

Those in the brigade do other work as well. Recently, they turned out at 3.00 am to a double fatality when a young baby and father died in the south west. The volunteers get out of bed, put on their uniform, get their appliances and turn out to provide a service. It is fantastic community work that these volunteers do and I acknowledge them here today. Colin Keys tells me that his team sent down a light tanker to help with the hazmat clean-up at Hester and that the team spent three straight days volunteering. That was just a small crew. They are only a small brigade at Brunswick Junction, but they do a fantastic job, as do all volunteers across the state. He tells me that generally they volunteer for about three hours a week. In addition, they have monthly meetings and training, so it is a big commitment for people in the regions who volunteer in emergency services to help the community.

In his brigade is a volunteer named Francis Burgoyne. Francis is a 46-year veteran of the service. He holds the Australian Fire Service Medal. He has had 46 years of 3.00 am callouts and turning out to help protect the community. That is wonderful service and should be acknowledged. His brother, Robert Burgoyne, has done 40 years' service in his brigade. Another volunteer firefighter in his brigade, Kevin Harnett, has done 45 years' service. That is tremendous service and worthy of our praise. I thank them on behalf of all members for their work. Other organisations such as the Bunbury SES are not involved in fighting fire directly, but work in a support role, as we have heard already. They drove lighting towers to the recent fire sites and helped with crew transfers for fire and rescue. They took busloads of firefighters in and out of the fire zone. They also reloaded aerial bombers at the Bunbury Airport. Again, it was all hands on deck with people volunteering in many ways. All of them are absolute community heroes and we really appreciate their work and service.

Paragraph (c) of the motion refers to things that we could look at to enable us to do better or improve. I am interested to hear the government's view on this, but one of the things we could look at is providing support for privateers at fire scenes. Some years ago, I was at the Waroona bushfires at about three o'clock in the morning in my then role in the media. At that fire scene, there were career firefighters in career firefighting trucks, and there were bushfire volunteers in their appliances. There were also a couple of blokes in utes with a water tanker on the back, and they were running around wearing shorts and thongs, which is probably not the ideal PPE to wear at a fire scene. After the Waroona bushfires, some changes were made and a report was done. Concern was also raised by the Department of Fire and Emergency Services and others about those private farmers. However, the reality is that they did an absolutely fantastic job helping to put out that fire. One of the things that the government could potentially do better is to look at how it can help grow that force. There are difficulties. These people do not have radios. They are not wearing PPE. They are not trained like our volunteers. However, the reality is that those people are on the scene and helping to put the fire out. We should look at what sort of funding and training might be made available to those people, and perhaps also some PPE, to enable them to be a bit more prepared than they are, because they certainly do a vital job.

I would like to finish by adding my thanks to all the people involved in this area for the work that they are doing. Thank you.

HON NEIL THOMSON (Mining and Pastoral) [11.01 am]: I would like to focus on paragraph (c) of this motion, which states —

discuss strategies and initiatives to support the state's resilience and preparedness to combat natural disasters and other emergency events now and into the future.

Natural disasters have a big impact on our economy. The Australian Business Roundtable for Disaster Resilience and Safer Communities, which is a body comprising business and non-government organisation CEOs, including from Red Cross, did a study in 2019 that estimated that the impact of natural disasters on the economy was \$18 billion per annum and would increase to \$39 billion per annum by 2050. This is a result of the changing climate, and, of course, our population, which is increasingly coming in harm's way as our urban fringe expands with greater urbanisation and semi-rural development in our communities, particularly in the south west.

My own community in the north of this state has seen increasing rainfall since the 1970s. The average increase in rainfall in some parts of the Kimberley has been over 100 millimetres. We are seeing an increase in rainfall events, as explained by the Minister for Emergency Services before he had to leave the chamber on urgent parliamentary business.

Western Australia is lucky. The impact of natural disasters on our economy is proportionately less than it is on other states and territories, at about \$1 billion per annum. About half that cost is the result of hail damage. We have experienced some major hail events that have impacted on the insurance industry for motor vehicles and also, of course, on the cropping sector. Flooding, cyclone effects and bushfires all have impacts in Western Australia, and the number of these events is also expected to increase over time.

Therefore, we need to consider the issue of resilience, particularly in the planning portfolio, which I represent on behalf of the opposition. I commend the four recommendations that were made in a report of the Australian Business Roundtable for Disaster Resilience and Safer Communities. The first recommendation was to mainstream and embed resilience across all aspects of policy and decision-making. The second recommendation was to prioritise resilience investments by the ensuring the broad economic and social impact benefits. The third was to improve understanding of disaster risks, costs to society and resilience-building activities to improve resilience. The fourth was to collaborate and coordinate to build resilience and address the long-term cost of natural disasters.

My home town had a recent rainfall event. As have said previously, people in the north are a fairly resilient lot. I was there in 2018–19 when we had almost 2 000 millimetres of rain in the space of six weeks. That caused considerable damage to the roads, and they were shut for about six weeks. I commend Main Roads WA for its incredible work to restore communications and logistics across the north. The minister mentioned the recent terrible damage on the new Cape Leveque Road. Main Roads is now working closely, and quickly, with the local government to ensure that road is repaired.

This raises a broad issue about our strategic transport networks across the state. In my previous role, I provided advice to Main Roads and local government on some of the northern connections, particularly Tanami Road, which potentially provides an alternative route into our state. We need to look closely at that, particularly in view of what has happened recently with food supplies from the east being cut off due to the significant rainfall events affecting our rail and road connections across the country. We will need to accelerate the work that is taking place on Outback Way and Tanami Road, and build greater resilience into our highway and rail systems. We need to find a way of avoiding the situation that we have been facing in the last few weeks with the shelves of supermarkets, even in Perth, being almost completely bare. People in the north are used to that and generally have a good stock of food. It is a regular occurrence that the shelves in stores in the north of this state are empty. That is not to say that is a good thing, but people in Perth probably have never experienced the sort of disruption that they have seen in the last few weeks. I recommend that the government looks at the recommendations of this report and puts greater emphasis on some of the alternative routes and on building greater resilience into our road and rail networks.

In the time left to me, I want to talk about some aspects of local government. Local government bears the brunt of our resilience story, particularly around local roads. I have met with many local governments over the last few months and years and have heard their frustration about the disaster relief funding processes and the lack of implementation of what is known as betterment. Betterment significantly reduces ongoing maintenance cost by improving resilience. Every year in shires like Halls Creek, there are massive washouts and roads are churned up because vehicles have to traverse those roads, and rightly so, to access basic services. Rainfall events sometimes mean that significant investment is required to repair those roads. The implementation of the new disaster relief funding arrangement in Western Australia—which in my region is referred to colloquially as DRFAWA—was supposed to include betterment provisions. Shires have told me that they have to make the same repairs every season, and that the cost of payments is pushing them into an overdraft situation. I would encourage the state government to look at how those provisions work and to see whether we can get more investment to build that resilience so that not as many repairs will be required in the future.

I know this also impacts on very remote communities. I was talking to people south of Fitzroy Crossing recently. They just wanted three or four floodways to be built so they could get in and out of their communities more easily and cut down the amount of time they were isolated. Those concrete floodways are vital so people can travel along the roads once the rain stops. There might still be running water, but they would be able to travel across the floodways to get in and out of their communities. The Western Australian Local Government Association is certainly advocating for this, for which I commend it. I know that regular meetings are taking place between the Department of Fire and Emergency Services, Main Roads Western Australia and local government. I encourage the minister to keep an eye on that process and ensure that those DRFAWAs are fit for purpose and reduce long-term costs.

During the final minute in which I have left to speak, I wish to refer to the *State planning policy 3.7: planning in bushfire prone areas*, which was raised with me. In summary, the points made by local government about that policy is that provisions that are currently in place may be a bit “one size fits all”. Local governments feel there should be a little more flexibility in local circumstances. Again, I encourage the Western Australian Planning Commission to address this when it goes through the regular review process. I know that some guidelines released in December will come into play. Issues have been raised with me by numerous local governments. Once approvals for developments are made, sometimes it is very hard to monitor how the bushfire risk changes over time as vegetation encroaches into communities. That is a big issue.

In summing up, I wish to commend the federal government for the changes made to the underwriting of the re-insurance program for the north. I know that will result in lower premiums for people in the north, which is a fantastic outcome.

HON WILSON TUCKER (Mining and Pastoral) [11.11 am]: I thank Hon Martin Aldridge for moving this motion today and wording it in such a way that it is bipartisan, which hopefully will translate to tangible outcomes as a result. I would like to take this opportunity to thank our fire and emergency services for the fantastic work they do, their ongoing commitment, investing their time and, in some cases, putting their lives on the line for the wellbeing of WA residents. I think we can all agree that they do a fantastic job, and they should be commended. It was great to hear Hon Steve Martin provide a few firsthand accounts of some of the volunteers on the ground recently.

Yesterday I spoke about some of the extreme weather events that we have experienced in this state, particularly in the Kimberley and the Pilbara recently this summer. We have seen a few Australian records fall. I also reference the Intergovernmental Panel on Climate Change’s *Sixth assessment report*, which was released last August. I have heard several ministers reference this report. It is good to see that the McGowan government does not deny the science in this report. I know that some people in the community do, but it is very hard to rebut and refuse some of the underlying science that is contained in the report. The report refers to the impacts of global warming, saying that it is 1.5 degrees above pre-industrial levels. Unfortunately, as a planet, we are firmly on the path towards this. One of the key messages that comes out very strongly from this report is that we are already seeing the consequences of a one-degree increase of global warming through more extreme weather events. This report states —

... extremes (including heatwaves) have become more frequent and more intense across most land regions since the 1950s, ...

We have seen this translate to severe conditions up north recently, with hotter temperatures likely to continue and, as a result, more bushfires around this state.

The Bureau of Meteorology has a classification rating for heatwaves. The highest is an extreme heatwave. The BOM website states —

They are a problem for people who don’t take precautions to keep cool—even for people who are healthy. People who work or exercise outdoors are also at greater risk of being affected.

Unfortunately, these extreme heatwaves are likely to continue. Again, they will result in bushfires. They are now flagged as rare events. As we continue along the path, we will unfortunately see them occur more frequently.

I was glad to hear that some members addressed telecommunications in the regions. I moved a motion last year about digital inclusion in regional WA. It is an area that I am passionate about. We know that digital inclusion starts with connectivity. The ability to communicate and be alerted in these extreme weather events is critically important and

can result in lives being saved. We know that there are black spots in regional WA. I ask members to cast their minds back to an incident that occurred during the Toodyay bushfires back in 2009 during which residents were not alerted for two and a half hours after the fires commenced. A FESA spokesman said —

“The early warning system worked, despite residents receiving SMS messages two and a half hours after the blaze.

“Not everyone can be warned and we shouldn’t expect everyone to be warned. There is not enough information to make those warnings in a lot of cases.”

These comments around lack of information were probably acceptable in 2009 but, in my opinion, they are not acceptable in 2022. I was glad to hear that the Minister for Emergency Services; ICT and Innovation mentioned that he was willing to talk and work with Telstra. He spoke about the fact that we are living in 2022 and there are innovative options and opportunities out there to solve issues of power and connectivity for people living in the regions. As I said, I am passionate about the subject of digital inclusion. I was glad to hear these comments from the minister. Hopefully, a fresh set of eyes on the portfolio will be a good thing. I wish the minister the best of luck with this new portfolio in 2022.

In closing, I am happy to support this motion today. I think it is an excellent motion. I hope that we see some tangible outcomes as a result.

HON DONNA FARAGHER (East Metropolitan) [11.17 am]: I, too, rise to make a few brief comments on this motion. I wholeheartedly align myself with comments that have been made by members on all sides of the chamber, particularly those related to the second part of the motion. I, too, wish to thank and commend all career and volunteer fire and emergency services workers and all other volunteers for their dedication, commitment and efforts in significantly challenging conditions. The East Metropolitan Region is perhaps the one metropolitan region that, sadly, knows the most about the dangers of bushfires. During my time in this place, we have sadly seen far too many. We have seen far too much destruction, devastation and heartache. We have heard of homes, livestock and treasured possessions having been lost. We have also seen fire brigades and other fire and emergency services personnel continuing to work tirelessly in very challenging and intense environments to bring those emergencies under control.

We have had fires again this season in the East Metropolitan Region and, of course, there have been others, as has been outlined today, in the wheatbelt, on the south coast and in the great southern region. We are still seeing so many struggling to rebuild after the Wooroloo bushfires, which occurred over one year ago today. In referring to that particular bushfire, I will provide some figures, which I have mentioned before, but they illustrate the strength of response to these sorts of fires. I was speaking to officials from the City of Swan not so long ago. They provided me with some information. I may have mentioned this in another speech but I will do it again. In that fire alone, 105 different fire brigades attended, comprising 58 volunteer bushfire brigades, 47 volunteer fire and rescue service brigades, 17 SES brigades and 30 joint task force crews. Over 900 firefighters completed over 177 shifts over 15 days. Let us remember that this was in temperatures that exceeded 38 to 40 degrees, with significant easterly winds. What they did was absolutely incredible. What career and volunteer firefighters and other emergency services personnel have continued to do across the range of fires that we have seen this bushfire season has been incredible. As a local member, as a member of our community and as a former Minister for Environment—I am going to mention that in the couple of minutes I have left—I want to say thank you to each and every one of the people who put their lives on the line to help keep our communities safe. What I will also say, and perhaps this relates to paragraph (3) of the motion, is that it is important that everyone understands the importance of being prepared, and that it is actually not just a matter for government. Bushfire management is a shared responsibility. It is a responsibility of state and local governments. It is also a responsibility of individual landholders. Everyone actually has a responsibility to be prepared.

What I will also say about bushfire management is that it is absolutely critical that there is continued support for the prescribed burning program in this state. When I was the environment minister, the department knew that it always had my full support when it came to this particular program, and I want to acknowledge the department as being the key agency for prescribed burning and other bushfire mitigation responses across our state. There are critics of prescribed burning. We have heard these debates in this house previously and we have heard them outside this place. I have certainly had my fair share of robust discussions on it. I recognise that prescribed burning can cause significant concern for some members of our community, and that legitimate health impacts can arise—I understand that and I am sorry for that—but I do not shy away from its importance. I do not hide the fact that early on in my term as Minister for Environment, I relaxed the smoke guidelines to allow the department to have greater flexibility. The reality is that the department has only a very small window of opportunity every year to burn in a safe and controlled manner. It is dependent on many things, not least of which is the weather. Therefore, we needed to enhance the opportunities for the department to do more prescribed burning in a safe manner, because the importance of prescribed burning is real. It is real.

Reducing fuel loads helps protect lives and property. It helps reduce the spread and severity of bushfires. I remember very clearly, as members would also recall, the massive bushfire in the Perth hills in 2005. It was just a couple of months before I came into this house. When I became minister, and I have stated this before, the departmental officers came in and pulled out a big map and showed me how that devastating fire was able to be halted and

brought under control almost immediately in a couple of really critical areas because of the prescribed burns that had happened the year before. Therefore, I think it is important that the Parliament and parliamentarians continue to show confidence in and give their support to this program. As I say, it has its critics, but for my part and, I think, from Parliament's perspective, it is important that we continue to give confidence to that program because it does help protect lives and property. With 20 seconds left, I again thank Hon Martin Aldridge for bringing this motion to the house, and I again thank all those involved in helping keep our communities safe.

Motion lapsed, pursuant to standing orders.

EMERGENCY SERVICES

Motion

HON JACKIE JARVIS (South West) [11.24 am] — without notice: I move —

That the Legislative Council extends its appreciation to all emergency services personnel and volunteers for their assistance to the state during the summer season.

I thank Hon Martin Aldridge for his non-government business motion on natural disasters. Great minds think alike, I should say, but it is wonderful that we have such bipartisan support. I do not think that it is a bad thing that the house has spent significant time discussing this issue; I think that is positive. Obviously, we have already had lots of speakers on this subject, so I would like to focus on some personal stories from my electorate, and I am sure that other members will welcome the opportunity to add more to this discussion.

My experience of the summer bushfires started on Thursday, 9 December, which was a sitting day, when we first started getting news reports of fires in Margaret River. We had a large fire just south of the Margaret River township in the Boranup area, and there was a secondary fire in Yallingup. I took leave of the house at about 4.30 that afternoon—thank you to our Whip, who granted me the opportunity to return to my electorate. As members would know, sometimes we just need to be in our electorate because we need to be there. We do not necessarily want to interfere or get involved, but it is just important to be back in our communities.

As I travelled south that evening of 9 December, my first stop was Geographe Leisure Centre in Busselton, which is a sports facility run by the City of Busselton. This was where it had set up an evacuation centre. That was quite important, because even though the fire was in Yallingup, which is part of the City of Busselton, and a large number of evacuations was not required, and even though there was a second evacuation centre in Margaret River, the nature and size of the fire by Thursday evening meant that Bussell Highway had to be closed south of Margaret River, which meant that residents in Karridale, Hamelin Bay and even Augusta could not access the Margaret River evacuation centre. Therefore, the Department of Communities, together with the City of Busselton, acted quite quickly to set up the second evacuation centre in Busselton, which meant that those communities south of Margaret River could travel on the inland road to access it. Department of Communities' staff were onsite when I arrived. They did not have any evacuees, but they had certainly been dealing with families. In these situations, it is preferable that people can stay with family and friends and simply register that they are safe. That was my first experience on 9 December.

On 10 December, I took the opportunity to attend the emergency management meeting at the Shire of Augusta–Margaret River as an observer. The Shire of Augusta–Margaret River is well versed in bushfire management and has obviously learnt a lot of lessons since 2011, when 28 homes were lost in major bushfires, so it is very much a well-oiled machine. I thank the shire president, Paula Cristoffanini, and the CEO, Stephanie Addison-Brown, for keeping me in the loop of what was happening and for their amazing organisation skills. As I said, I attended that emergency management meeting as an observer. It was amazing. It was a real exercise in the collaborative approach that we take here in Western Australia. There were shire staff, Department of Fire and Emergency Services staff and representatives from volunteer organisations there. Staff from the Department of Biodiversity, Conservation and Attractions were on the ground. Both fires had started in the Leeuwin–Naturaliste National Park, so DBCA had been first on the scene for both the Boranup and Yallingup fires. We had Department of Primary Industries and Regional Development staff. Of course, a lot of people forget that DPIRD plays an important role, particularly around animal welfare, as, unfortunately, stock have to be euthanised in some circumstances. Western Power was definitely on the scene, providing updates and reports. The Department of Communities plays an important role in providing family support. We have had some discussion about Telstra. Telstra was represented at the meeting and we were told how it had been able to access one of its mobile phone towers in the Boranup region and get a generator there to provide power to the mobile phone tower. Telstra certainly is on the front foot when there is a tower; I think the issue has been about where the towers might be, and I will deal with that another time.

On 10 December, we also had the then Minister for Emergency Services, Minister Whitby, come down to visit. We then took the opportunity to go out to the soccer oval, where a small village had been set up. It was amazing. It was a whole village of temporary buildings. There were volunteer and career firefighters. A whole town had been set up on the basketball courts at Margaret River Recreation Centre, with tents provided by the Department of Fire and Emergency Services. They sleep six to eight people on stretchers and there were sleeping bags and pillows. These were being used so that all the brigades that had come in from out of town could get some rest, respite and sleep. They could also have been used, if needed, for evacuation purposes. It was absolutely phenomenal.

There were firefighters and SES members, and other groups were also involved. I was a bit taken aback when I saw members of the Margaret River Volunteer Marine Rescue Group at the fireground, but, as we know, these service groups all come together, and marine rescue volunteers were there to provide logistic and coordination support. There were no boats required, but they certainly were on the ground!

On 26 December we had a fire at Canebreak Pool, which is a DBCA-managed campsite north-east of Margaret River. This fire was, quite literally, a bit close to home for me; my property was within the watch-and-act zone. It was Boxing Day, and I was actually in Perth with family. It was somewhat surreal to be in Perth watching the billowing smoke from the Wooroloo fire, which was also burning out of control at that stage, when I knew my own property was near the Canebreak Pool area.

Some members spoke earlier about the role that farmers play. My husband, like most farmers across the state, has a firefighting unit, which basically consists of a water tank and a pump, either on the back of a ute or, in our case, on a pallet, so that it can be moved to a ute or ATV vehicle. Like lots of farmers in these situations, we get phone calls from people saying, “If you need it, my firefighting unit is at”—their location. They are kept in places that anyone can access. Anyone can turn up to your property and grab your firefighting unit, if needed.

The local government was also amazing. In my area, including on our property, we have some nature-based camping, which allows people to have caravans. Those people had to be evacuated; it was about 5.00 pm on Boxing Day. The Shire of Augusta–Margaret River opened up the footy oval and a number of caravans went there. Similarly, when we had the fires on 10 January, there were a lot of people who had been evacuated camping at Conto’s Beach, and the Department of Communities was able to provide support.

I believe there were 12 brigades from across the south west and from as far north as Chidlow attending the Canebreak Pool fire. It is also worth noting that we had a much larger number of brigades fighting the fires at Wooroloo at the same time. On 11 January, we had the Meelup Regional Park fire on the outskirts of Dunsborough. Anyone who has visited Dunsborough will know Meelup Beach and the road it is on; they would not recognise it if they were to drive down it today. They were incredibly hot, intense fires. Authorities were alerted to it at about 8.00 pm, and it was in the area of the Meelup Regional Park that leads down to the beach and is not accessible by vehicle, which made the fire quite difficult to fight. That fire occurred on property operated by the City of Busselton, so it was first on the scene. By 3.00 am, local police had had to go door-to-door to evacuate people. This is around the Eagle Bay area, so there are lots of holiday homes and lots of tourists visiting at that time of year. The local police did an amazing job of making sure that people left. One can imagine: if a fire starts at 8.00 pm, by the time there is enough smoke to generate interest from people, they might already be asleep, so the police did an amazing job.

I was lucky enough to join the new Minister for Emergency Services, Hon Stephen Dawson, to visit the brigade a few days after that fire. I note that both Minister Whitby and Minister Dawson, as emergency services ministers, were incredibly mindful not to visit these locations during the heat of the fire, for want of a better expression, so that their visit did not create an extra burden on staff. They actually wait until the fire is under control or contained. There is a fine balance between showing appreciation and creating an event that might take away from firefighting efforts. Minister Dawson and I visited the Dunsborough brigade headquarters, and there were volunteers there from across the south west and across the state. We also had the opportunity to look at a LAT, or large air tanker.

I am reluctant to mention individual brigades and individual people, because there were so many people involved from across the state, but I will make special mention of the Busselton bushfire control chief, Allan Guthrie. I have known “Gus” for many years—25 years; I did not actually know his name was Allan!—and he is a now-retired farmer who has lived in the area his whole life. In June 2021 he was given an Order of Australia medal in the Queen’s Birthday Honours List. His position is a volunteer position, and he certainly led the efforts of the volunteers in Busselton. When we were in Dunsborough, his wife, Jane, who is a retired dental nurse, was doing the catering. It is not her official job, but apparently that goes with the job; it is like being the “First Lady of Fire” in Busselton!

I mentioned the large air tankers. They live in Busselton in the fire season, and that is a joint state and federal project. They are essentially like large passenger planes converted to tankers. They are operated by contract specialist pilots who come in, two at a time, and stay in the region for a period before going on to another state. There were amazing arrangements in place for a COVID quarantine bubble for those pilots. They made the point that they are supported by on-ground staff, volunteers supplied by the local SES, who have been trained to make sure that the LATs are fully stocked with fire retardant. The LATs are incredibly important for building containment lines.

We had the Denmark fire, the Bridgetown fire and the two fires in the wheatbelt in early February; that has been spoken about. They were level 3 fires, but there were also numerous smaller fires across the state at that time. I am incredibly thrilled that I got the opportunity to spend a few days in Bridgetown and Manjimup, where the DFES regional office is located. I met a young SES volunteer in Manjimup who was working out of the DFES regional office, supporting the work of the fire crews. She told me that she had not wanted to join the SES because they were the old guys in the orange overalls! She is an amazing young woman. Her day job is at the Manjimup Visitor Centre, and she was doing logistics work—arranging the movement of heavy earthmoving equipment as a volunteer. She

had obviously taken time away from her work, and I would like to mention all the small and large businesses that give up their staff at a cost to the business. This particular volunteer is a casual worker for a community-based tourism association that cannot afford to pay volunteer leave, so she was basically giving up a day's income to assist.

I also got to spend a bit of time at the Bridgetown Volunteer Bush Fire Brigade, led by fire captain Millie Nedelkovsi. She has been fire captain there for many years. I was surprised during the previous motion when a member of the crossbench thought it was necessary to mention that there were five "ladies" in the brigade! Female volunteers have been involved in firefighting for a long time, so I hope people are no longer surprised that we might have a female captain of a volunteer bush fire brigade; they are not all in the kitchen, making the scones.

A member interjected.

Hon JACKIE JARVIS: As a daughter of an Irishman, it is slightly racist to pick on someone for their pronunciation!

In closing, career volunteer firefighters, SES volunteers, career and volunteer paramedics and ambulance officers and staff of local government, the Department of Fire and Emergency Services, the Department of Biodiversity, Conservation and Attractions, the Department of Communities and the Department of Primary Industries and Regional Development are all community members. I mentioned marine rescue, but we also see sporting clubs and service clubs such as the Country Women's Association, APEX, Lions and Rotary all getting involved. Farmers and small and large businesses give up staff and time, and fight the fires themselves. Of course, it has an impact on families as partners give up time—this includes my electorate officer's husband, who has been fighting fires for weeks now.

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [11.39 am]: I thank Hon Jackie Jarvis for bringing this motion to us today and allowing us to have an extended discussion about these issues associated with the natural disasters that we are seeing across our state. I also acknowledge Hon Martin Aldridge's motion earlier. I think this is a very useful discussion for us to be having today. I will pick up on the theme of Hon Jackie Jarvis's contribution, which causes us to reflect on the importance of building social capital within our communities. The rallying of people, whether volunteer or career firefighters, public servants or people from local government, has been a feature of all the contributions that have been made to date. That relies on us having incredibly strong social capital. We have a community that has a strong sense of community, and that is something we must treasure.

I also acknowledge the point made earlier by Hon Wilson Tucker when he reflected on climate change. When I was in Denmark with Hon Sally Talbot last Saturday at an event honouring the firefighters, I was approached by a couple of young women who are firefighters in the State Emergency Service who wanted to make sure it was understood that there was a connection between climate change and the natural disasters that we are experiencing. The government certainly does not need to be convinced that that is the case. We are working on many fronts across government to ensure that we can absolutely reduce our emissions profile. We can also do amazing things within agriculture such as carbon sequestration and deal with the microclimatic issues that are an important part of climate change.

I find the incredible bravery of those people who go out there and fight the fires extraordinary. I have to say that it is not just a young person's game. Particularly in Denmark, I found it amazing to see people like Cyril, who was celebrating his eighty-fourth birthday on that day and was still actively engaged. Roger Seeney, who set up the brigade there 35 years ago, was fighting the fires. He told me that he has had 45 years' experience in fighting fires. A good friend of Hon Sally Talbot and mine, Illya Cenin, was out there with the hose. I will not reflect on Illya's age, but he certainly is moving into the senior phase! Those people are brave. Steve Birkbeck's huge dam was very, very useful. The fire tankers were able to load water from the dam. People described the bravery of the helicopter and fixed-wing aircraft pilots. They went into dense, thick and hot smoke in order to do their bit. I am in awe of the bravery of the people who get out there with the hose or fly the aircraft. We love everyone else, including the scone makers; they are all fantastic, but, gosh, the people like Hon Martin Aldridge who put their lives on the line are pretty incredible.

Hon Darren West and I went to Corrigin last Friday. I had been to Corrigin the week before to meet a group of farmers from the Corrigin Farm Improvement Group. We felt it was pretty important to go back because we had spent a number of very profitable hours with a number of those people in the Corrigin pub the week before who had gone through a pretty hellish time. We met with them again last Friday to get their feedback and work out what we could do. It is interesting that there are always silver linings. A number of farmers and members of the Corrigin Farm Improvement Group indicated an interest in having a look at replanting trees, a number of which had been planted over decades. They asked whether they could plant back better and avail themselves of the incredible opportunities available in carbon farming now that carbon in Australia is \$55 a tonne. They wondered whether we could build back better in that regard.

Another point I want to make is about telecommunications because perhaps people are not aware that since 2014, the state government has been investing heavily in absorbing some of the commonwealth's responsibility in building telecommunications. Since we have been in government, we have allocated around \$50 million to various schemes such as the mobile black spot program and the regional telecommunications connectivity program, which is a little

more flexible and responsive than the mobile black spot program, and the digital farm grants program. People need to know about an important program that has not been mentioned but which has been worked through with the commonwealth government, the Department of Fire and Emergency Services, the Department of Primary Industries and Regional Development, and other federal agencies. Planning started in 2020 on the strengthening telecommunications against natural disasters program. That is an investment program to ensure that we have better and stronger telecommunications processes. In particular, the main focus has been taking battery life from the standard two hours to around 12 hours. We have been working with the commonwealth government to deliver that. Stage 1 upgraded around 108 mobile phone towers right across Western Australia. We are looking at stage 2 of the program and we want to work with the commonwealth to upgrade another 107 mobile phone towers. We have been prepared to add almost \$1 million to the funds that the commonwealth has put forward for stage 2, in order to ensure that we can get coverage. We are now also looking at some other options as to how these things would work. One suggestion has been larger mobile batteries. The advice to date is that a more traditional generator is probably better than a mobile unit. We are continuing to work constructively with the commonwealth to urge it to seize its constitutional responsibilities, but we are very definitely working constructively with it to make sure that we build those telecommunications better and stronger so that they are more resilient in the face of natural disasters.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [11.49 am]: Again, as has been the theme this morning in this motion moved by Hon Jackie Jarvis and the earlier motion moved by the Deputy President, we are all as one and united in our thanks and appreciation of all those who have taken the time, sometimes paid but in the vast majority of cases voluntarily, to go out and put their lives in harm's way to protect others. That is our volunteer firefighting and rescue services. We all acknowledge and thank them all so much for everything that they have done, especially over the last few weeks, when we have had these particularly catastrophic fire conditions and some particularly nasty fires. I think in our part of the world in the Ag Region we have had some significant damage—40 000 hectares in one case, 18 000 hectares burned in another, some loss of property sheds and a couple of houses—but, miraculously, no lives lost. A slight injury—a broken arm—is about the extent of the human cost in terms of death and serious injury. It was an outstanding achievement to get those fires under control, considering their size and the danger involved. There were some close shaves and we have heard some fairly hair-raising stories about people who have managed to dodge the fire front, but, all in all, we have got through it safely. I think that is the most important thing.

I acknowledge everyone at the Department of Fire and Emergency Services who has been mentioned earlier, the personnel and the volunteer firefighters. We have had water bombers and farmers involved who are not always DFES-registered volunteers but who turn up with their fire units and help put out the fires. We have to take into context that the fire in Corrigin at one point was 35 kilometres long. It travelled 35 kilometres in a very short time, with about 60-kilometre-an-hour winds pushing it. We think about the size and perimeter of that fire, and then, when the wind changed, all of a sudden, that 35-kilometre flank became a 35-kilometre front. People were running along behind that fire, putting it out, to reduce the size of that flank. The cool change brought some relief and they were able to get on top of the fire, fortunately without razing the towns of Wickepin and Corrigin along the way. We had three fires—the Bruce Rock fire, which burned into the Corrigin shire; the Wamensking fire, which was nearby; and, of course, the Wickepin and Narrogin bushfire. Three fires burning at the same time means an extraordinary strain on resources, but we have incident controllers who are very experienced and very good at what they do. They were able to manage all those volunteer and career firefighters, planes and helicopters and coordinate them into a concerted firefighting event. What a response it was!

From on the ground, as the minister mentioned, we travelled to Corrigin last week. I know that Minister Dawson was also at the fires. The feedback on the ground was overwhelmingly positive, notwithstanding the communications issues, and we know we all have some work to do with the federal government and Telstra. In the case of the Narrogin–Wickepin fire, I toured the fire ground with the Shire of Narrogin president, Leigh Ballard, who is also a firefighter and did a remarkable job in coordinating all the people involved in that fire. He is now continuing on with the response. Their issue was that the location of the fire was equidistant between phone towers, so the service was very patchy in that area, notwithstanding that the phone towers were still operating, but, of course, as we heard in Corrigin, when the power went out, around 200 poles burnt down, so power switched off. There was a very short time that the phones remained in service. That is a great challenge for us right across the country.

We were also in Esperance last week to launch the first standalone power system at a mobile tower site. Maybe in the fullness of time, this will be how we can take this forward. Obviously, it is a very costly exercise, but, as has been pointed out, when fighting a fire that poses a great danger to human life and the fire is getting bigger—we are sometimes talking about distances beyond radio reach with these very long, large fires—it is imperative that we have our phone systems up and operating. We all acknowledge that and I think we all know that we need to go and work together with the federal government and Telstra to help manage that. I think that we will look to the federal government to lead the way on this.

I want to personalise this a little bit, members, if that is okay. I think we are all at one with the amazing response. A couple of stories came out of the fire that I just found so Ag Region and so wheatbelt that I am really proud to tell them here. Last week, we met with a stud merino breeder, Steven Bolt, whose farm was particularly affected. It

was a 1 620-hectare farm, and only about 60 hectares were not burnt. All his sheds were lost and, heartbreakingly, two generations of stud merino breeding were also all but lost. It is a very difficult and challenging personal set of circumstances to be a farmer and see livestock killed or harmed and needing to be euthanised. The clean-up of that was particularly harrowing for all those involved. It is an awful job to dispose of burnt stock, and it is an awful job to have to euthanise them. I acknowledge everyone who stepped up. That has to be done fairly quickly, as members can imagine. Everybody stepped up before the smoke had cleared and got in and did that. In the case of the Bolts, their stock was destroyed and their stud was pretty much lost. I understand they still have some embryos and some possible way of rebuilding, but that is going to be a long road ahead for that long line—generations' worth—of breeding of magnificent merino sheep.

I want to quote Steven Bolt, because he used some great wheatbelt language in appreciation of Joel and Travis Bell, who are firefighters who actually turned up at the Bolts' house as it was catching fire in a calamitous situation during the height of the fire. These two local farmers saved Steven Bolt's family's house. Steven Bolt's quote was, "The mad bastards saved my house." I am sorry if that is slightly unparliamentary, but I am quoting. That is such a wheatbelt saying. People performed almost an act of madness and put their own safety at jeopardy to save a fellow farmer's house, and I am really proud to see that that is something that still goes on. It could have ended catastrophically, but it did not. Of all the losses the Bolt family suffered, they still have their home. I think that is something to be taken away from all this.

When we met with the Corrigin community, we met with a shire that was at a loss to understand what to do next, and we were able to provide some assurances about the way forward. We also met people who had put themselves in difficult positions and just talked about the significant loss. All those trees that had been planted in the name of land care have now been destroyed. We are going to look at planting them again in the name of carbon sequestration. This community will phoenix out of the ashes. We will work with them. There is a big community event being put together tomorrow evening in Corrigin. I am sure there will be a good turnout at that and people will get around each other and support each other, as we do best. There is often talk about the things we do not have in the regions, but what we do have is love for our communities, support for each other, and going above and beyond for each other. I wanted to touch on that.

There was another story about a young man called Oliver McCleary. He had just moved into a house on the farm that he was looking after and working on, and the house burnt down, but he managed to save the cattle. They were his priority. He put the lives and welfare of those 100 breeding cattle before his own personal circumstances. He lost everything he had in the home. To quote Oliver, again, in true wheatbelt style, he said, "I'll miss that really loud 1970s air conditioner that I used to have on at night to sleep with."

We will get around these communities. We will certainly help in every way we can moving forward. The state government has a responsibility after the event, and we know that the communities will pull together and help themselves, but they also have our support. There was a disruption to schools; there were emergency evacuation centres. There have been fires in other areas that I have not had time to touch on today, but I acknowledge everyone everywhere. Hopefully, the fire season is coming to an end and we do not have any more of these catastrophic days. Fire is something that we have to learn to manage going forward, and when we do it together, we can do it.

HON DR SALLY TALBOT (South West) [12 noon]: Like many people who have contributed to the debate this morning, my experience of the last couple of weeks has given me some stories to tell that are both personal and political because I have a house in Denmark. I was on my way home late on Friday, 4 February when I heard about the fire that had started on McLeod Road; that, of course, became the all-consuming story of the next couple of days. I am sure that members would agree with me when I say that one of the most common questions we are asked is what being a member of Parliament is like. I always explain to people that it entails the enormous privilege of being included in events with our communities when they are celebrating the best things that happen to them, but also when the worst things happen to them. For me, those three days over the first weekend in February encompassed both these extremes—it was the best and the worst that had happened in Denmark.

I want to start by saying that it is probably a bit unusual and perhaps a mark of the summer that we are having this discussion in this place on this morning of 17 February, because, as a lot of people in Denmark have reminded me over the last couple of weeks, it is not over yet. I think Hon Darren West referred to that specifically. We have many, many months to go during which we will be hovering on the brink of the next emergency. It will not really be until towards the end of May, when the proper rains come, that we will breathe a sigh of relief, at which point most of us will get on with preparations for next summer. That will start as soon as we have survived this one. It is certainly not over, and I hope beyond measure that we will continue to contain the fires that are inevitably going to break out in the way that we have contained these.

It has been said by people around Denmark, and I am sure in other communities such as Bridgetown and the wheatbelt where other members have been actively involved, both personally and professionally, that we have dodged a bullet. Certainly there was a stage with the Denmark fire when the entire town site was under threat. My home, two kilometres outside Denmark, would have been one of 1 500 houses that would have been lost if control had not been regained over the northeast front, which had got away from us late Saturday.

It is worth saying something at this point about climate change. I was very interested to hear from the Fire and Emergency Services Commissioner, Darren Klemm, when he came to Denmark with the Minister for Emergency Services on Monday, 7 February. He was asked a question about climate change and I thought, “Well, as commissioner for emergency services, he will perhaps sidestep that question.” But he did not. He took it head-on and said that we have to remember that Denmark has a certain set of climatic conditions that we are very used to. I personally have a shared joke with a neighbour of mine; we say that we never go swimming unless it is 26 degrees or over. I can tell members there have been many, many summers over the last 30 years or so that I have lived in Denmark when we did not go near the ocean because it did not get over 26. This year we have already had many days that have been well over 30.

On the Saturday of the recent bushfire, I heard anecdotal reports from people who were out fighting the fire of temperatures of 44 degrees throughout that day. That was not the temperature caused by the fire, but temperatures on the ground being experienced by the firefighters. The point that the commissioner raised specifically was that another feature of the climate in Denmark is that the temperature drops rapidly at night. Residents know that even on days when the temperature approaches 40, they will have to go and get a jumper when it gets to five or six at night. There are very few nights of the year that I do not use my electric blanket. On one of those nights over that weekend, it did not drop below 30. As a consequence of those climatic conditions, the fire doubled in size overnight. According to the commissioner, that is unprecedented in the great southern along the south coast. It simply does not happen. Night-time is when the temperature plummets and the firefighters reduce the size of the fire. Our fire doubled in size that night. There is no question that we are experiencing the effects of climate change and that we need to take remedial action very, very quickly; otherwise, it will literally be too late.

I have heard my colleagues in this place talk about problems with telecommunications. They are very, very real problems and they need to be fixed. I have heard people raise other problems with various aspects of our strategy for fighting bushfires. Certainly, among our local fire brigades, I have heard a troubling number of stories about the lack of compatibility between pieces of equipment. People turn up to reload water and they have the wrong combination of male and female connections, or they have 40-millimetre connections and the appliance takes 50 millimetre et cetera. This is the case when we are using appliances that are privately owned as well as those owned by the state. We urgently need to do an audit of the compatibility of our hardware.

Having attended the three community meetings that we had over that weekend in Denmark, I do not think we can place too much emphasis on the fact that people must have a fire plan, and it has to be a fire plan that people do not just do once and forget about. I heard so many stories over that weekend from people who said that they just panicked and froze, even when their homes were not in the orange zone—orange zone means people have to make a decision about whether they are going to stay or go—but were in the yellow zones or just outside the areas under immediate threat. They could not remember what their fire plan was. They did not know what to do. That is when someone is in real danger. We can have the best telecommunications in the world, the most up-to-date equipment and the most efficient systems, but if individual households are not at the stage at which they can go on autopilot and carry out their fire plan, unfortunately, we will continue to be at risk.

Thirty per cent of the residents of Denmark evacuated on the Saturday night. I joined my voice with those local voices, including the shire president, Ceinwen Gearon, and all the DFES leadership team who thanked those people who left. That tells us that 30 per cent of people had a fire plan and knew how to execute it. They did not freeze. They knew exactly what they had to do. They got in their cars. Certainly from the anecdotal firsthand accounts I heard, people had their precious bits and pieces in the back of their car already and they got out of town. Fortunately, they were able to come back very quickly, but I join in congratulating those people who left. All I say to the rest of the community is: get your fire plan ready and then practice it and practice it again. Get it out two or three times every fire season and make sure that when the moment comes when you have to make a decision, you are not frozen in fear.

We use the phrase “dodged a bullet”. As the owner of one of the 1 500 homes that were not lost, it feels like that to me, but we did lose homes, some people were injured and some people are now in a position in which they will endure ongoing trauma because of what happened that weekend. My heart goes out to them. I know that I am joined by every member of this house when I say that we are all thinking of you and we all wish you the very best, and we are here to help you.

I know from previous experiences over the past couple of decades of working as a community leader that some problems are harder to solve than others. We as local members of Parliament are here for them to help them get through those moments. I spoke to the shire president this morning to tell her that this motion was coming up and she asked me to not forget to say that we should not be calling out individuals, but talking exactly about what Hon Alannah MacTiernan talked about—the community spirit that got us through that weekend. We will continue to rally for the good of the community in times to come whenever we are faced with these very frightening events.

HON PETER FOSTER (Mining and Pastoral) [12.10 pm]: I start my contribution by thanking Hon Jackie Jarvis for moving this very important private member’s motion today. Of course, I will be speaking in support of it and showing my appreciation to all the emergency services personnel and volunteers. Across the Mining and Pastoral

Region over the summer season emergency services personnel have been kept very busy. We need only look at the Department of Fire and Emergency Services' Facebook page and then scroll down to get an understanding of just how many incidents emergency services personnel responded to over the busy summer season. Like every other Western Australian, I am very grateful for our emergency services personnel. They work around the clock, at times in very trying circumstances, to protect lives and infrastructure and to save country. Both the Kimberley and the Pilbara received soakings across January and February, with Broome and Fitzroy Crossing receiving heavy rainfall and requiring an emergency services response. As a result of a seasonal tropical low, Broome in particular received an amazing 568 millimetres of rain in just 48 hours. The Fitzroy River peaked at 12 metres and parts of the Broome–Cape Leveque Road were cracked and even washed away. I thank the Main Roads teams that responded quickly to repair those important roads.

The Gascoyne also received heavy rainfall as well as bushfires and the Gascoyne complex of fires requiring substantial intervention from a number of services. I would like to talk about them for a few minutes. These fires started following lightning strikes on 6 January. There were four fires in total. They burned for a number of weeks, affecting the Shires of Carnarvon, Upper Gascoyne and Shark Bay—all in my electorate. A number of pastoral stations were affected, including Meedo Station, which lost over 80 000 hectares as well as sheep and goats. Other stations that were affected included Gilroyd, Wahroonga, Woodleigh, Yaringa, Wooramel and Carbla. Other stations reported damage, including fencing, and losing farm machinery. In total, over 343 000 hectares were burnt and emergency services that responded did their good work in over 40-degree heat. Heavy smoke cover and difficult terrain ended the ability of firefighters to control those fires and they relied on the local knowledge of pastoralists. I was in Carnarvon for a few days while those fires were burning and I can personally vouch for the challenging conditions that the firefighters faced. It was very hot. I thank and acknowledge the Minister for Emergency Services, who travelled with the Department of Fire and Emergency Services commissioner, Darren Klemm, to the Geraldton incident management centre and also flew over parts of the firegrounds to see firsthand how complex the fires were and to thank those who were responding. Ground crews were assisted by the Coulson 737 FireLiner, which I think a few honourable members have talked about today. This was provided by the New South Wales Rural Fire Service and dropped over 90 000 litres of fire retardant ahead of the fire front to protect pastoral property and livestock. No lives were lost as a result of the fires, which is a reflection of the good work of all those involved as well as the fire management and subsequent response.

I would like to thank everyone involved in fighting the complex fires, including staff from the Department of Biodiversity, Conservation and Attractions, Parks and Wildlife Service, some of whom travelled north from Perth and Peel and whom I had the pleasure of meeting and thanking in person at the Carnarvon Airport as they were catching their flights home—DFES personnel, career fire and rescue, and fire and rescue volunteers, with a number of bush fire brigades travelling north from Mandogalup, Wanneroo and Kalamunda whose efforts were also greatly appreciated. We were also assisted by state emergency services, local bush fire brigades and, of course, the Shires of Gascoyne, Carnarvon and Shark Bay. I also acknowledge the work of the pastoralists in putting firebreaks on their own properties as well as assisting each other in fighting the fires. I would like to extend the appreciation shown here today to all emergency services personnel who were involved in fighting those complex fires. I am very thankful for their hard work to save property and lives.

I would like to talk about a local incident a little closer to home in Tom Price, where I live. Like many places in the north west we are also subject to cyclones and the severe weather over the wet season, and this year was certainly no different. Recently on 7 February, without warning from the Bureau of Meteorology, Tom Price received a substantial amount of rainfall in just a two-hour window. Although we do not have a weather station in town, which is a little frustrating, the local SES staff tell me they believe we received over 100 millilitres of rain in two hours. The unit did not receive any warnings from BOM. Normally the unit receives an email or phone call from BOM as a heads up so they can be on standby, but for some reason no call was received so the unit was caught unaware. The Tom Price SES is a very small unit. There are 17 members in total; 12 were activated to assist the town. As a result of the floodwaters—we received a lot of rain in a short period—17 homes were impacted, with three homes requiring urgent damage as they were flooded. A creek that runs through the centre of town overflowed, which then spilled over into the town and three houses were underwater. The local Tom Price SES was assisted by the Tom Price Senior High School emergency service cadets, who volunteered their spare time after school at the sub-centre, filling sandbags. They later jumped into utes with SES volunteers to deliver and lay down sandbags to protect vulnerable properties and infrastructure. We received reports of more rain in town throughout the week, so the SES wanted to be well prepared.

I told the students that I would give a shout-out to them in Parliament today, so I would like to thank the following cadets who gave up their time: Alisa Church, Emily Flavell, Madelyn Flavell, Kayla Farmer, Andre Bradley, Kye Rumble, Chanel Drummond and Ebony Griffin, who had just joined the unit that day, so she jumped straight in, which was fantastic. I have had a bit to do with the high school cadets over the years. I often go to their presentations and I personally donate to them. I am particularly proud of all the volunteering they do across our community supporting our emergency services.

Following the rain event on Monday the town received further rainfall, which resulted in the SES receiving a further 15 calls for assistance. The weather got a little wilder throughout the week, resulting in more sandbags being required and a number of trees requiring to be removed as well. I am reliably informed that over 1 000 sandbags were filled to protect our little town. They did not work alone and I would like to acknowledge the Shire of Ashburton, Rio Tinto, Sodexo, Bennco Engineering, North West Mining and Civil, and Pure Mechanical, which all provided support to the unit on the ground to enable it to do its job.

We have been talking a little about telecommunications and I want to acknowledge that Tom Price lost all its telecommunications for four hours on Saturday night. As someone whose household relies quite heavily on the internet, it was frustrating. I acknowledge the Shire of Ashburton's IT crew who identified the problem. The exchange is way out at Auski Roadhouse. A wire had tripped there, resulting in the internet being turned off. They were able to identify the problem. They rang the roadhouse, had it switched back on, and the internet was restored, which was great.

To finish up, I acknowledge and show my appreciation to the Tom Price SES unit. I had the privilege of catching up with the unit manager, Sue Davies, on Sunday before I travelled to Perth for Parliament to personally say thank you to her and her unit for all their efforts. As I have said, it is a small unit of only 17 members. The unit responds to a substantial number of calls for assistance each year, from severe weather events such as storms and cyclones—a number of cyclones impact Tom Price—to conducting land searches and gorge rescues at nearby Karijini National Park. I felt this needed special mention. A typical rescue at Karijini National Park can take up to 14 hours. It requires particular skills such as abseiling, with ropes, and physical fitness to be able to navigate the difficult terrain.

One issue that the unit has raised with me, and that I will be exploring for it, is the lack of a local Bureau of Meteorology weather station in Tom Price. The nearest weather station is 80 kays away at Paraburdoo Airport. Tom Price is a town of substantial size, with a lot of mining infrastructure, and we deserve to have a local weather station.

In conclusion, I join with Hon Jackie Jarvis and my colleagues in this place in showing my appreciation to the emergency services personnel who have been kept busy over the summer season protecting lives, property and infrastructure. Thank you.

HON DR BRIAN WALKER (East Metropolitan) [12.20 pm]: I have only a few minutes in which to speak, so I will keep my comments short. I am sure that all of us here share the view that we owe a great vote of thanks to all those involved in the emergency services. As a member for East Metropolitan Region, I can ascertain and verify that we are deeply grateful for all the work that they are doing and the dangers that are ever present. I therefore welcome this opportunity to put on the record my thanks to the many, many wonderful volunteers who risk life and limb in the service of others.

There is, however, a bigger picture, and that is the microclimate that we need to be working towards. This was mentioned by Hon Alannah MacTiernan also. That leads me to the question of how we will manage the risk to our environment, in not only the immediate future but also the long-term future. That is certainly something that should exercise our minds. That brings to mind the contribution from Hon Dr Brad Pettitt yesterday about the trees that are proposed to be removed, thus destroying the habitat of a number of birds—I think it was Carnaby's black-cockatoo. That would be ameliorated if we could find other sources to fill the need that these trees currently serve. That would, of course, be the hemp industry, which has a twice-a-year harvest and can provide a lot of the wood fibre that is currently needed by industry, including pressed woods and other such things. That is a discussion that we could certainly have, especially as the cultivation of hemp would be a great way to help the microclimate to change, and also improve greatly the viability of the soil. That is just a by the by in the few minutes that remain to me.

To cut short my thoughts, we need to ensure that the emergency services are provided with adequate funding. Points have been made about the need for equipment. I think that need is being met on all sides. We are always looking at how this can be improved on an ongoing basis. I would encourage the government—as it is doing, I am sure—to look very closely at how we can support these services even more. There have been recent discussions, or disagreements, between the volunteers, who are unpaid, and the career firefighters, and about the difficulty of ensuring that the people in those two different services can work together. That will need to be addressed at some stage as well. I must say, truthfully, that I do not have the details of that, so I cannot comment any further.

There has been an issue about a new residential development known as North Stoneville, in which about 4 000 new homes are proposed to be built in the middle of a bushfire-prone region, with limited egress. That would result in a risk to life and limb, and, indeed, property, for those who decide to build in that area. I am told that at a meeting of the community group Save Perth Hills, the firefighters who spoke had tears in their eyes. I was not present at that meeting, although I believe some members of the Labor government were present at that meeting. Their sincerity could certainly not be doubted, I am told.

I also want to say some words about local government. I listened to the contributions from the Western Australian Local Government Association last year after the recent bushfires and was immensely impressed with the ability of local government to be the first responders in managing bushfires. It took several days for the state government to get engaged. This was a point of note made by the councils of the City of Swan and the Shire of Mundaring. We

must give our best thanks to these organisations for the immense work that they are doing. Indeed, I visited the Shire of Mundaring just the other day and the shire commented about the risks that it is facing with the current weather and about its preparedness. I was sad to hear that the shire is quite concerned that it would not be able to manage very well, and it asked whether we in the state government could somehow move to provide more in the way of support, both financial and otherwise, to local governments. That is a point that I would like to make to the Minister for Local Government.

Motion lapsed, pursuant to standing orders.

DISALLOWANCE MOTIONS

Withdrawal of Notice

Pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the following notices of motion were withdrawn from the notice paper by **Hon Lorna Harper** —

1. Serpentine–Jarrahdale Bush Fire Brigades Local Law 2021 — Disallowance.
2. City of Fremantle Parking Local Law 2021 — Disallowance.
3. City of Canning Local Government Property and Public Places Local Law 2021 — Disallowance.
4. Town of Bassendean Cats Local Law 2021 — Disallowance.
5. City of Greater Geraldton Bush Fire Brigades Local Law 2021 — Disallowance.

COURTS LEGISLATION AMENDMENT (MAGISTRATES) BILL 2021

Committee

The Chair of Committees (Hon Martin Aldridge) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon MATTHEW SWINBOURN: Yesterday, I undertook to investigate a couple of matters for Hon Nick Goiran. I will deal with the second of those matters. I think he wanted me to ask the Attorney General whether the heads of jurisdiction would give permission for their feedback to be provided to the Legislative Council. I made that request and I can confirm that that will not occur. It is consistent with the position that I made in my reply to the second reading. The other, more substantial, matter related to undertaking to confirm to Hon Nick Goiran that this is not in dispute and that the government accepts, out of myriad things that might have been occurring in this matter, that at the genesis of it, amongst other things, President Quail wanted Magistrate Crawford to move out of the Children’s Court. There was a discussion about that. I will give this answer and, hopefully, fingers crossed, we will be able to make progress.

The member asked me to confirm the genesis, to use his words, of a dispute between two judicial officers, which ultimately resulted in one judicial officer commencing litigation in the Supreme Court against another. That dispute was ultimately discontinued by the applicant. I am not in a position to confirm—I cannot and will not speculate—the genesis of a dispute that led to Supreme Court proceedings being commenced and discontinued without any findings being made. I can confirm that the government understands that a point of law raised in that litigation related to the power of the president to issue directions to magistrates performing functions within the Children’s Court. This issue goes to the heart of the president’s powers and statutory responsibilities as principal judicial officer of the Children’s Court to manage the administration of that court. That question of law is the principal matter this bill seeks to address. The bill does not seek to resolve any particular issues in relation to any particular individuals or factual scenarios. It is of no assistance to the passage of this bill before the house to delve into facts or speculation about past disputes or disagreements between individuals. As I have said, this bill will resolve for future purposes issues about the scope of the powers of the president of the Children’s Court to manage the administration and workload of the court. Yesterday I understand the member sought to point out that this bill does not only deal with the present power to direct magistrates, but also the president’s power to seek additional resources from the Chief Magistrate. I can confirm that the bill does deal with both those matters and it must, as those matters are inextricably linked as a consequence of the structure of the court frameworks and the commissioning of magistrates.

The Children’s Court and the Magistrates Court are administered by common individuals—that is, duly appointed magistrates. In order to address the ambiguity that currently exists about those individuals performing functions in different jurisdictions, as they are commissioned to do, proposed section 11 will introduce an administrative power that permits the allocation of proper workload across two courts. Presently, there is no statutory framework for this to occur. As I have said repeatedly, the litigation between Magistrate Crawford and President Quail brought to light the fact that there is currently ambiguity about the power of the president to manage the workload and administration of the court. There is no secret about that.

I appreciate that the member may wish to ask more questions about particular facts or circumstances of dispute, disagreements or discussions between members of the judiciary. I take the opportunity to clarify now that I am not in a position to take the matter any further on questions of that kind. I am able to confirm that the litigation between Magistrate Crawford and President Quail brought to light that there is currently ambiguity about the power of the president to manage the administration of the Children's Court. This bill has been developed to resolve those ambiguities by, firstly, providing a framework for the allocation of judicial resources between the Magistrates Court and the Children's Court; secondly, clarifying the powers of the Children's Court and the Chief Magistrate in respect of issuing directions to magistrates; and, thirdly, ensuring a flexible magistracy that is available to perform the various functions for which magistrates are appointed. I am of course happy to take questions from the member on how the clauses of the bill deliver on those matters.

Hon NICK GOIRAN: I thank the parliamentary secretary for following up on those two very important matters that were left hanging yesterday. One pertains to the request I made yesterday that the Attorney General of Western Australia contact the heads of jurisdiction that the parliamentary secretary indicated he and the government have consulted with and obtain their consent to release their feedback on this bill. I confirm for the record that today the parliamentary secretary has indicated, as he said he would, that he made that request to the Attorney General. According to my notes of what the parliamentary secretary just said, the Attorney General has declined to do so. For the record, the Attorney General of Western Australia, the head of the judiciary in our state, is not willing to speak to the heads of jurisdiction about this bill that impacts on the judiciary. He is not willing to ask them whether they would mind consenting to him releasing that information. He has been asked, through the hardworking parliamentary secretary, and he has declined to do so. He refuses to provide information that he has at his disposal to the Parliament. Guess what, Attorney General? That triggers section 82 of the Financial Management Act. He may want to have a conversation with the Auditor General about that. There is no doubt that the Attorney General will now concoct some kind of reason he does not need to comply with section 82 of the Financial Management Act as well.

Hon Kyle McGinn: Give it a rest.

Hon NICK GOIRAN: The honourable member would like me to give this a rest. If the honourable member had the courage to stand up and give a speech on this bill —

Hon Kyle McGinn interjected.

Hon NICK GOIRAN: Would the member like me to sit down so he can make an intelligent contribution?

Point of Order

Hon MATTHEW SWINBOURN: The standing orders require comments of members to be passed through the chair, not across the chamber. Chair, could you please remind members of that.

The CHAIR: Yes, parliamentary secretary, the standing order is relevant. However, the chair does allow for some latitude in debates. The chair will call the house to order when it gets too unruly. I remind members to address their remarks through the chair.

Committee Resumed

Hon NICK GOIRAN: Mr Chair, I say to Hon Kyle McGinn that he might like me to put this to rest but I will not put to rest allegations that evidence has been tampered with, least of all until such time as the Attorney General puts together a judicial commission. The Attorney General, Hon John Quigley, has the responsibility to look into these matters. I will certainly not put it to rest when the parliamentary secretary indicated yesterday, in response to my very first question on clause 1, that the genesis of this matter was a dispute between those judicial officers. One of those portions of dispute is that apparently a judicial officer has tampered with evidence. Somebody needs to be held accountable for that. We cannot sweep that under the carpet. That is why I will continue to raise these matters not only during the course of our consideration of this bill, but also into the future, because it is absolutely clear that this will not be resolved today.

I will quote from the uncorrected proof *Hansard*. It is always helpful for us to have the *Hansard* at our disposal. I quote from the uncorrected proof of yesterday, Wednesday, 16 February 2022, when the parliamentary secretary said —

What has brought this to the fore is the issue that arose with Crawford and the requirement of Quail wanting to remove Crawford from the Children's Court back to the Magistrates Court and the Chief Magistrate not agreeing to that.

Was what the parliamentary secretary said yesterday to the house accurate, or was that a false statement?

The CHAIR: Parliamentary secretary, just before I give you the call, can I just provide some caution to the remarks of Hon Nick Goiran. I draw members' attention to standing order 45, "Imputations and Personal Reflections". It states —

All imputations of improper motives and or personal reflections on the Sovereign, the Governor, any Member of either House of Parliament or a judicial officer, are disorderly other than by substantive motion.

I am concerned that some of the debate is heading into that territory, and I will monitor that closely.

Hon MATTHEW SWINBOURN: Thank you, chair; I appreciate your guidance on that point. I was going to make the point that this bill does not deal with judicial misconduct. It does not fall within the ambit of the bill, so I am not sure how that is relevant to the debate. The honourable member has quoted from *Hansard* a comment that I made. *Hansard* is *Hansard*, but he also needs to have regard to my further comments in which I sought to qualify what I said. I am not sure whether I used the word “misspoke”; I gave it a generalised term in that regard. I made a lengthy statement at the beginning of this debate regarding the matters of Quail and Crawford, and I cannot and will not take that matter any further.

Hon NICK GOIRAN: For the record, and I said this yesterday, I am not judging the outcome of this dispute. All I know is that the public record reflects that there has been an allegation of bullying by one judicial officer against another. That is what the public record reflects. It is not me impugning anyone’s reputation. I am simply regurgitating what is on the public record, and people, including those in the Parliament, should be concerned about such an allegation. As the parliamentary secretary said yesterday, these things remain untested and somebody needs to take responsibility for testing them. The other matter that has been raised on the public record is that there has been some tampering of evidence. Again, I am not impugning anyone’s reputation at all; I am reflecting what is on the public record. Somebody needs to test those allegations and get to the bottom of them, and if those allegations are frivolous and vexatious, somebody needs to say so. But if they are substantiated, there needs to be repercussions. What cannot happen is for the government to say that this dispute is the genesis of the bill that is before the house, and when the questions start to get awkward say, “We’re not taking that any further.” Worse than that is to have a situation in which the Attorney General of Western Australia is doing nothing about it. That cannot happen.

What is very interesting is that yesterday the parliamentary secretary also indicated, and I quote from the uncorrected proof —

... there is a general awareness about the gap in the powers of the Children’s Court president to manage the workload, which this bill will try to address.

Who brought to the government’s attention that there was a problem with managing the workload in the Children’s Court?

Hon MATTHEW SWINBOURN: I think I am in danger of repeating myself. The genesis of the bill was the dispute in some regard—we have said that—that was brought to the attention of the Attorney General by the President of the Children’s Court, and that has given rise to an awareness of this gap. There may have been awareness within the judiciary before that; I do not have any knowledge of that. But in terms of what was the genesis of this bill that we are debating today, it was the dispute, for want of a better word, in that regard.

Hon NICK GOIRAN: Parliamentary secretary, was that dispute about workload?

Hon MATTHEW SWINBOURN: Member, I am not going to get into the details of a dispute of which I do not know the full ambit and limits. I understand that there was an issue in terms of what the president could do within his own court in terms of the magistrates who rest under his responsibility and his relationship with the Chief Magistrate in terms of those resources. That issue is the genesis of this bill. That is the mischief that this bill seeks to address. I am not going to drill down into a he-said, she-said dispute between judicial officers. I am in no position to do that. I have indicated that before. I have covered that in detail. I realise that the member wants to forensically examine that particular aspect of it to find some issue of sensation that he can put in a media release somewhere. I get that. I understand that that is the member’s job, but I am in no position to take that any further.

Hon NICK GOIRAN: If it gives the parliamentary secretary any comfort whatsoever, I will give him an undertaking now that there will be no media release of that sort from me.

Hon Matthew Swinbourn: It gives me no comfort, member.

Hon NICK GOIRAN: No. I would not have thought so because the situation is incredibly awkward for the government already. There is no need to be able to drill down to everything. The problem is, at the moment, as things sit, there is a stench over the government and its lack of willingness to deal with this matter. That is how it sits at the moment. The irony here is that if there were some responses provided to these matters, there would be the opportunity for the stench to be removed. But the government is quite happy to leave things like this with these allegations, as the parliamentary secretary repeatedly said, untested. I keep saying, “Who is going to test them?”

The parliamentary secretary wants us to come back to what he considers to be the focus of the bill, and that is what I have indicated to him. Yesterday, he said that there is a general awareness about the gap in the powers of the Children’s Court president to manage the workload, which this bill will try to address. The parliamentary secretary has indicated on behalf of the government that this is what this bill is all about. This bill is going to address, apparently, the powers of the Children’s Court president to manage the workload. I have just asked the parliamentary secretary whether the dispute was about workload and we cannot even get a straight answer about that. I do not think there would be anything controversial about it unless the dispute had nothing to do with workload and that it is all a fiction.

The problem here, parliamentary secretary, is that the public record reflects not only the comments that were made yesterday, but also in the transcript—do not worry; I will get to the transcript in a moment—that indeed there was

a letter between President Quail and the Attorney General and if my memory serves me correctly a meeting as well whereby there was a very clear indication that President Quail wanted to remove Magistrate Crawford from the Children's Court. I understand that the parliamentary secretary has said that he does not want to get into all of that and so forth, but my point is this: What does that have to do with workload? What would the removal of a magistrate out of the Children's Court have to do with workload? I am not sure whether the parliamentary secretary is able to shed any light on that, because, as I said, he has indicated that this bill is all about managing the workload. Is that an indication that at the moment there is a surplus number of magistrates in the Children's Court—they are surplus to requirements—and therefore as part of managing that workload there is a current desire by the President of the Children's Court to reduce the number of magistrates?

Hon MATTHEW SWINBOURN: I cannot speculate about the current workload of the Children's Court. That is a matter for the president, in terms of how he manages his court, but I take the member back to the provisions of the bill and what it seeks to do. It seeks to provide a framework for the allocation of judicial resources between the Magistrates Court and the Children's Court, and it does that through proposed section 11 and its particular provisions. It clarifies the power of the President of the Children's Court and the Chief Magistrate in respect of issuing those directions to magistrates. I think that is also dealt with under proposed section 12. That is what that will do. It is not just a single thing about workload; it is about functions as well, in terms of workload. That is set out initially in proposed section 11, which deals with a number of aspects that I am sure we will drill down into when we get to it. Under proposed section 12A, the president may assign duties to magistrates that deal with that sort of thing. That replicates the powers that the Chief Magistrate has under the Magistrates Court Act 2004 in relation to what he—it is currently "he"—can do to direct his magistrates when they are operating within his sole jurisdiction.

The other thing it does is clarify that the Chief Magistrate will have no capacity to direct magistrates, which is the proposed amendment to section 25(5), which will insert a new subsection (6). If a person holds office as both a magistrate of the court and as a magistrate of the Children's Court, the Chief Magistrate must not give a direction under subsection (1) in relation to the person's functions as a magistrate of the Children's Court. The case has in some respects highlighted the deficiency in the current president's powers with regard to magistrates who are exercising those powers in the Children's Court. That is what the genesis of this is. That is what we are trying to deal with here.

Although I acknowledge that the other matters raised by the member are important, they are outside the scope of what this bill does. What we are doing here, in the Committee of the Whole House, is about that part. The member is a very adept and able parliamentarian; there are many other forums through which he can pursue the kinds of questions he is asking me that I cannot answer, and I encourage him to do that and to focus on what we are doing here, which is this bill. These are my own words, and no-one else's. It is quite a niche issue, in many respects, and I have been trying to explain the bill to other members of the house. The member is a lawyer; I do not know whether he ever did any work in the Children's Court; I am sure he did work in the Magistrates Court, but for most people outside that little bubble, this is a niche issue. It is important, absolutely, but it is fairly niche.

Hon NICK GOIRAN: I thank the parliamentary secretary. I am hearing from all of that that there is no workload issue in the Children's Court. Despite the fact that the parliamentary secretary indicated that this bill is all about trying to structure a situation so that there can be management of the Children's Court workload, I am hearing from what he has indicated that there is no problem at the moment. If I understand the government's position as the parliamentary secretary has relayed it, there is no dispute at the moment. If I understand the government's position correctly, apparently President Quail and Magistrate Crawford are now getting along famously and there is no dispute between them. Things are extremely harmonious, everyone has put down their allegations, and there are no allegations currently before the government that would warrant investigation. That seems to be the government's position. In addition to that, it seems to be the position of the government that there are no workload issues in the Children's Court and there is no need to have any more or fewer magistrates, there is nothing to see here and there is no need to ask any further questions, yet we are expected to pass this bill without further question. If that is the case, why do we need the bill? I hasten to add that I have omitted one further character in this, the Chief Magistrate, as we discussed yesterday. Seemingly, there is also no dispute or disagreement at the moment between Chief Magistrate Heath and President Quail; all is well. There are no workload issues, so we can just move on and pass the bill. That is not possible to believe, because there is no way that this bill would therefore be the second priority of the McGowan government, least of all in circumstances in which the Law Society has indicated that a pause should be put on the bill and that instead a couple of other bills that are sitting on the weekly bulletin should be prioritised.

That takes me to the Law Society. The parliamentary secretary yesterday seemed to be quite annoyed with the Law Society and its letter of 14 February 2022, which I believe the parliamentary secretary tabled yesterday. I do not think he was having a go at me when he did so, although he noted that I had not tabled the letter —

Hon Matthew Swinbourn: Member, by way of interjection, I do not think Hansard picked it up but I just noted that you hadn't tabled it, and you indicated by interjection, which wasn't picked up by Hansard, that you had run out of time to do so. I was just noting that.

Hon NICK GOIRAN: That is right, and I am grateful for that.

That letter was responded to by the Attorney General yesterday, 16 February, and the parliamentary secretary also kindly tabled that document, which is tabled paper 1066. In his criticism of the Law Society yesterday, the parliamentary secretary said, according to the uncorrected proof—

One of the last paragraphs of the Law Society's correspondence states —

We also query whether the Parliament has had an opportunity to consider whether the Bill in its current form may be the subject of a legal challenge on the grounds that it interferes with the operation of Courts, contrary to chapter III of the Commonwealth Constitution.

It was very late in the day for that concern to have been raised, knowing full well that this bill has been before the house for some time.

Is it the position of the government that this letter of 14 February was the first time the Law Society had raised this concern with the government?

Hon MATTHEW SWINBOURN: I am cognisant of the time. I think the member is correct about the characterisation of me being a little annoyed by the letter from the Law Society. It holds itself up as the voice of the legal profession in Western Australia.

Sitting suspended from 1.00 to 2.00 pm

Hon MATTHEW SWINBOURN: If I recall correctly, we were dealing with the issue of whether the Law Society of Western Australia's raising of a potential constitutional issue earlier this week was the first time that it had been raised with the Attorney General. I think that the honourable member made some mention of my mood towards the Law Society yesterday, and that I was somewhat perturbed. I just want to make a few pointed remarks about the Law Society, which says it is the voice of the legal profession in Western Australia. I would expect the Law Society to understand the difference between the Legislative Council and the Legislative Assembly, and that the Attorney General is member of the Legislative Assembly and not the Legislative Council. If members of the Law Society are listening to this debate, could they stop referring to Hon John Quigley as a MLC and start referring to him as an MLA, because he does not have the privilege of being a member of our esteemed chamber; he is a member of the other place. As much respect as I have for the Attorney General, he is allowed to stay down there and I will stay up here! That is the first thing. Also, for the Law Society's benefit, I point out Joshua Thomson's name is not spelt with a P, and I am sure he would appreciate the Law Society having the courtesy to spell his name correctly in the correspondence it shares with honourable members of Parliament.

I turn to the point the honourable member raised with me on whether it was the first time that a constitutional issue had been raised by the Law Society. My advice is that the Law Society sent a letter to the Attorney General last year that raised some concerns it had with this bill, but that correspondence did not raise a constitutional issue. In my reply to the second reading debate, I noted that the Magistrates Society of Western Australia raised a constitutional issue last year. I acknowledge that the member referred to part of my speech, but I clarified that at that time the Magistrates Society had raised that constitutional issue. To the best of my knowledge and the advice I have at the table the first time the Law Society specifically raised that issue was by letter to members of Parliament, CC-ed to the Attorney General, on 14 February.

Hon NICK GOIRAN: When was the issue of the constitutional validity of the bill raised with the government by the Magistrates' Society?

Hon MATTHEW SWINBOURN: We are having trouble nailing down the exact date, because I think the member's question was about when it might have been raised by the Magistrates' Society with the Attorney General or generally in the community. I am not sure, but I think it was with the Attorney General. The Attorney General did have correspondence from the Magistrates' Society I think at the time the bill was first introduced last year, but I am not sure whether it specifically raised a constitutional issue. More broadly, noting the Solicitor-General's advice dated —

Hon Nick Goiran: It's 13 August 2021.

Hon MATTHEW SWINBOURN: That is right. Yes, it is 13 August 2021. In his advice to the government, at paragraph 2, he states —

The Magistrates Society of WA and the Law Society of WA have raised concerns about the constitutional validity of the Amendment Act.

As early, or as late, as 13 August 2021, the Magistrates' Society and the Law Society had raised issues. The member's first question was about when the Law Society first raised the issue with the Attorney General. As I say, from the advice I had at the table, with the correspondence that is available to us, we did not find any evidence in the correspondence that the society wrote to the Attorney General in August of last year that a specific chapter III constitutional issue had been raised. I hope that covers off that issue in terms of the progress of this legislation. Obviously at some point last year the government sought advice from the Solicitor-General, and I think there was some commentary in the public domain at that time from different organisations, such as the Law Society and the Magistrates' Society.

Hon NICK GOIRAN: It seems to me, parliamentary secretary, that the government owes the Law Society an apology. It was indicated yesterday, with some criticism, that the Law Society's correspondence of the 14 February 2022 was "very late in the day for that concern to have been raised". I asked earlier whether that was the first time it was raised and the parliamentary secretary indicated it was. Now, of course, when we read the Solicitor-General's opinion, which the parliamentary secretary quite rightly identified is dated 13 August 2021, we note that the chief legal adviser to the Attorney General was well aware of the concerns of the Law Society of WA as at that date. So much so that he thought it important enough to mention it in paragraph 2 of his opinion —

The Magistrates Society of WA and the Law Society of WA have raised concerns about the constitutional validity of the Amendment Act.

I think it is incredibly unfair for the government to be chastising the Law Society over raising this issue "very late in the day" when the government's most senior legal adviser was well aware of the fact on 13 August 2021. Is the parliamentary secretary in a position to indicate when the Attorney General was first furnished with this opinion by the Solicitor-General?

Hon MATTHEW SWINBOURN: It was on or about the date of the opinion itself, which was 13 August 2021. It would have been on or about that time. Am I clear? Yes.

Hon NICK GOIRAN: As I say, the government should reflect on what has transpired and deliver an apology to the Law Society, but, that is a matter for government. That said, it is clear that on or around 13 August 2021 the Solicitor-General furnished an opinion on the constitutional validity of the "Courts Legislation Amendment (Magistrates) Act 2021". I note that the parliamentary secretary seemed a bit annoyed that the Law Society made a typographical error referring to Hon John Quigley as an MLC instead of an MLA. No doubt it will have picked that up and chastised the person who hit C instead of A on the typewriter.

Hon Alannah MacTiernan: A bit of attention to detail would not be a bad thing in that role.

Hon NICK GOIRAN: I think it would be outstanding, Minister for Regional Development, and if only the McGowan Labor government and its cabinet ministers would do exactly that. The amount of times that the minister and other cabinet ministers have failed to pick up these things over the last five years has staggered me. Just be very, very careful to —

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: I think the minister should be very, very careful. It is about time that the minister and her colleagues took the time to read some of these things. The point I make to the parliamentary secretary, who is waiting patiently, unlike the Minister for Regional Development, is that the opinion of the Solicitor-General refers to a "Courts Legislation Amendment (Magistrates) Act 2021". Does any such thing exist?

Hon MATTHEW SWINBOURN: No, there is no act at this stage. The introduction to the Solicitor-General's advice says "Courts Legislation Amendment (Magistrates) Bill 2021" and then in brackets refers to it as the amendment act. I think the member is referring to the bold reference at the top of that. But, no, there is no act; there is a bill at this stage. As a term of reference throughout the advice it is then referred to as the amendment act.

Hon NICK GOIRAN: Is the parliamentary secretary indicating that the title of this opinion contains an error?

Hon MATTHEW SWINBOURN: I am not going to debate the opinion of the Solicitor-General on those points. The member asked me a question about whether the "Courts Legislation Amendment (Magistrates) Act 2021" existed, and I think he is trying to lead me into making admissions about those sorts of things. The member is entitled to draw his own conclusions from that. The Solicitor-General's advice stands as it is, and I will not be drawn into debate about the content of his advice. He is a far more senior legal practitioner than I ever was on those points. I get where the member is going, but I am not going to be drawn into that.

Hon NICK GOIRAN: That is fine, parliamentary secretary, I am happy to move on. I am simply making the point that it is easy to have a crack at the Law Society for hitting a C instead of A on the typewriter.

Hon Matthew Swinbourn interjected.

Hon NICK GOIRAN: No. Yet, the Solicitor-General, the most senior legal adviser to the Attorney General is providing an opinion on an act that does not exist, apparently. The parliamentary secretary made quite a big deal about this yesterday, about the fact that there was no precedent being set aside here and the waiver of the legal professional privilege with respect to this opinion. Anyway, I will not labour the point any further with the parliamentary secretary. I simply identify the point that, yes, we can have a crack at the Law Society about a typographical error, but we can also do the same with the Solicitor-General, which takes us nowhere.

Hon Matthew Swinbourn interjected.

Hon NICK GOIRAN: It takes us absolutely nowhere, parliamentary secretary. The point is that the Magistrates' Society of WA and the Law Society of WA raised these matters with government prior to 13 August 2021, and I am trying to ascertain when both of those institutions brought their concerns to the attention of government. Does the parliamentary secretary have that information available?

Hon MATTHEW SWINBOURN: I do not have access to all the correspondence between the Attorney General, the Law Society or the Magistrates' Society. We do not have that available. We have tried to drill down into as much detail as we can. It is apparent that the Solicitor-General was at least aware when he provided his advice on 13 August. The level of precision I can give is that those issues were raised some time in the period between when the bill was introduced in the Legislative Assembly and the time the opinion was given, and the Attorney General became aware of them, whether that was through direct correspondence, comments made in the public sphere or other means. We were aware at that time that people were raising concerns about the constitutionality, hence advice was sought from the Solicitor-General. That is what would have precipitated it. As I say, I do not have the information available to drill down into any more detail. I do not know how it helps with the progress of the bill to be sure about those things. If the member is going to draw my attention to something that is critical to our understanding of this bill, I would appreciate he do that.

Hon NICK GOIRAN: We can at least agree that the Law Society of Western Australia and the Magistrates' Society of our state both raised the constitutional validity question to government prior to 13 August last year. We are at least in agreement about that. Before I move to my question, we can also agree that the government's response to those concerns about constitutional validity are set out in the opinion by the Solicitor-General that the parliamentary secretary tabled yesterday, dated 13 August last year. I think we can agree on that. Did the Magistrates' Society or the Law Society raise any other concerns with the government about this bill?

Hon MATTHEW SWINBOURN: I am not in a position to ventilate the issues raised with the Attorney General by the stakeholders, other than those that everyone is aware of in terms of the Law Society of Western Australia's letters to members of Parliament on 14 February. The society raised its issues in relation to that, but I am not in a position to disclose issues, if any, that were raised between the Attorney General and the Magistrates' Society of Western Australia and in those other things because the nature of that correspondence, in a general sense, is not something that I am authorised to disclose.

Hon NICK GOIRAN: The extent that this government will go to not be transparent is quite extraordinary. When I asked earlier about the heads of jurisdiction, the great defence put up by the government was to say, "We can't possibly disclose that information because it would breach further consultations into the future between the Attorney General and heads of jurisdiction if we did that. It is very important that those discussions are kept confidential." I asked the government yesterday: will you ask those heads of jurisdiction if they will consent to the release of information? The government said no. It would not even ask them. Now we are talking about the Magistrates' Society of Western Australia. That is not a head of jurisdiction, but apparently we are still going to invoke that same principle: "We can't possibly tell anyone anything about those things because it all has to be kept secret." I find that quite extraordinary.

I want to ask a few questions about the concerns of the Magistrates' Society in a moment, but before I do, I want to round out one of the issues the parliamentary secretary raised with me two days ago—that is, the transcript that I quoted from extensively during my contribution to the second reading debate. I identified the transcript at the time. It was a transcript of proceedings between Catherine Patricia Crawford and His Hon Judge Hylton Quail that took place in the Supreme Court of Western Australia, CIV 1037 of 2021, before Hon Justice Allanson. This transcript is of proceedings that took place in the Perth Supreme Court on Monday, 11 October 2021. I quoted extensively from this document. Deputy Chair, you might recall that on Tuesday evening, the parliamentary secretary was very keen for me to table this document. I indicated that under the conventions or the stipulations of our standing orders, my obligation was simply to identify the document, which I had done. The document was otherwise confidential, in part because, as I explained yesterday, I had not been authorised to provide this information. Let us keep in mind that the government has repeatedly said over the last couple of days that it is not authorised to provide information, so it will not provide the information to the chamber. It is okay for government members to say, "We are not providing information to the chamber because we haven't been authorised", but if another member comes along and says, "I haven't been authorised to provide the information", that does not apply to them! There is always a different standard with the McGowan government. But unlike the McGowan government, I have spoken to the relevant individuals and sought their consent. I still cannot understand why it would be so difficult for the McGowan Labor government—the Attorney General or somebody from his office—to pick up the phone and say to the Chief Justice, "Would you mind if we relayed your support for this bill?" I presume that the Chief Justice must be an enthusiastic supporter of this bill. I do not know why the government would want to keep that a secret. Why does the government not call Chief Judge Julie Wager and say, "As a former President of the Children's Court and now Chief Judge of the District Court, we would like to tell all the members of Parliament, particularly in the Legislative Council, how much you support this bill, because when we consulted with you, you expressed your unequivocal support for the bill"? You raised no concerns with us and so we would like to satisfy the members who are very concerned that this might affect the independence of the administration of justice. Would you mind if we passed that information on?" But the government will not even do that. Nevertheless, I sought the consent and so I am now in a position, Deputy Chair, through seeking the leave of the house, to table this document that I have already identified.

[Leave granted. See paper [1071](#).]

Hon NICK GOIRAN: Thank you for that, members and Mr Deputy Chair. The parliamentary secretary indicated that he is not in a position to discuss the other feedback provided by the Magistrates' Society because he does not seem to think that he has its consent. Is that something that he might be willing to seek from the society? Might he reach out to the society and ask whether he can relay its feedback on the bill?

Hon MATTHEW SWINBOURN: The member made a comment yesterday about the benefit of instant access to *Hansard*. I know some courts do it. I do not believe that how the member has characterised what I said is, in fact, correct. I said that I do not have the authority to give the information to the member. I did not say that that had come from the Magistrates' Society or otherwise. But I do not want to try to repeat something I said earlier. I have to say that it is just on the vibe. I do not think it is deliberate. I am not suggesting that the member is doing it deliberately, and I do not have the most perfect recall memory, but I do not think that is quite the way that I said it. What I am saying to the member is that I am not authorised, as the parliamentary secretary, to give the member that feedback. I act on instructions, as the member knows. It is not a defence or a shield for me; it is just the reality of the situation that I am in. The member referred to an article in which the Magistrates' Society said the proposed changes would make the Chief Justice subservient to the wishes of the Children's Court, and referred to a letter sent to the Attorney General, as seen by *The Australian*. The letter belongs to the Magistrates' Society. I do not know whether it gave it to *The Australian* or somebody else did, but it is really up to the society how it deals with its material. As I say, I am not prepared to do that. Its issues with the bill were raised in a public forum, or were reported in a public forum. I am happy to explore those issues in the clause 1 debate when we go over what the bill is trying to achieve and deal with and address those sorts of issues. But, as I say, the member also characterised, I think, consultation. I have been clear that in terms of the bill, the consultation was with heads of jurisdiction. There was no consultation with the Magistrates' Society, the Law Society or others on this bill. I am sure the member will probably ask why that might be the case, so I will give him an explanation. This is an internal court administration matter and the government was of the view that the views of the heads of jurisdictions were important to the development of the bill, but it was not in a position to explore the broader issue with the wider fraternity. The government is entitled to do that. It can be criticised, and I am sure it will be, for doing that, but that is the state of affairs. As I said, there has been some public ventilation of issues; I am happy to explore how those issues relate to the bill, but, as I said, I am not in a position to go into those other things because I do not have that authority to do so.

Hon NICK GOIRAN: The parliamentary secretary indicates that the views of the heads of jurisdiction in this matter are very important and that is why the government has consulted them. I am in furious agreement with the parliamentary secretary about that; the problem is that only the government has that information and it is being kept secret from the Legislative Council that is being asked, as the house of review, to agree with this legislation in the absence of that information. The government thought it was very important to consult the heads of jurisdiction. It was right to undertake that consultation. What is wrong is for the information to be hidden from the Legislative Council. Nevertheless, the parliamentary secretary has indicated and already provided to the house a copy of the opinion of the Solicitor-General dated 13 August 2021. Did the Attorney General obtain an opinion from anyone other than the Solicitor-General about the constitutional validity question?

Hon MATTHEW SWINBOURN: My advice is that no further view was sought on this bill other than from the Solicitor-General. The member used the word "obtain", which might have multiple meanings, so I will again be careful with how I answer that. Maybe I am anticipating or mis-anticipating where the member might be going with this, but I want to be clear that the only advice the Attorney sought was from the Solicitor-General.

Hon NICK GOIRAN: That is fair enough. Did he ever receive any other opinions, even if he did not seek it out?

Hon MATTHEW SWINBOURN: I think an opinion was provided, because I think it was sought by the Magistrates' Society—I might be corrected on that from the advisers. A copy was provided of the views of Mr Zelestis, Senior Counsel, and I think it may have even been made aware that he had given an opinion in some of the public material, but again, I might be misconstruing that, so perhaps do not rely on what I said about the public sphere. To answer the member's question directly, the Attorney General had a copy of the Zelestis opinion, for want of a better word, provided to him.

Hon NICK GOIRAN: When considering this very important constitutional question, the Attorney General had in his possession an opinion from Mr Zelestis, Queen's Counsel and an opinion from the Solicitor-General, Mr Thomson, Senior Counsel. Is that the sum total then of the opinions that the Attorney General had in his possession before coming to his own conclusion that he is satisfied that there is no constitutional validity question that remains outstanding?

Hon MATTHEW SWINBOURN: I think some of this stuff is protected by legal professional privilege regarding how the advice was provided and that sort of thing. I am not saying that to be cagey. My advice is that the two opinions were before the Attorney General. To be glib, the Attorney General receives a lot of people's opinions on a lot of matters—some of them are legally trained and many of them are not, of course. I am not trying to be glib, but I am trying to be clear on this sort of thing. There was a process for the development of the bill and government officers were involved in that. Undoubtedly, when they were drafting the bill, they themselves, probably all of them at the Parliamentary Counsel's Office legally trained, would have had regard to those sorts of issues. The only formal opinion, as the member and I would understand it, that we are aware of are the two that I previously mentioned.

Hon NICK GOIRAN: In fairness, that is a very comprehensive response and I thank the parliamentary secretary for it. I am characterising this matter in what we will describe as formal, written legal opinions that were in the possession of the Attorney General at the time. The two pieces that he had were one from Mr Zelestis, QC, and one from Mr Thomson, Senior Counsel. Then, obviously, the Attorney General had to satisfy his mind about that. For the benefit of the house we have a copy of the Thomson, Senior Counsel opinion from 13 August 2021. Can we be furnished with a copy of the Zelestis, QC opinion?

Hon MATTHEW SWINBOURN: I am not in a position at the moment to do that. I do not even know if we have a copy of it at the table, to be perfectly honest with the member, but as he can appreciate, there are probably some complexities going forward with us tabling someone else's legal advice regarding the circumstances in which it was given to the Attorney General. I will go back at some stage and determine whether we can table it or not. We are cautious of those things, and obviously tabling someone's opinion in Parliament is a serious thing to do. It is not the government's document and it was provided to us in those circumstances. I will take that under advisement and we can get back to the member about whether we can do that.

Hon NICK GOIRAN: There is no objection from me on that course of action. It is the prudent course of action that is once again consistent with how we have been operating, certainly in the course of this debate. We do not table documents unless we have the consent of individuals. I take it that the parliamentary secretary will at least make some inquiries to see whether consent can be obtained. That is how I have understood the response. Who knows what that will result in? It may result in a situation like we had earlier when the Attorney General was not even willing to ask for the consent. That could happen. Alternatively, perhaps the Attorney General will contact the Magistrate's Society and ask for its consent. That would seem to be the other course of action and one would like to think it would then provide that consent. Of course, it is all contingent on the Attorney General's will to expend the money to make one phone call. We will see whether that happens. In due course, the parliamentary secretary will inform the house and I will be obliged for that. Is the parliamentary secretary at least in a position to indicate to the chamber whether the opinion of Mr Zelestis is consistent with that of Mr Thomson?

Hon MATTHEW SWINBOURN: I cannot do that because I cannot give the member the substance of his advice in the circumstances in which, as I have just said, we need to seek authority to disclose it. If it is of any benefit to the member, I have no idea what his advice was in any event, so I am not playing cagey. The member is asking about the substance of his advice at the same time that I am saying that we cannot disclose a copy of his advice because it was not generated by and for government—rather, it was generated by another organisation—I cannot get into that at this stage. As I say, if we are able to table it, obviously we will be in a position in which we can discuss its contents.

Hon NICK GOIRAN: Okay. Was the opinion of Mr Thomson sought before or after the Attorney General obtained—I will correct the record—received the opinion of Mr Zelestis?

Hon MATTHEW SWINBOURN: I am advised that he received it before he sought advice from the Solicitor-General.

Hon NICK GOIRAN: That is certainly consistent with my understanding of the facts, parliamentary secretary. It would lead us to the conclusion, would it not, that the Magistrates' Society of Western Australia raised constitutional validity questions?

Hon MATTHEW SWINBOURN: I have taken further advice. I do not quite recall how I said it, but I think I said it awkwardly. The chronology was that the Attorney General received Zelestis' opinion, and after that fact he then received the opinion of the Solicitor-General. I am not sure whether I made that point. It was Zelestis first then SG. As it is always the case with any bills, issues of constitutionality were not thought of as an afterthought. In the development of the bill, as I have said previously, people who are legally trained have issues of constitutionality in mind. But in terms of a formal written opinion, I come back to that—the member described it as that—Zelestis did his and the Attorney General then sought the Solicitor-General's opinion. I might add that it was done in conjunction with another lawyer who does not seem to get a guernsey at all. I do not want to do a disservice to the parliamentary record, but it was also signed by Francis Cardell-Oliver. Francis gets a guernsey for the opinion, but it is the Solicitor-General's opinion.

The DEPUTY CHAIR: Hon Nick Goiran.

Hon Matthew Swinbourn: Nothing turns on that; I am just being courteous.

Hon NICK GOIRAN: The parliamentary secretary might find that the same situation applies with the Zelestis opinion when in the fullness of time the parliamentary secretary gets an opportunity to peruse and consider it. In the interim, is it not the case that if the Attorney General received the Zelestis opinion first, and then decided that he needed to get an opinion from Mr Thomson, and the Zelestis opinion was provided to him, as I understand from what the parliamentary secretary said, from the Magistrates' Society, and the Thomson opinion says that the Magistrates' Society has raised concerns about the constitutional ability of the amendment act, does it not then follow that the Zelestis opinion is not consistent with the Thomson opinion?

Hon MATTHEW SWINBOURN: I cannot say that and I have indicated the reasons why at this stage. That matter is in motion because I am seeking further advice for Hon Nick Goiran. As I said, to speak about the substance of

the opinion would be disclosing and breaching any possible issues that might arise between the confidentiality of the provision of that advice and the terms on which it might have been provided. Again, I am seeking further advice on that. I cannot go to that any further in terms of Zelestis.

The DEPUTY CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: Thank you, Mr Deputy Chair.

Hon Matthew Swinbourn: There are strange and archaic rules around this stuff as you know. I know you'll come back to me about government secrecy and stuff like that, but I am genuinely trying to make sure that we are not upsetting some of those people.

Hon NICK GOIRAN: I am happy to facilitate that course of action. I make the point that the same should apply with regards to the heads of jurisdiction. It is okay to knock on the door of the Magistrates' Society and say to it, "Would you mind if we released the Zelestis opinion?" It is okay to knock on the door of the Chief Justice and say, "Would you mind us letting the Legislative Council know that this bill has your full unequivocal support", and the same with the Chief Magistrate and the other heads of jurisdiction. The same principle follows. I have no problem with the course of action that has been proposed with regard to the Zelestis opinion. I just wish that the same course of action would apply and there would be consistency with respect to the other matters. I do not think that there is any harm whatsoever in the Attorney General picking up the phone and having those conversations. There will not be any great disruption to any further consultations because, at the end of the day, those heads of jurisdiction can easily say, "No, Attorney General; we'd prefer that you didn't." At the moment, there is not even a willingness to knock on the door, and that is what makes us suspicious. There is something very, very shifty going on here, and that is what we are trying to get to the bottom of.

Did the Attorney General ever reply to the Magistrates' Society about its concerns regarding the constitutional validity question?

Hon MATTHEW SWINBOURN: I do not have that advice at the table, but we are making further inquiries to see whether a response was sent. I do not want to sit and wait for that confirmation to come. When it comes, I will let the member know.

Hon NICK GOIRAN: To facilitate the speedy passage of this bill, I indicate to the parliamentary secretary that the Attorney General did reply to the Magistrates' Society of Western Australia. The parliamentary secretary's officers who are busy conducting the search need look only for 3 August 2021 when the honourable Attorney General affixed his signature to this letter in response to the Magistrates' Society. What is interesting is that the letter is a government document, so before anyone gets excited about who will table the document, it will not be me, but I am happy to identify for the benefit of the chamber that this document is a letter dated 3 August 2021 and signed by Hon John Quigley. Unless I am told otherwise by the government, I consider this document to be confidential and I will not be tabling it, but I welcome the opportunity for the government to do so. Might I say that the second paragraph of it says —

I have taken advice on that opinion from the Solicitor General of Western Australia —

Of course, the opinion that he is referring to is the Zelestis opinion referred to in the first paragraph —

and am satisfied as to the constitutional validity of proposed section 11 of the *Children's Court of Western Australia Act 1988* (WA), when enacted.

Yours sincerely

Hon. John Quigley MLA

My question is: how could it be possible for the Attorney General to have taken that advice when, as the parliamentary secretary indicated, the advice was provided to him only on or after 13 August?

Hon MATTHEW SWINBOURN: The member is at an advantage over me because I do not have a copy of the correspondence before me. I appreciate that he is, to some degree, potentially protecting the confidentiality of it, notwithstanding that he has just read from it. I am not in a position to be certain about the dates that he is talking about. We are trying to find the letter. As I say, we do not carry all the correspondence relating to a matter into the chamber with us. We are trying to communicate with people at the ministerial office to see whether we can get our own version of it. I cannot answer the member's question about the timing between advice until I have seen a copy of that particular form. I do not think it is a solution that the member provide me with a copy of what he has, because I think we need to know what we have to make sure that we are comfortable with what we have. I do not cast any reflection on the member in that regard; it is just that we want to get the letter from our side of the fence, if I can put it that way.

Hon NICK GOIRAN: It is a truly remarkable set of circumstances that the Legislative Council finds itself in at the moment in that there are question marks around the constitutional validity of the bill before us. There is really no other clause on which we can have this discussion about the constitutional validity other than clause 1. We are trying to get to the bottom of whether this bill is constitutionally valid. Until this afternoon, members would have been totally unaware that there was an opinion in existence from a senior Queen's Counsel—one of the most senior

Queen’s Counsels in Western Australia—Mr Zelestis, about this matter that had been provided to the Magistrates’ Society. Without members even having a copy of and reading the Zelestis opinion, they can obviously draw the conclusion that the opinion must have indicated that there is a constitutional problem here.

In response to that, the Attorney General went to his chief adviser, Mr Thomson, who says in the second paragraph that the Magistrates’ Society has raised concerns about the constitutional validity of the amendment bill. The Magistrates’ Society is hardly going to deliver to the Attorney General an opinion from Mr Zelestis saying, “Everything is fine here; it is constitutionally valid” and give him a pat on the back and a gold star. That is not going to happen. As a result of that, the Attorney General then instructed his chief legal adviser to spend substantial time preparing this lengthy opinion, which then appeared on 13 August. What makes it worse is that we then discovered—I appreciate that the parliamentary secretary is getting to the bottom of this—that Mr Quigley responded to the Magistrates’ Society and said on 3 August that he had already sought the advice of the Solicitor-General and he had no concerns, yet the Solicitor-General provided the opinion to Mr Quigley only on 13 August.

I appreciate that the parliamentary secretary wants to take his time to get to the bottom of all this. As we identified a little earlier this afternoon, from time to time, people make typographical errors. The parliamentary secretary was very quick to point out some of the typographical errors of the Law Society, and, as I said in response, the government needs to look in its own backyard, because even the title of the Solicitor-General’s opinion has a problem.

Who knows—I am being quite serious now—but the date of 13 August on here might be an error. I guess it is not completely out of the realms of possibility that the date of the opinion was 3 August and that the “1” before the “3” was put there in error. Then the dates would line up perfectly with the correspondence that was provided. I appreciate that, in all sincerity, the parliamentary secretary is trying to get to the bottom of this matter and he will report back to the chamber when that information is available to him. I sincerely hope that this is not yet another example of what has already been a stinking mess with the genesis of this bill and that we do not find that the Attorney General told the Magistrates’ Society on 3 August that he had obtained an opinion from the Solicitor-General that he never had until 10 days later. I sincerely hope that that is not the case and that a plausible explanation is provided in due course. This has been, frankly, bad enough as it is without that going on as well.

Regrettably, as part of all that, we are not able to take the concerns of the Magistrates’ Society any further, because the parliamentary secretary is seeking through the Attorney General’s office to see to what extent he can disclose that information, so we will just have to park those concerns to one side. For all we know, of course, the only concern that might have been raised by the Magistrates’ Society might have been the constitutional validity question. That is what I was trying to get to the bottom of. I accept that the Magistrates’ Society has a view, which is position A, and the government has sought Mr Thomson’s advice, which is position B. The government prefers position B and that, as far as the government is concerned, is the sum total response to the constitutional validity question. But, of course, other concerns may well have been raised with the government by the Magistrates’ Society and, indeed, by others, but we will not know that until such time as the government has an opportunity to consult with those various bodies, particularly, in this instance, the Magistrates’ Society.

I know that the parliamentary secretary said that he cannot disclose the responses that were provided by the heads of jurisdiction, but is he in a position to indicate who conducted that consultation with the heads of jurisdiction? Was it the Attorney General? Was it the Solicitor-General? Who might have conducted that consultation?

Hon MATTHEW SWINBOURN: The consultation process with the heads of jurisdiction was led by the Department of Justice, which had responsibility for the development of this bill.

Hon Dr BRIAN WALKER: The parliamentary secretary will be aware that my legal knowledge does not exceed that of a house cat. I have, however, been listening closely. I thank the department for the briefing we received prior to this. I was fully on board with everything that had been suggested, so I was surprised to hear the differing opinions coming to me when I was briefed by the Law Society of Western Australia, with whom I understand the government has some differences. But I need to ask these questions to satisfy my own curiosity—if nothing else, it is my duty to my electorate.

The first one arises from the questioning in the chamber yesterday. It was mentioned in *Hansard* that consultation had been thorough, including that with Chief Magistrate Heath. I heard today that two written pieces of information have been sought, or received, but I did not hear mention of Chief Magistrate Heath. I heard from the Law Society that it had not been consulted, and that neither the Attorney General nor the Solicitor-General had conferred with the Chief Magistrate or the Magistrates’ Society of Western Australia. I am, of course, seeking information from the Chief Magistrate himself, but could the parliamentary secretary confirm whether he was, in fact, consulted?

Hon MATTHEW SWINBOURN: The Chief Magistrate was consulted. I answered a question from Hon Nick Goiran and said that that consultation was led by the Department of Justice. We do not have any other information to suggest otherwise—I do not, anyway.

Hon Dr BRIAN WALKER: Bearing in mind that we do not have any confirmation that the Magistrates’ Society was consulted, it would appear that it has expressed an open invitation to discuss its concerns.

Hon Matthew Swinbourn: By interjection, we did indicate that the Magistrates' Society was not consulted. Perhaps I should seek the call.

The DEPUTY CHAIR: Parliamentary secretary.

Hon MATTHEW SWINBOURN: Thank you. To be clear, the Magistrates' Society was not consulted in the development of the bill—I have been clear about that—and neither was the Law Society. The Chief Magistrate, Steven Heath, was consulted through the Department of Justice's process when it developed the bill. There are some distinctions there. The Magistrates' Society is effectively the union for magistrates—I do not think they appreciate being called that, but that is, in effect, what it is—so, obviously, it advocates on behalf of magistrates.

Hon Dr BRIAN WALKER: Thank you for that clarification. I understand it expressed an open invitation to discuss its concerns with the Attorney General. Could the parliamentary secretary confirm whether he has not availed himself of that opportunity? I believe that will be answered in the affirmative.

Hon MATTHEW SWINBOURN: Member, we were going through this with Hon Nick Goiran as to the Magistrates' Society. It is common knowledge that the society wrote to the Attorney General. I am seeking to clarify, based on a question asked by Hon Nick Goiran, whether the Attorney General formally responded. Hon Nick Goiran referred to correspondence that he has a copy of under the Attorney General's signature. I do not presently have a copy of that. We are trying to locate a copy of that. Until that happens, I cannot get into any more specifics on the member's line of questioning about engagement between the Attorney General's office and the Magistrates' Society.

Hon Dr BRIAN WALKER: Indeed, the parliamentary secretary has confirmed that my legal knowledge does not exceed that of a house cat.

I will move on to the next question. Some concerns were expressed that this would be difficult to bring into alignment with paragraph 6 of the "Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region" [1995] CCJAPRes 1 (19 August 1995), which I think was written by the late Hon David Malcolm and adopted by the Chief Justice of the High Court, Chief Justice Brennan. It states —

6. In the decision-making process, any hierarchical organisation of the judiciary and any difference in grade or rank shall in no way interfere with the duty of the judge exercising jurisdiction individually ... to pronounce judgement ...

That is double-dutch to me, of course, because of my cat knowledge. Whatever the intent, which I believe is fully honourable—I quite accept that—the impact of the wording of the bill, I am told, must be considered. That is of particular concern to me. I would like some clarification on this. Proposed section 11(6) provides for the president to have, and I quote —

... absolute discretion and is not required to take into account the seniority or length of service of the magistrate or any other matter.

That is clause 7 of the bill, which will insert proposed section 11(6) into the Children's Court of Western Australia Act. The problem is that the Legislative Council is being asked to support the devolution of power to one judicial officer over the state's granting of a commission in a way in which it means that if the president took a particular view on how the Children's Court's jurisdiction should be practised, then magistrates who do not fall into line could be removed by the president without challenge. That would cause me concern. Can the parliamentary secretary comment on that?

Hon MATTHEW SWINBOURN: I appreciate that the extent of the member's legal knowledge is no more than that of a house cat. My medical knowledge is probably no more than that of a house cat either, so we have that in common for our respective professions.

I need to make some important distinctions here. What this bill proposes to do will have no bearing on what a magistrate who is hearing a matter will do in terms of that matter. The President of the Children's Court cannot say to that magistrate, "I'm taking you off this case halfway through your determination of those things because I do not like the way that you're dealing with it." This is about workload. When a matter comes before any court—the Children's Court, the Magistrates Court or the Supreme Court—it has to be allocated to one member of that court. The head of jurisdiction—his or her office—has the responsibility for allocating that file to a particular magistrate or judge, whether it is a District Court judge or a Supreme Court judge. I might add that it is usually the same process for commissions in the Industrial Relations Commission and the State Administrative Tribunal. That is how that works. Heads of jurisdiction manage the workload, or the case load, if can I use that term, as it comes in. Therefore, a judge would not be removed from a case by the president under the provisions that we are talking about. It will not give them the entitlement to interfere. When a judge is hearing a case, they go through from start to finish.

Occasionally, there are changes if a judge falls ill and is unable to perform their functions. That requires the court, at great cost to the parties, to begin proceedings again, because a magistrate or judge needs to hear the entirety of the matter. That is not being affected. The independence of magistrates and how they deal with cases will not be affected at all.

I draw the member's attention to the powers of the Chief Magistrate. The existing law for the Chief Magistrate can be found in section 25, which I will read for the member's benefit. It states —

25. **Chief Magistrate may assign duties to magistrates**

- (1) The Chief Magistrate, by directions given from time to time to a person who is a magistrate, may —
 - (a) specify which case or cases, or class or classes of case, the person is to deal with or in which division of the Court the person is to sit; and
 - (b) specify which class or classes of the judicial functions that the person has under written laws, whether as a magistrate or otherwise, the person is to perform for the time being; and
 - (c) specify which administrative duties the person is to perform for the time being; and
 - (d) specify where, when and at what times to deal with those cases or perform those functions or duties.
- (2) Such a direction given to a magistrate does not limit the functions of the magistrate.

This is the important subsection —

- (3) A magistrate must comply with such a direction.

This is the Chief Magistrate within the Magistrates Court. We are trying to deal with some of this stuff with the President of the Children's Court. It is not the clause 11 stuff—that is, proposed section 12A—on that sort of thing. This is, by comparison, for the member's benefit to understand that the head of a jurisdiction already has significant powers to decide how the court functions on that administrative level. The Chief Magistrate, the Chief Justice of the Supreme Court and the Chief Judge of the District Court do not tell another judge or magistrate how to conduct their individual cases. The legal process deals with that. At the end of that process, if the judge or magistrate gets the decision wrong—if I can use that term—parties are entitled to appeal, and any judges sitting in an appeal jurisdiction, whether that is the Supreme Court or any other jurisdiction, can make a judgement on the particular manner in which the case was dealt with. Nothing we are doing here will interfere with the independence of individual judicial members to decide the cases that they are sitting on. This comes back to where we and the Attorney General have issue with the position being put by the Law Society that the President of the Children's Court would exercise any of his powers differently to how the head of any other jurisdiction exercises their powers in relation to courts. The slur is to suggest that he would use any of these other kinds of matters to affect that. That is not accepted by the government in any way, shape or form. As I say, the Attorney General wrote back to the Law Society yesterday expressing his views about the position it put forward on the president.

Hon Dr BRIAN WALKER: I am very glad to hear that. It mirrors the briefing we had some time back.

The last point I would like to bring out—again this is something that I see as a layman—is that the concept that the legislation is likely to be challenged in the High Court, I believe, on the ground that it interferes with the operation of courts contrary to chapter III of the Australian Constitution. The parliamentary secretary has spoken about this before but I would like to be certain that the government is absolutely happy that, although predicting the outcome is never an easy thing, there no grounds for this to be taken to the High Court. Otherwise, we are busying ourselves with legislation that is liable to be struck down to the embarrassment of all concerned.

Hon MATTHEW SWINBOURN: We are comfortable with the constitutionality of this bill. For further assurance we have sought the advice of the Solicitor-General of Western Australia, who is a very esteemed legal mind. He has reinforced that in his view, which we have provided, unusually, to the house, this legislation is constitutionally valid. The member correctly pointed out that we can all make a prediction about which way the High Court might go on any particular issue, but it is the same for any bill that we pass in this place. A vexatious or a properly motivated individual might seek to challenge its constitutionality. If we were constantly worried about that, no bills would be passed here. We would say, "Someone might challenge it", and we would be stuck. In this instance we are happy and comfortable with the constitutionality of this bill.

Hon NICK GOIRAN: That was an interesting exchange between the honourable members. I will just add this note in passing. I think it would be fair to say that if somebody were going to launch a challenge based on an opinion of Mr Zelestis, QC, it would not be a frivolous application. For the benefit of the record, I am not suggesting that the parliamentary secretary suggested that because he also added another category of person who might make an application—that is, a person who moves with good intention. I think that would be the case in this instance.

Nevertheless, we will leave that where it is for the time being because the parliamentary secretary and the hardworking officers in the Attorney General's office are searching for this letter of 3 August 2021 under the signature of Mr Quigley to see what the story is with that date stamp of 3 August 2021 and the Solicitor-General's opinion dated 13 August. Until we get to the bottom of that, and the even more substantial question of whether any concerns were raised by the Magistrates Society other than the question of constitutional validity, could the parliamentary secretary assist the house by indicating whether this type of structure—this type of regime—that we are moving to with this legislation is in place in any other jurisdiction in Australia?

Hon MATTHEW SWINBOURN: The short answer is that this was not modelled on what anyone else does in any other jurisdiction. The limitation of the advice that I have at the table is that we could not say whether the way we structure our Magistrates Court with our Children's Court is comparable to any other Australian jurisdiction. If the member is going down that line of questioning, I do not have advice on what that might look like at the table at the moment. I do not know either. I am not sure whether the member knows, but I do not know how they structure those things in the other states and territories.

Hon NICK GOIRAN: Can we draw from that, parliamentary secretary, that piece of work was not done by government in the development of this bill?

Hon MATTHEW SWINBOURN: The short answer is no; it was not done. We were just focusing on the four walls of our jurisdictions and the structures that have developed in Western Australia.

Hon NICK GOIRAN: Is the parliamentary secretary happy for me to proceed?

Hon Matthew Swinbourn: Go on. It's a bit funny with the way that everything is set out now.

Hon NICK GOIRAN: I understand the practical difficulties that are being experienced here in the chamber at the moment.

I am curious to know about the time line for the development of this bill. We know that concerns around constitutional validity were raised in and around the month of August last year. We also know that there were some other concerns, because I read into the record the other day some of the Supreme Court transcript. The Supreme Court has been told, and I think we can at least proceed on the basis that the Supreme Court has not been misled by a document that was tendered there, an exchange between the President of the Children's Court and the Attorney General from January 2021, that there were obviously some concerns. Can the parliamentary secretary indicate to us the time frame for the development of this bill? Was the whole bill developed during the 2021 calendar year or did it precede that in the 2020 calendar year? Does the parliamentary secretary have the time line?

Hon MATTHEW SWINBOURN: To answer the question directly, it was developed over 2021, but to be more specific, the member understands that permission to print, time frames and all that stuff is subject to cabinet confidentiality. I am happy to confirm it was done over the course of 2021, when the bill was introduced into the Legislative Assembly. The member can make his own conclusions about the time frame.

Hon NICK GOIRAN: Just on the point of the confidentiality of cabinet, I am not sure that it has been practice in the past to disclose the date when cabinet approved a bill for drafting and printing —

Hon Matthew Swinbourn interjected.

Hon NICK GOIRAN: No, sure.

Hon Matthew Swinbourn interjected.

Hon NICK GOIRAN: The deliberations of cabinet will be confidential, but I do not know that the date a bill was sent to the printer is considered to be cabinet-in-confidence. I recall that information of that type has been provided for many bills. In any event, for the purpose of our discussion here, we note the courtesy of the kind advice provided by the parliamentary secretary that the entire sequence of events took place during the course of the calendar year 2021. Can the parliamentary secretary indicate to us how many draft bills there were?

Hon MATTHEW SWINBOURN: I am advised that there were four formal drafts, but there may have been some rats-and-mice amendments at the very end. I am just seeking confirmation about whether there may have been a fifth draft that picked up the sorts of typographical errors we have already talked about and those sorts of things, but I am advised that four formal drafts of the bill were done.

Hon NICK GOIRAN: Have I got this right: the bill was introduced into the other place of the Western Australian Parliament on 23 June last year? I go to the transcript of the court proceedings I tabled earlier. We were talking about a date in January last year. I am not too sure of the significance of the January date; I think I might have taken that from the parliamentary secretary. According to the transcript, it looks as though there was a piece of correspondence between Judge Quail and the Attorney General, and the letter is dated 7 September. I take it that that would be 7 September 2020.

Hon MATTHEW SWINBOURN: I am fairly certain that the January reference for the letter to the Attorney General came from the member, because I think he was reading from it. I am not sure whether he was reading the transcript. I think I told the member that I have not seen that letter to the Attorney General from President Quail that he is referring to. Now he is referring to a letter of 7 September from the transcript. We do not know, sorry.

Hon NICK GOIRAN: As I say, the transcript is a tabled document. I refer to page 183. Mr Donaldson was providing his submissions to Justice Allanson on that day, being 11 October 2021. At page 183, he states —

Now, there was around this time correspondence also between Judge Quail and the Attorney General. Now, could I ask your Honour to turn to page—to tab 110, please. So tab 110, your Honour, is a letter of 7 September—just your Honour will recall that the letter that I spent some time taking your Honour to

was on 3 September. So on 7 September—and again, your Honour, it is common cause—without notice, to Magistrate Crawford before this letter was sent or a copy of it being sent to Magistrate Crawford. But Judge Quail wrote to the Attorney General ...

I will not go through that again, because, as I say, there is a tabled document and it is already in the *Hansard* because I quoted it on Tuesday. That is effectively the letter that Mr Quail wrote to Mr Quigley indicating he had concluded an inquiry into Magistrate Crawford and, in summary, he was not happy with her. Again, that is me now paraphrasing. People can read the direct quotes about the letter. It is on the record. His concerns or dissatisfaction were not at a sufficient level to mean she was not a suitable person to continue being a magistrate. It says that all happened on 7 September. I am just trying to identify the sequence of events here. It would appear to me that that is 7 September 2020, and then over the course of 2021, the government developed the bill before us. Keep in mind what the parliamentary secretary said in response to my very first question on clause 1, which was: what is the genesis of this matter? The parliamentary secretary indicated it was the dispute between Magistrate Crawford and President Quail, so it would seem that this letter is from 7 September 2020. I appreciate that the parliamentary secretary does not have that letter at his disposal at the moment, but might he be able to ascertain from the Attorney General whether it is dated 7 September 2020?

Hon MATTHEW SWINBOURN: We are trying to get to the bottom of this. I have not read this transcript in any way other than through the matters the member has just brought to me. This transcript is from 10 October 2021 and it refers to a letter of 7 September and 3 September—“taking your Honour to was on 3 September”. It is possible it could have been from last year. I do not want to get in anywhere, because it is within the realm of possibility. It is hard to know, because there is no tone and the context of the transcript has its limitations. We do not know at this stage what it refers to in those proceedings. If someone had the court file, they could look at tab 110 to know what that was.

The DEPUTY CHAIR: Member, before I give the call, I have been following the clause 1 debate and I note that the parliamentary secretary has answered numerous questions on consultation. I note that the legal case that has been discussed that led to the genesis of the bill was covered in the second reading debate and the parliamentary secretary gave quite a fulsome statement today. I remind members that the clause 1 debate is to discuss the range of issues across the clauses. If it is a question about the government’s policy direction or the substance of the bill, that was dealt with in the second reading debate. With that, we are considering clause 1, and the question is that the clause stands as printed.

Hon NICK GOIRAN: With respect to that sequence of events, we understand that the Courts Legislation Amendment (Magistrates) Bill 2021 was developed over the course of 2021. As the parliamentary secretary indicated, the purpose of the bill is to deal with the workload management in the Children’s Court. During the course of 2021, what was the number of Children’s Court magistrates?

Hon MATTHEW SWINBOURN: As the member can imagine, over 2021 things fluctuated. I am advised that over 2021, there were five to six full-time magistrates sitting in the Perth Children’s Court and one part-time magistrate, which we were both made aware of. Between five and a half and six and a half magistrates were working in the Perth Children’s Court. As the member knows, outside of the CBD, magistrates will sit on Children’s Court matters in the outer metropolitan area, so I cannot give the member the figure on how many of those did that. It will depend on whether it was in the regions and those sorts of things such as the cases brought before them. But I think that the member’s question was mostly concerned about those essentially based at the offices in the Northbridge area of Perth.

Hon NICK GOIRAN: The parliamentary secretary said that over 2021 there were five to six full-time magistrates working in the Perth Children’s Court, but that that number fluctuated. Is that because at one point in time there were five and then the government appointed a sixth person? Can the parliamentary secretary explain why there was a change?

Hon MATTHEW SWINBOURN: My advice is that an appointment was made through the year and that person worked in the Children’s Court. They are appointed as dual appointees and then located at the Children’s Court in Perth.

Hon NICK GOIRAN: Is the parliamentary secretary in a position to indicate when that appointment was made?

Hon MATTHEW SWINBOURN: I will refer to a press release or media release—whatever we call them these days—from the Attorney General dated 15 January. It states —

Experienced criminal lawyer appointed as a magistrate.

Alana Padmanabham —

My apologies for my terrible mispronunciation of that name. It says that she will be taking up her position on 18 January 2021 and that she will be sitting in the Children’s Court.

Hon NICK GOIRAN: On 15 January this appointment was made to the Children’s Court. I take it then, going back to the parliamentary secretary’s earlier point about the fluctuation in magistrate numbers of between five and six sitting in the Perth Children’s Court with the one part-time magistrate, that that is an indication to say that from 1 January until—I think the parliamentary secretary might have indicated that the appointment was made on

15 January and commenced on 18 January. The point is that for two to three weeks in January 2021, the workload of the Children's Court was being undertaken by five full-time magistrates and one part-time magistrate, and from around the middle of January, for the duration of 2021, it was being undertaken by six full-time magistrates and one part-time magistrate. Is that right?

Hon MATTHEW SWINBOURN: I think that in one respect, the member's characterisation is correct, but I want to be clear. At the beginning of the year, we had five and a half magistrates—I am not sure it is 0.5, but I will say five and a half for the sake of ease of reference. Then we had the appointment around mid-January. I spoke about magistrates based in the Perth CBD. As the member may know, one of the magistrates is now based at Fremantle but still doing only Children's Court work. That is Magistrate Crawford, but she is included in the number that we gave—the five to six—notwithstanding that she is no longer sitting in the court in—it is not Stirling Street. What is the street that it is on?

Hon Alannah MacTiernan: Pier Street.

Hon MATTHEW SWINBOURN: Yes, Pier Street. I know it very well because it is just behind Perth Trades Hall, but I am trying to be precise.

Hon NICK GOIRAN: That arrangement, which now sees Magistrate Crawford, as the parliamentary secretary described it, based in Fremantle rather than Perth, is on the public record as being part of some form of litigation settlement. That is uncontroversial; it is just how this matter was resolved. But that happened in October last year, so quite a long time after this appointment was made in January of the same year. Was the appointment made in January because of the increase in workload in the Children's Court?

Hon MATTHEW SWINBOURN: One would think it would be a fairly straightforward answer, but I am told that the specific reasons for appointing judges and magistrates is cabinet-in-confidence. What I can say is that I am advised that there were justifiable workload issues within the Children's Court that the appointment addressed, and that under section 10(3) of the Children's Court of Western Australia Act, the Governor may appoint as many magistrates as are needed to deal with the workload of the court. In the most general terms, the appointment of a new judge or magistrate is for the purpose of addressing workload. I do not think anybody would think that magistrates of the Children's Court are sitting around drinking cups of tea or anything like that. In any event, the point I am trying to make to Hon Nick Goiran is that I cannot disclose any specific reasons that a particular judge is appointed because I am advised that those reasons are cabinet-in-confidence.

Hon NICK GOIRAN: Does the parliamentary secretary have any data that confirms the number of cases in the Children's Court leading up to this appointment in January 2021?

Hon MATTHEW SWINBOURN: I do not have any modelling available to me that would support what I said or did not say about that. There are obviously processes that go into government in that regard. It might be a line of questioning through estimates or something of that kind, but it is not something on which I have information available to me here.

Hon NICK GOIRAN: That is fine. I will read from that that it would be complicated or take quite a bit of time to provide that information to the chamber. I just want to be clear that the government is saying that in no way did it make the appointment in January 2021 at the request of the President of the Children's Court to the Attorney General so that a scenario could be constructed in which there would have been one surplus magistrate so that Magistrate Crawford could be moved on. However, we do not have the data to support the question about workload. I do not know whether the parliamentary secretary will have a response to that.

Hon MATTHEW SWINBOURN: I was going to put my mask back on; it is doing my head in!

I want to be careful in how I respond to the proposition put by Hon Nick Goiran.

Hon Nick Goiran: I am just making sure that the appointment that was made in January 2021 was for workload reasons, notwithstanding the fact that the data is not currently available, and not because the president asked the Attorney General to appoint another person so that Magistrate Crawford could be moved on.

Hon MATTHEW SWINBOURN: This is going to sound cagey, but the reasons for cabinet to appoint a judge are cabinet-in-confidence, as I said before. However, I think there was a proper purpose for appointing that magistrate, so we do not accept any suggestion to the contrary. That magistrate is doing work in the Children's Court, as is required of her, and the court needs those resources.

Hon NICK GOIRAN: The parliamentary secretary mentioned that Magistrate Crawford is now sitting in Fremantle. Who manages the workload for the Children's Court sitting in Fremantle and who will manage that workload after this bill is passed? Will there be a change?

Hon MATTHEW SWINBOURN: It is the President of the Children's Court and, no, that will not change on the passage of this bill.

Hon NICK GOIRAN: At the moment, we have five full-time magistrates sitting in the Perth Children's Court—it is five and a half; we will continue to refer to five and a half for the purposes of *Hansard*. Why do we not just clear that up? Are we able to indicate whether it is a 0.5 position?

Hon MATTHEW SWINBOURN: I cannot be more precise than that because we are not sure whether it is 0.4 or 0.5. We are not being cagey here; it is how you crunch those numbers. I am sure we could get down to it, but it is around that.

Hon NICK GOIRAN: We can move off that. For the purposes of our debate, we will call it half a position. What is happening at the moment is that 5.5 full-time equivalent magistrates sit in the Perth Children's Court and work exclusively on Children's Court matters, notwithstanding the fact that there is the dual commission, and one full-time magistrate, working exclusively on Children's Court matters, sits in the Fremantle court. The workload of those magistrates, whether they sit in the Fremantle Children's Court or the Perth Children's Court, is managed by the president at the moment and will still be managed by the president when this bill passes. That is what I understood the parliamentary secretary to indicate earlier.

Hon Matthew Swinbourn: Yes.

Hon NICK GOIRAN: If the purpose of this bill is to make clear that the president manages the workload and that is already the case at the moment, why do we need this bill?

The DEPUTY CHAIR (Hon Jackie Jarvis): Before the parliamentary secretary answers, I say to the member that I believe the need for the bill should have been discussed during the second reading debate, and I believe that it was covered. I ask the member to perhaps consider his questions. We seem to be getting bogged down in what are essentially HR matters relating to how the court is run. I accept that the bill does cover issues of workload and who manages it, but I ask Hon Nick Goiran to consider the bill before us. I will leave it to the parliamentary secretary as to whether he wishes to reply to the question.

Hon MATTHEW SWINBOURN: Thank you, Deputy Chair, for your guidance. I cannot add a lot more. We have set out the basis of why we want to achieve that. I think we have also made the point that it is not about resolving a particular dispute between judicial officers. During my second reading reply, I made the point that if the bill passes this house, this reform will transcend and outlive most of us. If Hon Nick Goiran were to ever become the Attorney General, I do not think he would propose to remove this reform. I do not need the member to respond; I am just putting that out there. If in the future there is ever a dispute against about the powers of the president vis-a-vis the Chief Magistrate, we will have clarified what those powers are.

Hon NICK GOIRAN: The government said that the purpose of this bill is to address a gap in the powers of the President of the Children's Court to manage the workload of the Children's Court. That is not my explanation; that is what the government said when it introduced this bill. Due to the questioning under clause 1, the government indicated that the workload is currently being managed by the president. After this bill passes, it will still be managed by the president, and that is why I asked at clause 1 why we need this bill. We have only just found out that everything is being managed seemingly well by the president and that that will continue to be the case after this bill passes. It does not make sense to say that the policy reason for the bill is that the management of the workload is to be conducted by the president, if that is the case pre and post this bill passing. That said, the parliamentary secretary has indicated to the chamber that there seems to be a gap in those powers, but the gap in the powers is not in relation, obviously, to the cases that are distributed to the five and half magistrates sitting in Perth or the one magistrate sitting in Fremantle. There is no gap in the powers there; that is what is happening at the moment and that will happen in the future. Is the gap that the parliamentary secretary referred to in relation to the location of the magistrates rather than the case load of the magistrates?

Hon MATTHEW SWINBOURN: I do not want to do an injustice to what the member said to me so I will try very carefully to cover this off. We are all aware of the dispute that resulted in Supreme Court proceedings in which a magistrate claimed, amongst other things, that the president did not have the power to issue certain directions. I do not have a copy of the cause of action—that is what I am advised. That matter went to a three-day trial. Opening submissions were made. Evidence-in-chief was obtained. No cross-examination of that evidence occurred and no final submissions were given. I do not think the respondent had an opportunity to call any of their witnesses. The issue that was the subject of that dispute remains unresolved in terms of the president's powers. As a matter of prudence, the government wants to make clear, through express provisions in this bill, that those powers are to avoid the potential for further dispute at a later date. I think that is prudent, member, given the history of this matter. I hope that the member agrees with me on that point. As is often the case with law reform, it is only when things blow up that it becomes evident that things need to be done. We have been accused—Hon Nick Goiran has accused us—of being tardy on a number of points. In this case, we are being prudent and trying to implement reform so that we do not in the future face the possibility of judges taking each other to court on this issue. I hope that covers that off.

Hon NICK GOIRAN: I thank the parliamentary secretary; that is a very good explanation. The question that arises is about the directions that he talked about and whether that will be put beyond doubt. There was a dispute; that is not in question. It is not controversial to say that there was a dispute about the directions and that this bill is in the Parliament, at the request of the government, putting the issue beyond doubt by telling the judiciary that these are powers of the President of the Children's Court. My question is: are we putting beyond doubt how cases will be distributed to individual magistrates, whether they are sitting in Fremantle or Perth, or the location that they sit?

Hon MATTHEW SWINBOURN: There is already a power under the Children’s Court of Western Australia Act 1988. Section 13(5) states —

The President may direct a judge, magistrate or JP to sit at any place where the Court has a registry and may direct concurrent sittings ...

Yadda yadda yadda! I turn to clause 8, which will insert proposed section 12A. We are not conceding that the president does not have these powers.

Hon Nick Goiran: For the benefit of the government, I accept that that is the government’s position. Your point is that you are putting it beyond doubt.

Hon MATTHEW SWINBOURN: Yes. I agree with the member’s point.

Just to tidy this up, proposed section 12A(1) states —

The President, by directions given from time to time to a person who is a magistrate, may —

- (a) specify which case or cases, or class or classes ...

I will not continue to read it because Hon Nick Goiran is much too clever and does not need me to do that. I have made reference to it and I have already read out the identical provision for the Magistrates Court to Hon Dr Brian Walker, which is what is being replicated here in proposed section 12A. The Chief Magistrate already has those express powers in relation to magistrates sitting in the magistrates’ jurisdiction. The Children’s Court president does not have those express statutory powers, and that is one of the things we want to make very clear going forward.

Hon NICK GOIRAN: Just so that I have this clear, the parliamentary secretary is saying that there is no question that the Chief Magistrate—not to be confused with the President of the Children’s Court—currently has the capacity to direct the geographical location of where a magistrate sits. To the extent that there may be some question about the President of the Children’s Court, it is about the geographical sitting, not case loads.

Hon MATTHEW SWINBOURN: I think what has caused us some confusion—at least, it has caused me some confusion—is that I do not know whether the member got the cart and the horse around the wrong way in what he said. I made the point that under the act, the President of the Children’s Court already has the power to direct where people sit.

Hon Nick Goiran: When you say “where”, do you mean the geographical location?

Hon MATTHEW SWINBOURN: Yes.

Hon Nick Goiran: So one of the five who sit in Perth at the moment, without this bill passing, could be told by the President of the Children’s Court —

The DEPUTY CHAIR: Parliamentary secretary, are you happy to accept interjections?

Hon MATTHEW SWINBOURN: Yes, sorry.

Hon Nick Goiran: This is all very friendly.

Hon MATTHEW SWINBOURN: Yes, the member is correct. The president has the power to direct them to sit at another place. In terms of geography, the Chief Magistrate has that power in relation to the overwhelming number of magistrates he is responsible for, and section 25(1)(d) provides that they may “specify where, when and at what times to deal with those cases or perform those functions or duties”. Obviously, proposed section 12A deals with the other matters that are listed in section 25 as well. I respectfully ask the member whether we can get into some of these long-grass issues when we get to the clause. I understand that he is talking about intentions and things like that, and that is fair enough. But I do not want to mash up particular things, so, as I say, I respectfully ask the member.

Hon NICK GOIRAN: That is fair enough, parliamentary secretary; we can take that up on the relevant clause. Can the parliamentary secretary indicate to us whether any clause in this bill will impact on the tenure of any magistrate currently appointed in Western Australia?

Hon MATTHEW SWINBOURN: There is a simple answer to the member’s question, and we just want to be very clear about this because there are provisions in clause 12 of the bill. It will not affect anybody’s tenure in that regard. I do not think that is a statutory term, but I think we both know what it means in terms of their commission. It always gets confusing about what is being inserted, but clause 12 of the bill seeks to insert in schedule 1 of the Magistrates Court Act new clause 12(7), which states —

If, before the day ... on which the *Courts Legislation Amendment (Magistrates) Act 2021* Part 3 came into operation, a person held office both as a magistrate of the Court and as a magistrate of the Children’s Court and resigned from only one of those offices (the *first office*) —

- (a) the resignation is taken to have been a resignation from both the first office and the other office; and
- (b) the resignation from the other office is taken to take effect on the later of —
 - (i) commencement day ...

The scenario that is outlined there will not affect any magistrates. That is my advice. On the question of whether the passage of this bill will have some sort of springing effect on an existing magistrate because they had resigned a commission before the commencement date so that they could sit only in the Children's Court and therefore they lost their commission altogether, no magistrate will be affected by that because no magistrate has resigned part of their commission or anything of that nature. I hope that answers the member's question in a roundabout way. The first answer is: no, tenure will not be affected by this bill. The second answer is: we do not think the provisions of proposed subclause (7) will have any practical effect on anybody who is currently a magistrate.

Hon NICK GOIRAN: Perhaps we can take that issue up when we get to that particular clause, but with regard to tenure and the commission, the parliamentary secretary has indicated that no current magistrate will be impacted adversely. That is what we are really trying to make sure of. Before we pass any legislation, we make sure that it does not have any adverse impact on any person, without us at least giving them the right to be heard on whether there are good reasons that we should consider before we make such an adverse consequence on that individual. The parliamentary secretary is indicating that that is not the case, and we can take up the resignation scenario when we debate that later clause.

The parliamentary secretary indicated earlier that there are six and a half magistrates in Western Australia who sit exclusively on Children's Court matters. Who decides at the moment, and who will decide after this bill passes, whether a magistrate takes only Children's Court matters?

Hon MATTHEW SWINBOURN: I might have lost a little of what Hon Nick Goiran said during the passage of the short time that I was considering his question, so bear with me; I am sure that the member will bring me back if I go off track. It is exclusively the president who will deal with matters at the Children's Court, because those resources will be allocated to the president in that regard. Of course, we have to make the distinction between what happens. Currently the decision for a magistrate sitting in Fremantle, who is dealing exclusively with Children's Court matters, is again the president's decision, because the president, through whatever means, will allow that to happen at the Fremantle Children's Court. Of course, we have to remember that all magistrates in Western Australia still exercise within their jurisdiction in the outer metropolitan areas and regional areas—that is, part of their normal court lists and things like that; it is not the president. Those matters are brought before them and they are just part of their normal duties as a magistrate, if the member knows what I mean. I did a period in the Armadale Magistrates Court once—only once—and, obviously, there is a varied list out in those areas. Does that answer the member's question?

Hon NICK GOIRAN: Parliamentary secretary, it partly answers the question, because I am trying to identify who, pre and post—the bill, will decide that a magistrate is going to deal only with Children's Court matters. I understand what the parliamentary secretary said about the Broome Magistrates Court—that is, that a magistrate sitting as a general magistrate in Broome may as part of that commission take on some Children's Court matters. I understand that point, but I think the parliamentary secretary will agree that there are some approximately six-and-a-half magistrates in Western Australia at the moment and they look only at Children's Court matters. My question is who makes that decision and will that change pre and post—this bill?

Hon MATTHEW SWINBOURN: I am trying to get all this pointing in one direction, because it is not as straightforward as who has the singular power. As was evident in January 2021 when the government decided to appoint a new magistrate and give that resource to the Children's Court, the government had the power to do that particular thing in consultation and at the request of the president. The president might say, for example, "We've got a backlog of cases. We need more resources." Treasury will do the modelling, or whatever it does, and then a specific resource will be allocated, because the government will have agreed that it should go there. Currently, the Children's Court has an allocation of 6.5 FTE. They are represented by seven individuals—I will not say half an individual—who are currently Children's Court magistrates.

Hon Nick Goiran: By way of interjection, you are saying that the decision to appoint them specifically for that purpose of working exclusively on children's matters will be made by the government of the day when they appoint that person?

Hon MATTHEW SWINBOURN: Yes. Hang on. Let me just take some further advice on that.

I am just getting some clarity on this. It has been a long week, as members can imagine. Let me just make a few preliminary points. Magistrates are duly appointed. When a magistrate is duly appointed, they are not appointed to a particular court; they are appointed as a magistrate, and through that commission they can sit in the Children's Court, the Industrial Magistrates Court of Western Australia, the mining Warden's Court and, I believe, the Coroner's Court of Western Australia in those capacities. I think that was part of the reforms commenced in 2004 to create flexibility, with a group of magistrates who can move between courts. I use the example of what happened last year. The government's funding decisions on how well-funded the Children's or Magistrates Courts are, are Treasury decisions about those resources. The proposed section 11 provisions of this bill deal with the particular individuals who go into those roles. I keep saying the Children's Court magistrate but there is no such thing as a Children's Court magistrate; there is just a magistrate. There is the President of the Children's Court. The number of magistrates sitting

full-time in that jurisdiction is 6.5 FTE. If the workload of that court changes, after these reforms presumably pass the Parliament, the Children’s Court president will be in a position to then say to the Chief Magistrate, “I need only 5.5 FTE, not 6.5”, and the president will have the discretion on which magistrate goes back, as a resource, as a general magistrate. That will not take away their capacity because they will remain duly appointed to deal with matters that arise as a consequence of the Children’s Court, but they will not be one of the Perth or Fremantle Children’s Court people.

I think the nature of the dispute that arose previously was about certain powers to do with that kind of thing and where that power rested. I hope I have answered the member’s question. I know the member asked what it is currently and what it will be. I think the issue we have there is in terms of moving from what might have been common law powers as a head of jurisdiction to manage that—I suggest that the Children’s Court president already has those powers to position magistrates without them being expressed—to having them as a statutory, expressed point of view. Therefore, it is not easy to tell the member this is how it is now and this is how it will be, because there is some dispute, as we know, about that.

I hope I have covered off on that for the member as best as I can. I am getting a little bit tired, as members can imagine, and I do not want to do a disservice to that. Maybe the member can push me for some more information.

Hon Dr BRAD PETTITT: I am coming from a different angle that I do not believe has been covered. I have been away from the chamber for the last hour so forgive me if it was covered then. I and other members received some correspondence from Aboriginal Family Legal Services. I got it in August last year, and I do not think we have had a response on it. The service raised a number of concerns, including on the drafting of the bill. I want to focus on the first concern raised that focuses on the statement —

1. Aboriginal children and families will be disadvantaged in care and protection and juvenile justice proceedings in the Children’s Court;

The letter was backed up by some research from Dr Maria Harries, a senior honorary research fellow at the University of Western Australia’s school of population and global health. The last paragraph of her lengthy letter reads —

It is our fear that the amendment if passed would jeopardize the growth of a team of judicial officers who are experienced, skilled and knowledgeable about the complex needs of vulnerable, disadvantaged and struggling families and the impact of intergenerational trauma.

She talks about the fact that 57 per cent of children in the care of the state are Aboriginal and the importance of having a team that is across these complex issues. I have looked though *Hansard* but I have not seen any reflection of this issue in the debate so far or in the parliamentary secretary’s comments in reply to the second reading debate. Has there been a response to these letters from the University of Western Australia and Aboriginal Family Legal Services on the issues they have raised?

Hon MATTHEW SWINBOURN: The member referred to correspondence from Aboriginal Family Legal Services and some studies by the University of Western Australia, and asked whether there had been responses to either. Was the UWA reference to correspondence to the Attorney General or was that a study?

Hon Dr BRAD PETTITT: Sorry; I should have been clearer. It was a letter that was sent to the Attorney General on 23 July 2021.

Hon MATTHEW SWINBOURN: Can the member be a bit more specific about who it was from, because UWA is a large organisation?

Hon Dr BRAD PETTITT: I did state that. I will state that again. That was from Dr Maria Harries, who is a senior honorary research fellow at the school of population and global health at the University of Western Australia, and Dr Celine Harrison, who is an honorary research fellow from the Social Policy Practice Research Consortium, also at UWA.

Committee interrupted, pursuant to standing orders.

[Continued on page 355.]

QUESTIONS WITHOUT NOTICE

REGISTRY OF BIRTHS, DEATHS AND MARRIAGES — ADOPTION ACT

50. Hon NICK GOIRAN to the parliamentary secretary representing the Attorney General:

I refer to the Registry of Births, Deaths and Marriages.

- (1) Is the Attorney General aware that the registry has received an application from an adoptee seeking to have their birth name and birthdate recorded with other biological children on the death certificate of their biological parent?

- (2) Is the Attorney General aware that the registry has rejected the application on the purported basis of section 75(1) of the Adoption Act 1994, which states —
- (1) Where an adoption order is made, for the purposes of the law of this State —
- ...
- (b) the relationship between the adoptee and —
- (i) the adoptee's birth parents; ...
- ...
- is to be treated as not being that of child and parent;
- (3) Is the Attorney General considering any law reform to address the systemic distress to adoptees who are seeking truth in the state's records of births, deaths and marriages?

Hon KYLE McGINN replied:

I thank the member for some notice of the question. I answer on behalf of the parliamentary secretary. The following answer has been provided to me by the Attorney General.

- (1)–(3) I am advised that because the adoption is a legal arrangement that gives full parental rights and responsibilities to the adoptive family, the Registrar of Births, Deaths and Marriages is obliged to refuse the application of the type referred to by the honourable member. This is in accordance with section 75 of the WA Adoption Act 1994. The registrar is an independent statutory officer. It would not be appropriate for the Attorney General to comment or intervene with respect to such decisions. The State Administrative Tribunal, however, has jurisdiction to review this matter. The honourable member may wish to direct this query concerning any amendments to the act to the Minister for Child Protection, who has responsibility for the act.

CHILD DEVELOPMENT SERVICE

51. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:

I refer to the metropolitan Child Development Service and its website that currently refers to service changes due to the COVID-19 pandemic, in particular the statement that “most appointments may be provided by telehealth—over the phone or by video call”.

- (1) Have all services and appointments provided by the service been impacted by the service changes?
- (2) If no to (1), which services and appointments have been impacted?
- (3) Can the minister advise when these service changes came into effect?

Hon SUE ELLERY replied:

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

- (1)–(2) All metropolitan Child Development Service appointments are being provided via telehealth whenever it is clinically suitable. Components of services that are not clinically suitable for telehealth, for example a hearing test, continue to be provided in person with COVID-19 risk mitigation strategies in place.
- (3) They came into effect on 31 January 2022. This is in line with the Chief Health Officer's directive for outpatient services to be delivered via telehealth from that date unless there is a critical reason why the person needs to physically attend.

CORONAVIRUS — VACCINATIONS — PRISONERS

52. Hon Dr BRAD PETTITT to the minister representing Minister for Corrective Services:

I refer to the confirmed cases of COVID-19 linked to Acacia Prison and the comments made by the Premier yesterday encouraging business to get vaccinated when they were given the opportunity.

- (1) What is the COVID-19 vaccination rate for all prisoners in WA for —
- (a) two doses and booster;
- (b) two doses; and
- (c) one dose?
- (2) Can the minister provide a breakdown of the COVID-19 vaccination rate in (1)(a), (b) and (c) for each prison in WA?
- (3) What opportunities are scheduled for prisoners in each prison in Western Australia to receive future COVID-19 vaccinations?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Corrective Services.

- (1) As of 17 February 2022, it is 75 per cent —
 - (a) 132 or 2.1 per cent have received two doses and booster;
 - (b) 3 973 or 61.9 per cent have received two doses; and
 - (c) 709 or 11 per cent have received one dose.
- (2) The answer is in tabular form and I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

	Single Dosed		Second Dosed		Booster Dosed		Total Prisoners
	Persons	%	Persons	%	Persons	%	
Adult Prison							
Acacia	134	9.5%	858	60.5%	13	0.9%	1419
Albany	5	1.7%	211	73.1%	3	1.0%	289
Bandyup	14	7.2%	151	77.5%	3	1.5%	195
Boronia	1	1.2%	78	95.1%	0	0.0%	82
Broome	10	16.7%	22	36.7%	22	36.7%	60
Bunbury	40	8.1%	406	82.5%	2	0.4%	492
Casuarina	189	16.5%	636	55.5%	7	0.6%	1147
Eastern Goldfields	25	11.8%	110	52.1%	57	27.0%	211
Greenough	23	12.0%	114	59.7%	0	0.0%	191
Hakea	132	16.0%	409	49.4%	19	2.3%	828
Karnet	19	5.7%	305	91.4%	2	0.6%	334
Melaleuca	14	7.3%	95	49.7%	0	0.0%	191
Pardelup	1	1.1%	82	92.2%	0	0.0%	89
Roebourne	20	10.7%	110	58.8%	2	1.1%	187
Wandoo Rehab.	2	4.8%	35	83.3%	0	0.0%	42
West Kimberley	31	15.9%	88	45.1%	0	0.0%	195
Wooroloo	32	9.3%	247	72.0%	2	0.6%	343
Adult Prison Total	692	10.9%	3957	62.9%	132	2.1%	6295
Youth Detention							
Banksia	17	13.6%	16	12.8%	0	0.0%	125
Youth Detention Total	17	13.6%	16	12.8%	0	0.0%	125
Total	709	11.0%	3973	61.9%	132	2.1%	6420

- (3) The department has engaged Aspen Medical to undertake an initial mass vaccination program that commenced on 15 February 2022. Following this, a rolling vaccination program will continue in all facilities. Additionally, at any time prisoners can approach health services staff to register their interest in receiving a vaccination.

IRON ORE ROYALTY REVENUE

53. Hon Dr STEVE THOMAS to the minister representing the Treasurer:

It is not the same without the Minister for Emergency Services on Thursday; however, I imagine the Leader of the House might be taking questions on his behalf.

Hon Sue Ellery: No.

Hon Dr STEVE THOMAS: It must be the parliamentary secretary.

I refer to the rivers of cash flowing into the government's coffers thanks to the 2019–22 iron ore price boom.

- (1) What is the current spot price of iron ore as measured by Treasury?
- (2) What was the average iron ore price for the 2021–22 financial year to date?
- (3) What is the iron or royalty income in this financial year to date?
- (4) Has the government reassessed the price and reset its expected revenue and surplus for 2021–22; and, if so, what are the new predictions?

- (5) What is the government's working estimate of the non-accelerating relation rate of unemployment for Western Australia and how does that compare to the current unemployment rate?

Hon SUE ELLERY replied:

It is actually in my pile. I answer on behalf of the Minister for Emergency Services. I thank the honourable member for some notice of the question.

- (1) It is \$US139.70 per tonne.
- (2) It is \$US137 per tonne.
- (3) Royalty income is stated in each quarterly financial results report. Royalty income totalled \$3.57 billion to 31 September 2021, as shown in the September quarterly report.
- (4) The updated iron ore price and royalty forecast will be provided in the 2022–23 state budget.
- (5) The non-accelerating inflation rate of unemployment is difficult to estimate and the Western Australian Treasury does not have a working estimate. The Reserve Bank noted the difficulty of estimating the NAIRU. Even at a national level the Reserve Bank of Australia is only prepared to offer a range.

TIER 3 RAIL LINES — BUSINESS CASES

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

I refer to my questions without notice asked on 22 and 23 June 2021, 31 August 2021 and 17 November 2021 on the business case being developed by the government for 3 tier 3 rail lines and to the eight months that have passed since the time of initial questioning.

- (1) Are the business cases finally completed for all or any of these lines?
- (2) When are the business cases due to be given to government?
- (3) What is the deadline for the current funding round associated with submitting applications to Infrastructure Australia for consideration?
- (4) Which entities, agents, departments and consultants are preparing the business cases, and what was time frame imposed upon the preparation of each business case?
- (5) When will the three business cases be made public?

Hon SUE ELLERY replied:

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

- (1)–(2) The WA agricultural supply chain improvement stage 2 options assessment business case has been finalised and is soon expected to be submitted to Infrastructure Australia.
- (3)–(5) Refer to Legislative Council question without notice 565, dated 31 August 2021.

CORONAVIRUS —OMICRON MODELLING

55. Hon WILSON TUCKER to the Leader of the House representing the Minister for Health:

On Tuesday 15 February during question time the minister advised the Parliament that the government would release its Omicron modelling when it was complete.

- (1) Will the minister please table the current modelling, whether incomplete or in draft form?
- (2) If no to (1), will the minister fulfil her obligations under section 82 of the Financial Management Act?
- (3) When will the modelling be complete?
- (4) Does this incomplete modelling influence COVID policy decisions?
- (5) In the absence of complete COVID modelling, what factors get considered when making COVID policy decisions and how are these factors weighted?
- (6) Omicron modelling developed by other jurisdictions and independent institutions is already publicly available. Why is Western Australia lagging behind in this regard?

Hon SUE ELLERY replied:

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

- (1)–(6) Work on modelling is ongoing and will be released publicly once it is complete. Part of the Department of Health's ongoing work consists of receiving up-to-date data and analysing the ongoing spread of the Omicron variant throughout other jurisdictions, including the eastern states. Government decisions are made upon the latest health advice. This includes the extraordinary speed at which Omicron spreads, surging hospitalisation rates.

PROJECT APPROVALS — FRONTLINE OFFICERS

56. Hon TJORN SIBMA to the minister representing the Treasurer:

I refer to the 2021–22 state budget allocation of a \$120 million package confirming an earlier announcement made on 21 July to recruit “150 frontline officers to speed up project approvals” across five agencies.

- (1) How many of these 150 officers have been recruited to date and into which agencies have they been recruited?
- (2) How much of the \$120 million has been spent on the recruitment of those officers?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. On behalf of the minister representing the Treasurer, I provide the following response.

The Department of Treasury advises that questions should be placed on notice with each of the relevant agencies: the Department of Mines, Industry Regulation and Safety; the Department of Planning, Lands and Heritage; the Department of Biodiversity, Conservation and Attractions; the Department of Jobs, Tourism, Science and Innovation; and the Department of Water and Environmental Regulation.

PRISONS — VACCINATION CLINICS

57. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

- (1) Will the minister confirm that the last time prisoners at Hakea Prison had access to a vaccination clinic was in November 2021?
- (2) If yes, why have prisoners at Hakea Prison not had access to a vaccination clinic for well over two months?
- (3) How many prisoners are currently at Hakea Prison?
- (4) How many prisoners currently at Hakea Prison are fully vaccinated?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Corrective Services.

- (1) Yes. The last clinics were run at Hakea Prison from 1 November to 4 November 2021, and then again from 25 November to 29 November 2021.
- (2) Vaccinations took place over three stages. The current vaccination program will continue throughout February and then a business-as-usual process will be put in place to ensure that the transient population is given access to vaccinations.
- (3) As of 17 February 2022, there are 828 prisoners at Hakea Prison.
- (4) Of the total prison population, 132 prisoners or 16 per cent have had one dose, 409 prisoners or 49.4 per cent have had two doses, and 19 prisoners or 2.3 per cent have had three doses.

SAWMILLS — TIMBER SUPPLY

58. Hon JAMES HAYWARD to the minister representing the Minister for Forestry:

I refer to the contractual arrangement in place to supply timber to sawmills in Western Australia’s south west.

- (1) Can the minister confirm that some sawmills in the south west region will not receive a contracted amount of saw logs from the Forest Products Commission in 2022?
- (2) Are the affected sawmills able to seek compensation from FPC to remedy the failure to deliver the contracted amount of saw log in 2022?
- (3) If no to (2), why not?
- (4) Can the minister assure sawmills that they will be eligible for government transition payments if they chose to pursue legal action to seek compensation from FPC for not receiving the contracted amount of saw logs in 2022?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

The Minister for Forestry has asked that the member place the question on notice.

VOLUNTEERING

59. Hon Dr BRIAN WALKER to the Minister for Volunteering:

I advise the house that I am asking this question on behalf of Hon Sophia Moermond.

In acknowledging that volunteering is the lifeblood of our community and the great work being undertaken by Volunteering WA, I refer the minister to shocking new figures from a recent awareness campaign that suggest a 22 per cent drop in volunteerism, which is predicted to translate to a 40 per cent drop by 2030.

- (1) What initial response to a Volunteering WA awareness campaign has been received by the department?
- (2) Given that many regional areas in Western Australia are currently without an existing volunteer resource centre administered by Volunteering WA, can the minister outline what steps are being taken to ensure that volunteering services continue to thrive in regional areas?

Hon SAMANTHA ROWE replied:

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

- (1) Volunteering WA has received a positive response to the awareness campaign reporting that approximately 80 per cent of the 260 registrations received to date have been from individuals from 23 to 28 years of age. On Spotify, 57 000 people have listened to the VWA Volunteer Society adverts in full.
- (2) In 2020–21, the state government provided over 737 000 in funding for 13 volunteer resource centres through the Department of Communities volunteering development service program, including both metropolitan Perth and regional locations. A further \$175 000 has been committed by the government aimed at improving the volunteer community recovery platform and conducting a system review of existing databases. Funding will be used to enhance system capability in recruiting and managing volunteers in times of emergency, community recovery and other significant events that benefit from efficient access to volunteers, including in regional areas.

CYCLONE SEROJA — RECOVERY GRANTS

60. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to the \$104.5 million disaster recovery package for cyclone Seroja impacted communities and the answer to Legislative Council question on notice 449 asked on 14 December 2021, which indicates that less than one per cent of funding has been directly dispersed to families, businesses and communities 10 months on from this disaster.

- (1) What is the total amount to date of the \$104.5 million disaster recovery funding arrangements that have been dispersed directly to applicants?
- (2) How many applications have been submitted that are still awaiting approval?
- (3) What action is the minister taking to ensure disaster funding is reaching those in need in a timely manner?

Hon SAMANTHA ROWE replied:

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

- (1) As of 17 February 2022, \$756 842.93 has been dispersed directly to applicants. This is a reimbursement grant program. Funds cannot be dispersed until costs are incurred by the applicant.
- (2) A total of 338 applications are awaiting approval. This is a reimbursement grant program. Final approval cannot occur until the works are completed and an invoice is provided.
- (3) In addition to the disaster recovery funding arrangements grants, \$20 585 672 has been paid for immediate financial relief. Four community recovery hubs have been established to provide direct support and case management to impacted persons and agency representatives regularly visit the affected regions. Grant programs have been promoted through a variety of media channels as well as community meetings to provide information and identify barriers to uptake. Regular engagement with suppliers, contractors and builders has occurred as well as liaison and advocacy with the insurance industry.

SERVICEWA APP

61. Hon Dr BRIAN WALKER to the Leader of the House representing the Premier:

I thank the Leader of the House for the response she conveyed to me yesterday regarding the ServiceWA app. I seek additional clarity on any further adaption by asking if there are any plans to update the app to allow users to access their personal data such that they can see even a basic list of recent check-ins prior to the last entry, thereby allowing members of the public to more easily ascertain if they were or were not at a potential exposure site at a given time?

Hon SUE ELLERY replied:

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

Yes, an update has been under development and will be released in coming weeks.

ORD VALLEY MUSTER

62. Hon NEIL THOMSON to the minister representing the Minister for Tourism:

I refer to the challenges faced by regional tour operators as a result of the indefinite delay in the border reopening.

- (1) Is the minister aware that the Ord Valley Muster may have to be cancelled as a result of concerns about its viability in 2022?
- (2) If yes to (1), can the minister confirm the status of the Ord Valley Muster for 2022?
- (3) Has the minister's department prepared any modelling on the impact of the cancellation of major tourism events in our regional towns?
- (4) What will the minister be doing to ensure that vital tourism events, such as the Ord Valley Muster, can continue in 2022?

Hon SAMANTHA ROWE replied:

I thank the member for some notice of the question, and I provide the answer on behalf of the minister representing the Minister for Tourism.

- (1) Yes.
- (2) The event holder, Ord Valley Events Inc, cancelled the event late on Wednesday, 16 February 2022.
- (3)–(4) Tourism Western Australia has been working with its sponsored events to ensure they proceed as planned where possible or are supported to ensure their ongoing viability into the future. On 10 February 2022, the state government announced a \$77 million safe transition industry support package, which includes a \$10 million extension and expansion of the Getting the Show Back on the Road program through to 30 June 2022. This package is designed to reduce the financial risks associated with running ticketed events in Western Australia during a COVID-19 impacted period and encourage the safe continuation of public ticketed events.

CORONAVIRUS — ELECTIVE SURGERY — CATEGORY 2

63. Hon STEVE MARTIN to the Leader of the House representing the Minister for Health:

I refer to the four-week cap on urgent category 2 elective surgeries as advised by the director general to health staff this week as part of the McGowan government's plan to scale back elective surgery. How many of these surgeries will be permitted during this four-week window by the following health service providers —

- (1) South Metropolitan Health Service;
- (2) North Metropolitan Health Service;
- (3) WA Country Health Service;
- (4) East Metropolitan Health Service; and
- (5) Child and Adolescent Health Service—Perth Children's Hospital?

Hon SUE ELLERY replied:

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

The maximum weekly cap of urgent category 2 procedures by the following health service providers is as follows —

- (1) South Metropolitan Health Service, 115;
- (2) North Metropolitan Health Service, 95;
- (3) WA Country Health Service, 70;
- (4) East Metropolitan Health Service, 130; and
- (5) Child and Adolescent Health Service, 40.

The desirable waiting time for a category 2 elective surgical procedure is admission within 90 days.

CORONAVIRUS — SAFE TRANSITION INDUSTRY SUPPORT PACKAGE

64. Hon Dr STEVE THOMAS to the Leader of the House representing the Premier:

I refer to the Premier's announcement on 10 February 2022 of a \$77 million safe transition industry support package.

- (1) How was the figure of \$77 million for the support package arrived at, and what assumptions and information was used by the government to calculate expected business losses from the delay in border reopening?
- (2) Will the government table to this house the modelling, assumptions and calculations used to arrive at this figure; and, if not, why not?
- (3) On what date will applications to apply for the support packages open, and what department or agency will oversee the assessment of the applications?

- (4) Will rejected businesses have the right of appeal?
 (5) If yes to (4), who will oversee that appeal?

Hon SUE ELLERY replied:

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

- (1) The \$77 million safe transition industry support package was developed by government in consultation with industry stakeholders. The package contains both new initiatives and extensions of existing business support measures. Details of the breakdown of the \$77 million figure can be found on the government website. If the member is after something specific, I will get it for him. The package is designed to provide support to affected businesses, not to compensate them for any potential economic loss.
- (2) No. This information is Expenditure Review Committee in-confidence.
- (3) Details of the application processes are publicly available on the WA government website. The website contains direct links to the agencies administering the various components of the package.
- (4) All government grant programs are subject to administrative appeal processes as common practice.
- (5) If an applicant is unhappy with the administrative decision, they may seek further review from the Ombudsman Western Australia.

JURY DUTY

65. Hon NICK GOIRAN to the parliamentary secretary representing the Attorney General:

I refer to the number of Western Australians directed to attend for jury duty.

- (1) Do proof of vaccination requirements apply to Western Australians attending jury duty?
 (2) If yes to (1), from what date?
 (3) What is the maximum number of people attending the formal induction process for jury duty on any given day?

Hon KYLE McGINN replied:

I thank the member for some notice of the question. I answer on behalf of the parliamentary secretary. The following answer has been provided to me by the Attorney General.

- (1) Yes. Under the Court and Tribunal Worker (Restrictions on Access) Directions issued by the Chief Health Officer on 31 January 2022, people attending for jury duty must be vaccinated for COVID-19 in order to enter a court building.
- (2) It is from 5 February 2022.
- (3) Up to 500 people may attend jury inductions, which usually occur only once per week, on Mondays.

CHILD DEVELOPMENT SERVICE

66. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:

I refer to the metropolitan Child Development Service. What is the current median wait time to access a speech pathologist through this service for children in the primary years of schooling?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. It is 8.7 months.

PUBLIC HOUSING — WAITLIST — DISABILITY SUPPORT PENSION

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

I refer to the public housing waitlist.

- (1) How many people on the public housing waitlist at the end of December 2021 and January 2022 respectively receive the disability support pension?
 (2) How many people on the public housing priority waitlist at the end of December 2021 and January 2022 respectively receive the disability support pension?

Hon SUE ELLERY replied:

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

- (1)–(2) As at 31 December 2021, there were 3 585 applications on the public housing waitlist who identified a household member as in receipt of a disability support pension or payment. Of these, a total of 913 applications were priority listed. As at 31 January 2022, 3 618 applications on the public housing waitlist identified a household member as in receipt of a disability support pension or payment. Of these, a total of 927 applications were priority listed. This does not mean that all of these individuals, in any given household, are in receipt of a disability support pension or payment.

SERVICEWA APP

68. Hon WILSON TUCKER to the Leader of the House representing the Premier:

I refer the Premier to the ServiceWA app, which the government launched on 11 January 2022 as a means for Western Australians to check-in at venues, show proof of vaccination and access G2G passes for interstate travel.

- (1) How many registered users does the app currently have?
- (2) Of those users, how many have imported into the app their COVID-19 digital certificate?
- (3) How many people have contacted the government, via email and telephone, to request technical support regarding the app?
- (4) For the period Monday, 7 February, to Friday, 11 February 2022, how many check-ins at venues were made using the SafeWA app—sorry, there is a typo. How many were made using the app?

Hon SUE ELLERY replied:

There is a typographical error in part (4) of the question. Nevertheless, an answer has been provided. I thank the honourable member for some notice of the question.

- (1) There were 796 845 as at 2.15pm on 15 February 2022.
- (2) There were 698 443 as at 2.15pm on 15 February 2022.
- (3) Six thousand five hundred and ninety-eight people have contacted the government by email and 22 202 telephone calls have been made to the 13 33 WA call centre as at 2.15pm on 15 February 2022.
- (4) For the period Monday, 7 February, to Friday, 11 February 2022, 5 607 163 check-ins with venues were made using the app Safe WA and 4 613 960 were made using the ServiceWA app.

AGENCY CAPABILITY REVIEWS

69. Hon TJORN SIBMA to the Leader of the House representing the Minister for Public Sector Management:

I refer to the agency capability reviews of the Departments of Biodiversity, Conservation and Attractions; Water and Environmental Regulation; and Mine, Industry Regulation and Safety, presently underway.

- (1) Will the results of these three reviews be made public upon their completion midyear?
- (2) If not, why not?

Hon SUE ELLERY replied:

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

- (1) An executive summary of each review report will be published.
- (2) Not applicable.

DEPUTY COMMISSIONER OF CORRECTIVE SERVICES — RICHARD ELDERFIELD

70. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

I refer to the resignation of Richard Elderfield, the former Deputy Commissioner of Corrective Services.

- (1) Why and on what date was Mr Elderfield stood down as deputy commissioner?
- (2) On what date did Mr Elderfield resign?
- (3) What was the total remuneration received by Mr Elderfield from the date that he was stood down until the date of his resignation?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Corrective Services.

- (1) Mr Elderfield was suspended from duty on 1 May 2020 on allegations of corrupt behaviour and procurement and misuse of government resources. These allegations were investigated by a number of government agencies.
- (2) Mr Elderfield resigned from the department on 25 January 2022.
- (3) The total remuneration he received whilst on suspension was \$439 844.23, which was received between 1 May 2020 and the last pay period ending 3 February 2022.

AGED-CARE FACILITIES — RAPID ANTIGEN TESTS*Question without Notice 32 — Answer Advice*

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.01 pm]: I would like to provide an answer to Hon James Hayward's question without notice 32 asked yesterday.

I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

ANSWER

- (1)–(4) There is currently no Health Direction that requires any visitor to an aged care facility to provide a negative RAT to enter. The requirement of a negative RAT test as a condition of entry is an operational matter for aged care providers.

NATIVE FOREST — LOGGING — PROCESSORS*Question on Notice 25 — Answer Advice*

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.01 pm]: Yesterday, Hon Dr Steve Thomas asked question without notice 25, which had not been processed due to an oversight in the ministerial office. The Minister for Forestry has provided the following answer.

- (1)–(2) All sawmills have been advised that they will receive volume in 2022 equivalent to the average of the previous two years' deliveries to their sawmills.

COURTS LEGISLATION AMENDMENT (MAGISTRATES) BILL 2021*Committee*

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

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon NICK GOIRAN: Prior to the interval for the taking of questions without notice, Hon Dr Brad Pettitt asked a very important question about one or more of the stakeholders and, to the best of my recollection, he may have referred to a letter from the University of Western Australia Social Policy, Practice and Research Consortium dated 23 July 2021, which was signed by Dr Maria Harries and Dr Celine Harrison. I think that he might have perhaps touched on some other concerns from other stakeholders and, to the best of my recollection—I do not have the benefit of *Hansard* in front of me—it may have also included the Aboriginal Family Legal Services, which provided some advocacy with regard to its urgent concerns regarding the Courts Legislation Amendment (Magistrates) Bill 2021 at some point. I regret to say that I do not have a date of when those concerns were circulated, but prior to the interval I think the parliamentary secretary was taking advice or possibly even commencing a reply and an opportunity should be afforded to him to do so.

The DEPUTY CHAIR: I thank Hon Nick Goiran for that recap.

Hon MATTHEW SWINBOURN: I was conferring with my advisers; I was not seeking for the question to be put at this stage. We are still digging around for the letters that the member referred to. We received correspondence from the Aboriginal Family Legal Services, signed by Corina Martin, CEO. That was sent to not just the Attorney General, but also Simone McGurk and addressed to Hon Nick Goiran. I am sure Hon Dr Brad Pettitt was CC'd into that as well as it looks like other members were CC'd into that letter. That letter makes reference to *An assessment of the Children's Court of Western Australia: Part of a national assessment of Australia's Children's Courts*. Is that the correspondence that the member was referring to? We are still struggling a little with the University of Western Australia correspondence that he was talking about and are trying to pin that down. We had half an hour since we broke, so we are still making some efforts to do that. I do not want to get the member to table it or anything else, but perhaps the member could pass me a copy of it, and I could see what the member is referring to.

Hon Dr BRAD PETTITT: I do not have a printed copy, but I note that Hon Nick Goiran has a printed copy of the letter from the University of Western Australia.

Hon Matthew Swinbourn: Can we just look at it?

Hon NICK GOIRAN: I have not had the opportunity to confer with the authors about this letter. The letter that I have in my possession is dated 23 July 2021. Unlike the other letter referred to that the parliamentary secretary quite rightly identified was sent to three individuals including the Attorney General, myself and copied to Hon Dr Brad Pettitt—there does not seem to be any controversy about that letter—this one here, to the extent that I have any reservation, has been sent to only me. It might be identical to one that has been sent to others, but perhaps we could have an opportunity to confer with the authors. For what it is worth, I do not think there is anything controversial about it, to the point that I would be willing to quote the entire letter, but that said, I think what the parliamentary secretary is saying is that the government does not have that letter readily to hand and is it possible that the government never received such a letter?

The DEPUTY CHAIR: Before the parliamentary secretary responds, two members have asked similar questions. Rather than focus on the question, perhaps the question could be reworded to consider the impact on the substance of the clause 1 debate, which might make it easier for the parliamentary secretary to answer a question relating to the clause 1 debate.

Hon Dr BRAD PETTITT: I hope I might be of some assistance. The letter was also sent to the Attorney General on 23 July 2021; at least, that is when the letter is dated. A copy of that letter was forwarded to my office after that. I do not think there is a problem sharing it and I feel quite comfortable sharing it. It is a letter from the university to the Attorney General that was CC'd to my office.

The DEPUTY CHAIR: If you could perhaps reiterate your question in relation to that letter, that might provide some guidance.

Hon Dr BRAD PETTITT: I asked the question about it because these researchers raised a significant issue, which I raised during question time. Their fear was that if the amendment was passed, it would jeopardise the growth of the team of judicial officers who are experienced, skilled and knowledgeable in the complex needs of vulnerable, disadvantaged and struggling families and the impact of intergenerational trauma. The Children's Court obviously deals with a large number of these issues and certainly with a large number of Aboriginal families. The letter refers to 57 per cent of the children being Aboriginal and being in the care of the state, and those numbers are increasing annually. I thought that was a significant issue that had been brought to the attention of the Attorney General and I wanted to make sure that it was being considered. Hence, my question was: what response was given by the Attorney General's office to those researchers and to the Aboriginal Family Legal Services?

Hon MATTHEW SWINBOURN: To be fair to the Aboriginal Family Legal Services, I do not think it quite understood what we were trying to achieve here. I think it was talking about taking away magistrates who have applicable skills who work well within the Children's Court, but that is not what we are trying to achieve here. I can hopefully provide some assurance to that organisation that the good work that the court is doing in the care and protect space and on those other things is obviously something that the government wants to continue to be done. The Attorney provided a response to that correspondence and said that he thought it would be inappropriate for him to comment on the matters, other than to emphasise that the bill does not prescribe what decisions ought to be made by either head of jurisdiction, and he suggested that the organisation refer its comments directly to the Chief Magistrate and the President of the Children's Court.

I think what the organisation was trying to get at is the way that the court conducts its judiciable matters rather than the administration of the court itself, which is what we are concerned with here: Does a magistrate sit in a particular location? If we have six and a half magistrates now, has the workload reduced so that we need only five and a half magistrates? We are concerned with the movement of those sorts of things and giving the president the same power and functions that the Chief Magistrate has in relation to those things. I gave a response to Hon Dr Brian Walker about that particular thing in that that is not what this bill seeks to do. The concerns of the Aboriginal Family Legal Services, although given earnestly, are matters that it should take up with the heads of jurisdiction themselves rather than government.

Hon NICK GOIRAN: That provides a response to the concerns raised by the Aboriginal Family Legal Services, but what was the outcome with the Social Policy Practice and Research Consortium? Just getting back to where we were at, is that the letter that the parliamentary secretary is still seeking to identify?

Hon Matthew Swinbourn: Yes. We do not have that report at the moment. We are still trying to establish whether that was received and whether we have a copy of it.

Hon NICK GOIRAN: Hon Dr Brad Pettitt indicated that he had been copied into a letter. I am going to work on the basis that the Attorney General has most probably—it is more likely than not—received a letter from the Social Policy Practice and Research Consortium not only on the basis of the information proved by the honourable member, but also because it seems likely that if it was going to contact me and Hon Dr Brad Pettitt, it most probably raised its concerns with the Attorney General.

I will quote from this letter dated 23 July 2021, which I have identified. If anyone asks me to table it, I will indicate that it is confidential on the basis that I have not conferred with the authors of the letter. I will quote this letter and seek the parliamentary secretary's response. They say —

We note with concern the advice provided by HT Legal (Terri Hatelie, 27/06/2021) that the amendment enabling the President of the Children's Court to remove a magistrate without recourse has the potential for abuse of power and that it is not consistent with the principles of administration of justice or the independence of judicial officers.

I again acknowledge that the parliamentary secretary does not have the benefit of having that letter in front of him. With respect to the principle that is articulated in that letter—that this will enable the President of the Children's Court of Western Australia to remove a magistrate without recourse—is it a correct understanding by the Social Policy Practice and Research Consortium that this bill will enable that?

Hon MATTHEW SWINBOURN: The member quoted from the letter. I think they have used the words “without recourse”. They have not defined what they actually mean by the word “recourse”. Do they mean is there a mechanism for appeal and those sorts of things? The way I will answer the question is by dealing with what is a statutory exercise of power. I might firstly try to assist members by clarifying the operation of the law as it applies to the exercise of statutory powers, which is what the President of the Children’s Court would be doing if the president was in a position to deal with it. It comes back to the words “absolute discretion” that are used in proposed section 11, and I think that is what they were getting at in that letter. Again, I do not have the letter, but I think that is essentially what they were referring to.

As a matter of law, no statutory power is unfettered and unreviewable. Any suggestion that this bill seeks to enact an unfettered and unreviewable statutory discretion is incorrect. I take members to the High Court case of Minister for Immigration and Citizenship v Li (2013) 249 CLR 332. I am sure Hon Nick Goiran is familiar with that case. Chief Justice French stated at paragraph 23 of the judgement in that case —

Every statutory discretion, however broad, is constrained by law.

...

Every statutory discretion is confined by the subject matter, scope and purpose of the legislation under which it is conferred.

The discretion of the president, under proposed section 11(2) and (4), to request or return a magistrate resource is constrained by the subject matter, scope and purpose of the provisions of the Children’s Court of Western Australia Act. Under the particular provision in which the power is conferred, being proposed section 11, the exercise of the discretion by the president to issue a notice will clearly be confined by the statute to the workload of the court.

To look at the president’s function under the Children’s Court of Western Australia Act more broadly, under section 37(1), the president is responsible for the administration of the court, the disposition of the business of the court, and its practice and procedure. The reason for the breadth of the discretion is to enable the president to operate the Children’s Court in the manner that appears to be best to the president, with a view to ensuring that there is no wastage of judicial resources. The express reference to the discretion being exercised without regard to seniority, length of service or any other matter is to ensure that the president is able to make the most beneficial decisions for the operation of the court without any person having an expectation that they will remain in the Children’s Court upon the basis of their past service or conventions related to seniority. If a person is not required to perform functions as a Children’s Court magistrate, they will continue as a judicial officer. When I say “perform functions as a Children’s Court magistrate”, I mean specifically within the Perth Children’s Court and the one in Fremantle, not the general power of all magistrates to exercise the functions of the Children’s Court under their dual commission.

Progress reported and leave granted to sit again, on motion by Hon Matthew Swinbourn.

USHER OF THE BLACK ROD — JOHN SEAL-POLLARD

Statement

HON MARTIN ALDRIDGE (Agricultural) [5.20 pm]: I rise to make a short members’ statement tonight and to put on the record my personal thanks to our Usher of the Black Rod, John Seal-Pollard.

Members: Hear, hear!

Hon MARTIN ALDRIDGE: John has worked closely for a number of years with not only members of the Legislative Council, but also members of the Standing Committee on Procedure and Privileges. President, it may well prove an impediment to the Clerk to replace the Usher of the Black Rod once one realises the workload, particularly the agenda packs, that the Usher of the Black Rod is responsible for as a servant of that committee. Members will be hard-pressed to find a more loyal and more passionate servant than our Usher of the Black Rod. This has made the announcement made this week by you, President, even more difficult to accept. I have much enjoyed the time spent with John and also the many conversations shared; his humour, his positive attitude will be missed by all in this place. I wish him and his family well into the future.

Farewell, John, and thank you for your service.

Members: Hear, hear!

The PRESIDENT: Is the minister standing? The Minister for Regional Development.

WOKKA TAYLOR

Statement

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.22 pm]: I am glad I got that recognition; it must be the mask!

The PRESIDENT: You could have been walking out the door.

Hon ALANNAH MacTIERNAN: Today, I would like to pay tribute today to a pujiman who passed earlier last month. I want to read the tribute that was paid by the Martumili Artists to this fantastic man who I truly had the honour to know—that is, Wokka Taylor. I want to read the post from Martumili because I think it beautifully expresses this man and what has been lost. It states —

Martumili, with hearts and spirits heavy, respectfully acknowledge the passing of Martu elder, and founding artist, Wokka Taylor.

A great man has passed, and a mighty tree has fallen.

Rooted in the Country of his ancestors and his pujiman beginnings, the plains and grasslands of Kulyakartu, that are documented meticulously in a lifetime of undulating, radiant artworks. His branches spread wide and generously, in his extended family of talented and powerful children, grandchildren and great grandchildren.

Beyond Martu Country, we know that the old man's spirit has planted seeds in the hearts and minds of so many people over the course of his long and significant life, and that the fruits of his knowledge, labour and love will be with us for many more lifetimes.

For this we are indebted to him. His stories will continue to pulsate from the artworks that span the globe, embodying the generosity with which the old man shared his knowledge, and offering wisdom for generations to come.

On March 4th his family will return him to Country with the honour and occasion that such a transition deserves.

We at Martumili are eternally grateful for the offerings that Wokka and his nyupa gave to the art centre, in its humble beginnings, in the minds eyes of the elders, and into the ongoing years of persistent cultural and creative fortitude. In particular, the devotion to intergenerational connection and cultural documentation that he steered with absolute determination.

We remember him as a powerful and tender leader, elder and ancestor, and one whose loss resounds across cultures, and requires a pause in time in order to still the tremors of grief.

Vale, Wokka.

Members: Hear, hear!

YOUTH CRIME — FORUMS — KIMBERLEY

Statement

HON ROSIE SAHANNA (Mining and Pastoral) [5.26 pm]: I had only two minutes to speak yesterday, so I will start from scratch again and use the time I have now to talk about the youth. It is really hard for me to sit back as an Aboriginal person and listen to all the talk about the youth stuff. It is not just an issue in the Kimberley; it is a statewide issue. I guess it is a national issue, too, because last weekend a group of kids stole a car in Cairns and a 14-year-old boy died when it crashed.

I want to follow my colleague on the other side of the house Hon Neil Thomson and his statement yesterday about the forums that were held in the Kimberley over the last month or so. We can stand here and talk about all the youth issues and really highlight all the bad stuff. Youth issues and crimes is just one boil, I would say, one little component of the whole issue of youth dysfunction throughout the Kimberley. There are a lot of issues. It stems right back to family issues. I can stand here and say straight up that this is the result of decades of failed social policies—actually many decades in which the Liberal Party was in government. This disintegration is a result of generations of government neglect. The escalation of juvenile crime has certainly grabbed the headlines of late, but, in reality, this is not new; it is only a symptom of a number of problems faced by some Aboriginal families.

I really do not want to dwell on the forums that have been held because I have a report on all the forums that have been held throughout the Kimberley and statistics on the people who attended. I really want to talk about not just the forum but a workshop that was held recently on 22 and 23 January in Broome. An Aboriginal organisation took the initiative and leadership to host a two-day workshop that was funded by the National Indigenous Australians Agency to talk about the youth issues and how Aboriginal organisations and government departments, which were present, can work together in collaboration and really address the youth issues together without one organisation or department doing it. Everybody needs to be involved because the youth issue is a big thing.

I am going to give a summary of the two-day workshop because I do not want to spend too much time talking about the youth issues right now. If we do something constructively together and we all talk about the youth issues, I am sure something will come out of it.

As an Aboriginal person, I live with the youth issues. I have lived in my house for the last 36 years. I live in an area in Broome called the Bronx. We can say it is like the ghettos in New York. I live right in the centre of it. At any given time of day, my next-door neighbour's house is full of youth aged between eight and 14 years. I have lived in my house for 36 years. In the last six months I had to get my son to come and stay with me, because that is how

scared I was. In the 36 years of my life I have been living in that house, that is the first time I have been frightened of the youth of Broome. I was born and bred in that town but it is scary shit! How to deal with this young girl living next door? She is a young girl I have known for her whole life. I sat down with my family and said that I did not want to get this girl in trouble. I did not want her to lose the house either, because that means her family will be out in the street. She will have no accommodation, so that is another issue. What I did was get my daughter to talk to her because they are the same age. She said, “How can we help this young girl?” I then spoke to Homeswest about it because once a month I go into my front yard and carport and pick up used needles. I am not a druggie. I do not take drugs or drink alcohol. I have no tolerance for either. People my age who are born and bred in Broome have to put up with this every day. We live it and we see it. We try to do what we can but nothing happens.

It comes back to the families. From an Aboriginal point of view, let us really not just look at the negative stuff; let us put together what we can do to help these families that are really struggling. We need to adopt a true focus on families. Some kids do not live in a nuclear family like some Aboriginal kids have. We are lucky. My family is lucky. Other families like mine are lucky; they have a roof over their head, they work and they spend their own money. But that does not mean they do not care for the kid next door. Some kids get the best care in the world; whereas, some kids do not even have a proper home at all. The kids with the lady next door run away from home because too many things are happening at home. They feel safe. There is one house where there are about 10 to 20 kids at any given time. Thursday, Friday and Saturday are the worst nights. They start from 11.00 until five in the morning. While we are getting up, they are going back to sleep because they have had a night of fun.

Where do we start? Honestly, I do not know. We sit and talk about the youth stuff happening just in the Broome area. We look at those kids there. This generation of kids is going to slip by. There are only two options for them. They are either the next generation of kids who are going to fill the prisons or they are the next generation of kids who are going to suicide. There are two options for them—nothing else. Let us give them some hope of getting out of where they are. We could look at putting some positive people, mentors—what do they call them? Role models for that matter. We need to work on the kids who do not have anything, not dwell on the kids who go to school and the programs at the school mainly. We had a big disagreement about the role the Clontarf Football Academy Program has. That is more about keeping kids in school. They deal with kids who go to school, not kids who are not going to school. There is an organisation in Broome that works with kids they pick up from the shops who should be at school. The parents do not know that. They will pass my place every morning. They have the uniform on, but they do not go to the school; they go to the shop down the road. What is happening?

I met University of Western Australia criminologist Professor Harry Blag 20 years ago. I want to quote him because what he said is still happening today —

“The reason they [youth justice diversion programs] haven’t worked for Indigenous youth is that our system is still too culturally white,”

Members may believe it or not. I still believe that because I worked with youth in the field back in the 1980s. I spent the last 10 years working with youth. We cannot deal with youth issues on their own without dealing with the family issues. It goes back to the function of the families. Let us look at what we can do for families. That is the greater need. Honestly, we had a two-day workshop with an Aboriginal organisation—I have the report here. I thought I would bring it in and share it with you guys to give you an idea of some of what happened. That was the first time a forum was held where all the Aboriginal organisations got together and decided to talk to each other, because nobody talked to each other before. Everybody got their own funding separately whether it was state or commonwealth funding. Nobody spoke together. It took one Aboriginal organisation to coordinate it and get everybody together, including government departments. Day 1 was a bit slow, but day 2 finished off with really good, positive stuff coming out of it. The Aboriginal organisations decided that they needed to talk to each other more. They made the decision to come together, set up a committee that would move forward in addressing the youth issues and work in collaboration with government departments, because they need everybody working together.

I know that Hon Neil Thomson is in my area too, and I acknowledge that. I pay him respect for that. But it is not about which government can do better for the organisations; we can do better together right now.

I wanted to talk about another subject, but I know that I will not have time. Therefore, before I finish, I would like to invite my colleague Kylie McGinn to raise a very important issue for me, because I do not have the time to do it. It is about Aboriginal employment at Inpex.

That is all I have to say about youth. I am really passionate about youth. I would like to see some really good outcomes, so thank you.

ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE — EMPLOYMENT

Statement

HON KYLE MCGINN (Mining and Pastoral — Parliamentary Secretary) [5.39 pm]: Thank you, Hon Rosie Sahanna. That was a very powerful speech coming from someone who clearly knows what is happening from the ground up in the Kimberley and has been a part of Indigenous issues, particularly with the youth, for many years.

It is a great privilege to be working alongside someone who has that wealth of knowledge and does the right amount of homework when she gets up to talk about it. I think it is a real honour, and it is also an honour to get up and talk about an issue that connects very closely with what the honourable member just said.

I take what Hon Rosie Sahanna said around prison versus suicide. There is another option, and that is good employment with fair work and pay conditions. Unfortunately, we are seeing more and more tick-and-flick operations on Aboriginal and Torres Strait Islander quotas within employment, and the issue that Hon Rosie Sahanna and I would like to raise today is once again about the signs that industry is not taking this seriously. It is not trying to employ Aboriginal and Torres Strait Islanders. It is not ensuring that Aboriginal and Torres Strait Islander people are looked after. The story that I have here will once again show that even the biggest employers, like Inpex, have a long way to go.

I turn my attention to the oil and gas industry and the company called Ventia. Ventia describes itself as —

... one of the largest essential infrastructure services providers in Australia and New Zealand.

Ventia was created in 2015 following the merger of Leighton Contractors Services division, Thiess Services and Visionstream. In 2020, Ventia acquired Broadspectrum to become one of the biggest multinational resource contractors in Australia. Ventia claims that it is proud of Indigenous participation, or so it says. This mob has reams and reams of pages of statements claiming a connection with Indigenous people, but I can tell members now that its words are cheap. In one of its statements, Ventia states —

We believe we can make a meaningful contribution to Indigenous communities by creating long-term and sustainable employment, education and business opportunities.

That to me sounds like a forked tongue. Ventia has a contract to provide offshore maintenance services to Inpex on one of the world's largest oil and gas facilities in our backyard off the coast of Western Australia, as the onshore oil and gas facility is in Darwin. Ventia's involvement in Inpex's offshore operations on the floating production storage and offloading and the central processing facilities is the main focus of its work. Inpex says that it supports the engagement of Indigenous workers and reconciliation action plans. Part of this commitment is ensuring that the contractors it engages are not simply given the tick-and-flick lip-service that we are used to, and that Indigenous engagement and employment is real and supported. Inpex have a contract with Ventia that no less than 6.5 per cent of its workforce be people of ATSI descent. How many ATSI workers do members think were actually employed on the Inpex floating production storage and offloading installation on the central processing facility? According to the contract with Inpex, there should be a minimum of three Indigenous workers working offshore. There is not one ATSI employee, not anymore—not one. There was one three weeks ago until Ventia decided to breach every one of its own employment standards and terminate the worker's employment without a thankyou, let alone a reason for why he had been terminated. To maintain the confidentiality of the ATSI worker employed by Ventia on the Inpex offshore facility, we will call him John. I am going to read a letter that was sent to Hon Rosie Sahanna and me that was a communication between the Offshore Alliance and Ventia. According to my notes, the letter says —

“The Offshore Alliance represents Trace JV employees engaged on the INPEX CPF. I was contacted on Monday 7th February by John regarding his recent experience working for Trace JV on this facility.

By way of background, John is a of Torres Strait Island descent and has extensive experience working in the offshore and onshore hydrocarbon industry as a Mechanical Technician/Fitter.

John first commenced employment with Ventia–Trace JV in December 2021. He worked 2 full swings and was advised on numerous occasions that there was ongoing work.

John received commendation for his work from INPEX personnel and performed work to a high standard.

At no stage did any Trace JV Supervisor or client representative advise John that his attitude or his work performance were not satisfactory.

To the contrary. INPEX were complimentary of the work performed by the Trace JV team which John was part of. His last duty day on the facility was Thursday 27th January.

John was next scheduled to mobilise to the CPF on 16th February. On Monday 31 January, John received an email from Offshore Mobilisation Co-ordinator Sophie Cook, with advice that his services were no longer required.

John sent a response to Sophie advising that he had spoken to Trace JV Offshore Manager Yasser El-Fahham the previous week about his Torres Strait Islander background and his ongoing employment with Trace JV (John had been slotted in on the new roster for ongoing work).

He assumed when he went home for his leave that was returning —

Yasser confirmed the arrangement and wished John all the best with his time on the platform.

Sophie Cook failed to respond to John's email of 31 January. John then rang Sophie on 3rd February, and she advised that Yasser and Trace JV Lead Cost/Project Control Manager Yannick Vallet, would contact him as soon as possible.

Later that afternoon, Yannick contacted John where they discussed his situation. John questioned Yannick why he was ‘let go’ and was advised that he had ‘no issues’ with him.

During the discussion, John reminded Yannick about the conversation he had previously had with Yasser El-Fahham about Trace JV supporting First Nation personnel. John advised that he was unhappy about the subsequent events and how he was being treated by Trace JV. Yannick responded “whatever, this is just the way it is”.

Unbelievable, honestly —

Yannick Vallet’s comments are unacceptable and demonstrate a complete lack of regard for the importance of companies engaging and supporting First National personnel in the offshore hydrocarbon industry. It isn’t acceptable to John and it certainly acceptable to the Offshore Alliance”.

It is certainly not acceptable to me. I think this is outrageous. What came next from Ventia reflects how several oil and gas companies simply pay lip service to ATSI employment, which is a disgrace. Ventia engaged a human resource manager called Sirena Collins to investigate the complaints made by the union. In her investigation she spoke to three of John’s managers but did not want contact John to discuss the issue. She spoke to three managers, but did not contact the ATSI member who had been laid off. She then finalised her investigation. She could not even be bothered to speak to the ATSI worker who had made the complaint about how Ventia had treated him and how he felt like he had been individualised. That is what it sounds like. The actions of Sirena Collins are nothing short of disgraceful, honestly. Ventia stands condemned for its lack of employment of ATSI workers. It is not meeting the quota it said to Inpex it would meet.

I am now standing here alongside my colleague Hon Rosie Sahanna and we are calling on Inpex: open your eyes. Have a real look at what you are signing on to with these contractors. Inpex goes around the Kimberley, talking about reconciliation plans and how it wants to see positive employment for Aboriginal and Torres Strait Islander workers; well, now is its opportunity to make good on that. John’s situation, I am sure, is one of many that is taking place in its operations, and I think it is about time it took a closer look. It seriously needs to have a look at the situation that has gone on with John. Ventia is Inpex’s contractor; Inpex is the client. Inpex has its own policies and procedures, and it has set a 6.5 per cent ATSI employment target for its contractor, but the contractor is not meeting that obligation. Where is Inpex’s obligation to enforce that?

On behalf of Hon Rosie Sahanna, I implore Inpex: do the right thing. Let us get this skilled young man back out on the tools, where he belongs.

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION POLICY

Statement

HON DR BRIAN WALKER (East Metropolitan) [5.45 pm]: Before I start, I will let members know that this statement will be about the events of the past week with regard to COVID; I think we have all been hit quite hard by it. I am, as members all know, triple vaccinated, and I am a passionate believer in following science, medicine and our obligations. I have publicly called for people to unite behind our Premier, because divided, we are weak.

In that context, I was delighted yesterday to read an informative answer to a question from my friend Hon Martin Aldridge, who received a fulsome response to his question. He also got the government to table the advice from the Chief Health Officer regarding COVID restrictions and recommendations in Parliament. The second last paragraph of that advice is illuminating, and I will quote it for the benefit of *Hansard*. Having recommended that mandates be applied to staff, the Chief Health Officer went on to state —

It is not intended that mandatory vaccination Directions will apply to Members of Parliament, who hold a unique status as elected representatives, rather than employees.

That advice is dated 11 February 2022—two days before the government circulated its vaccination motion, which we then debated in this chamber on 15 February, as a result of which one of our members was removed from this Parliament. At no point did the government reveal that advice before or during our debate. I was completely unaware of the presence of this letter, as I am sure were all my respected colleagues in this chamber. Is this acceptable transparency?

This is a government that has repeatedly reminded us that that we must follow the medical advice and we must follow the science. I have been trying to get direct scientific evidence from the Chief Health Officer for some time now, and this has consistently been either denied or left to go quiet. Would this government prefer us, the members, to be kept in the dark? Is there some gain in leaving us uninformed?

For the government to propose and support a motion such as that brought forward on Tuesday, while in possession of the medical advice that I have just read into *Hansard*, and while not only failing to make that advice public to members, but failing even to acknowledge that it had been received, is simply unacceptable in a free democracy. If I had experienced this in the USSR, I would have seen it for what it is: devious, disingenuous and downright underhanded. I will not agree that our government could stoop so low, and therefore I assume that this is a simple

oversight due to the workload that the government has taken upon itself. On behalf of the democratic principle, however, I place on the record my condemnation of this act. I will continue to bring this, and every other lack of transparency, alongside every other act of blatant hypocrisy I encounter, to the attention of the WA public.

One such area is the knowledge that while we follow social distancing, proof of vaccination, application of mandates, loss of some functions of our wonderful house, and expulsion of those who do not conform, at the same time, across the road in Dumas House, ministers and others can enter and exit, staff can enter and exit, and visitors can be entertained, all without proof of vaccination. If we were to look for a potential source of infection in this house, we would need look no further than Dumas House and its denizens, who appear to have less protection than we mortal beings. In the face of this clear imbalance, this obvious double standard, how does the government justify quietly sitting on highly relevant medical advice and allowing this house to debate a motion without the full and pertinent facts before it? Have we been blindsided? Have we been duped?

I am deeply grateful that I am allowed free speech, that my mind is unrestricted in searching for truth, and that my tongue is free to speak and ask the questions that need to be asked. If the government wants to adhere to the medical advice, follow the medical advice at all times, not just when it suits the government. If the government wishes to claim transparency, be transparent at all times. All else is hubris. Beware that hubris does not lead to your downfall. Smoke and mirrors will not sustain a free society, it will not satisfy a democratic society or a truth-based society, and it will not enable growth in every area of our endeavours. I refuse to be part of such a mindset. My byword, my philosophy, is simple: truth, freedom and growth.

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.50 pm]: I will respond to the contribution that we just heard. I made it perfectly clear—perfectly clear—when I moved the motion, that although I supported the motion, the motion itself was initiated by the Presiding Officers on advice from the clerks. I made that perfectly clear. When the question was asked by Hon Martin Aldridge yesterday about whether advice was provided, the answer was given and the advice was provided. I am particularly disappointed in the honourable member’s use of words around truth and hypocrisy, because he well knows the circumstances in which he relayed to me his intention to support the motion on Monday, in writing, and he well knows the reasons that he gave me on Tuesday for why he could no longer support the motion, and it had nothing to do with his own personal views on the motion; it was about maintaining a sense of solidarity and on the direction, is what he said to me, of his party’s executive that was in turmoil dealing with the issues associated with the position taken by Hon Sophia Moermond. So do not, honourable member, throw at me or the government accusations that we are not being truthful and accusations that we are being hypocrites when, by his own words to me, the member expressed to me his personal support for the motion but that he could not because of the position of his party’s executive and the “turmoil”—that is the word he used—that his party was in. Take whatever position you want—you are entitled to, and I respect it—but get off your high horse.

FIRST NATIONS PEOPLE — PARLIAMENTARY LANGUAGE

Statement

HON LORNA HARPER (East Metropolitan) [5.52 pm]: Thank you, President, honourable members and comrades. It is apt that I am getting up after all that because today I want to reflect on the use of words in this and other Parliaments. On 13 February 2008, Prime Minister Kevin Rudd got up and gave his very famous apology speech. In it, he spoke about how laws and policies of successive Parliaments and governments had inflicted profound grief, suffering and loss on our First Nations people and on how the removal of children from their families, communities and country had impacted our First Nations people, and on the indignity and degradation thus inflicted on a proud people and culture and what it had done. Fourteen years later we are still smarting and we have a First Nations group that is still reeling from these same things. Fourteen years later, our current Prime Minister, Scott Morrison, got up to say that his recollection from 2008 was —

I also said 14 years ago: ‘Sorry is not the hardest word to say. The hardest is, “I forgive you.”’

Where I come from, that is mince—another good word. It gives me the boak is another good saying. It makes me physically sick to my stomach that instead of reflecting on an apology to our First Nations people, he reflected on what he believes is forgiveness and how that is hard. I do not think we will ever get forgiveness for crimes against humanity. But this week in the house I have noticed that a lot of words have been used. Sometimes, it has been quite childish, like a playground. Name-calling, it felt like. Most words have an agreed meaning. I will say “agreed”, because some dictionaries get a wee bit off. Words like “offensive” mean causing someone to feel resentful, upset or annoyed. “Offensive” can also mean objectionable, insulting and disrespectful.

I go back to last year in October. We were discussing a bill, and at the time, Hon Steve Martin talked about, if I remember correctly, Arthur Daley from —

A member: *Minder*.

Hon LORNA HARPER: Thank you. I know I am old enough to remember it, and I remember the song.

Several members interjected.

Hon LORNA HARPER: I thought I said Arthur? Whatever. Anyway, we were talking about the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill, and Hon Steve Martin mentioned Arthur Daley, and Hon Neil Thomson interjected and said, “Sounds like the Premier.” I stood up and said, “I object.” I found that to be insulting. I found it to be objectionable. I was told by the Leader of the Opposition, Hon Steve Martin—not Hon Steve Martin. There are too many Steves in this house! No offence to the Stephens. Hon Dr Steve Thomson—Thomas! There are too many of you! He said that it sounds like the Premier, so he was using a simile. Similes and analogies in this place are commonplace. I would say that it is entirely in order to reflect in a way that suggests a member has similarities to something. Taking that argument to a premise, I would therefore say that if I were to say something like “it was as objectionable as Hon Nick Goiran”, then I am not saying that he is; I am saying it could possibly be taken as a simile. If I were to say “as incoherent as Hon Neil Thomson”, then I possibly could be pushing my luck, but I also would be taking it to—yes, I am pushing my luck. I am fully aware of that.

What I am saying is this week I have heard a lot of name-calling and “You’ve not done this; you’ve not done this”, but what I have not heard from those same people is any suggestions or solutions for how we can move forward. We have a whole First Nations people who are suffering and hurting. We have people who are hurting because they have lost jobs. We have people who are hurting because they are on the poverty line and cannot make ends meet. Instead of name calling, blustering, being incoherent and not being able to string a sentence together, maybe it would be better if we have some honourable members actually stand up here and contribute positively to what we are trying to achieve. There are great things happening in this world and in this Parliament, and there are great things that members of the opposition do actually agree upon behind the chair, I believe, but in public, of course, they have to have their say about it and put it down. How about we actually start working together with some of this and moving forward?

Several members interjected.

Hon LORNA HARPER: One thing the women in this Parliament would agree upon is how much we love that men try to talk over us. With that, thank you.

House adjourned at 5.58 pm
