ASSOCIATIONS INCORPORATION BILL 2014

Second Reading

Resumed from an earlier stage of the sitting.

MR D.A. TEMPLEMAN (Mandurah) [2.50 pm]: Before I was extremely rudely interrupted by private members' statements, I was making one of the most landmark speeches made in this place on this Associations Incorporation Bill 2014, and I cannot recall what I was saying!

Several members interjected.

The SPEAKER: Settle down, please!

Mr D.A. TEMPLEMAN: I can recall what I was saying. I was saying that I have noted in my electorate—I understand it is a pattern in many electorates—that a number of organisations and associations have to be accountable to various demands on their operations, whether it be a sporting club or a non-government or not-for-profit organisation. A number of them have difficulties from time to time finding volunteers and people to take on office-bearing roles. Increased pressures are placed on the executive committee members of organisations and associations when their governance needs to be transparent in acquitting a grant and when other demands are placed on them. Many organisations are going through a trend of finding it hard to fill positions. We know that most of these positions are voluntary. We also know that people who put themselves forward for an executive role in many organisations, by the very nature of the way organisations operate—be it an association or an organisation that assists vulnerable people or people who need specific assistance or support—are experiencing an increase in the legal ramifications to their organisation. We have come to a time when we need to assess exactly the governance that is demanded of many local organisations and we need to assist them in whichever way we can. We can do that through the Department of Commerce, which of course houses the Consumer Protection Division and which, in turn, oversees the current Associations Incorporation Act. We need to remain as vigilant as possible in providing information to organisations so that they can continue to function, as there are examples of organisations that have folded because people were simply unable to continue in an executive position, which resulted in threatening their very existence.

I am sure the Minister for Seniors and Volunteering and other people who are aware of the issues associated with volunteerism would know that there is a trend for volunteering to have a more specified type of focus. Certainly, the days of people being part of an organisation and collecting their 10-year 20-year, 30-year, 40-year and 50-year badges is becoming more of a rarity because of the nature of people's mobility and because many people live busy lives and are unable to contribute for a long period to one organisation.

Although I note that this bill has significant implications for associations that will be subject to the new incorporation act, we as members of Parliament should be mindful that we need to track very closely the needs of those organisations in our community that require ongoing support and advice when they are faced with legal challenges or personality implications. There are numerous examples of one or two personalities having brought down an organisation. We therefore need to ensure that advice for people when they need it is transparent and immediate. Quite often that means people having the ability and the capacity to talk to somebody at the end of the phone seeking advice. One of the problems we find now, of course, is that a lot of people hear legalese when they ring up for advice. Essentially they do not get any advice and are simply told what the act says, and if the advice sought is related to a slight legal implication, no advice is forthcoming. That can confuse people even more when they are seeking some sort of guidance.

Mr P. Papalia interjected.

Mr D.A. TEMPLEMAN: I told the member for Warnbro that it was a great speech! I am glad to see that he is not staying around—nor am I. I am going in a minute!

With those few words of comment, I close by acknowledging that my electorate—like many other electorates—has a vast number of men, women and young people who are active participants in organisations that will be affected by this new incorporation act and other acts related to the operation of their group. I therefore acknowledge the tremendous work that those people in my electorate do to keep so many good things happening in my community because, as has been said before, they are very much the glue that holds our communities together. Here endeth the lesson!

MR W.J. JOHNSTON (Cannington) [2.56 pm]: Madam Acting Speaker (Ms J.M. Freeman), it is very good to see you in the chair at this moment!

I do not want to speak for long on this bill. I seek some understanding from the parliamentary secretary that the incorporated associations that have existing grandfathering arrangements will continue to enjoy those

grandfathering arrangements. I think this is now the fourth associations incorporation regime that we have had in Western Australia. It might be the third but I am pretty sure it is the fourth. A very small number of organisations existed prior to the original twentieth century act. My memory is that two acts were passed in the twentieth century and we are now dealing with this one, but one in the nineteenth century also covered this issue. A small number of organisations were registered under the nineteenth century act and were grandfathered through both iterations of the regime in the twentieth century. Now in the twenty-first century, I ask the parliamentary secretary to advise the chamber at some time, if not today, whether that small number of organisations that have been grandfathered will continue to enjoy the benefits of their grandfathering—that being the process by which they are exempted from complying with the new regime and are deemed to comply by complying with the pre-existing law. It is a very narrow issue, but a couple of organisations are still around and there is one that I was directly involved with as its senior executive.

I have not had the benefit of listening to all of the debate and I do not want to go over issues unnecessarily that others have canvassed. However, I will say that, like many members of this place, I am a member of many different incorporated associations and I am on the board of a couple. I am on the board of William Langford Community House, which is a very important service organisation providing welfare support to the people of Langford, Lynwood, Thornlie, Ferndale, Parkwood and Beckenham—those suburbs surrounding Langford. It used to be called Boogurlarri Community House. It was originally established in the 1980s, and was recently renamed William Langford Community House to reflect the name of one of the early settlers in that part of Gosnells. We had a great ceremony early this year when we changed our name, and a number of descendants of William Langford were able to attend.

Another incorporated association that I am on the board of is Balai Bahasa Indonesia Perth. Even though those words are in the Indonesian language, that is the actual registered name, so I am not breaching standing orders. Balai Bahasa Indonesia Perth's function is to promote the study of Indonesian language and culture in the community. It is a vibrant, volunteer-led organisation. The current chair of BBIP is Karen Bailey, AO, who was awarded the Order of Australia for her services to the Australia–Indonesia relationship. BBIP was sponsored by the Westralian Indonesian Language Teachers' Association about six years ago to fill the role of promoting the study of Indonesian language and culture in the community. If people are interested in learning the Indonesian language from beginner level to intermediate and advanced levels, they should just google BBIP and look at the courses available in the central business district and sometimes in high schools around the metropolitan area. That incorporated association is performing a great service.

It is very difficult to have legislation that applies to small organisations such as Balai Bahasa Indonesia Perth, medium-sized organisations such as William Langford Community House—BBIP has no full-time employees, and William Langford Community House has a small number of full-time employees and a number of part-time employees—and also very large organisations with hundreds of employees and millions of dollars' worth of assets. It is always hard to develop legislation that covers all those types of organisations. It is important that the legislation ensures the proper protection of the interests of the members. I note that there has been some discussion about incorporated associations that have paid officials on their boards, and the potential for issues that can arise in that situation. Also, large incorporated associations really should publish their accounts and hold elections by postal ballot, rather than have all their elections and reports done at their annual general meetings. In the modern world there is an expectation that organisations will be more proactive in dealing with the community beyond their narrow membership. All organisations that provide services to government, or that contract to government to provide services to the community, or that have a special place in legislation have a responsibility to provide reporting to the general community beyond what might be expected of the local sporting club that might be an incorporated association.

As I said, I do not intend to delay the chamber very long, but I want to mention some of the good work done by incorporated associations that I have been involved with. I look forward to listening with keen interest to the parliamentary secretary's response—I think he might have been getting some notes passed to him—at the appropriate time and to hear some commentary on the grandfathering arrangements. I thank the chamber.

MR D.J. KELLY (Bassendean) [3.06 pm]: I am pleased to make a contribution to the debate on the Associations Incorporation Bill 2014. I say at the outset that I am pleased with the commentary I get from organisations that will be bound by the legislation, should it pass. Generally speaking, most organisations that know about it think it is a good idea. I raised it with some not-for-profit organisations in my electorate, and some did not know that this bill was before the house, but amongst those who did, there is a belief that it is an improvement on the existing legislation. I am happy that the opposition is giving this bill its support.

I want to say a few things about the sector that will be covered by this bill. Quite amazing things are done in our community by not-for-profit groups. I will name just a few in my electorate. The Bassendean Preservation Group comprises an absolutely extraordinary number of volunteers who each year plant thousands of trees, mainly

along the banks of the Swan River, primarily but not exclusively in the Bassendean electorate. One of its key volunteers was recently recognised for 30 years' service to volunteering. That group does some amazing things on a shoestring budget. It is the sort of organisation that will benefit from the provisions in this bill that provide for a lower level of auditing and lower compliance costs, because it is an organisation that, quite frankly, operates on the smell of an oily rag. It will benefit from the provisions of this bill.

AshfieldCAN is another community group in my electorate comprising residents of Ashfield. The group does incredible work. It recently turned an almost derelict park—a bit of lifeless dirt—into a park that would now be the envy of many suburbs. The group engaged with its community, sought funding from other not-for-profit groups, engaged the Town of Bassendean and, with a lot of vision and hard work, two weekends ago reopened the Gary Blanch Reserve as a park that would be the envy of any suburb. The member for Fremantle may be interested to hear that one of the things the group members are particularly pleased about with the new park is that the grass laid in the park came from the same batch that is now on Fremantle Oval. It is Western Australia Football League standard grass. They are particularly impressed by the standard of grass they got. I understand that there may in fact be a dirty spot at one end of Fremantle Oval, because the bit that AshfieldCAN got fell off the back of a truck!

Ms S.F. McGurk: A bald spot.

Mr D.J. KELLY: There is a bald spot, but I am sure that the South Fremantle and East Fremantle clubs can cope with that. That is another example of an organisation that does an incredible amount of work. Again, it will benefit from the provisions of this bill because it runs on the smell of an oily rag. This bill will hopefully deliver to that organisation lower compliance costs.

Brockman Community House is another not-for-profit organisation in my electorate that does incredibly important work primarily for families in the Beechboro area. It runs childcare services for both long day care and after school care and it provides classes for parents. I understand—I could be wrong; I hope I do not offend anyone—that it runs the first same-sex playgroup in Perth. It is a brilliant initiative. That is going very well. I went to its annual general meeting recently. Some members in this chamber will know that some AGMs can be tedious, but Brockman Community House always puts on a very entertaining AGM. Again, that organisation will benefit particularly from the lower compliance costs that are embedded in the provisions of this bill.

This bill will assist the good work that is done by many organisations in the not-for-profit sector. However, I do not want to stand in this place and say that this bill will resolve all the issues in the not-for-profit sector, because the not-for-profit sector, notwithstanding the changes that will be made through this bill, faces a lot of difficulties. Some of them are beyond its making and some are because of the dynamics in individual organisations, but they are important issues to understand in the context of considering this legislation.

A lot of not-for-profit organisations rely heavily on volunteers to do the work that they do. It is becoming more and more difficult for organisations to source volunteers in the current economy that we live in. As we move to an economy that operates 24 hours a day, seven days a week, 365 days a year, many people are required to work at times when previously they would be available to volunteer at their local organisations. Members opposite often say that they are family friendly and that their party holds dear the contributions made by families to not-for-profit organisations, yet in this debate they have often fallen on the side of putting in place industrial relations changes that enhance the probability that people will work outside of what would be called standard nine-to-five, Monday-to-Friday work. In some areas of the economy, that is absolutely imperative. I have no problem with resource projects that want to maximise the return on large-scale investments and want that capital to work outside the nine-to-five hours from Monday to Friday. A range of other industries, including aged care, hospitals and hospitality, require their workers to work outside those Monday-to-Friday hours. I do not have a problem with that. However, some people would say that Saturday and Sunday are now the same as Monday to Friday and that any business should be able to roster their staff across those seven days. One of the impacts of that is that it makes it difficult for not-for-profit groups, whether it be sporting clubs, parents and citizens associations, environment groups or groups such as those I have just mentioned—for example, Brockman Community House—to find volunteers, because the people who would like to volunteer are required to work. Members opposite never recognise that in the debate about this being a 24/7 economy. They are happy to stand in this place and say how great the local P&C or the local not-for-profit group is for doing something in their electorate, but they never recognise that those organisations are screaming out that it is getting harder and harder to get volunteers to dedicate their time because so many of them work either on weekends or in the evenings. Even if they do not work every Saturday and Sunday, they might be on a roster arrangement that requires them to be available some Saturdays or Sundays throughout the month, and that means that they cannot commit to positions in not-for-profit organisations that they would otherwise like to commit to.

All is not rosy in the not-for-profit sector, because, firstly, many organisations are finding it difficult to source volunteers and, secondly, not-for-profit groups often find it difficult to find people with the skills they need to

run a modern organisation. I am talking particularly about the skills that are required for a functioning board. If an organisation wants to employ staff, apply for grants and put together strategic plans, it needs a board of people who have experience in those areas. Quite often, not-for-profit groups cannot source those people not only for the reasons I have talked about, such as people being required to work and having other commitments, but also simply because those people are in pretty short supply. Organisations cannot just pluck an accountant or someone who has experience in strategic planning, for example, off the shelf and put them into the local sporting club. There is nothing in this bill that deals with that deficiency. Maybe I am wrong; maybe there are provisions in the bill that bolster the skill set that will be available to board members in not-for-profit organisations. I have read the bill, but I cannot see anything in the bill that deals with that problem. Given the lack of skills on boards, I worry at times that we ask not-for-profit organisations to do things that are beyond what they can reasonably be asked to do. Again, this is most likely to be something that comes from the opinions expressed by members opposite.

There is certainly a theme in this government of privatising government services, and one of the areas that the government has sought to transfer services to is the not-for-profit sector. Part of the Premier's stump speech in his first term—he has been quieter about it since being re-elected—was about the fantastic things that the government is doing in the not-for-profit sector and that it hoped to transfer services to the not-for-profit sector. One of my concerns about that sort of agenda is that if a government service needs to be provided for the next year or for the next five, 10 or 20 years, transferring it to an organisation in the not-for-profit sector that may not be around in two, five or 10 years is really problematic. If a government service needs to be provided, one of the reasons for keeping it within the government sector is that that is the way to ensure that it will have longevity. The strength of that argument was made when the government allocated an amount in its first term, which I forget. Maybe the member for Maylands will be able to tell me whether it was $300 million or $600 million. The member is not listening to what I am saying. The amount of money given to the not-for-profit sector by the government in its first term —

Ms L.L. Baker: It was $600 million.

Mr D.J. KELLY: During its first term, the government gave an additional $600 million to the not-for-profit sector, not because the government saw it as a way to help the not-for-profit sector to grow. The government called it sustainability funding because it recognised that many not-for-profit organisations, even those that had been around for decades, were on the brink of falling over because of some of the problems I have talked about, such as the difficulty in locating volunteers, lack of skills, general underfunding.

Ms L.L. Baker: It was also a function of government contracting policy.

Mr D.J. KELLY: As the member for Maylands said, it was a function of government contracting policy, and I will talk about that in a minute. She is right. The very fact that the government saw fit to hand over $600 million to the not-for-profit sector was fantastic, but it is proof that things can often go wrong in the not-for-profit sector. Once services in the not-for-profit sector are privatised, we then rely on organisations to keep their act together into the future, but sometimes that does not happen. There are problems in the not-for-profit sector and we should not wax lyrical about how wonderful not-for-profit organisations are and how they can do no wrong and everyone likes to hand over cheques to them. Some are great organisations, and I have mentioned them, but some struggle. If they struggle, that is fine; some will survive and some will not. We might say that if they are not well structured and they do not survive, that is a good thing. That is fine as long as they are not providing an essential service. If the government of Western Australia decides to hand over to a not-for-profit a service that we think is important, it is not all right if that not-for-profit organisation falls over. That is a word of warning.

[Member's time extended.]

Mr D.J. KELLY: I can see nothing in this bill that will prevent that from happening, nor, as I understand it, is there anything in this bill that will improve the government contracting arrangements that many not-for-profit organisations have to deal with. Not-for-profit organisations are driven mad—that is probably not a very eloquent way of saying it—by having to constantly provide services when they are given 12-month contracts, two-year contracts, three-year contracts; they really need long-term commitments so that they can do strategic planning, employ staff, retain staff and all the things we would say are important if an organisation is to be successful. However, they cannot do it because they spend so much of their time wondering whether their funding will be renewed. The amount of time not-for-profits put into grant applications is astronomical. Almost regardless of the type of organisation, the most important person the organisation can employ is someone who can make a grant application. That is ridiculous. In my view, it is another reason that we should not give essential services to not-for-profit organisations. Another reason is that when government thinks important things can happen, it tortures not-for-profit organisations by saying, for example, "Your three-year funding is up. We're not sure what the new policy will be, so let's give you a six-month or three-month extension; we'll roll

over your funding for three months or six months while government decides what it will do." That causes absolute havoc in the not-for-profit sector. It is very easy for governments to do that. The not-for-profit organisations get distracted and that has a terrible impact on them .

I will raise a couple of issues and I would love the parliamentary secretary to respond to these in particular. Under division 5, "Register for members", clause 53 outlines, essentially, that a register of members must be maintained. It reads in part —

> (2) The register of members must include each member's name and —
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> (a) residential address; or
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> (b) postal address; or
>
> (c) email address; or
>
> (d) information, by means of which contact can be made with the member, that is prescribed for the purposes of this paragraph.

In my view, the information that is required for that register is pretty light on. I say this because often not-for-profit organisations get a government contract to provide a service. Let us say that a meals-on-wheels service or something in my local area such as an aged-care facility is provided by a not-for-profit organisation and I am not happy with it and I have questions, so I want to know who provides this service. If the not-for-profit is a corporation, it must keep certain information. We can get information about office-bearers by doing a company search. I think we can find out from the share register the names of the people who run the service. If it is a not-for-profit organisation and a member of the public wants to know who runs the facility at the end of the street or who runs the meals on wheels, we often simply cannot find out who they are. We can find out the name or the post office box number, but not who is on the committee of management, when they meet or who I can speak to if I have a concern. There is the register of members, the provisions around inspecting the register and a bit later on there are provisions about the records of office-bearers in clause 58. As far as I can see, unless we are a member of the organisation, we cannot find out who are the members of the organisation, who are the office-bearers or when they meet. I note that later in the bill a clause provides that the rules of the organisation have to outline the notification of members of annual general meetings and the like. That applies only to people who are members of the organisation. If a shareholder wants to go along to the AGM of BHP Billiton because they are not happy with what BHP is doing, they can find out. People who are not shareholders cannot go into the meeting, but they always know when the AGM is being held. I cannot see in this bill any clause that provides for that. We might say all and sundry do not need to know that sort of information about the local cricket club or whatever. This bill covers organisations that may have multimillion-dollar contracts with the state government to provide essential services in health, child care or education. They may be in receipt of significant government grants, so it is not unreasonable for a member of the public to want to know who these organisations comprise and who is behind them. The provisions on membership registers, record of officeholders and annual general meetings do not give me any comfort that the balance has been struck between protecting the privacy of members of these organisations and providing a reasonable amount of information to the public. I am very interested to hear the parliamentary secretary address those concerns.

I will not name any organisation, but when we go behind some of these quite large organisations, we find that even though they are multimillion-dollar organisations, they have only a handful of members. I will not name any, but for some of them we can count on one hand the number of members. I made some inquiries of some organisations. If I have an interest in the area in which they work, how do I become a member of the organisation? It is almost impossible. These organisations, in effect, even though they are not-for-profit, become self-perpetuating amongst a very small group of people. I am not saying that there is anything wrong with that, especially if it is a niche organisation started by a couple of people with an interest in doing a particular thing that concerns only them. That is all well and good. I do not care. However, for an organisation that provides a public facility or service, especially if it receives public money and bids for government contracts, there should be a level of transparency around the members of that organisation, how decisions are made, who can be a member and what happens at the AGM. There has to be a greater level of transparency.

This bill has different auditing requirements depending upon the level of an organisation's turnover. There is an argument that there needs to be different levels of transparency based on the things that I have talked about, such as whether an organisation provides a public service or whether it gets grants from the public. I cannot see that any of those concerns have been addressed by the bill. I would be grateful if the parliamentary secretary could address those issues in his response. As I said, absolutely incredible work is done in the not-for-profit sector and I certainly acknowledge it.

I will finish on another aspect. The private sector, the for-profit sector, complains about not-for-profit organisations having an advantage because they do not have to make a profit and they do not pay the same tax as

people in the for-profit sector pay. I always found that a very funny argument. The private sector supposedly believes in competition and thinks that competition drives all things good in our community, and that if there is competition, there will be innovation and lower prices for consumers. However, if someone comes up with a business model that delivers a service to the public at a lower cost because they have decided not to take profit out of the business, that is seen as unfair competition. The private sector argues that the government needs to slap down the not-for-profit sector because it is unfair to the private sector that wants to make a profit. I find that very amusing indeed. I finish on that note and thank the chamber for its time.

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [3.35 pm] — in reply: I thank all members who have spoken on the Associations Incorporation Bill 2014. It has been a pleasure to hear about the different associations and boards in members' electorates. This applies to not only sporting organisations, which I think most people think these sorts of bills are about, but also all the other not-for-profit sector organisations in our community.

I will work my way backwards to the comments of the lead speaker, the member for Mirrabooka, because she asked a lot more questions than other members did. Most members spoke about their community organisations and to put them on record is great for the community. I appreciate all that, as I said.

I liked what the member for Maylands said about her experience as CEO of the Western Australian Council of Social Service. I definitely do not agree that it will be another 17 years before this act is amended. I am sure that another small amendment will be made in the next five to six years. I want to touch on one thing and refer a bit to what the member for Bassendean said. The not-for-profit sector can do things in some areas that governments simply cannot do. It is able to deliver services sometimes at a very minute level, which government agencies could never do because policies always get in the way. I, like many members, have been in many not-for-profit groups and I will always champion the not-for-profit sector as delivering some of our services that are rightfully needed in our communities. As I said, I liked what the member for Maylands had to say.

I totally disagree with the statement that the member for Armadale looks like Barack Obama! I do not see how people could get him confused with the President of the United States.

Ms L.L. Baker: Leader of the Free World!

Mr P.T. MILES: He is definitely part of the Free World, but he has longer hair!

I immediately come back to the member for Cannington, because I have received a note about one of the questions that he asked about grandfathering clauses for past incorporations. Associated incorporations constituted before 1987 will be subject to the obligations of the new act, but will not be required to update their rules to comply with the requirements introduced after that act. Grandfathering provisions are not continuing under the new bill, but associations will have up to three years to get rules in place and move into the modern framework that we require people to move to.

Ms J.M. Freeman: Parliamentary secretary, when you say that they are subject to the obligations, but are not required to change their rules, that is only if their rules comply with the framework for the rules in the new act. They will have to change their rules or the model rules will be said to be adopted if they do not comply with this new act. Is that not the case?

Mr P.T. MILES: That I do not know; I would have to note that one down. The obligations of the legislation are quite clear, and then there are the rules; we have to change the rules to be more compliant. That is something that we want to do. The other thing that the government is going to be very clear on is that we have to set a minimum for people to work to. We have to protect members within associations and directors on their boards, and we also have to set standards because there is community money involved in these associations as well as grants and other funding, both private and from the government sector. Although it may seem that some points are going to be stripped in some areas of this new legislation, I believe that we have to put in a minimum standard. I am aware of some clubs that are already getting ready to change their rules and they are actually going way beyond what we are setting out. Most clubs tend to do that. I am very comfortable about the standards we are getting into there.

Ms J.M. Freeman interjected.

Mr P.T. MILES: No.

Ms J.M. Freeman interjected.

The ACTING SPEAKER (Mr I.M. Britza): Excuse me, member for Mirrabooka; the parliamentary secretary is not taking an interjection.

Ms J.M. Freeman interjected.

The ACTING SPEAKER: Member for Mirrabooka, he is not taking an interjection.

Mr P.T. MILES: I am replying to questions that were posed. If the member for Mirrabooka has further questions, she can ask them during consideration in detail.

Another question that came up during debate was whether the commissioner's role is going to change at all. There is no intention for the commissioner's role to change, but it will be a greater role in managing the activities of associations. Currently, if there is a problem within an association, the only right of a member is to take that association to court and to go through a legal process. I have to say that if things have got to that point, one would have to ask whether one wants to still be a part of that association. That said, we are hoping to make it easier for people to take matters to the State Administrative Tribunal to have their claims sorted out. The government is going to take a different approach from that of New South Wales or Victoria, but we have obviously looked extensively at the legislation in those two jurisdictions.

The member for Southern River posed some questions. One of his questions was whether a body could expel a member to prevent that member from using its dispute resolution process to try to challenge it. The Associations Incorporation Bill 2014 requires that every incorporated body has to have a dispute resolution process; we are making that very clear. However, it is going to be left up to each individual to decide what process they need to take after that. The draft model rules, which have been out for public consultation, include a suggested process for the expulsion or suspension of a member. The rules provide that a body can expel or suspend a member and is able to use the dispute resolution process in situations in which the membership has ceased, but no more than six months after that dispute has occurred. The model rules also provide for expelled or suspended members to apply to the State Administrative Tribunal to determine the dispute in situations in which the dispute cannot be resolved under the dispute resolution process. There is quite a bit of a process that can be set up there.

The member for Southern River also asked whether SAT would have the authority to determine a dispute. The bill provides that if a dispute cannot be resolved under the association's dispute resolution process, it must be demonstrated to SAT that the parties have gone through that process and there can then be some level of mediation within the SAT process. I would say that most of those disputes would be met at that time and that most people would be satisfied at that point before any orders are made. However, SAT may make orders directing the observance of certain rules within the association.

The member for Southern River and another member—I cannot remember who it was—mentioned Noel Harding, an accountant who believes that it is imperative that the word "applicable" be inserted in relation to accounting standards. We have accepted that certain standard accounting practices must be complied with, and the bill requires financial statements; obviously, tiers 2 and 3 are going to be different from tier 1, and we will be advertising those standards. Clearly, we do not want smaller associations to be burdened by those in tiers 2 and 3.

The member for Southern River also mentioned clause 24 and the restriction on distribution of surplus property. He gave the example of a church that was no longer viable and needed to sell off its property, and rather than giving the property to another church, it wanted to set up a trust fund to do youth work in a certain area or something of that nature. He asked whether that could be permissible. It would seem that the commissioner might be able to approve some of those variations under clause 25, so it would be possible if the church were able to put up a fairly substantial case. Obviously, there would have to be a very defined way of working through that, and the church would have to check whether there were no other pulls on those assets. As we know, the Catholic and Anglican Churches tend to take all the assets of a church that has folded. It has been looked at, and the commissioner can obviously do that sort of trust, provided that it is very clear how it will be worked through and dealt with. The trust would still have to have people managing it, so I guess that needs to be clarified.

The member for Southern River also asked for clarification of the words "as soon as possible" in clause 89(4). Clause 89 provides for the removal of a reviewer or auditor of an incorporated association by resolution at a general meeting of the association. Subclause (4) requires the committee of management of an association to give a copy of the notice of intention to move a resolution to the reviewer or auditor as soon as possible. The department considers the reference to "as soon as possible" to import a degree of urgency, but also to allow for flexibility in order to avoid being too onerous on the committee. The department notes that the Corporations Act and the Associations Incorporation Reform Act of Victoria also use the term.

The lead speaker for the opposition, the member for Mirrabooka, posed many questions, and I will give her a full copy of my answers later, but I just want to put a couple of them on the record in my response. I will also provide her with a full court determination. I think she asked for a couple of those, and we have managed to get them for her.

The Associations Incorporation Act 1987 is 27 years old; it is ancient compared with some of the things that associations have to deal with, so we have to modernise it. Both the previous government and the government before that knew that was the case. As I said earlier, the previous government released a green bill in 2006 and it went out for consultation for about six months in 2007. There was also the national charities legislation that came in, so that was taken into consideration. I note that ministers on this side of the house looked at bringing this bill to the house sooner, but it originally was to come forward as legislation amending the existing act. The Attorney General decided to not continue down that avenue and wanted instead to repeal the previous act to tidy up this area completely. I guess we are going to work through those clauses later.

The Associations Incorporation Bill 2014 obviously caters for the whole lifecycle of an association, from beginning to end—to resolution; it is the whole thing. I am very comfortable with where we are and what we are doing with it. As the member for Cockburn said, it is still probably not 100 per cent. The member for Cannington pointed out that there will always be teething problems in trying to incorporate a cricket club and the RAC in one bill, and I suspect there will be some along the way.

As to the relationship between the Australian Charities and Not-for-profits Commission and the Associations Incorporation Act, our department worked on parts of the act and was able to ascertain how the ACNC jurisdictional stuff works. The register of the ACNC is for the purposes of accessing certain taxation concessions. The ACNC does not control not-for-profit or incorporated not-for-profit entities. That is why the Associations Incorporation Act is still needed to regulate associations in Western Australia.

The member for Mirrabooka asked about the status of the model rules. As I said before, the draft rules have been on the department's website for public consultation since 22 September. They have also been sent out to all peak bodies involved as part of the consultation process, and the 3600 e-newsletter was sent out to those associations as well. The department has definitely consulted on every full stop and comma on this bill, and I appreciate it doing that because the industry definitely wants this bill; it is asking for it.

The member for Mirrabooka also asked whether the current act imposes penalties for failure to comply. Section 242 does that. The current act provides for penalties in the form of a fine to be imposed on committee members who fail to take reasonable steps to ensure compliance with the act. I go back to what I said before: we have to ensure that directors within these organisations, big or small, act in the proper course of their duties on behalf of members' money, memberships and also funds granted to those organisations. We are definitely making sure that we have some specific penalties in place and prescribed in the bill so people know they have to fulfil certain compliance duties while running these organisations.

I was interested in the point raised by the member for Mirrabooka about the P&C associations and the Department of Education—the Western Australian Council of State School Organisations clause. There was a problem with that. I have been briefed that clause 182 provides that when any dispute arises relating to the rules that cannot be resolved using the internal dispute resolution process, the association or member may apply to the State Administrative Tribunal for determination. This process would apply to the type of dispute that arose in that P&C association. A second question was asked about the dispute concerning Better Hearing; I think the member for Maylands might have asked that one. It was an application to wind up the association following the transfer of its activities to another association that had a partnership arrangement. A number of concerns were raised by members with regard to that decision to transfer activities, and the process had to be followed. Unfortunately, under the current act, the commissioner was unable to intervene at all in that and to prevent or delay the wind-up of the association. The association's incorporation is automatically cancelled seven days after the distribution of surplus property. That problem has been addressed in this bill, and the application or amalgamation or the wind-up cancellation will now be required to be approved by the commissioner. Should the commissioner become aware of any alleged irregularities in the application process or any outstanding legal obligations or disputes after an application has been lodged, the application can be refused and the outstanding issues can be addressed and resolved. I think we have again learnt from an issue out there in the community, and the agency definitely has that one covered.

I turn to the member for Bassendean's comments about the information held on the database with the department. Members of the public can go to the association's online web portal and search for the name, the registration number and the date of an incorporation, using any sort of a keyword phrase for that association. When they find the association, they can purchase a copy of its rules through the web portal. The full list of associations can be generated from the database by the department, but it is not routinely available to the public because of the volume of the information required. I guess somebody would have to request that from the commissioner themselves.

I was asked whether the bill is aligned to another jurisdiction. Some key areas are aligned to a couple of jurisdictions—specifically, Victoria and New South Wales. They either have amended or are in the process of

amending their legislation. The parts of the bill that are aligned are the removal of the restriction on trading to ensure that the association can engage in trade or trading activities in the pursuit or support of its purposes, obviously while preserving the not-for-profit characteristic of an incorporated association; introducing a tiered system of financial reporting, which is what this bill is doing; codifying the common law duties that apply to committee members of an association; and introducing a statutory manager provision to assist the associations that are clearly not functioning effectively—this bill will allow the commissioner to step in when that happens. I will not go into the definition of revenue; I will just pass that one on to the member.

As to the financial reporting requirements being based on a risk, that is consistent with all other jurisdictions. The financial reporting requirements are based on an accepted principle of size being a proxy for risk. Revenue is a widely accepted measure of size. The not-for-profit fraud survey of 2014 revealed that fraud is a real issue for not-for-profits, and that the risk of fraud increases as the entity's size increases. The broader governance obligations are applied to all associations regardless of size, because it is considered that all associations should meet the basic minimum. I mentioned that earlier.

I was asked how the figure of 90 per cent of the associations being in tier 1 was arrived at, given that that information is hard to get hold of. We do not have associations' financial information—it is not lodged—so there is no real means of obtaining precise revenue figures and the precise spread of associations across the tiers. However, a bit of analysis of the Victorian statistics has been done, and the department estimates that at least 90 per cent of the associations fall into tier 1. Given the number of associations, it is an estimate. There is no other way of collating the information specifically.

The member for Mirrabooka asked which Supreme Court case suggested that committee or association members have the same common law duties as a company director. It is Lai v Tiao (No 2) [2009] WASC 22.

The member for Mirrabooka was concerned that the penalties were too high for volunteer committee members whether or not they are paid to perform duties. That is something we reflected on because as someone who has spent many years on Lions Clubs and other clubs, I know that people sometimes wonder why they are on these clubs because they do not get paid for it and they get all this aggro from people saying that they did not put a full stop in the right place, and now government is hanging big fines over them. However, again, we have to set those standards—I get that. I have accepted that on that basis, but I also accept the fact that the agency concerned, the Consumer Protection Division, does not just go in there with its size 9 wellie boots and thump the table—although I could not see Anne Driscoll doing that! I believe it will work through those sorts of issues before it tries to punish an organisation. I am comfortable with how the agency will deal with that issue and we will see how it performs.

The green bill proposed to remove from the current act the list of approved purposes for which an association must be formed in order to be eligible for incorporation. This bill has reinstated and added extra purposes. The inclusion of the approved purposes provides much-needed guidance to both the associations sector and the commission as to the nature of the associations that are eligible for incorporation. The list of approved purposes demonstrated that in order to be eligible for incorporation, an association's goal must be focused on obtaining a common objective of its members. People voluntarily join associations because they want to work together on a common cause or interest, be it advancement through a profession, the cure for a disease or, obviously, the pursuit of a hobby or club. The list of approved purposes is retained because they reflect the community understanding of what an association is formed to do and because it offers a simple mechanism to reinforce the principle that the act relies on or that the entity is formed to achieve. Again, it has the goal of common interest rather than individual financial gain, so that is where we are at with that.

I think I have answered all those questions quite well. I know the member for Bassendean had to leave, but I got a quick note from him asking whether a person has the ability to access information about officeholders and management if they are not a member, which is a good question. The bill does not address the issue of public access to information. The majority of incorporated associations are formed to serve the needs of their members, so I guess a person has to be a member to gain that information. If a member of the public has concerns, they can notify the commissioner who can access the information, or in the case of an organisation funded by the government, it can report concerns to the funding agency, which has the ability to clearly look at that organisation and the delivery of services. Regarding some of what was said by the member for Bassendean, we also go back to what the member for Maylands said about association members sometimes wanting to know everybody's home address, who is on what and what have you. I know the gun lobby is very happy with this bill because it now has a bit more protection compared with what it had before. I also know that some of the organisations dealing with the not-for-profit sector—more so on the welfare side—are happier that some of their members will be a bit more protected than if there were just an open membership list that anybody could review. That is why the provision was put in place, which is good. That is all I have to say.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Ms J.M. FREEMAN: I thank the parliamentary secretary for his second reading speech and his summary in reply. If I repeat any of the questions from the second reading debate, I apologise. I also thank the minister's advisers for their tolerance for sitting through a considerable amount of debate and then having to go home before we went into the consideration in detail stage. In the second reading debate I mentioned that the Irish Club of WA raised an issue about the short title of the bill, clause 1. That is where we are at now. Clause 1 states —

> This is the *Associations Incorporation Act 2014*.

The club requests that consideration be given to renaming the legislation to reflect and identify the bodies that fall under what are called larger organisations and for the title of the bill to be named the "Associations Incorporation Bill for Professional and Industry Bodies and Certain Not-for-Profit Organisations". The club then goes on to ask that the current act be amended and renamed the "local community social and sporting clubs associations incorporations act". I am aware that the parliamentary secretary has heard that before. I have raised it and I understand the club wrote to the parliamentary secretary about this. In relation to the submission from the Irish Club of WA to the minister and the parliamentary secretary, what consideration was given to being clearer about the short title so that it reflected that diversity of associations and those three tiers of bodies? It seems that part of the issue raised in the second reading debate, which the parliamentary secretary acknowledged, is that this bill is very much couched towards larger organisations and trying to prevent the fraud that obviously occurs in larger organisations because there is more money involved in them. Given this submission was made to the minister and the government, what consideration was made to ensure that the short title was not confusing? The Associations Incorporation Act 1987 was much simpler and easier to comply with. The legislation has now gone from 50-odd pages to 200-odd pages. Given that the minister decided that the bill was not going to proceed by virtue of just amending the Associations Incorporation Act, why was a change to the name not considered to better reflect the greater responsibilities provided for in the bill? If the parliamentary secretary did not intend to amend the act and intended to say that such a large name was not needed for the replacement act, why was consideration not given to the submission from the Irish Club of WA to the government that it be renamed the "Associations Incorporation Bill for Professional and Industry Bodies and Certain Not-for-Profit Organisations"? What consideration was given; or was the submission simply discounted and the parliamentary secretary went on?

Mr P.T. MILES: The association concerned did write in, but it did not specifically refer to the short title of the bill. The member asked which associations can be incorporated. They are referred to in clause 4 of the bill. The actual title of the bill reflects pretty much what is happening interstate. I understand that it pretty much keeps the same language. We do not want to confuse people by changing the name to something that is clearly quite long. I think the title "Associations Incorporation Act 2014" is quite short and defined, and most people in the community would be able to identify with it. Going back to the Irish Club, it did not specifically say that in its submission —

Ms J.M. Freeman: By interjection, it did. It said, "We therefore submit that this bill be renamed to reflect and identify those bodies that fall under the Associations Incorporation Bill for Professional and Industry Bodies and Certain Not-for-Profit Organisations." It certainly did make that submission to government.

The SPEAKER: Okay, member; not long interjections because they cannot follow you.

Mr P.T. MILES: I understand that the club may have done that, but it actually wanted to define the bill in a different way, and we were not going to do that.

Mr C.J. TALLENTIRE: Following on from the points raised by the member for Mirrabooka, I note that a diverse range of organisations will be covered by the short title "Associations Incorporation Act 2014". It is claimed that organisations from very small community groups through to bodies such as the Chamber of Commerce and Industry of Western Australia will come under this legislation. I therefore question the accuracy of the title. If the title can encompass a group that perhaps has half a dozen people who meet on a purely

voluntary basis, yet it also covers huge organisations that represent some of the wealthiest and most profit-driven people, how can the title be an accurate reflection of all those circumstances?

Mr P.T. MILES: One thing about the bill—I guess this is so when creating any bill, and in this case it is a bill that has to travel across a multiple choice of clubs, whether they be sporting, hobby or motocross clubs, or environmental organisations—is that it cannot have all those names in the title. Calling it an "associations bill" pretty much covers everything. We would not want to name an organisation or a position in an organisation in the title of the bill. We need to call it the "Associations Incorporation Bill" because we are acting not just for today, but also for what may come along in five or six years. I am very comfortable with the name of the bill. We did look at the submissions that came in but we have determined to keep the name as it is.

MS J.M. FREEMAN: My question is different. I note that the parliamentary secretary is very comfortable with the name but is not comfortable with making amendments to the Associations Incorporation Act 1987. He has given us a new bill that is quite different. I think the parliamentary secretary needs to be put on notice that it does not look towards what he actually had in mind for the five-year future of the act. In any event, can the parliamentary secretary confirm for the record that the Associations Incorporation Bill 2014 is about incorporating not-for-profit organisations and not-for-profit associations, and that members cannot own the assets of an association or benefit financially from their membership?

The SPEAKER: I am not sure that the question the member just asked goes to this clause.

Mr P.T. MILES: I go to one of the member's lead questions that she asked during her contribution to the second reading debate. We are aware that the current act is 27 years old and needs to be modernised, and that is what we are doing; for example, it is not regarded as reflecting the modern environment. It is not regarded as adequately responding to increasing community expectations. Obviously, we are putting in provisions for good governance and the protection of privacy of association members. The member made a comment before about not listening to the submissions from clubs and other organisations. We have definitely listened to everybody's submission, but we had to filter them and work through them. I do not think it is relevant whether this bill is called an "Associations Incorporation Bill" or an "Associations Incorporation Bill and Golfing and Footy Clubs". I am very happy to keep it as "Associations Incorporation Bill" and I do not see why I need to go any further.

Clause put and passed.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.