Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2022

LEGISLATIVE COUNCIL

Tuesday, 15 February 2022

Legislative Council

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

BILLS

Assent

Message from the Governor received and read notifying assent to the following bills —

1. Aboriginal Cultural Heritage Bill 2021.
2. Aboriginal Cultural Heritage Amendment Bill 2021.
3. Dog Amendment (Stop Puppy Farming) Bill 2021.
4. Industrial Relations Legislation Amendment Bill 2021.

LEGISLATIVE COUNCIL CHAMBER — PHOTOGRAPHER ACCESS

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.03 pm]: Members, while I am on my feet, I have a number of statements, which I hope you will all be able to hear. I advise that I have approved the presence of photographers in the press gallery for the first 10 minutes of today's proceedings to enable the media to obtain up-to-date images of the Legislative Council.

CORONAVIRUS — LEGISLATIVE COUNCIL SITTING ARRANGEMENTS

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.04 pm]: I have a further statement regarding COVID-19 sitting arrangements. Members will be aware that COVID-19 is currently spreading in the Western Australian community. Like all public and private institutions, the Parliament, as a workplace, must put in place public health and safety measures to minimise the risk of COVID-19 transmission and protect its members, parliamentary staff and visitors. I confirm that following consultation with the party leaders, the following arrangements will be put in place for the chamber and its surrounds.

First, members will notice that seating arrangements have been altered to ensure social distancing. Party leaders, ministers, parliamentary secretaries and Whips have allocated seats from which they can speak at any time. Other members may sit in unallocated seats, designated as "member" on the chart that the acting Clerk emailed to members yesterday. I have designated the President's gallery as the floor of the house, and members may also use this seating. I have designated the lectern as the place from which other members may speak. The Leader of the House intends to move a motion without notice to suspend so much of standing order 35 to give effect to these arrangements. If the house agrees to such a motion, it will permit members to speak from any place with a microphone during Committee of the Whole. I also advise members that in the absence of the opposition Whip, I have approved the deputy opposition Whip to occupy that place this week. Chamber staff have moved members' items to their new places in the chamber. Members who do not have an allocated place may collect their papers from the administration office.

Second, the Bar of the house will remain open at all times.

Third, in terms of hygiene and social distancing measures, admission to the chamber is subject to all persons strictly adhering to hygiene requirements. Hand sanitiser is available at each of the entrances to the chamber, and all persons are required to use this on entry to the chamber. Please also follow other health guidelines, including only attending if you are well. If members need to cough or sneeze, they should do so either into their elbow or a tissue, with the tissue then immediately discarded into a bin. Members must also maintain appropriate social distance. It would assist if members attend the chamber only if they intend to speak, in cases in which an absolute majority is required or for quorum requirements. Masks must be worn in the chamber, with the exception of members who wish to remove them when speaking.

Fourth, the Chair and Deputy Chairs of Committees will sit in the President's chair during Committee of the Whole.

Fifth, divisions will be conducted without the need for members to cross the chamber. Those voting with the ayes will stand and those voting with the noes will sit. The Leader of the House intends to move a motion without notice to suspend so much of standing order 79 to permit this to occur.

Sixth, during question time, hard copies of answers will not be distributed in the chamber. Answers will be emailed to members by a parliamentary liaison officer to minimise staff movement in the chamber and the handling of papers.

If members require a hard copy, please advise a parliamentary liaison officer, who can print this for members to collect. Parties are strongly encouraged to arrange for their leader or other deputed member to ask all questions on behalf of party members. Reporting services have made special arrangements for these circumstances, and *Hansard* searches will also reflect the name of the member on whose behalf a question without notice is asked.

Seventh, Hansard will be reporting remotely and will not be present on the floor of the house. For this reason, it is imperative that members use the microphone at the lectern if they do not have a designated seat. I ask members to please email Hansard any speech notes at the conclusion of their speech as chamber staff will not be collecting notes.

Other public health and safety measures around Parliament have been communicated to members and staff. One measure that directly affects the Legislative Council chamber is that I have closed the public gallery for the time being. Thank you for ensuring that we do as much as we can to ensure good public health and safety practices.

LEGISLATIVE ASSEMBLY, LEGISLATIVE COUNCIL, CORRUPTION AND CRIME COMMISSION AND WESTERN AUSTRALIA POLICE FORCE — MEMORANDA OF UNDERSTANDING

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.09 pm]: Members will recall that the Speaker and I entered into separate memoranda of understanding with the Corruption and Crime Commission and the Western Australia Police Force respectively, and that these were tabled in the Legislative Council on 30 November 2021. The memoranda of understanding are designed as an overarching statement of broad principles that, under a series of detailed model or template protocols, could be developed, establishing procedures to be followed to enable these law enforcement agencies to properly undertake investigations relating to members while respecting parliamentary privilege. Protocols have since been finalised with each agency and were signed on 21 December 2021. The protocols cover matters relating to the execution of search warrants on members' premises and the determination of claims of immunity from production of materials considered subject to be parliamentary privilege. These protocols are designed to be flexible and practical and will ensure that parliamentary privilege is protected while preserving the integrity and timeliness of Corruption and Crime Commission and police investigations. General information sessions on these two protocols will be held for members later in the year. I now table both protocols.

[See papers 1055 and 1056.]

HON JAMES HAYWARD — DEPUTY CHAIR OF COMMITTEES — RESIGNATION

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.10 pm]: Members, I advise that on 13 December 2021 I received a letter of resignation from Hon James Hayward from his role as Deputy Chair of Committees.

HON JAMES HAYWARD — NATIONAL PARTY OF AUSTRALIA (WA) — RESIGNATION

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.10 pm]: Members, I have received the following correspondence —

> Dear President,
>
> Please be advised that I have resigned from the National Party of Australia (WA) on 3 December 2021 and will now sit as an independent Member of the Legislative Council.
>
> Yours sincerely,
>
> Hon James Hayward MLC
>
> Member for South West Region

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.11 pm]: This is my final statement. Thank you for bearing with me, members. COVID-19 vaccination: on Wednesday, 1 December 2021, the Legislative Council made an order requiring members to provide proof of their first and second COVID-19 vaccine doses or proof of a valid exemption to the Clerk by 31 January 2022. I am advised by the Clerk that as of today not all members have complied with the Council's order. The effect of the Council's order is that in the event of a lockdown or similar restrictions, any noncompliant member will be subject to an automatic suspension from the chamber, Parliament House and the committee office. I note that there is currently no lockdown in effect and so noncompliant members are not currently suspended, and it is not too late for such members to avoid that fate by providing proof of the required information to the Clerk. I also make the observation that the phrase "similar restrictions" is not defined in the order. Such a situation can create a challenge for any member to determine whether they can attend Parliament on any particular day.

McGOWAN MINISTRY — RECONSTITUTION

Statement by Leader of the House

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.12 pm]: Members will be aware of the reconstitution of the ministry that occurred on Tuesday, 21 December 2021, involving a minor adjustment of portfolios between ministers. For members' information, I now table two documents detailing the changes and the administrative arrangements for the representation of ministers between the houses.

[See paper 1058.]

FIRE AND EMERGENCY SERVICES — RESPONSE

Statement by Minister for Emergency Services

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [2.13 pm]: Given the catastrophic fire conditions across the state and the unprecedented number of incidents recently, I could not be more proud of all those involved in the response. These were some of the most ferocious bushfires that we have seen in Western Australia and firefighters did a tremendous job to minimise the damage. Some of these conditions have been described to me as the worst weather conditions seen in nearly 30 years. At one stage, an unprecedented four level 3 bushfires burning at once and more than 1 000 dedicated emergency services personnel were involved in managing and combating those incidents. The extraordinary response from local bush fire brigade volunteers was immense—namely, Volunteer Fire and Rescue Service volunteers; Volunteer Fire and Emergency Service volunteers; State Emergency Service volunteers; career fire and rescue service firefighters; Department of Biodiversity, Conservation and Attractions, Parks and Wildlife Service, firefighters; the Salvation Army; the Country Women's Association; and other community groups supporting government agencies, especially the Department of Communities and the Western Australia Police Force, and relevant local governments.

There was a strategically coordinated mobilisation of large air tankers and the areal fleet, and incident management personnel across the fires, including an incident management team from New South Wales flown in to support the efforts. I thank those who were fighting the fires, defending homes and properties, along with those supporting affected communities and displaced families and to those behind the scenes. Sadly, there will be some lasting impacts, as there always is after fires of this magnitude. Our thoughts are with all the people who have lost homes, property, businesses or livestock. It has been an incredibly difficult time for everyone involved. The impacts to industry and businesses will be further understood in the coming weeks and months. Now is the time to support each other, as I know Western Australians always do. Western Australians are resilient and I am sure these communities will bounce back.

GRAIN HARVEST

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [2.15 pm]: I have good news: Western Australian farmers have smashed all records with this season's harvest, delivering more than 24 million tonnes of grain. It is an eye-watering 30 per cent increase on the previous record year and has seen WA produce more than 38 per cent of Australia's grain harvest for the season. This is despite the tragic loss of around two million tonnes to frosts in September. The Grains Industry Association of Western Australia has indicated that the final harvest figure may increase even further, with grain still being stored on farms around the state. This is obviously a fantastic result for our farmers and for our state economy. The grains industry remains the backbone of so much of our rural economy, and years like this are a testament to the hard work and innovation of WA's farmers. What makes this even more extraordinary is that this crop was harvested and trucked with limited labour availability. It was all hands on deck, and we congratulate all involved.

As the focus shifts to the 2022 crop, we are hearing that high input costs will see growers pull back on cropped area, presenting a prime opportunity to harness free nitrogen from break crop legumes such as lupins and clover or serradella-based pastures. Break crop canola hectares will likely keep rolling upwards as will pulses, given the value to the rotation alone. Careful consideration of break crops, use of legumes and pasture systems will help set up growers for future successes through disease and weed control, increased nitrogen availability and improved soil biological activity. This fantastic season will have benefits that go well beyond the booming cheques of 2021 as farmers build natural capital for 2023 and beyond.

PAPERS TABLED

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

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

137th Report — Mutual Recognition (Western Australia) Amendment Bill 2021 — Tabling

HON DONNA FARAGHER (East Metropolitan) [2.26 pm]: I am directed to present for tabling the 137th report of the Standing Committee on Uniform Legislation titled *Mutual Recognition (Western Australia) Amendment Bill 2021.*

[See paper 1057.]

The PRESIDENT: That report is tabled. Do you wish to make a statement?

Hon DONNA FARAGHER: Yes, President.

The report I have just tabled advises the house of the committee's findings and recommendations regarding the Mutual Recognition (Western Australia) Amendment Bill 2021. The Mutual Recognition (Western Australia) Amendment Bill 2021 seeks to readopt the Mutual Recognition Act 1992 of the commonwealth and adopt the Mutual Recognition Amendment Bill 2021 of the commonwealth. The bill also seeks to refer the state's powers in relation to these acts to the commonwealth pursuant to section 51(xxxvii) of the commonwealth Constitution. Further, the bill seeks to consequentially amend 13 Western Australian acts.

The adoption of the Mutual Recognition Amendment Bill 2021 of the commonwealth will enter Western Australia into the automatic mutual recognition scheme for occupational licences and registrations, or AMR scheme. The AMR scheme will allow a person who is registered or licensed for an occupation in one state or territory to perform the same work in another state or territory without having to reapply for a licence in a different jurisdiction.

The committee has identified issues impacting parliamentary sovereignty and the lawmaking powers of Parliament. These issues are that the commencement clause provides that the majority of the bill will come into operation on a day fixed by proclamation. Also, the bill introduces a clause that will have a Henry VIII effect by providing the executive with the power to terminate the adoption of the Mutual Recognition Act 1992 of the commonwealth and/or the Mutual Recognition Amendment Bill 2021 of the commonwealth. The bill also does not contain any review clauses.

The committee has proposed two recommendations to address these sovereignty issues. I commend the report to the house.

ELDER ABUSE — GOVERNMENT RESPONSE

Notice of Motion

Hon Nick Goiran gave notice that at the next sitting of the house he would move —

That this house —

(a) reminds the McGowan Labor government that its January 2017 election manifesto on responding to elder abuse promised that it would "expedite" amendments to the law surrounding enduring powers of attorney and guardianship;

(b) notes that on 13 September 2017 the Legislative Council established, on the motion of the opposition, the Select Committee into Elder Abuse;

(c) reminds the government that the select committee's 24th recommendation in its 2018 final report called on it to "act as a matter of urgency";

(d) notes that more than five years have passed since the election promise was made;

(e) expresses its deep concern about the impact on victims of elder abuse given its prevalence in our state and reports of an increase during the pandemic; and

(f) calls on the government to apologise for breaking trust with the victims, the electors and the Parliament, and to make amends without any further delay.

LEGISLATIVE COUNCIL — SPEAKING PLACES AND DIVISIONS

Standing Orders Suspension — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.30 pm] — without notice: I move —

That, until the house is adjourned on 7 April 2022, so much of the standing orders be suspended so that —

(a) when called to speak, a member may speak from a place in the chamber other than the member's own; and

(b) during a division, members shall gather in the chamber, which includes the President's gallery, and indicate an "Aye" vote by standing and a "No" vote by sitting.

HON MARTIN ALDRIDGE (Agricultural) [2.30 pm]: Thank you, President, and thank you for providing a copy of the motion, which I am reading for the first time. I rise to make some comments on this motion. The first is to point out the irony of dealing with particularly the first part of this motion now, because effectively I am speaking in a place right now that is not my own, as did Hon Donna Faragher a few moments ago. I listened to your statement, President, which said that you had designated the President's gallery as the floor of the house, and that members may also use it for seating, and that you had designated the lectern as a place from which other members may speak. I accept that this may be my designated place, President, but it also raises the question as to why standing order 35 will need to be suspended to allow a member to speak from a place in the chamber other than the member's own, which indeed is what I am doing right now.

Notwithstanding that, President, I want to raise a few points on this motion. I think I have made some of these comments on previous occasions. One of those is that we need to make sure that the Legislative Council acts in a way that is not only proportionate, but also consistent with health advice. I draw members' attention to the www.wa.gov.au website. As much as I dislike that website, I have been able to extract from it the following statement about capacity limits —

> There are no longer any capacity restrictions for venues and events. This means private gatherings, concerts, sporting games, and weddings can go ahead at full capacity.

I understand that is the current advice to Western Australians. It would seem that the measures that are proposed to be taken in this place to try to mitigate the health risks upon members and staff within the Parliament are above and beyond that stated health advice.

I will raise some of the practical implications of this motion, which deals with two things. Firstly, it will authorise members to speak from a place other than their own. The President has already dealt with the seating allocation through the revised seating plan. Secondly, the motion deals with divisions. I will deal with the second matter first. I thought that the standing up and sitting down arrangement that we implemented for divisions last time worked quite effectively. It certainly helped the Whips in counting members during a division, because quite often during divisions members group together and discuss what we did on the weekend. It is often quite difficult for the Whips to identify who is standing on each side of the chamber. I also point out that there could be a circumstance in which there is no place available in the Council chamber for a member to sit during a particular division. According to the seating plan that members all now have, there are effectively 20 seats on the floor of the Council chamber where members can sit, not including the President's seat. There are also 12 seats in the President's gallery, and as members can see, all those seats are currently occupied. That brings us to 32 members, and obviously we have a 36-member chamber, minus the President. That will leave three members without a place. A situation could arise—it might not—whereby Hon Dr Brad Pettitt might argue fiercely for an amendment on a particular matter and, during a division, he might be the only one who votes yes to his amendment and therefore be the only member standing. The remaining members of the chamber would need to find somewhere to sit. It could be the case that a member who wished to vote no could not find a place to sit other than the floor. That situation could arise under these new seating arrangements and measures in the interests of social distancing.

I want to also make some comments about the first limb of the motion, notwithstanding my view that I am in contravention of standing order 35 as I am speaking from the podium, but I will continue to do so whilst nobody raises a point of order. The issue I have is whether we are actually doing the right thing. Looking at the seating plan, only 14 of the 36 members of the Legislative Council have an allocated seat on the floor of the Council. Will all of us who do not have an allocated seat in this chamber be doing the right thing with regard to public health if we speak from this very lectern? We will be speaking from the same lectern, the same podium, during question time. It could be one member after the other in quick succession. Have we sought and do we have the support of public health advice that this is a better way to mitigate the risks of operating in the current environment than sitting in our ordinary places? I just observed Hon Donna Faragher speak from this very lectern. I did not see any cleaning measures occur in between her and I speaking. We are operating in the same space, on the same desk, on the same surfaces. That would not necessarily be the case if I were sitting in my place, although I would be sitting next to another member of Parliament if they were in the chamber at the same time. That is something we should contemplate further. If we are taking these decisions in the interests of mitigating public health risks to members and staff, and, importantly, continuing the operation of the Council during an uncertain time, I think these matters ought to be well considered and advice provided from somebody such as the Chief Health Officer.

I am thankful that the President talked about some different arrangements for the way in which Hansard will report during question time, and that members' questions will be recorded against their name in the *Hansard* record. I think that will be a helpful outcome of these revised arrangements. But I will say this: it was my observation last time that question time was significantly slower as a result of these revised measures; that is, members, particularly of the opposition and the crossbench, who were sitting in the President's gallery had to wait for their turn to walk to the podium, unmask, ask their question and then return to the gallery. I think fewer questions were asked during that process than would be the case with an ordinary question time arrangement. Unless there will be some understanding of that, and some tolerance of the length of question time, we will likely have fewer questions asked during an ordinary 30 minutes or so of question time, which will mean less accountability of the government in this chamber during that important 30 minutes or thereabouts every day.

With those few comments, President, I will take my place—wherever that is—and allow anyone else who wants to contribute to this motion to do so.

HON TJORN SIBMA (North Metropolitan) [2.39 pm]: It is the first sitting day of 2022 and I think we have adopted the provisions of the early days of 2020—that period of unknowing—when the virus first hit. In principle, I absolutely support the measures that the President has taken and this chamber is taking to protect the health and welfare of not only the members elected to the chamber, but also the hardworking staff. But it is also important to reflect upon the fact—we will get to this in a subsequent motion, no doubt—that the vast majority of members

here are fully vaccinated or will be fully vaccinated after the definition of contemporary or up-to-date vaccination is decided upon. For the purposes of everybody here, I am double-vaxxed and boosted. We have a vaccination rate of about 95 per cent. Everybody who walks into this chamber is wearing a mask. I would like to be convinced of the marginal health benefit of the practices that are being recommended, because they seem to be recommended in the absence of any objective medical advice.

I think it is worthwhile that the chamber reflects on whether these measures are effectively about public safety or for show. I am unconvinced by the public health merits of not only what is proposed in this motion, but also what an appropriate approach to question time, for example, might be. I will reflect very briefly on the contribution made by my colleague Hon Martin Aldridge. I think that last year in this chamber we found an extra hour each sitting week to be given over to formal business. We made some adjustments there. I think that reflections on the approach to question time in 2020 are well taken. We should not discount scrutiny of the government even for five or 10 minutes of the day. I would like to reflect on that. If we are going to take an adaptive and nimble approach to these measures, we need to absolutely ensure that the government is still held to account.

This is not a formal position, but if the government wanted to guarantee the safety of everybody in this chamber, why not subject members to a daily rapid antigen test? I would think that would be a more appropriate and contemporary way of doing things. That is just a suggestion I make humbly from this dispatch place, but I will say this. I am probably operating in a cloud of particles left by my predecessors. I do not necessarily think that my safety is enabled by this motion. I think that we need to maintain logic and a sense of proportion and rationality. I fear that we have completely lost it.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [2.43 pm]: I want to make a small contribution to this debate and not repeat the fine words of Hon Martin Aldridge and Hon Tjorn Sibma. I note that if a cloud were left for Hon Tjorn Sibma at the podium, I am sure that it would be a cloud of goodwill and positivity. It could not possibly be anything else, given the members that preceded him.

I obviously agree with the comments of both of those members, particularly Hon Martin Aldridge, and their concerns about the operations of this Parliament, but I want to put a suggestion or plea in place. In my view, question time in the Legislative Council remains a critical component of accountability of the government. We have very few real opportunities for accountability. In my view, there should be a way that members of the opposition and the crossbench can maintain their place in the chamber. It is not the tradition in this house that backbench members of the government ask Dorothy Dixer questions, and I think that is to the credit of the chamber and is a very good outcome. If their presence is not required to ask a question, I would have thought that there would be room within the opposition side and potentially the President's gallery for members of the opposition and the crossbench to be able to ask at least one question in person during question time. It may be that someone can stand up for them, and I am quite prepared to stand up and read as many questions as is required to facilitate the operations of the house, but it is a far less effective tool. It does not have the same degree of formality or impetus. I think that this house should look at a way to make sure that members of the various parties who attempt to hold the government to account can be facilitated in doing so. It may mean that question time will go slightly longer than usual, particularly if someone has to walk up to use the lectern, but I think that there is a sensible opportunity for a greater accountability to be maintained, and so I recommend to both the President and the Leader of the House, with all goodwill, that that opportunity should be taken up if at all possible. I suspect it might be. I am very keen to see accountability held.

As I said two years ago, I think it is important that the chamber continues. It is not my intent as the Leader of the Opposition to minimise the number of people who can make a contribution. I think that our role is incredibly important and I think that members of both sides need to have that opportunity. The accountability part of question time is intrinsic to what we do, and I would hate to minimise that. If the President would take that on board and look at how we might maximise the impact of question time to maximise accountability, I think that would be a good outcome for democracy in this state.

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.46 pm] — in reply: I note the comments made by the honourable members. I am happy to ensure that question time provides enough time for everyone to ask the questions that they need to. Members might not be aware that I actually take a note of the number of questions that are asked every single question time. I tick them off against members' names. If members opposite want to get their act together and not struggle to fill a full question time, good luck to them. I will make the time for them.

Question put and passed with an absolute majority.

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.47 pm] — without notice: I move —

(1) Further to the order of the Legislative Council dated 1 December 2021, for the purposes of protecting the health and safety of members and parliamentary staff, who are a critical workforce, this house requires members of the Legislative Council attending the chamber, Parliament House or the Legislative Council Committee Office to be fully vaccinated and boosted.

(2) Members must —

(a) have provided proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk by 31 January 2022; and

(b) provide proof of a booster COVID-19 vaccine dose, or proof of a valid exemption, by 6 May 2022.

(3) If any members —

(a) do not meet the requirements set out in paragraph (2)(a), the Clerk will report the details to the house at the earliest opportunity;

(b) do not meet the requirements set out in paragraph (2)(b), the Clerk will report the details to the house at the earliest opportunity.

(4) Unless otherwise ordered, any member who has not complied with the requirements set out in either paragraph (2)(a) or 2(b), or both, is determined to have failed to comply with an order of the house and is immediately suspended from attending the chamber, Parliament House and the Legislative Council Committee Office until the second sitting day following the winter recess.

(5) If a member who is suspended under paragraph (4) provides proof of their first and second COVID-19 vaccine doses and their booster COVID-19 vaccine dose, or proof of a valid exemption, as required by paragraphs (2)(a) and (2)(b), to the Clerk, their suspension is immediately lifted and the Clerk will report the lifting of the suspension to the house at the earliest opportunity.

(6) For the purposes of this resolution —

(a) "COVID-19 vaccine" means a vaccine to protect a person against SARS-CoV-2 that has been registered or provisionally registered by the Therapeutic Goods Administration;

(b) "proof of their first and second COVID-19 vaccine doses" and "proof of their booster COVID-19 vaccine dose" means forms of evidence approved by the Chief Health Officer; and

(c) "proof of a valid exemption" means forms of evidence approved by the Chief Health Officer.

(7) The Clerk —

(a) must ensure all information provided under this resolution remains confidential and is stored securely; and

(b) must destroy all information provided under this resolution at the end of the session or an earlier time determined by the house.

(8) The house may agree to further resolutions to vary or amend this resolution.

I am moving this motion today in response to the statement made by the President at the start of the sitting and in consideration of the changing pandemic circumstances in which we find ourselves. On 1 December 2021, the house supported a motion that gave effect to requiring members of the house to provide evidence that they were fully vaccinated—then two doses—or held a valid exemption, and that failure to provide that would mean members would be suspended during a lockdown or similar restrictions. It required members to provide proof of vaccination or a valid exemption to the Clerk by 31 January 2022. The purpose then, as it is now, is the same: the information is required to enable the Parliament to be appropriately informed in order to identify and manage the risk to staff and members working in the Parliament. The motion moved on 1 December was based on health advice issued by the Chief Health Officer on 22 October 2021 that detailed vaccine mandates for various groups in the community, of which members would be aware.

The President informed the house today that not all members have complied with part (2) of the motion of 1 December that members must provide proof of their first and second COVID-19 vaccine doses or proof of valid exemption to the Clerk by 31 January 2022. I note, indeed, that on 2 February this year, one member made a public statement on ABC regional radio that she had not complied with and did not intend to comply with the terms of that order. Part of the original motion endorsed by the house on 1 December agreed that, as set out in paragraph (7) —

The house may agree to further resolutions to:

(a) vary or amend this resolution; or

(b) provide for arrangements for sittings in 2022 based on health advice.

The Omicron variant appeared in South Africa in late November 2021. When the house considered the first motion on these matters on 1 December 2021, the likely impact of the Omicron variant in Australia and Western Australia was not well understood. Since then, the effect of that strain of the COVID-19 virus on Western Australia has changed our response to this pandemic. On 21 December 2021, the Chief Health Officer provided advice that

a COVID-19 booster vaccine be mandated. On 15 January 2022, the Chief Health Officer provided further advice that extended the application of proof of vaccine requirements to other events and categories. On 6 December 2022, the Chief Health Officer provided further advice that WA move to the high case load settings under the updated transition plan. Since 5 February to today, 30 184 people have arrived back into Western Australia from interstate and overseas—many returning Western Australians coming back to Western Australia. Case numbers announced today are at 62, comprising 48 local, which is the highest ever, by my recollection, and 14 linked to travel. On the advice of the Chief Health Officer, Western Australia is now in a high case load environment.

In the Parliament, the President has already outlined measures to be taken in the chamber to respond to the current public health settings. The key public health and social measures, which are sometimes referred to as PHSMs, in place are the wearing of masks in indoor and certain other settings and proof of vaccination or valid exemption mandates across a range of work and social settings. Employers across Western Australia have had to adjust their work arrangements to manage the risk based on having the information of which of their employees and customers are vaccinated or have a valid exemption. Parliament House is a workplace. For us as members, and for the staff, the Presiding Officers and their managers need to know the status in order to manage the risk. Accordingly, the Parliament has reintroduced social distancing requirements and other restrictions, along with a mandate for parliamentary staff to be vaccinated. The motion that I have just moved recognises the increased risk of contracting COVID-19 in the community and the obligation on us as elected leaders to respond in a manner that ensures we give ourselves, other members and the parliamentary staff the best chance of managing the risk so that the Parliament can continue to operate.

The President has reported that in respect of compliance with the order made by the house on 1 December 2021, not all members have complied; that is, not all members have advised whether they are vaccinated or whether they are the holder of a valid exemption. That information has not been provided by all members. The President has also reflected on the current health settings.

The motion I moved provides, in part (1), why this information is required; that is, for the purposes of protecting the health and safety of members and parliamentary staff. The motion also provides, due to the impact of the Omicron variant in Western Australia, for the 2022 sittings of the Legislative Council, proof of vaccination status or valid exemption is required to attend the chamber, the Parliament and the committee offices and, further, that the level of vaccination required to be proven includes proof of a third booster vaccination. The motion also provides—this needs to be clearly understood—that if a member fails to comply with either (2)(a) or (2)(b) or both, they are immediately suspended. This is not done lightly; nothing in dealing with this pandemic has been. But to enable those entrusted with managing the risks posed by the COVID virus in this workplace, those managers need to be fully informed. I commend the motion to the house.

HON NICK GOIRAN (South Metropolitan) [2.57 pm]: I rise to contribute to the motion that was moved without notice by the Leader of the House this afternoon. We are one day short of it being two months since we last sat. In the two months that has transpired over the summer recess, some things have not changed with this government. Nearly two months later, we still have a government and members who have an inability or an unwillingness to read. We have a government that has a hunger and thirst for issuing edicts. Now we have a government that seemingly has a blatant disregard for the principles of natural justice. It will be interesting, President, during this debate if one or more members of the government might be able to rise and actually articulate the principles of natural justice. Are they understood by this government, because it is not apparent from this motion that is before us?

The Leader of the House was very quick this afternoon to remind us that the motion that was moved in December was supposedly based on health advice. I ask members to refresh their memories of the *Hansard* of 1 December. The last motion was moved by the Leader of the House at 3.19 pm on that day. Part (1) stated —

> In order to protect the health and safety of members and parliamentary staff, —

That sounds awfully similar to the motion that has just been read. On 1 December, the Leader of the House went on to say —

> and to give effect to the Chief Health Officer's published health advice,

Where is that in the motion that is before members? The Leader of the House has conveniently decided to drop the very provision of the 1 December 2021 motion that she said was so important. The motion in December was apparently all based upon health advice, but there is no mention of it now. Where did this motion come from? Is it some form of concoction by the Leader of the House and the government who have an inability and unwillingness to read, a hunger and thirst for edicts, and now a blatant disregard for the principles of natural justice? Where has this come from? Where is this health advice that the Leader of the House is relying on to deal with the motion before us?

The debate the house had earlier was very instructive. Some very sensible points were made by members, including the business about people coming forward and standing at the lectern every five minutes or less. There has been no regard for that. No health advice has been provided and, certainly, nothing has been tabled by the government today, yet we are debating a motion with no notice that we are expected to agree to.

Very interestingly, the Leader of the House was also at pains this afternoon to remind us all that Parliament House is a workplace. I remind the Leader of the House of what was discussed on 1 December last year. At the time, I outlined for the benefit of Leader of the House and her team precisely what the law is in this regard. If a workplace is going to issue some direction of this sort, it has to comply with three things: firstly, it has to be lawful; secondly, it needs be to proportionate; and, thirdly, there has to be consultation. That is not the law according to the shadow Attorney General; that is the law not only in Western Australia, but across the nation. Those members who have some experience and expertise in industrial relations law should know better—indeed, there is even a case on the east coast that is dealing with exactly this point. The question that members should be considering this afternoon is: is the matter that is before us, which the Leader of the House says is a workplace matter, lawful and proportionate, and has there been consultation? Certainly, with regard to the third limb, there has been absolutely no consultation, because in this respect consultation means with all 36 members. I know that I certainly have not been consulted. If other members feel that they have been consulted on this matter, I look forward to hearing their contributions on who consulted with them and the nature of those consultations. But as I speak for myself, there has been zero consultation. That already calls this matter into question.

We expect workplaces in Western Australia to comply with the law of the land, but the McGowan government always seems to think it is above the law. We have just seen several recent episodes in which the Premier and the Attorney General were trying to make sure that they would not have to go to court and give evidence in person in open court, trying to duck dive, just as they have done with the former Minister for Health who does not want to give any evidence in an unfair dismissal case. This government always thinks that it is above the law. As I said repeatedly last year, it has been exposed for breaching the law of Western Australia more than 1 000 times. Now it expects us to agree wholeheartedly to the motion that is before us.

A number of issues need to be considered here, and one of them is a new matter that has emerged with respect to the total reckless disregard for the principles of natural justice. By way of explanation, members will see that there will be, in effect, a variation to the order that was made on 1 December. It is put to us as a further order, but in effect it is a variation to the earlier order, because it has some form of retrospective effect. I hasten to add that several of these points were raised with the government when we had this debate in December last year. But, as per usual, throughout the course of last year, this arrogant government refused ever to listen to any advocacy other than its own. It was pointed out to them at the time that there were fundamental flaws in the motion in December; but, no, the government insisted that it had to pass without amendment. We have a situation in which, until such time as this motion passes, members are directed to talk or to provide information to the Clerk on their private personal medical history, and they have been directed to do so by a certain date—31 January. The consequence of not doing that is that they will be suspended from Parliament in the event of a lockdown or similar restrictions. We are not in a lockdown, or similar restrictions—whatever "similar restrictions" is supposed to mean, as we mentioned in the debate in December last year—again, with no regard given by the government. But a member is quite entitled to take their seat in the Parliament today, 15 February 2022, irrespective of whether they provided that information to the Clerk by 31 January. Why? It is because that was the wording in the motion insisted upon by the government last year. The Leader of the House and her government insisted on that wording on 1 December 2021, so if she is not happy with that wording now, she can blame herself. If she is not happy that one or more members might be here today, too bad. We told her about the flaws in the motion; she did not want to listen, just as she will not listen today. We have seen this time and again from the Leader of the House and her government. They say they know it all; they are never prepared to listen to any form of consultation or advocacy. They know everything. That is the arrogance of the McGowan government. Now, it finally has worked out that it has a problem and this motion is the government's ham-fisted way of fixing it.

While it did that, of course, once again, no-one bothered to read. Did anyone bother to read the Australian Technical Advisory Group on Immunisation statement on defining up-to-date status for COVID-19 vaccination? Did anyone in government—any government member—do that? If they did, stand up today and let us know, because it is not at all apparent from the wording of the motion. But we do not need to worry about it, because the Leader of the House and the McGowan Labor government know everything, they even know more than ATAGI, such is their arrogance.

What will happen, as sure as night follows day, is that this motion will pass unamended—blasted through by the arrogant Labor government—and no regard will be had for the principle of natural justice. We have a situation in front us, and I draw members' attention particularly to the fourth of the seven limbs of this motion, which says —

> Unless otherwise ordered, any member who has not complied with the requirements set out in either paragraph (2)(a) or 2(b), or both, is determined to have failed to comply with an order of the house and is immediately suspended from attending the chamber, Parliament House and the Legislative Council Committee Office until the second sitting day following the winter recess.

If somebody had taken a moment to read, they would have realised that that part of the motion has a retrospective effect, because paragraph (2) states —

> (2) Members must:
>
> (a) have provided proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk by 31 January 2022;

If members came here today thinking they could rely on what the house agreed to in December—despite the concerns that were raised by members, it was blasted through by the Labor government—they can forget about it, because the government is now going to retrospectively change things and say, "You didn't do something by 31 January; you're now suspended immediately." Forget about a lockdown or similar restrictions; it will happen now, because the Labor government is the prosecution, judge, jury and executioner, and it is all happening in one hit.

I am so looking forward to the Leader of the House standing in reply and explaining to us the principles of natural justice; I really am looking forward to it. She can explain to me and to the members of this chamber how on earth paragraph 4 of the motion complies with those principles. It simply does not. Members may well want to defend the record of the McGowan government with regard to closing the border and its dealing with the pandemic, and so on and so forth. So be it; they are quite entitled to do that, but they also have a duty to be familiar with the key principles that underpin our democratic system. What a disgrace it would have been if a member had turned up here today under the reasonable expectation that they were entitled to take their seat here, only to find the McGowan government suddenly saying, "You're suspended—gone." The moment this motion passes, it will be, "Goodbye, goodnight; you're out of here. You're suspended because the McGowan government knows everything. It doesn't care about natural justice. It's decided that it'll retrospectively impose a punishment or sanction with regard to a particular course of action that needed to take place by 31 January." That is a disgrace.

A far more appropriate and reasonable approach would be to say, "If you have a concern that there has been a breach of the law, then that breach should be prosecuted and heard." If a law of the Parliament has been breached—whether it be a standing order, some other form of contempt, or an order or direction of this sort—the disciplinary body that considers those particular matters is the Standing Committee on Procedure and Privileges. It would hear from the person who is accused of having breached this direction or law. What would happen then? Due process would take place, because those people are entitled to be heard and to defend themselves. Members opposite may or may not be familiar with the fact that there is such a thing called "reasonable excuse" as a defence. All that would be heard by the Standing Committee on Procedure and Privileges. It would inquire into the matter and report to the house, and if it were to find that there had been a breach, it might even recommend a sanction to the house. That will not happen under the McGowan Labor government; we can forget about that. It knows everything. It is just going to hop, skip and jump over the Standing Committee on Procedure and Privileges and immediately impose a sanction. If someone has not complied with a dictatorial edict, they will be punished. We have seen a lot of that kind of rhetoric over the summer recess, particularly from the Premier, who seems intent on trying to punish some Western Australians who happen to have a different view from his.

I will conclude on this note, because otherwise it will no doubt be conveniently forgotten by the Leader of the House in her reply. She has form with misconstruing my comments, including as recently as last December. If I have said this once, I have said it a thousand times: I support vaccinations. I also support the right of individuals to medical privacy. I encourage any Western Australian to discuss this matter with their doctor, confidentially, before they provide their informed consent. Those are the principles I am prepared to stand by. I am totally dismayed with the government's performance with regard to this motion because I would have thought that one or more members opposite would have understood the principles of natural justice and would understand how repugnant it is for us to simply pass a motion that might see one or more members escorted from the chamber at some point today, with retrospective applicability. That is shameful and disgraceful, and I expected better from members opposite. We might disagree on a vast number of things, but I would not have thought that the principle of natural justice could be just tossed away by this government in this fashion.

HON SOPHIA MOERMOND (South West) [3.15 pm]: I am disappointed that the government has seen the need to bring on this motion today. I cannot help but think that the motion before the house directly targets me, and possibly other members, because it does. I choose not to reveal my medical information publicly because my medical privacy is important to me and my views are not the same as those of members opposite. Members opposite may not agree with the many thousands of people who have protested outside this place today and in recent times, but, as elected members of this place, they should listen to them. I am not a danger to members opposite. For them to think I am a danger because they are unaware of my vaccination status makes them ignorant. If they fear me and my lack of disclosure, they will have to fear everyone with whom they ever come into contact with. It has been shown that vaccination does not guarantee safety; people can still acquire COVID and they can still transmit it. If members opposite want to walk blindly through this pandemic, ignoring the facts that they do not like, they can go ahead and do so; but do not take away my democratic right to sit in this house because of it.

I believe that this motion is wrong. I have said this before and I will say it again: I cannot, in good conscience, contribute to a two-tier society based on medical apartheid, and that is exactly what this motion does. In this case it would seem that it excludes one person—me—because I do not hold the same views as others. This is a slippery slope indeed. This is not all about me, though. This is about the many doctors who have been unable to provide the appropriate course of action for their patients because the patient–doctor relationship has been politicised. It has been compromised by this government to such a degree that their hands are tied. This is about all the people who have been coerced into having an unwanted medical procedure forced upon them. This is about all those people who have experienced adverse events, and those numbers are rapidly increasing. Adverse events are 100 per cent

preventable, but these people will suffer the effects for many years to come. This is about the lack of reliable scientific data, the lack of transparency from the government, and the non-scientifically based rules that have created an incredible amount of stress for our communities and our economy. These rules have seen teenagers and others in service industries being put at the forefront of policing people. That is unfair, and it is not their job. These rules have all but killed our entertainment industry, with events being cancelled all the time.

We are not children, incapable of making our own decisions. Every time a society has participated in the creation of a lower class, it has ended in violence. First there is violence to control that lower class, and then there is violence to stop that control. I abhor violence, and believe that mandating a medical treatment is a human rights violation, since neither efficacy or safety have been shown, and this, combined with the censoring of effective treatments, makes every fibre of my being scream that this is wrong. I simply cannot have it on my conscience that my actions could contribute to a human rights violation; nor that I was actively involved in creating a two-tier society.

As I said, today's motion is an overreach by this government, especially the Premier, who so easily dismisses the concerns of everyday Australians with an out-of-hand arrogance not seen in a state leader in many years. With so many things to worry about in this state, not the least of which is the devastation wrought on Western Australia's economy via the mishandling of this pandemic by this government, this motion, to kick a duly elected member off the crossbench and from the chamber because of their possible medical status, is the priority business of the McGowan Labor government in 2022. It is shameful. It is also just plain wrong. I urge members to vote against this Orwellian, petty motion today.

HON DR BRIAN WALKER (East Metropolitan) [3.20 pm]: I am sad to find myself in the position of rising to speak against the motion brought before us today by the Leader of the House. What we are debating at this moment is protecting the health and safety of all in Parliament House, and that is surely a very worthy topic of consideration indeed. This question is exercising the minds of much of the population of Western Australia in their workplaces and across their daily lives. I am not convinced, though, that this is the main thing that our population is worried about. People are understandably very worried about the cost of petrol, which is at the moment threatening to breach $2 a litre—something that no-one will rejoice in. Is this not a topic worthy of consideration or more valuable to the population that we have sworn to serve than debating whether one of our members be permitted to sit in the chamber?

I read in *The West Australian* just this morning that parents are complaining that some subjects for certain cohorts of students currently have no resources available on the Department of Education website for students forced to self-isolate. I recall year 11 chemistry being one example even though the website clearly promises courses across all year levels and learning areas to give children the best opportunity to continue to learn at home. Given that the Leader of the House, who brought this motion on for debate, is also the Minister for Education and Training, we might have been debating that matter this afternoon, but instead we find ourselves here. If nothing else, it is good to have confirmation of where the minister's priorities lie.

Another topic of great concern for the population of our state surely centres around the issue of empty shelves in the supermarkets. I know from personal experience the difficulty of obtaining at present simple things such as meat, dairy produce and cleaning equipment. Indeed, the threat of being without the essentials of life is considerably more important to the average person in our state than the presence or absence of a member in this house, yet the government places this issue high on the list of priorities. I wonder why. In particular, I wonder: what is the scientific underpinning of this urgency? I shall return to that question in a moment.

It may be of no interest to anyone else here, beyond myself, but I am far more interested in having us debate the remarks of the President of the Children's Court just last week, with the horrifying information that the services in Banksia Hill Detention Centre fail to meet even the most basic requirements in caring for our young and vulnerable members of society. The President of the Children's Court suggested that the situation is so bad, on this government's watch, that it risks turning young people into monsters rather than serving as a place of rehabilitation and recovery from a life of deprivation, abuse and parental neglect. It teaches criminal activities, that, if not addressed at this early stage of life, will certainly progress to produce adults who will contribute little, if anything, to society but cause distress, grief, death and destruction—all of which could be ameliorated with proper, early, intensive input, which is currently not available. This causes huge distress to me personally, but also, I believe, to a large part of our society. However, that is not what the government chose to debate here this afternoon on our first day back as a chamber.

Members will be well aware that I am a doctor of medicine and have spent my life in the pursuit of wellness. I seek the causes that lead to the loss of wellness because preventing illness in the first place results in outcomes that are far in excess of waiting until disease occurs and then treating the symptoms. Members, therefore, will be well aware that I personally am completely vaccinated and boosted as per government recommendations. Members may, therefore, be quite surprised to hear that the Leader of the House, in writing to me, cast aspersions on my ideas about good medical practice for reasons that I appreciate had more to do with making a political point than any intent to encourage vaccination. I was calling for the early recall of Parliament to allow us to better debate COVID-related matters. In her response, the Leader of the House pointed out that I had taken the stand of opposing mandatory vaccination as if this were a valid criticism. I will address this at a later point.

First, let me tell members a story. This saga relates to medical science in society and how we have progressed over the centuries. Here, President, I must ask your forgiveness, for the title of this next part of my speech might be construed as unparliamentary language—nothing could be further from the truth. I am simply going to use the medical description given in the eighteenth century for a practice that was approved by medical society. The practice was that of blowing smoke up your arse. You might laugh, but this was a genuine medical procedure used in cases of near-drowning where a tube was inserted into the rectum and tobacco smoke was blown into the rectum in an attempt to revive the drowned person. Members do not need to take my word for this. Hansard might be pleased to know that J. Trevor Hughes wrote a paper on the practice in the *British Medical Journal* in 1982, referencing back to a celebrated early case from the seventeenth century. The practice did in fact have some success, more likely due, I suspect, to the discomfort of having someone blowing smoke up the rectum of someone who is not quite dead and who is then moved to take a breath, giving the appearance of resuscitation. Swimmers the world over will be thankful to know that medical science has moved on since then. In fact, the very nature of scientific investigation is that of posing questions, seeking answers and then questioning again to ensure that a valid response has been found.

From 1846 to 1860 a worldwide pandemic of cholera occurred. In London in 1854 there was an outbreak of cholera. Dr John Snow took an epidemiological analysis of the outbreak and postulated that the Broad Street pump may have been a source of bacterial contamination. Bear in mind that at that time bacteria as a cause of disease was a very contentious opinion, and the general thought was that miasma, or bad air, was the cause of the illness. The mathematical analysis was convincing and indeed a public health physician closed that pump and the cases in the area fell. This was a good example for the benefit of both scientific analysis as well as an examination of the effect of public opinion, including that of so-called experts in looking at alternative and erroneous conclusions, supported with not science but emotion.

Shortly after that time, Dr Ignaz Semmelweis reported that washing one's hands before doing an internal examination on a freshly delivered woman would reduce the incidence of puerperal sepsis, bacterial septicaemia, resulting from the introduction of bacteria from the unwashed hands of doctors who had wiped them after lancing a boil on another patient. At the time this was medical heresy as it did not conform to received medical practices. For this, and other political issues, Dr Semmelweis was hounded out of medical society and died rejected and humiliated. Thankfully, once again, science has moved on since then.

In the early 1920s, the treatment for asthma was to encourage the patient to smoke a tobacco cigarette in which a small amount of strychnine had been added. I can well understand the pharmacology behind this treatment, which would have resulted in the reduction in bronchial secretions, but, somehow, I feel that such a treatment today would not meet with the approval of medical society. We have moved on since then.

Even today, Dr Barry Marshall was very nearly expelled from medical society for entertaining the heretical idea that helicobacter pylori might cause gastric ulceration. Fortunately, being awarded the Nobel Prize went some way to him not being struck off the medical register. All these incidents that led to improvements to medical science began with a question, with a seeking of truth. But note and note well that each of these steps was accompanied by a rejection of the initial questioner and the confounding of science with popular misconceptions before, ultimately, a new way was found.

Turning to the events of today, we might well reflect on the mistakes of past generations in assuming the nature of current scientific understanding. In fact, what I see today is the risk of turning our current understanding of COVID into a shibboleth of dubious veracity. What I am seeing from the periphery, although accepting the truth that COVID vaccination reduces the incidence of death and disease, is that as a vaccine it still leaves much to be desired. That is not an empty expression of ignorance.

I look with wonder at how an effective vaccine can still leave the individual open to both becoming infected and being a major cause of spread of the virus. On that basis it could well be argued that the health of an unvaccinated person is more at risk from those who are vaccinated than those who are in the minority and unvaccinated. If it is the case that a non-vaccinated person is in a position of vulnerability, can we then demand that they abide by a command to vaccinate, or should we rather, in a free society, accept that individuals are responsible for their wellness and have a right to choose their path to wellness and permit that person to run a higher risk than we ourselves might find acceptable? If we then say that we can demand an action to protect that wellness be mandated against the will of an individual, are we then going to ban all tobacco products? Shall we ban motor vehicles? Shall we forbid mountain climbing and skydiving? If we say no to this, we are also admitting the inconsistency of demanding the acceptance of a vaccine that leaves much to be desired—that gives a level of protection that is less than 100 per cent and the use of which is associated with a higher than average incidence of unwanted side effects.

Members might claim that the vaccine as we know it today is effective and safe, and they might be right. However, that flies in the face of numerous peer-reviewed studies that suggest that the incidence of adverse effects is higher than for other vaccines. Members might even be interested to know that in my own case —

Hon Kate Doust interjected.

The PRESIDENT: Order, member. If you are seeking a ruling or making an interjection, can you please come to the lectern. I ask the honourable member to step aside from the lectern.

Point of Order

Hon KATE DOUST: Thank you, President. The motion before us is quite tight. We are talking about members being required to provide proof of vaccination. We are not talking about whether people should wash their hands when a woman has given birth, the veracity of the evidence behind the vaccine, or any of the other examples that have been provided by the member. I think Hon Dr Brian Walker is just going off on tangents and I ask, President, that you bring him back to the motion before us.

The PRESIDENT: Thank you, honourable member. I do observe that the honourable member has traversed a range of territory in order to make his point. I encourage him to bring himself back to make his point, having canvassed wide territory, and to maintain a focus on the terms of the motion.

Debate Resumed

Hon Dr BRIAN WALKER: Thank you, President. The point I was making was that the conditions that require us to consider ejecting a member from the chamber are based on assumptions that are not valid in medical practice and would not serve the population. I was using a wide variety of examples to canvass support for my contention. If you are happy with that, President, I will cut this contribution a little short.

If we are talking about relevance, we are talking here about someone who has been elected as a member of Parliament and whose views I do not share. I must put it to members that I do not share those views, but I insist that the rights of the individual not be interfered with by allegations of a danger to others that are not borne out by science. One of the points I was going to make was that I, as a medical officer, would have dearly loved permission to listen to the advice the Chief Health Officer was giving because I am in great doubt as to the veracity of it. Over the past three months, I have been regularly denied access to the Chief Health Officer, from whom I could get the information I require to be able to support or not support this movement. If that is the case, we are saying here that we lack transparency in this—we lack information—and this is part of the reason the population outside is so angry. I can heartily say that based on my own experiences, I would be very happy to support the motion provided I was able to have the information given to me, which has been denied; therefore, I doubt that we are seeing the truth expressed by the government. Although I will cut this short, I hoped members would have been interested in the background to this—the wider context—but if that is not an interest shared by members in this Parliament, I am happy to explain it behind the chair. It is a matter of supreme distrust and discontent that we are not being allowed to express ourselves as properly elected individuals and that we are being hounded, if you like, by principles that are not borne out by medical science. With that, I will end this contribution.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [3.35 pm]: I was going to concentrate on the effects on Parliament in my contribution, but given the contribution of members so far I would like to add a few other comments. I will start generally with some points of agreement. I always agree with Hon Nick Goiran that the legal process needs to be maintained and supported by all of us. I would like to agree with Hon Sophia Moermond in her description of the Premier as arrogant and that the impacts of lockdowns are significant; I think both of those are true.

To be honest, I struggle a little after that. I do not intend to drift too far into medical science, but I want to agree with Hon Dr Brian Walker on one particular point—that is, we in the veterinary profession have known for a very long time that human doctors get it wrong a lot. Perhaps it is because they get to interact with descriptions and veterinarians have to work it out purely by examination. We in the veterinary profession are not surprised at the errors that come from our human-treating counterparts. Having said that, I am not convinced by the argument that that means the process of mandating vaccines is therefore wrong or done in error. I am trained in epidemiology. I do not know how much of that is contained in a medical degree; it may well be a reasonable zero.

A member interjected.

Hon Dr STEVE THOMAS: No—lots? Okay; I was misinterpreting the signals from the member. The difficulty with epidemiology is that it looks at populations rather than individuals. The debate today has been very much about individuals. I said in debates two years ago that we can absolutely protect the economy or the individuals, but we cannot absolutely protect both. I stand by those comments. In relation to epidemiology and disease, we can protect the population or we can empower individuals, but we cannot do both. A couple of comments were made today that I find quite disturbing, and I will mention those.

Hon Sophia Moermond said that adverse effects of vaccination are 100 per cent avoidable, which suggests to me that the only way to do that is to have zero vaccination. The member is right that adverse impacts of vaccination are present and 100 per cent avoidable: if no-one is vaccinated, there are no reactions. The death rate as a result of that would no doubt be significant; however, the statement, in isolation, is true. I do not think that should necessarily be a guide for debate in the house. I am concerned when those sorts of contributions are added into the debate. On a similar note, Hon Dr Brian Walker pointed out that the level of protection from vaccination is less than 100 per cent.

Again, in isolation, that point is true; that is true for every vaccine. For every disease that has existed through the history of humankind, no vaccine has been 100 per cent effective. No vaccine prevents the disease it is designed for in 100 per cent of patients. No vaccine has ever done that and, in my view, no vaccine will ever do that, but perhaps technology will prove me wrong long after I have passed away.

No vaccine will ever deliver that. No vaccine will ever prevent the transfer of disease from all individuals. Probably no vaccine will ever prevent infection in a single case if the infection that overrides that vaccination is strong enough. No vaccine is capable of doing those things. But to intimate, therefore, that vaccines do not work, or that vaccines are a problem, I think flies in the face of science. A couple of contributors have talked significantly about science. That is why I am going down this rabbit hole a little, President.

It is absolutely the case that vaccination has been a success story throughout the history of humankind. The only disease that we have ever been able to remove from the planet is smallpox. That was removed through vaccination. Interestingly, the first time that mass vaccination was instigated was for the treatment of smallpox. For those who want to look it up, it was instigated by a guy in the United States called George Washington. He was fighting a civil war and was concerned that his troops would potentially succumb to smallpox. They did not have vaccines at that time. He instigated infection—his troops were required to be scratched and infected with smallpox material prior to their enlistment. He did not want to do it after their enlistment, because they might get sick when they were needed on the battlefield. Mass vaccination programs go back to the War of Independence in the United States.

These things are in place because they generally work. It is not the case that they work 100 per cent of the time for all people, but they generally work. The problem with this debate is that often people will say, "In my individual case, I don't want to be vaccinated. This is about an individual case". Unfortunately, President, to an epidemiologist, an individual case is somewhat irrelevant to the infection rate of a group of people, or of an entire nation or perhaps an entire planet. The world death toll from COVID is around five million people. That is much lower than from some of the other pandemics that we have had, just quietly. The death toll from Spanish Flu was between 30 million and 50 million people. That is not to say that the death of five million people is not a significant loss. It is equivalent to every person in Western Australia dying twice. The argument that vaccination is not effective is not one that should be countenanced in this debate. Vaccination is not perfect, but guess what, people? It is basically the only thing that we have, apart from a few very modern antiviral treatments.

I wanted to take a few minutes, President, to describe what in my view is the medical reality and epidemiology of the process. That is why nationwide or statewide measures are put in place. We are dealing with a population of individuals. I know that some individuals will not like that, but that is the reality of where we are.

I now turn to the substance of the debate before the house today. That should be about not the effectiveness of vaccination, but rather whether a mandate put in place by this house—because it would be by a vote of this house—should be allowed to be used to remove a member of Parliament should that member of Parliament not comply, and in the circumstances in which that should be done.

I have a problem if the rules that are applied to members of Parliament are different from the rules that are applied to the great majority of other Western Australians. It might be argued that we are a special case. Some people consider members of Parliament a special case. I do not think that is always a positive, or a compliment; it is sometimes a derogatory term. One of the issues is that vaccination mandates are currently in place for about 75 per cent of the workforce. Those people cannot go to work unless they are vaccinated. Should we have a different set of circumstances from that? The example that we set is very important. I would like to see us set a strong example voluntarily. There is a problem if we say that a set of rules that has already been applied across the board to close to one million workers should not also be applied to this place. That becomes a very difficult argument to maintain. I do not think the greater community would accept that as a reasonable concept, as much as we might think as members of Parliament that our role is more crucial. President, I know as I turn up here that my crucial role in winning divisions of the house might be seen to be a little more optimistic than practical at the moment, but I live in hope that at some point my sheer eloquence will turn half the members of the Labor Party.

Hon Sue Ellery interjected.

Hon Dr STEVE THOMAS: Call me the eternal optimist, President. I like to see the direction in which we are going.

Having made all those preliminary points, let us address the motion before the house today. In my view, this is a beefing up of the motion that was presented on 1 December last year. I think there were errors in the motion that was moved on 1 December last year, and I want to take a minute to remind members of what we talked about at that time and how that has changed.

On 1 December 2021, a motion was moved by the Leader of the House that contained a couple of key points. Part (2) of the motion was the most critical. It states —

> (2) Members must provide proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk by 31 January 2022.

That motion was passed. Therefore, that became the will of the house. There was some confusion around the next step. Part (3) of the motion, rather than creating clarity, created more confusion. Part 3 states —

> Unless otherwise ordered, any member who has not complied with the requirements set out in paragraph (2) is determined to have failed to comply with an order of the house and, therefore, is suspended from attending the chamber, Parliament House and the Legislative Council Committee Office during a lockdown or similar restrictions.

I think that is effectively what we are debating today. If part (3) of the December motion had had a full stop after the words "Legislative Council Committee Office", rather than be followed by the words "during a lockdown", the need for the current motion might have been quite limited.

I think that between 1 December and yesterday when we received a copy of this motion, there has been a change of intent. The intent is that rather than have this order apply only in a lockdown situation, a member will not be allowed into the chamber if they cannot prove either that they have been vaccinated, or that they have a valid medical exemption. I was quite confused by that motion. Hon Martin Aldridge raised a number of concerns about the wording of the motion that was moved back in December and the fact that there was some confusion around this. Part (2) of the motion read in isolation would suggest that a member of the house would be in contempt of the house if they did not provide proof of either vaccination or a valid medical exemption. Part (3) of the motion muddied the waters by saying that the penalty would be put in place only during a lockdown. In my view, a member would be in breach and in contempt of the will of the house if they refused to comply with part (2) of the motion. Part (3) of the motion just made it more difficult. I understand, therefore, that if the intent back then was to exclude from the house members who could not prove their vaccination status or medical exemption and provide that to the Clerk, that is what the government is seeking to correct today. Hon Nick Goiran is, therefore, quite correct in saying that there were errors in the original process—either that, President, or that has changed.

The other component that I want to talk about is therefore what is the most appropriate method for which the house could deal with a member who is seen to be in contempt of the house? In my view, a member who did not present a vaccination certificate or valid exemption was probably already in contempt of the house but was just confused. Under the motion before the house today they would absolutely be in contempt of the house and they could not be present in the chamber in Parliament at all. I am prepared to accept the will of the government that this is to protect staff. I think the wider debate about the best way to protect staff and whether one measure is better than another measure, with all due respect to every member who wants to debate what might be better measures, is actually not necessarily helpful during the debate because I could probably argue for one measure being better than another measure. I may well be the most qualified person in the chamber to do so, but as I said before, there is no perfection. We are arguing about least worst cases and slightly better cases. I would therefore rather focus on the chamber's capacity to deliver the outcome that it wants.

Hon Nick Goiran made a valid point in that the motion before the house is absolute and unforgiving in that if a member does not comply with the motion, they are therefore removed from the house. I listened to Hon Sophia Moermond—who has identified herself rather than us identifying her—quite carefully. I did not hear her address a potential reason why she might not have complied. I would have thought that that might be part of the debate. There may be a reason that she thinks is valid that she has not had the capacity to present to her peers, I would have thought. Hon Nick Goiran also raised this, that the appropriate place for her to do so would have been the Standing Committee on Procedure and Privileges, not to effectively delay an outcome, but to simply give that member access to what Hon Nick Goiran quite rightly referred to as natural justice. Natural justice needs to be part of the process. There is a reasonable argument to say that a member would take the question as presented—they have not complied—and give any member, not only this particular member, an opportunity to explain why. It might be argued that behind the chair or in other places that opportunity has been offered and it has not resulted in a change, but some official rules need to be put around this. An offer to explain needs to be a formal offer to explain.

I keep saying in the press that we should not be putting ourselves as judge, jury and executioner; we should be making sure that the process is right. Therefore, I am foreshadowing an amendment to the motion before the house today that would do exactly that, and would give a two-day sitting period, a grace period, for the member to be immediately referred to the Standing Committee on Procedure and Privileges, and the privileges committee would have two sitting days to report back and recommend whether the member should be removed from the services of the house for being in contempt of the motion before the house. It is absolutely the case therefore that if the member is being removed because of the potential threat of spread of COVID-19, there are two additional days of threat. I absolutely understand that every threat comes with a certain risk attached to it, but there is also a risk in this house not observing due and proper process as a part of that.

There is another component of course then, and I foreshadow it because it might not necessarily encourage members to support it, but it needs to be said because I am trying to make this a very honest debate. If my amendment were to succeed, after two days of deliberations the privileges committee would have to come back and make a recommendation. That recommendation would therefore be a motion before the house and there would be, if you will, a second bite of the apple for the debate around whether a member would be suspended. I absolutely get that

there is a delay and a second debate as a part of what I am proposing. I do not do so lightly, because I think the formal processes of the house are important. As we try to maintain our dignity in the debate it is critical that we also maintain the processes of Parliament and take the role of parliamentary privilege and the service of Parliament incredibly seriously, so I ask members to consider whether this is a more appropriate outcome, notwithstanding all the things I have said around vaccine mandates.

Obviously, I, like others, am fully vaccinated and I encourage everybody to be so because every epidemiologist would do exactly that. We are great believers in vaccines. Like I say, vaccines have done so little damage compared with the diseases they have been pitted against throughout the history of mankind. We could argue that some medicines out there are the reverse, but the reality is that in human history vaccines have been highly effective. They are not perfect; they cause some damage. I have said this before and I do not think members truly understood it, but we all get vaccinated and when we do we all accept the risk of side effects. We should all do that every time. Every vaccine has the risk of side effects, but we take that very small risk to protect the community from a much bigger one. If we go into vaccination with our eyes open, that is what we do. We take a very small risk on behalf of our ourselves to get a very big benefit to the wider community. That is a message that a lot of people who say, "I don't want to be vaccinated" do not quite get. They say, "I'm not going to take the risk; the rest of you have to take the risk. I'm not going to share the risk of vaccination for the enormously greater benefit of the prevention of disease, but the rest of you can." That is the problem, from my perspective, with the people who march outside today. We all need to share the risk. That is what an epidemiologist does. I put that out there.

President, irrespective of how we think vaccines work, I think there is an appropriate outcome for this house in which due process is not sidelined.

Amendment to Motion

Hon Dr STEVE THOMAS: I move —

In paragraph (4) after "immediately" insert —

referred to the Standing Committee on Procedure and Privileges for report within two sitting days as to whether the member should be

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.57 pm]: I rise to indicate that the government will not be supporting the amendment, for the reasons outlined by the member himself. It would defer and delay the exact same debate we are having now, but defer and delay in the context of a health situation. That is what we are debating. I do not think it is practical to impose on the Standing Committee on Procedure and Privileges a two sitting day turnaround. I do not think that is practical on the committee. I also make a point that I will make when I reply to the substantive motion as well. I am not sure whether people really understand where the motion before us came from. This was not generated by the government. I stand by the motion; I have moved it in my name and I absolutely support it, but it was the Presiding Officers of the Parliament on advice from the clerks who put together a package of measures for how we deal with the pandemic in Parliament.

I do not step away from the fact that the government has moved this motion, but people need to understand where it came from. I am making that point for one reason. Members need to make a judgement in their own minds whether, in putting the package of measures together, the Presiding Officers contemplated all the tools that the Parliament uses, including whether the matter should be referred to the Standing Committee on Procedure and Privileges. I worked on the basis that indeed it did, not because I have seen the work that it did or because I know of the precise debates that went on, but people need to understand where this came from. This was not initiated by the government. I do not back away from this motion or diminish my support for it, but this came from the people who run this place—they were the drivers of these measures—and I think that members perhaps do them a disservice if they think that they did not contemplate the consequences of the motion that is before us today. Nevertheless, the government will not support the amendment.

HON SOPHIA MOERMOND (South West) [4.00 pm]: I thank Hon Dr Steve Thomas for putting this amendment forward. I would value the opportunity to speak in front of the Standing Committee on Procedure and Privileges in relation to my case specifically. In these debates, I keep seeing that the vaccines are considered safe, and indeed they are for most people.

The PRESIDENT: Honourable member, I just need to remind you of the terms of your contribution. You are speaking specifically on whether the words should be inserted. Do you have the amendment in front of you?

Hon SOPHIA MOERMOND: All right. I would like to have the amendment included.

The PRESIDENT: The amendment has been provided to the member. You have the amendment; it is quite a narrow debate and you need to focus on that.

Hon SOPHIA MOERMOND: Thank you. I feel I have said my bit. I support the amendment as put forward by Hon Dr Steve Thomas and would welcome the opportunity to speak in front of the Standing Committee on Procedure and Privileges.

Division

Amendment put and a division taken with the following result —

Ayes (9)

Hon Martin Aldridge	Hon James Hayward	Hon Dr Steve Thomas
Hon Peter Collier	Hon Sophia Moermond	Hon Neil Thomson
Hon Donna Faragher	Hon Tjorn Sibma	Hon Nick Goiran *(Teller)*

Noes (21)

Hon Dan Caddy	Hon Lorna Harper	Hon Stephen Pratt	Hon Dr Brian Walker
Hon Sandra Carr	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Darren West
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Samantha Rowe	Hon Pierre Yang *(Teller)*
Hon Kate Doust	Hon Kyle McGinn	Hon Rosie Sahanna	
Hon Sue Ellery	Hon Shelley Payne	Hon Matthew Swinbourn	
Hon Peter Foster	Hon Dr Brad Pettitt	Hon Dr Sally Talbot	

Pairs

Hon Colin de Grussa	Hon Ayor Makur Chuot
Hon Steve Martin	Hon Klara Andric

Amendment thus negatived.

Motion Resumed

HON MARTIN ALDRIDGE (Agricultural) [4.06 pm]: I rise to contribute to the debate on some aspects of the motion that is before us. As I said, I am a little concerned about how these things have come to this point. I listened to the reply of the Leader of the House on the genesis of this motion. I am starting to wonder to what extent we are departing from doing things because they are considered to be actions based on health advice to perhaps doing things because we did them previously. That causes me some concern.

The matters I am going to raise do not necessarily go to whether somebody should or should not be vaccinated. As other members have said in their contributions, I am a supporter of vaccination and I encourage others to be vaccinated. I am vaccinated and my children are vaccinated. I think it is a responsible thing for individuals to do to play their small part in the response to the pandemic. But I have concerns on a number of aspects of this motion that I want to put on the record. Some of these issues will be repetitive because I raised a number of them in the debate on 1 December. Obviously, those concerns have fallen on deaf ears, or people have disagreed with the views that I expressed at that time—who would know? I was not involved in the crafting of the motion that is before the house. As I understand it, a motion in similar if not the same terms will be considered by the Legislative Assembly not today but in due course.

I said on 1 December that a number of aspects of that motion had not been fully considered. One thing I want to draw to members' attention is that following the statement made by the President earlier today and the contributions of Hon Sophia Moermond and potentially other members, I think it has now become quite obvious that once this motion passes, at least one member will be suspended from attending the Legislative Council. One issue in particular that I raised on 1 December and raise again now is that members are not suspended from the service of the Legislative Council; they are suspended from attending the Legislative Council—not just the chamber, but also Parliament House and the Legislative Council committee office. It was understood during the debate that occurred on 1 December that members suspended from attending could still participate in committees virtually. We all know that many of the committees meet virtually, and have done for a long time—well before COVID-19. In fact, the number of virtual committee meetings probably increased because of the pandemic. Members still have an opportunity to participate.

There was also discussion about allowing members to participate virtually to some extent—I stress the words "to some extent"—during a sitting of the Council. I know that was anticipated at that time. I could not agree with Hon Sophia Moermond's amendment on 1 December, which allowed for full participation, for the legal and constitutional reasons that I outlined on that occasion. To some extent, at the very least, that would still allow members to participate in committees virtually, or even potentially in the Council. I make this point because as far as I can tell, no consideration has been given in the motion to Legislative Council standing orders 28 and 29. For the benefit of members, standing order 28 refers to a member being absent for more than six consecutive sitting days. Obviously, the way in which we counter such a breach of standing order 28 is for the Council to give a member leave. Two options could be given: first, the Council gives a member leave, which means the member is in breach of standing order 28 and they are dealt with under standing order 34. I pointed out the irony of that situation in the debate on 1 December. Standing order 34 suggests that a member be ordered to attend the Council to explain their absence from the Legislative Council. That is rather ironic, given that this motion seeks to not allow a member to attend the Legislative Council.

Let us consider for a moment that the Council will give a member or members leave whilst this order is in place. As I outlined on 1 December, standing order 29 refers to leave of absence. Members should be aware that paragraph (3) of standing order 29 states —

> Any Member having leave of absence shall forfeit the same by their attendance in the Council or at a meeting of a Committee before the expiration of such leave.

It may be the case that the Council could seek to give a member leave until the second sitting day after the winter recess but that leave will automatically be forfeited when a member attends a committee meeting virtually. I draw that to the attention of the house again because I think it will make the operation of this order somewhat clumsy. If it is a member's intention to both seek leave and also to continue to participate to some extent in committee business, that will be very clumsy. We may well end up having repetitive motions moved on the floor of the Council, if not on a weekly basis but perhaps even more frequently, to renew leave when leave is forfeited in accordance with standing order 29(3). That is something that I raised and outlined in the debate on 1 December, to which I see no acknowledgement in the motion before the Council today.

I turn now to another aspect of the motion before us. Paragraph (2)(b) refers to boosters. On 1 December, I drew this matter to the attention of the house. I asked why we should satisfy ourselves with a first and second dose of the vaccine when the recommendation of the Australian Technical Advisory Group on Immunisation at that time, which was supported by the state government, was that a person should have a booster six months after their second dose. Obviously, that was subsequently reduced to four months, and the current position is three months. Things changed as advice changed. On 1 December, the advice of ATAGI was that a booster shot should be administered six months after the second dose. On that date, I outlined over a number of paragraphs in *Hansard* that I thought that was an omission. If there was some skerrick of consultation, perhaps that issue would have been fleshed out on that occasion. Nevertheless, here we are on the first sitting day of 2022 discussing a motion without notice from the Leader of the House.

I raised paragraph (2)(b) because it says that we will now not only have to provide proof of our first and second COVID-19 doses, but also provide proof of a booster COVID-19 vaccine dose or proof of a valid exemption by 6 May 2022. On 1 December, when I last rose to discuss this matter with respect to the previous motion, my booster was due at the end of that week. I printed off my vaccine certificate today. It reflects the fact that I had my booster shot shortly thereafter—on 13 December. Why is 6 May 2022 a relevant date? During today's debate, I have not heard anyone provide any advice about why 6 May 2022 is a relevant date. The Leader of the House said a short time ago that the motion moved on 1 December was based on the health advice of the Chief Health Officer that was provided to the government on 22 October. She is 100 per cent correct. Since then, advice was given to the Premier by the Chief Health Officer on 21 December. Again, this matter is relevant; it has not been mentioned so far in the debate. In the final paragraph of the four-page advice to the Premier on 21 December, the Chief Health Officer, Dr Andrew Robertson, said —

> In summary, it is my recommendation, as Chief Health Officer, that a booster dose of COVID-19 vaccine be mandated for all eligible workers to which a vaccine mandate currently applies. This should occur as soon as practicable, with those currently eligible required to get a booster dose by 05 February 2022 and those who subsequently become eligible required to have the booster dose within one month of becoming eligible. These timeframes allow the workers sufficient time to get the booster dose and employers adequate time to check and record the booster dose.

I heard the Leader of the Opposition talk about 75 per cent of the workers in Western Australia being subject to a vaccine mandate. That is the advice that was enforced by public health direction on 75 per cent of the workforce. By 5 February 2022, or within one month of becoming eligible for a booster dose, workers must have complied with that direction.

I return to paragraph (2)(b) of the motion, which includes the date of 6 May 2022. Again, apart from that being a very auspicious day in the calendar of every year, as it is my birthday, it makes no sense to me why 6 May 2022 was chosen as a relevant and appropriate date, particularly given the arguments that are being presented around the criticality of this place and the protection of its members and staff. Perhaps that is something that the Leader of the House can contemplate in her rely to this motion. It would seem to me that we are now setting quite a different standard from what has been expected of the rest of the community with respect to boosters.

The other aspect of the motion that may or may not be so novel, but it appears novel to me at this point, is that several limbs of this motion refer to the Clerk reporting to the house. Paragraphs 3(a), 3(b) and (5) state that the Clerk will report the details to the house at the earliest opportunity. It is not exactly clear to me how the Clerk will report to the house. It would make more sense to me if the motion referred to the President reporting details to the house. The house will not send an email to the 36 members of the Council. It will report to the house when the house is assembled—when the President calls it to order on a sitting day. It does seem a little odd to me that the Clerk will be reporting certain things to the house, including, under paragraph (5), the lifting of the suspension of a member from the house when the Clerk does not necessarily have that opportunity—the President does. I raise that as an example of the language that is being used because it does seem a little odd to me.

Paragraph (4) of the motion refers to the suspension of a member being until the second sitting day following the winter recess. This is another peculiarity that I think has not been explained, certainly not from what I have heard in the debate today. I suspect that the second sitting day was chosen because on the first sitting day after the winter recess there will probably be another debate like this one and, depending upon the circumstances in which we find ourselves on the first sitting day following the winter recess, there may well be another motion, perhaps in a similar form, that will continue the suspension of members or change the nature of the suspension of members. I suspect that is why the second sitting day has been chosen, but I do not know so.

The other point I make about this is the same as one I made on 1 December. My concern about the motion on 1 December was that it was a standing resolution of the Council—it will stand as an order of the house until it is rescinded. There was no cessation date. I suggested to the house on 1 December that given the circumstances in which we were considering the motion on that day, the motion could or should have been linked to the declaration of a public health emergency in Western Australia, and in that way when the Chief Health Officer decides, or provides advice to government, that the conditions that satisfy a public health emergency no longer exist—whether that is in a week, a month, a year or a decade—and that motion, or that order of the house, will cease. I have no crystal ball, but I think it would be a concern were a member to continue to be suspended from attending the house if indeed a public health emergency did not exist in Western Australia. I think that would be a quite strange set of circumstances. I think that paragraph (4) of the motion could have been expressed in better terms, such as the terms I put on the record, helpfully I hope, on 1 December to improve that motion.

I turn now to the advice of 22 October. This is a matter on which I am thoroughly confused about the public health advice. The Leader of the House is 100 per cent correct—the Chief Health Officer made recommendations on 19 October, and again refined his advice on 22 October, on the broader vaccine mandates. Three categories of workers or occupations were created; in fact, those three categories still exist. We were in category 3 and, as far as I am aware, we are still in category 3. I have been given no advice and I have seen no published advice from the Chief Health Officer to the contrary. On 22 October, a number of occupations were listed under category 3. The advice of 22 October states —

> In addition to the mandates, which should be made under the *Public Health Act 2016*, regarding the workers listed above, —

Listed above that were the category 1 and 2 occupations for which vaccine mandates are currently in force —

> it is recommended that, in the event of future lockdowns or major restrictions, a proportionate and safe approach should be applied to people who carry out important roles that cannot be done from home. Full vaccination to allow people to leave home to go to work, if their work is necessary and unable to be done from home, is an important consideration, as it protects the individual worker, the community and the essential services that WA requires to function effectively. The following groups will be required to be fully vaccinated to attend work in the event of a lockdown or similar restriction:

I want to read into the record the occupations because I think that they are relevant. It states —

- Other click and collect retailer
- Bottle shop
- Newsagent
- Pet store
- Wholesaler
- Critical conveyancing and settlement agents
- Critical Government or local government services where working from home is not possible
- Some administrative services (such as payroll)
- Vehicle and mechanical repair service
- Journalistic and media services
- Members and staff of Members of Parliament of Western Australia
- Roadside assistance
- Critical forestry
- Critical primary industries
- Critical factories, manufacturing, fabrication and production

I would like to know whether the Chief Health Officer has changed his mind since 22 October. That would be a live option, but I do not know that. This morning, I checked the government's website on which his advice is published and could see no change to his advice. It may be the case that his advice has changed. It would be interesting to have that information while we consider and contemplate the motion before us.

The other point I make is: if it has changed, have all those other occupations that I just listed now fallen within the requirements of requiring a first and second dose of a COVID-19 vaccine as well as a booster shot when they become eligible? It would be useful to have that information while considering the motion before us today. I am confused,

and I am becoming increasingly confused, about whether we have formed a view that this is something that is good to do or whether it is based on health advice. If it is based on health advice, I suspect that those other occupations could fall, if they have not already, under the vaccine mandates in Western Australia.

I draw the President's attention to "Members and staff of Members of Parliament of Western Australia". I am not aware of any directions being issued to my staff. I am certainly happy to stand to be corrected, but I am not aware that the position of my staff has changed. I have expressed concern about the support that has been provided to parliamentary electorate officers and staff during the COVID-19 response. In fact, I recall a memorandum not that long ago that said that masks would no longer be provided by the department to electoral staff, nor would the department be providing rapid antigen testing to electorate officers. If we have reached the threshold that the Chief Health Officer anticipated in this third category, I am interested to know what measures will be put in place to protect not only members, but also their staff, as the Chief Health Officer outlined in his health advice on 22 October. Again, I think that these have been omitted from consideration. I made the point on 1 December about the order of the Victorian Parliament, which at that time—I do not know whether that has changed; it was the only other jurisdiction in Australia that had pursued a path like this—extended to members' electorate officers and their staff. That may well have changed in the last couple of months.

The last point I want to make in passing is about something I raised in the debate on 1 December—that is, are these the only measures that the Parliament ought to consider when protecting not only the function of Parliament, but also the occupants of Parliament? I heard the Leader of the Opposition's caution about making judgements about what is good and what is not so good. I think that is wise counsel, but as a member who is being asked to make a decision on this motion, it would be far more valuable were I to have some confidence that those decisions are being made based on the explicit advice of the Chief Health Officer or some other competent person. As I said, I am not sure about the public health merits of being the seventh, eighth or ninth person to stand and speak at this hot desk today.

Debate interrupted, pursuant to standing orders.

[Continued on page 28.]

QUESTIONS WITHOUT NOTICE

CORONAVIRUS — EVENT SUPPLIERS SUPPORT PROGRAM

1. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Culture and the Arts:

My question is to the Leader of the House representing the Premier. I refer to the $3 million event suppliers support program announced on 10 February 2022, which will provide payments to eligible event suppliers for ticketed events, with $10 000 grants for sole traders, $20 000 for small businesses and $50 000 for large businesses with a pre-COVID annual turnover of more than $1 million.

(1) What are the deemed criteria and definitions of a "ticketed event"?

(2) Will the criteria and definitions be tabled; and, if not, why not?

(3) Who determined the definition of "ticketed event" and "non-ticketed event", and on what criteria was the exclusion of events determined?

(4) What compensation is available to businesses that supplied services or materials to non-ticketed events?

Hon Sue Ellery: That question has been re-directed.

Hon SAMANTHA ROWE replied:

I thank the member for some notice of the question.

(1)–(4) The event suppliers support program will complement the existing Getting the Show Back on the Road program. The Getting the Show Back on the Road program provides support through sharing the risk of lost ticket revenue for live performances, mass participation sporting, tourism and culinary events, and regional agricultural shows impacted by the border opening delay, COVID-19 mandated cancellations and/or COVID-19 infections in key event personnel. Eligibility for the program includes ticketed events with projected gross ticket sales or sporting-related registration fees of greater than $5 000 that are planned to take place in Western Australia. The event suppliers support program will provide funding to eligible event suppliers that support these ticketed events.

This program will be limited to event venue, hospitality, staging, security, traffic management and audiovisual activities for ticketed events. It will require businesses to demonstrate a minimum 30 per cent reduction in turnover in the period 5 February to 5 May 2022 compared with the same period in 2019, or a similar period to account for reporting dates. The event suppliers support program guidelines will be published on the Department of Local Government, Sport and Cultural Industries website when available. The small business assistance grant for December 2021 is available to assist small businesses operating within the hospitality sector, the music events industry, or the creative and performing arts sector that were directly financially impacted by the Chief Health Officer's COVID-19 restrictions directions from 23 December 2021 to 4 January 2022.

CORONAVIRUS — RAPID ANTIGEN TESTS

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

I refer to consistent comments made by the Premier and Health Minister Sanderson when they repeatedly refused to provide an exact date on which rapid antigen tests were procured in preparation for the border reopening, other than "the first half of December 2021".

(1) Why has the government consistently declined to reveal the date on which these tests were ordered?

(2) On what exact date were the RATs ordered by the WA government?

(3) How many charter flights were utilised to deliver the RAT order, and at what cost?

(4) When did the first shipment of RATs arrive in Western Australia?

(5) How many RATs have been provided to date, and what number are scheduled to arrive?

Hon SUE ELLERY replied:

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

(1) This is untrue. The Premier and the Minister for Health have stated that the first order of rapid antigen tests was placed in mid-December.

(2) Consultation with suppliers commenced in October 2021 to determine RAT kit suitability through in-house validation testing. Following completion of validation testing, commercial negotiations were held in November 2021, and initial purchase orders were raised in mid-December across four suppliers.

(3) The Department of Health chartered two flights at $700 000 per flight.

(4) On 30 December 2021. Approximately 10 million are in stock today, net of usage and distributed tests to date.

(5) The state government has ordered approximately 111 million tests, and the commonwealth government has advised that it will provide 1.04 million tests.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

3. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the answer to my question without notice 1208, asked on 16 December 2021, in which the house was informed that one child in the care of the CEO of the department, whose whereabouts was recorded as "unknown" for 35 days, had not been found.

(1) Has this child been found?

(2) For how many days has this child had their whereabouts recorded as "unknown"?

(3) How many children are in the care of the CEO whose whereabouts are currently recorded as "unknown"?

Hon SUE ELLERY replied:

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

The term "whereabouts unknown" may lead to the assumption that every child with a placement titled "unknown" is a missing person, not in contact with caseworkers and unable to be supported by Communities.

(1) Yes.

(2) The child was recorded in a placement type of "unknown" for 36 days.

(3) As of 15 February 2022, there are eight children recorded in a placement type of "unknown". Seven of those children are in contact with the department, and one person has been reported to WA Police as missing.

KINDILINK PROGRAM

4. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the KindiLink program delivered across a number of WA primary school sites.

(1) Has delivery of the KindiLink program been put on hold by the Department of Education in response to the COVID-19 health measures implemented across WA schools?

(2) If yes to (1) —

  (a) when did this decision take effect, and have all KindiLink sites been impacted; and

  (b) what alternative delivery methods has the government put in place to ensure that the program can continue?

Hon SUE ELLERY replied:

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

(1) No.

(2) Not applicable.

RESIDENTIAL RENT RELIEF GRANT SCHEME

5. Hon Dr BRAD PETTITT to the minister representing the Minister for Commerce:

I refer to the residential rent relief grant scheme announced as part of the emergency Residential Tenancies (COVID-19 Response) Act 2020.

(1) How much of the $30 million provided to support tenants in tenancies is still unspent?

(2) If there is money remaining, will the residential rent relief grant scheme be extended?

(3) If no to (2), what will the unspent funds be used for?

Hon STEPHEN DAWSON replied:

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

(1) It is $11 508 932.81.

(2)–(3) The government is yet to make a decision on these matters.

ROEBOURNE REGIONAL PRISON

6. Hon Dr BRIAN WALKER to the minister representing the Minister for Corrective Services:

I refer the minister to recent media coverage regarding the lack of air conditioning at Roebourne Regional Prison, and to subsequent stories in the press suggesting that Roebourne prisoners were not, as at late January, being administered COVID vaccinations.

(1) Since being sworn in as Minister for Corrective Services, how many times and on what dates has the minister visited Roebourne Regional Prison?

(2) Were any concerns raised with the minister in the course of any of those visits about air conditioning or the adverse impacts of heat upon prisoners; and, if so, by whom, on what dates, and what action, if any, did the minister take in response?

(3) Can the minister confirm that vaccinations are now being rolled out to prisoners at Roebourne Regional Prison; and, if they are, on what date did that rollout begin, and what medical advice, if any, was received, recommending that vaccinations be administered differently within a prison setting in general, or in Roebourne Regional Prison in particular, than elsewhere in the state?

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) The minister visited Roebourne Regional Prison on 3 December 2021. The ambient temperature on that day was 45.9 degrees Celsius, according to the Bureau of Meteorology.

(2) The minister raised the issue of heat mitigation at the facility with staff and inspected various measures that were in place.

(3) Corrective Services, under the Department of Justice, has completed two phases of COVID-19 vaccinations within the custodial estate, which included Roebourne Regional Prison. Phase 1 ran from 1 July 2021 to 2 September 2021, and was available to all consenting adult prisoners. Phase 2 ran from 23 November 2021 to 16 December 2021, and was available to all consenting adult prisoners and young people, aged 12 years and over, within the custodial estate and staff. Roebourne Regional Prison is scheduled for its next vaccination clinic in early March 2022. Following this visit for third-round vaccinations, maintenance visits will take place to vaccinate any new prisoners or transfers from other facilities who require vaccination. Although the delivery of vaccines to prisoners within the prison setting is not far from removed from the way in which vaccinations are delivered in the community, the department advises that security protocols are in place and several different methods of ensuring prisoners, particularly Aboriginal prisoners, understand the benefits of receiving vaccination. Staff also assist prisoners who have literacy issues in completing the required consent forms.

ENVIRONMENT ONLINE PLATFORM

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

I refer to the government's commitment to deliver the Environment Online platform.

(1) Is the Environment Online project currently on schedule?

(2) When will the first minimum viable product, or MVP, be delivered?

(3) How much has been spent on the project to date?

(4) How many departmental FTEs and contractors are working on the project?

Hon STEPHEN DAWSON replied:

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

(1) On 23 February 2022, Environment Online will be released to invited industry to undergo intensive user testing. This is a significant milestone in the delivery of the project.

(2) Once the feedback from user testing has been considered, a go-live date in the first half of this calendar year will be determined.

(3) Until 31 January 2022, the Department of Water and Environmental Regulation had spent $5 808 707.48 on this project. This total excludes in-kind salaries spend of $2 907 516.10.

(4) There are 61.3 FTE comprised of 19.3 departmental officers and 42 contractors.

CORONAVIRUS — MANDATORY VACCINATION AND MASK WEARING

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

I refer the minister to the mandatory wearing of masks and mandatory vaccination in various venues in the metropolitan area.

(1) Have any police officers in the metropolitan area been dispatched for priority 1 or priority 2 to attend non–mask wearing or non-vaccination incidents over the past 30 days?

(2) If yes to (1), how many incidents?

Hon STEPHEN DAWSON replied:

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

The ministerial office has advised that due to IT issues today, it was unable to get answers in time for today but will provide an answer tomorrow.

CORONAVIRUS CARE — BUNBURY HOSPITAL AT SOUTH WEST HEALTH CAMPUS

9. Hon JAMES HAYWARD to the Leader of the House representing the Minister for Health:

I refer to Bunbury Health Campus.

(1) How many intensive care unit beds are established and operational at Bunbury Hospital at South West Health Campus?

(2) How many respirators are stored at Bunbury health campus?

(3) Can the minister confirm that the McGowan government plans to relocate any regional COVID patient requiring ICU care to Perth?

(4) If yes to (3), is the McGowan government concerned that regional Western Australians requiring ICU care for COVID will not be able to be close to their families and community?

Hon SUE ELLERY replied:

(1) There are eight.

(2) Respirators include N95 masks required for use in all emergency departments. Supply of these stocks vary on a daily basis.

(3)–(4) Most COVID patients will be able to be cared for in their home. Approximately 0.5 to one per cent of patients will need hospital care. Most of these patients will be able to be managed in their local hospital. However, should they require ICU care, they will be transferred to an ICU in order for them to receive the highly specialised complex care that is only available in an ICU.

VOLUNTEERING WA — AWARENESS CAMPAIGN

10. Hon SOPHIA MOERMOND to the Minister for Volunteering:

Volunteering is a lifeblood to many in our community. Services provided by volunteers are relied on by organisations in a wide variety of areas: from sport to aged care; disability services to land management; and wildlife rescue and beach patrols through to cultural heritage. Volunteering WA, which makes a huge difference, especially in regional areas by connecting thousands of volunteers to many community organisations in our state, recently launched a volunteering awareness campaign in response to some shocking new figures. The national trend over the last six years has seen a 22 per cent drop in volunteerism and is projected to blow out to 40 per cent by 2030.

(1) Can the minister outline what initial response to the recent volunteering awareness campaign has been received?

(2) With many areas in regional WA currently without an existing volunteer resource centre administered by Volunteering WA, can the minister please outline what steps he has taken to ensure that volunteering services reach regional areas?

Hon STEPHEN DAWSON replied:

This question was not received before 11 o'clock today, so I have not seen it. The member might just check whether it has been lodged. It certainly has not come to my attention.

WOOROLOO BUSHFIRE —
AUSTRALASIAN FIRE AND EMERGENCY SERVICE AUTHORITY COUNCIL INQUIRY

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

I refer to the state government–initiated Australasian Fire and Emergency Service Authority Council inquiry into the Wooroloo bushfire, noting that the bushfire occurred more than a year ago and the report was due for completion by 30 October 2021.

(1) Has the government received the report of the reviewers?

(2) On what date was the report received by the government?

(3) If yes to (1), will the minister please table the report?

Hon STEPHEN DAWSON replied:

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

(1) Yes.

(2) It was Wednesday, 22 December.

(3) The report will be tabled once it has been considered by government.

CORONAVIRUS — OMICRON MODELLING

12. Hon NEIL THOMSON to the Leader of the House representing the Premier:

I refer to the Premier's comments that there is no reliable modelling at this point in time when referring to Omicron, and that the Premier will not release incomplete information as it is not useful.

(1) What modelling has been undertaken by the WA government on Omicron?

(2) When did this modelling commence; when will it be finalised; and when will it be released to the WA public?

(3) Why has the WA government been unable to undertake the timely release of Omicron modelling when jurisdictions such as New South Wales, Victoria, South Australia and Queensland have?

(4) With no Omicron modelling, what was used by the McGowan government to support the decision regarding indefinitely delaying the border opening and imposing further community restrictions?

The PRESIDENT: Before I give the call to the Leader of the House to reply to that question, honourable member, I will just remind you that in terms of the motion that has just been passed by the house, when you are asking questions or speaking, you need to go to the lectern.

Hon Neil Thomson: Sorry; I missed that.

The PRESIDENT: Thank you.

Hon SUE ELLERY replied:

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

(1)–(3) 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.

(4) As the Premier outlined, this decision was made upon the latest health advice. This included the extraordinary speed at which Omicron spreads, surging hospitalisation rates and increasing death rates in other jurisdictions. The decision to delay the opening allowed WA to deliver a higher third-dose rate, unlike anywhere else in the world, which would help reduce the loss of life, save jobs and minimise disruption in our community and economy.

NARROGIN AND WICKEPIN BUSHFIRE — WESTERN POWER NOTIFICATION

13. Hon STEVE MARTIN to the minister representing the Minister for Energy:

I refer to a bushfire that started on 6 February east of Narrogin and impacted both the Shires of Wickepin and Narrogin.

(1) Has Western Power provided a notification to the Director of Energy Safety pursuant to regulation 23 of the Electricity (Network Safety) Regulations 2015?

(2) If yes to (1), will the minister please table the notification?

(3) Has the minister sought assurances that any physical evidence has been secured and retained pending a full investigation?

(4) Has Western Power commenced an investigation pursuant to regulation 23(2)?

Hon ALANNAH MacTIERNAN replied:

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

(1) In accordance with regulation 23 of the Electricity (Network Safety) Regulations 2015, the Electricity Networks Corporation—Western Power—has provided notification to the Director of Energy Safety.

(2) This is for the Director of Energy Safety to provide.

(3) Evidence has been retained in accordance with the usual practices of the Electricity Networks Corporation.

(4) Yes.

CORONAVIRUS — MANDATORY VACCINATION POLICY

14. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Health:

I refer to the government's mandatory vaccination plan and the answers to questions without notice 1072 and 1151, which confirmed that the Department of Health is responsible for compliance.

(1) Where are the 59 Department of Health emergency officers physically located, and what are their relevant job descriptions?

(2) How many spot checks by Department of Health emergency officers have been carried out in metropolitan and regional WA?

(3) How many businesses have been found to be noncompliant in metropolitan and regional WA?

(4) What infringements have been issued by the 59 Department of Health officers to noncompliant metropolitan and regional businesses?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. I am advised that the Minister for Health cannot provide an answer within the time provided today, but she will provide an answer on the next sitting day.

SCHOOLS — CHILDREN WITH HARMFUL SEXUAL BEHAVIOURS

15. Hon NICK GOIRAN to the Minister for Education and Training:

I refer to the minister's answer to questions during the hearing of the Standing Committee on Estimates and Financial Operations on 20 October 2021, during which the select committee was advised that as of 18 October 2021, eight alleged or convicted offenders were attending the same public school as their victims.

(1) As at the start of term 1 for the 2022 school year, how many of the eight alleged or convicted offenders were still at the same school as their victims?

(2) Further to (1), how many victims of the eight perpetrators have not returned to the same school as last year?

(3) What is the current total number of alleged or convicted offenders who are attending the same public school as their victims?

Hon SUE ELLERY replied:

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

(1) There is one. There is a risk assessment and management plan in place for this student.

(2) There are two.

(3) It is one.

METROPOLITAN CHILD DEVELOPMENT SERVICE — WAIT TIMES

16. 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 paediatrician through this service for children in the primary years of school?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. The answer is 16.4 months.

PUBLIC HOUSING — WAITING LIST

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

(1) How many applications were on the public housing waitlist at the end of December 2021 and January 2022 respectively?

(2) How many individuals do the applications in (1) represent?

(3) How many applications were on the public housing priority waitlist at the end of December 2021 and January 2022 respectively?

(4) How many individuals do the applications in (3) represent?

Hon SUE ELLERY replied:

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

(1)–(4) As at 31 December 2021, there were 18 229 applications on the public housing waitlist statewide, representing 31 768 people. This included 3 759 priority applications, representing 7 616 people. As at 31 January 2022, there were 18 388 applications on the public housing waitlist statewide, representing 32 067 people. This included 3 762 priority applications, representing 7 603 people.

CORONAVIRUS — EXPOSURE SITES

18. Hon Dr BRIAN WALKER to the Leader of the House representing the Minister for Health:

I refer the minister to the recent COVID-19 infections across Perth and specifically to those cases involving community transmission.

(1) How long is it taking, on average, between a site being identified as a COVID hotspot and updated information regarding that site appearing in the WA Health list of exposure sites? Is the minister able to provide the shortest and longest examples on record since the start of the Omicron outbreak?

(2) How many staff are employed in updating the online exposure sites list and what are their working hours? For example, are all or some of them rostered to work in the evenings and on weekends; and if so, what proportion of the total workforce do they make up?

Hon SUE ELLERY replied:

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

(1) Exposure sites are uploaded to the HealthyWA website as soon as they are identified and confirmed by Public Health.

(2) The publication of exposure sites is undertaken by several staff within the Department of Health's communications team. In addition to sites being published during business hours, staff are rostered to cover evenings and weekends to ensure the timely provision of information.

PUBLIC SECTOR COMMISSION — AGENCY CAPABILITY REVIEW

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

I refer to the intended agency capability review program.

(1) What is the full program and sequence of capability reviews for 2022 and 2023?

(2) How long will each capability review take to perform?

(3) What is the estimated per unit cost of each capability review?

Hon SUE ELLERY replied:

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

(1) The first three reviews under the trial of the program—of the Department of Biodiversity, Conservation and Attractions, the Department of Water and Environmental Regulation and the Department of Mines, Industry Regulation and Safety—commenced in November and December 2021 and will be completed in mid-2022. The remaining five reviews are planned to be completed by mid-2023. Consideration of departments for these reviews is underway.

(2) They will take up to six months, depending on size and complexity.

(3) The anticipated average cost is $417 000 per review.

CORRUPTION AND CRIME COMMISSION

20. Hon PETER COLLIER to the parliamentary secretary representing the Attorney General:

I refer to the four director positions within the Corruption and Crime Commission.

(1) Are all four director positions being held in a permanent capacity?

(2) If no to (1), which of the four director positions are currently held in an acting capacity?

(3) If no to (1), how long has each director position been held in an acting capacity?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question and provide the following answer based on information provided to me by the Attorney General.

(1) No.

(2) Director, operations; director, corporate service; and director, assessment and strategy development.

(3) Director, operations, six months; director, corporate service, 6.5 months; and director, assessment and strategy development, four months.

CORONAVIRUS — VACCINATIONS — BOTTLE SHOPS

21. Hon JAMES HAYWARD to the Leader of the House representing the Premier:

I refer to vaccination requirements to enter bottle shops.

(1) Is it an offence to purchase alcohol for an unvaccinated person?

(2) Does the Premier accept that the Western Australian community does not believe that the bottle shop vaccination requirement is based on health advice?

(3) If no to (2), will the Premier release specific health advice relating to the vaccination requirement in bottle shops?

(4) Is the Premier concerned that policies like the vaccination requirement to enter bottle shops undermines trust in health directives?

Hon SUE ELLERY replied:

(1)–(2) No.

(3) It is public; it is on the WA government website. I will ensure that the member is provided with a hard copy.

(4) I reject the premise of the question.

CYCLONE SEROJA — AFTER-ACTION REVIEW

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

I refer to Legislative Council question without notice 1088 asked in this place on 2 December 2021 on the need for an independent review into tropical cyclone Seroja.

(1) Given that it has now been 10 months since cyclone Seroja, will the state government commit to undertaking an independent review of this significant natural disaster?

(2) Has the Department of Fire and Emergency Services after-action review for cyclone Seroja been completed and received by government?

(3) If yes to (2), will the minister please table the after-action review?

(4) If no to (2), what is the expected completion date of the after-action review, and will the minister commit to making it publicly available?

Hon STEPHEN DAWSON replied:

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

(1)–(4) An after-action review is currently underway and will be made available when completed.

POLICE — RESOURCES — KIMBERLEY

23. Hon NEIL THOMSON to the minister representing the Minister for Police:

I refer to the December crime data, which showed record levels of crime for almost every category in the Kimberley region. I also note that the first Kimberley-specific reference to additional police resources under Operation Heat Shield was not made public until 4 January 2022.

(1) Why did the minister wait until January to deploy additional resources?

(2) What is the current vacancy rate for police in the Kimberley?

(3) Did the additional resources that were deployed in January cover outstanding vacancies or were the resources additional to the 2021 FTE level?

(4) Given the apparent delay in Operation Heat Shield, does the minister concede that the delay may have had an impact on crime rates in December 2021?

Hon STEPHEN DAWSON replied:

I thank the member for some notice of the question.

The answer is the same as the one given earlier to Hon Peter Collier. The minister's office has advised that due to IT issues today, it is unable to get answers in time for today and will provide an answer tomorrow.

HOMELESSNESS — BOORLOO BIDEE MIA SERVICE

24. Hon STEVE MARTIN to the Leader of the House representing the Minister for Homelessness:

I refer to the government's concession that at the beginning of December 2021, just 27 people had been given a room at the multimillion-dollar Boorloo Bidee Mia homeless facility since its opening in August 2021.

As of 31 January 2022, how many people —

(a) were living at Boorloo Bidee Mia;

(b) had been referred to Boorloo Bidee Mia;

(c) were waiting for an outcome of their referral; and

(d) had been declined a placement at Boorloo Bidee Mia?

Hon SUE ELLERY replied:

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

(a)–(d) Boorloo Bidee Mia is the first low-barrier homelessness service in Western Australia of its kind, offering medium-term accommodation for some of the most complex individuals, many of whom have experienced long-term homelessness. The referral process is led by a group of service providers and agencies, which work collaboratively to identify appropriate candidates. The referral process differs from a "walk-in" or "drop-in" shelter model, as it seeks to provide longer term accommodation together with individualised wraparound supports within a culturally supportive environment to aid transition into permanent, stable living arrangements. Since opening, a total of 56 referrals to BBM have been assessed. Following a referral, eight individuals declined to move into the facility for various reasons, including accepting alternative supported accommodation, choosing to reside with family or returning to country. Only one individual has been declined since the opening of BBM, as they were deemed a safety risk and could not be accommodated at BBM. As at 31 January 2022, the facility was providing a home to 45 of the most complex individuals. As of today, this has increased to 47 individuals residing at the facility. For many, this is the first time that they have been able to sustain accommodation for any length of time.

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Motion

Resumed from an earlier stage of the sitting.

HON MARTIN ALDRIDGE (Agricultural) [5.02 pm]: Prior to question time, I had been concluding my contribution and had been making reference to the remarks of the Leader of Opposition, who expressed some caution about us making judgements, particularly uninformed judgements, on the floor of this place. He made the really good point that if we are going to take the public health measures in this place seriously, and if the serious consequence of contravening them will be the suspension of a member from attending this place, we want to make sure that those decisions are made in all good conscience and on advice that is relevant and specific to the circumstances that we find.

As I have said, to be quite honest, President, I am not comforted standing at the lectern after question time, after dozens of members have literally stood in this place, on the basis that that is a superior public health outcome than for me to stand in my own place at my chair on that side of the chamber. I may well be wrong. This may be a superior outcome for public health—for my health, and also for the health of others in this place, whether they be staff or other members. But I would not know, President. The point I am trying to make is that apart from the technical challenges that I outlined on 1 December last year, and that to a significant extent, if not completely, have been disregard in the crafting of the motion that has been presented to the Council today, we will now face the realities of those challenges. It would appear that in the not-too-distant future, at least one member of this place will be escorted from the grounds and some of those realities will come to the fore. It would not surprise me if we were back here before too long addressing some of the issues that I have repeatedly identified in the course of considering these sorts of matters.

I want to finish on this point. We need to look at the way in which other people are responding to make their workplaces safe, and at what the mining industry is doing through surveillance testing and testing before workers depart for mine sites. Earlier this week, I saw a government press conference. The message from the government was, "We've got RATs up to the rafters." The Minister for Health and the Premier were walking through an undisclosed warehouse full of cardboard boxes full of RATs—"There's no shortage of RATs; we've got hundreds of millions coming." I have a friend who works in a distribution centre for a large grocery chain. It has established a large marquee, and employees will be required to undergo a daily rapid antigen test and return a negative result before they step foot into their workplace. That grocery chain has taken that view and is responding in that way

because its distribution centre cannot be compromised, not just for the operation of its business, but, indeed, also for the operation of just about every other business in this state, including the Parliament. A failure of our supply chains, particularly our grocery supply chains, could have serious, if not devastating, impacts on the community.

We are not contemplating those measures in this motion today. I am not sure whether anyone has contemplated them. I am not sure whether we have sought the advice of the Chief Health Officer on the specific circumstances that face Parliament. I agree that Parliament is a unique and critical workplace that delivers a critical function. Similar to this grocery chain, I would not like to see Parliament compromised, because that would have a serious and devastating impact on our community, and not the least on the ability for the government to respond in these quite uncertain and changing circumstances. That is why I express some concern, as I did on 1 December last year, about the need to make sure that we are making the right decisions for the right reasons.

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.07 pm] — in reply: I thank members for their contributions to this debate. I guess I would characterise it as some hyperbole, some hypocrisy, some nonsense and some commonsense. Unfortunately, from my point of view it is more of the former and less of the latter.

I made the point in the debate on the amendment that people need to remember where this has come from. This came from the Presiding Officers, acting on the Clerks' advice about how they should put in place measures to manage this place. One of the questions that was asked is why the date of 6 May was chosen. I am advised that was chosen because that will be three months from 31 January, plus one sitting week.

I want to address in particular the comment from Hon Sophia Moermond—I am paraphrasing her, but I am sure she will forgive me for this—who I think effectively was trying to make the point that this motion is directed at her, because we, the government collectively, disagree with her point of view. The easiest way I have to counter that is to use the argument of someone whom I love to listen to when she is on ABC Radio. That is Linda Black, a criminal lawyer who is regularly on Geoff Hutchison's *Drive* program. Back in November, I was so taken with the eloquent and elegant simplicity of the way she described this dilemma for us as a community that I got it transcribed. I have it on my phone. I find it a really simple and direct way of explaining how a society must manage issues like this.

This is what she said, according to my notes —

> The obligations on us as individuals is to accept that there is a greater benefit to us as a community if we are sometimes to forgo that focus on self. I think it is inevitably part of the deal. We have what we call a representative democracy, and so what that means is that we do not actually get to have a direct democracy anymore like we did in the days of ancient Greece. So we elect people who will, in turn, represent our interests and speak and that will mean sometimes the views they express, even if they are the leader for our particular electorate, may not be the views we hold. But if you are to be part of a society, sometimes what you want as an individual must give way to the greater good of the whole. As I know as I said on your program before, we don't just get to do whatever we want to do. You may think it's perfectly okay to run down the street naked and run into a school naked because there is nothing wrong with a naked body, but there are rules that say little children may not want to see someone running into a school naked. My point is: there are limitations on our behaviour. We have to wear seatbelts; we wear bike helmets; we have to drive on a particular side of the road. We all accept a social contract with certain rules and requirements that come with that.
>
> There is nothing wrong with protesting and fighting against rules that are wrong and also the arbitrary and the rules that discriminate, but by the same token we don't always get our own way when we are part of the greater good. There is always lawyers to help anyone who is willing to pay, and that's not just a cynical response, that is the truth of it, but the starting point you raised is this concept of mandated vaccinations, and what I take issue with is that no-one is in fact being forced to have a vaccination—no one at all. Government is not saying that, you know, Nazi Germany–style they are going to round you up and put you somewhere and force this upon you. So, firstly, there is no mandatory vaccinations. There are rules surrounding the consequences for people who choose not be vaccinated and it may sound like a lawyer's distinction, but it is actually a very important distinction. So, number one, no-one is forcing you to inject anything into your body. What they are saying is: if you choose not to be vaccinated, then the best health advice we have means that you pose a greater risk to the health of others than a person who is vaccinated and, accordingly, we will not expose you to people who it would be dangerous to expose you to. So I personally cannot understand any rational argument that could say, for example, health workers should be allowed to continue to work without vaccinations. To me you are dealing with vulnerable members of the public with disability workers on a site, for example. You are dealing with people whose lives will be put in danger by you not being vaccinated, then either you go get a vaccination or you don't work in that industry. They are looking at it from an individualistic perspective and government has an obligation to look at things from a societal perspective. And so while it is true that if you want to work as a nurse you need to be vaccinated, and if you choose not be vaccinated then you cannot work as a nurse, you might say, "Really, I don't have much choice", but the truth of it is that the people who come under your care

> don't have a choice whether or not you treat them. In fact they would not even know as a patient whether or not you were vaccinated, and so our hospital system says we need to protect our patients more than we need to protect the individual liberties of the odd nurse here and there who chooses not to be vaccinated.
>
> And so, in the same way people have a right to smoke cigarettes, but we have banned smoking of cigarettes in most public places now, in most workplaces because we say the greater good and the harm that it will cause to people by remnants of passive smoking outweigh the right of an individual to choose to smoke. And so for my part, where the greater good outweighs the harm to the individual, then the greater good must prevail. I think for me I look at it more from there has always been a clash between this notion of individual liberty and this notion of the good of our community, the good of others, and one of my very favourite economists and philosophers is a guy called J.S. Mill, and I am paraphrasing him in a fairly hackneyed way, but essentially his philosophy was this idea that you have the right to believe and to do and to be anything you like, as long as by doing so you do not negatively impinge upon the freedom of other people. And for me, that determination is a good example of that—is that I have a right to be vaccinated or not to be vaccinated and no government can ever take that away from me. But if I choose not to be vaccinated and then to work in a job whereby not being vaccinated I am negatively impacting or harming other people in our community, then my individual freedom must give way to the freedom of the mass that is the greater good.

President, I commend the motion to the house.

Division

Question put and a division taken with the following result —

Ayes (26)

Hon Martin Aldridge	Hon Donna Faragher	Hon Shelley Payne	Hon Matthew Swinbourn
Hon Dan Caddy	Hon Peter Foster	Hon Dr Brad Pettitt	Hon Dr Sally Talbot
Hon Sandra Carr	Hon Lorna Harper	Hon Stephen Pratt	Hon Dr Steve Thomas
Hon Peter Collier	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Darren West
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Samantha Rowe	Hon Pierre Yang *(Teller)*
Hon Kate Doust	Hon Steve Martin	Hon Rosie Sahanna	
Hon Sue Ellery	Hon Kyle McGinn	Hon Tjorn Sibma	

Noes (2)

Hon Sophia Moermond	Hon Dr Brian Walker *(Teller)*

Question thus passed.

The PRESIDENT: I will leave the chair until the ringing of the bells.

Sitting suspended from 5.23 to 5.41 pm

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [5.41 pm]: Members, I have received the following piece of correspondence —

> President,
>
> **Compliance with an Order of the Council made on 15 February 2022**
>
> Pursuant to an Order of the Council made on 15 February 2022 regarding the vaccination requirements for Members of the Legislative Council, I advise that the following Member has failed to comply with paragraph 2(a) of the Order. The Member is therefore currently suspended from attending the Chamber, Parliament House and the Legislative Council Committee Office —
>
> Hon Sophia Moermond
>
> Acting Clerk of the Legislative Council

HON COLIN DE GRUSSA

Leave of Absence — Motion

HON DR STEVE THOMAS (South West — Leader of the Opposition) [5.41 pm] — without notice: I move —

> That leave be granted to Hon Colin de Grussa for six sitting days due to urgent personal business.

By way of explanation, President, we pass on our condolences for his losses and think of him at this time.

The PRESIDENT: Indeed. I pass on my condolences as well.

Question put and passed.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

136th Report — Legal Profession Uniform Law Application Bill 2021 and Legal Profession Uniform Law Application (Levy) Bill 2021 — Recommendation 1 — Adoption — Motion

Resumed from 12 October 2021 on the following motion moved by Hon Donna Faragher —

> That recommendation 1 of the Standing Committee on Uniform Legislation contained in its 136th report, Legal Profession Uniform Law Application Bill 2021 and Legal Profession Uniform Law Application (Levy) Bill 2021, be adopted and agreed to.

HON DONNA FARAGHER (East Metropolitan) [5.42 pm]: I rise to continue my remarks on the motion that I moved on 12 October last year with respect to recommendation 1 of the Standing Committee on Uniform Legislation and Statutes Review contained in its 136th report as it relates to the Legal Profession Uniform Law Application Bill 2021 and its related levy bill.

By way of background and to assist the house in understanding the genesis of this recommendation, the bill contains 17 parts and applies the Victorian Legal Profession Uniform Law Application Act 2014, schedule 1, with some modifications, as a law of WA. Although this is not a debate on the bill itself, it has given rise to the matters set out in the committee's report.

Clause 9 of the bill sets out the process for how a Victorian amending act becomes part of the legal profession uniform law WA, and also provides for a mechanism for Parliament to disallow it. That is detailed on page 11 of the committee's report for those who may be interested. Essentially, the key issue for the committee is that once a disallowance is moved—that is, if we are to take what is put in the bill—there will be nothing in the bill to trigger a debate on that disallowance motion. In addition—this is related; I am not going to spend any more time on this aspect but it is important to note this—the committee also found that the amending act does not come within the terms of reference of any Legislative Council standing committee and, therefore, would not be scrutinised. That is not, as I say, subject to today's debate, as that particular aspect can be considered during debate on the bill itself, but it is important to note it because it is all relevant.

With respect to the mechanism to trigger debate, members will be aware that should they wish to move a motion to disallow a regulation or an item of subsidiary legislation, they can refer to standing order 67. Subsection (1) is what is most important, and it reads —

> For the purposes of this Standing Order, a "regulation" includes any statutory instrument made subject to disallowance by a written law.

The problem in this instance is that the Victorian amending act does not fall within the ambit of the standing order because it is not a statutory instrument, and because we take that at its ordinary meaning, it is primary legislation, not a regulation. Furthermore, standing order 67(5) also requires a disallowance motion to be dealt with on a certain day, if not before—that being the seventeenth sitting day after the motion has been moved, or on the proposed last sitting day prior to a general election. Again, in this instance, the Victorian amending act does not fall within the standing order, therefore, it could be argued that the disallowance motion may be overlooked and not debated before the 30-day disallowance period identified in the bill and that period has expired. Therefore, by bringing the Victorian amending act into the ambit of the standing order with respect to motions to disallow, it will allow the automatic moving of a disallowance motion, time frames to be put in place and a requirement that debate be required to occur. As a result of that, the committee proposes in recommendation 1 of the report to delete standing order 67(1) and to replace it with the words —

> For the purposes of this Standing Order, a "regulation" includes any instrument made subject to disallowance by a written law.

This would allow all further disallowance motions made under section 9 of the act to fall within the ambit of standing order 67.

This is fairly technical, but I think that we need to get through it so that, hopefully, the drafters will be aware of why we have brought it before the house today. The Leader of the House and I have had discussions about this matter behind the chair and I know that she understands where the committee is coming from. I understand that the government is supportive of the change, but we will wait to hear that from the Leader of the House. However, it is important for the house and members to be clear that this is not a one-off issue for this legislation and is a matter that needs to be resolved more generally. For those members who may not be aware, it is clear that this mechanism for amending laws and disallowance motions is likely to become more prevalent in bills that come before the house in the future.

I refer to *Report 133 Standing Committee on Uniform Legislation and Statutes Review—Fair Trading Amendment Bill 2021*. Again, the committee identified similar issues and made similar recommendations, and there is another motion before the house that I presume will be done away with if this is supported.

I also add—we refer to this in the report—that then Minister for Commerce, Minister Sanderson, also said —

> It is also intended that the same mechanism will be used for adoption of amendments in other national legislation schemes in the future.

In the case of the bill that gives rise to this recommendation, we are referring to a Victorian amending law. The Fair Trading Amendment Bill relates to a commonwealth amending law, and for those reasons it is important that we try to resolve this issue. If I understand this correctly, if Parliamentary Counsel and others—this is perhaps more of a personal comment rather than a committee comment—are going to see this as perhaps an easier way of amending bills more expeditiously than introducing new bills every time a change to a uniform law is made—we can argue the merits of whether that is appropriate or not on another day—it is clear that if such a mechanism is intended to be more readily used, it is the committee's view, and this was outlined in the report, that the Parliament's sovereignty and lawmaking powers should not be diminished as a result. The recommendations of the committee—the one that we are dealing with today and those that relate to the ability for amending acts to be scrutinised by the Standing Committee on Uniform Legislation and Statutes Review, which again is a matter for when the bill will actually be debated in the house—should, if adopted, provide extra scrutiny, which is appropriate.

I admit that this is a fairly technical change, but I thought it was important to go through the reasons behind it. I hope I have distilled the key issues for the benefit of the house, and I commend the motion to the house.

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.51 pm]: I thank the Standing Committee on Uniform Legislation and Statutes Review for the work it has done on this, and in particular, I acknowledge the work of the chair, Hon Donna Faragher. This proposed change to standing order 67(1) is the subject of two separate but identical recommendations made by the standing committee in reports 133 and 136, currently listed on our notice paper as orders of the day 25 and 26. I have been advised that, because the recommendations listed are identical, once we deal with order of the day 26, order of the day 25 will fall away. There are currently two bills on the notice paper that are uniform legislation—that is, legislation that, by reason of its subject matter, is part of a uniform scheme or uniform laws throughout the commonwealth. They are the Fair Trading Amendment Bill 2021 and the Legal Profession Uniform Law Application Bill 2021. Both bills contain amendments that will, going forward, allow for the automatic incorporation of amendments made to related commonwealth legislation.

In order to maintain the check and balance mechanism, both bills propose a disallowance mechanism allowing this Parliament the opportunity to disallow amendments before they are automatically incorporated into the state legislation. The committee found two issues with this disallowance mechanism. Firstly, there is nothing in the bill to trigger debate on the disallowance; and, secondly, the commonwealth amending law does not come within the terms of reference of any Legislative Council standing committee, which is normally the Joint Standing Committee on Delegated Legislation. The main reason for this is that our current standing orders—as the chair of the committee pointed out—deals with disallowance motions under standing order 67 and does not allow for the consideration of primary legislation, only statutory instruments. It all comes down to the definition of "statutory instrument", as described in standing order 67(1). Our standing orders are silent on how we should define "statutory instrument", so the committee looked to the Interpretation Act 1984 for guidance. That legislation describes it as a rule, order or administrative regulation. That definition, as the chair pointed out, does not cover primary legislation. Without this change, if a member moves to disallow a commonwealth amending law, that disallowance motion will be listed on our notice paper but there will be no trigger for debate, as there is for other disallowance motions, which are automatically brought on for debate after 17 days under our standing orders.

The proposed change to standing order 67(1) gives effect to our standing orders having the capacity to consider primary legislation. Therefore, the house can debate disallowance motions in the usual fashion. It is a straightforward and simple change; it is the removal of one word under standing order 67(1), "statutory". This will ensure that, going forward, the house will have the opportunity to debate disallowance motions relating to commonwealth amending laws, as it does for other disallowable regulations.

I want to flag that other recommendations were put forward by the committee in both reports 133 and 136. These recommendations are not being considered as part of this debate, but I indicate that they will be considered by government in the course of the debate on those bills. The government is supportive of recommendation 1 put forward by the Standing Committee on Uniform Legislation and Statutes Review. From the government's point of view, the capacity for state legislation linked to the commonwealth to be automatically updated and only debated if the house has an issue with it, will be an efficient manner of dealing with such bills. The government supports the recommendation.

HON NICK GOIRAN (South Metropolitan) [5.54 pm]: I rise on behalf of the opposition to consider the motion before us, which will see our standing orders change. Members will be aware that order of the day 26 would see us adopting and agreeing to recommendation 1 found in 136th report of the Standing Committee on Uniform Legislation and Statutes Review, tabled in October last year. I indicate at the outset that the opposition provides its total and unequivocal support for recommendation 1 of this report.

As a matter of curiosity, I note that the Leader of the House referred a few times to amending commonwealth laws. I note that, at least in respect of this matter and the matter that was before the Standing Committee on Uniform

Legislation and Statutes Review, the committee was not considering a change to any commonwealth law but, indeed—I will have to go back to my notes—to a Victorian law, I am pretty sure. The point made by the Leader of the House is still useful to us because, if we consider the other matter that is still on the daily notice paper—the Fair Trading Amendment Bill 2021, which currently sits as order of the day 10—I think those observations will be quite helpful.

It is also useful for members to be aware that this is not a new matter for the consideration of the house. It was brought to our attention by the hardworking Standing Committee on Uniform Legislation and Statutes Review and its excellent chair in October last year, but members may recall that this issue also exercised the minds of the previous Standing Committee on Uniform Legislation and Statutes Review. I draw members' attention to report 129, which was tabled some 13 months prior to the report before us. This report was tabled in September 2020. Interestingly, this bill, the Legal Profession Uniform Law Application Bill 2021, has quite a number of clauses in it, but the pertinent clause at this point is clause 9. If we compare clause 9 of this bill with that of the previous bill, we see that there is very little difference, other than the fact that, as I understand it, to the extent that there are changes, they pertain to the removal in this bill of the provisions allowing for what is referred to as a "partial disallowance mechanism". As I understand it, that was allowed for in the 2020 bill, but is not allowed for under this bill. Otherwise, the principles contained in clause 9 remain.

I note that report 129, tabled a year and a half ago, states, at page 23 —

> Clause 9 sets out the process by which a Victorian amending Act has effect in Western Australia; that is, it is laid before each House of Parliament and either:
>
> no notice of a disallowance resolution is given in either House within the 'notice period'; or
>
> if at least one notice of a disallowance resolution is given within the notice period and, for each such notice, the:
>
> notice is withdrawn or discharged within the disallowance period; or
>
> disallowance resolution is lost in the House or not agreed to within the disallowance period; or
>
> disallowance resolution is a partial disallowance resolution and is agreed to within the disallowance period.

The report states at paragraph 7.80 —

> Clause 9(4)(b) provides that notices of a disallowance resolution and motions that an amending Act be disallowed do not lapse even though the House is prorogued, dissolved or expires.

Sitting suspended from 6.00 to 7.00 pm

Hon NICK GOIRAN: I will continue my remarks on order of the day 26. We are indeed considering the first recommendation of the 136th report of the Standing Committee on Uniform Legislation and Statutes Review. Prior to the adjournment for the dinner break, I was drawing to members' attention that the recommendation that has been put to us by this standing committee pertains to the Legal Profession Uniform Law Application Bill 2021. I was making the point that this bill is substantially similar to a bill that was presented in the previous Parliament, the fortieth Parliament—that is, the Legal Profession Uniform Law Application Bill 2020. Both bills were subject to some form of scrutiny, albeit restricted scrutiny in accordance with our standing orders, by the standing committee. The consecutive iterations of the committee in the fortieth and forty-first Parliaments have had the opportunity to consider the consecutive iterations of this bill, which in both Parliaments were to be, and indeed now are being, debated cognately.

The first recommendation in the report before us relates to clause 9. The observation I made prior to the break was that clause 9 in this bill is substantially similar to clause 9 in the previous bill, albeit to the extent that there is a difference in this bill, it involves the removal of a partial disallowance mechanism. No doubt when we get to the bill and clause 9, we will unpack that and the rationale behind it. Nevertheless, there remains this issue that has given rise to recommendation 1. I can compare and contrast what the committee of this Parliament has said with what the previous committee said by turning to page 23 of the 129th report. Again, just prior to the break, I was quoting from that report and, in particular, the section titled "Clause 9—Disallowance of amending Acts". *Hansard* will reflect that I had commenced by quoting from paragraph 7.79. Paragraph 7.80 reads —

> Clause 9(4)(b) provides that notices of a disallowance resolution and motions that an amending Act be disallowed do not lapse even though the House is prorogued, dissolved or expires.

My recollection of the bill that will be considered in due course is that that is no longer the case. There is no such provision in clause 9 in bill 31–1; there is no clause 9(4)(b). There is clause 9(1), (2) and (3). When we consider clause 9 in greater detail, an explanation will need to be provided by the government about that. Nevertheless, the previous committee went on to say at paragraph 7.81 on page 24 —

> The operation of SO 67 is relevant here. The Committee explained in detail how SO 67 operates in Report 123 and for convenience of reference the relevant extracts are attached as Appendix 3.

Members might recall that the 123rd report in the previous Parliament dealt with the Fair Trading Amendment Bill 2019. That report goes as far back as August 2019. As I indicated earlier this afternoon, the Fair Trading Amendment Bill is still before us, albeit in a new form as the Fair Trading Amendment Bill 2021. This general issue that has exercised the minds of two consecutive iterations of the Standing Committee on Uniform Legislation and Statutes Review has been around for some two and a half years. The issue before us is really not new, but this is the first time that I can recall the Legislative Council actively turning its mind to it, certainly in the form of a debate.

I would be interested to know perhaps from the Leader of the House, who I think has carriage of this order of the day—if not, somebody else from the government might be able to provide an indication—what has changed over that time. I was encouraged to hear that the government will agree to the recommendation that will amend standing order 67. Why is that going to happen now, but it did not when it was first raised in 2019 or when it was raised again in 2020 and then in 2021? What has transpired in that time? It is not obvious to me what that is. On this concept of amending standing order 67 and why it is required, the previous committee said at paragraph 7.82 —

> In order to have a pro forma disallowance motion in the Legislative Council (that is, one moved automatically after two sitting days) survive into a new Parliament after a general election, as proposed by the Legal Profession Bill, an exception is need to SO 67(5)(b). The Committee recommended an amendment to SO 67 in Report 123.

Again, that is a reference to the Fair Trading Amendment Bill 2019 —

> The Committee makes the same recommendation here.

It then sets out what is referred to in that report as recommendation 8, which I will not quote at this stage. Suffice to say for the benefit of those members who are not familiar with that report, the committee was looking to amend standing order 67 by deleting suborder (5)(a) and (b) and replacing it with a new form of words that would have seen suborders (5), (6) and (7) appear. Paragraph 7.83 goes on to say —

> The effect of amending SO 67 in the terms in Recommendation 8, together with clause 9(4) of the Legal Profession Bill, is that the period for tabling amending Acts, notice periods, notices of disallowance resolutions and motions that an amending Act be disallowed will survive into a new Parliament. The same timeframe for disallowance will apply as presently, regardless of prorogation, dissolution or expiry; that is, a motion to disallow a Victorian amending Act, if not resolved earlier, must be resolved before the Council rises on the 17th sitting day after the motion was moved (exclusive of the day on which the motion was moved) and notwithstanding that it may occur in a new Parliament. This time period is shorter than, but not inconsistent with, the 30 sitting days provided in the Legal Profession Bill.

The committee goes on to say at page 25, paragraph 7.84 —

> In order that Parliament is in a position to utilise the disallowance mechanism proposed by the Legal Profession Bill, the amendments to SO 67 in the terms set out in Recommendation 8 should be coordinated with the passage of the Legal Profession Bill.

The committee then sets out recommendation 9, which says —

> The question on the third reading of the Legal Profession Uniform Law Application Bill 2020 not be put until Legislative Council Standing Order 67 is amended in the terms set out in Recommendation 8.

That certainly took place. The government certainly adopted recommendation 9. It did so because, of course, the third reading of the 2020 bill never happened. In fact, as far as I can recall, it never came on for debate and then it lapsed at the conclusion of the last Parliament. I raise this now because I am mindful that the government proposed a course of action in the 2020 bill; that is, there would be the prospect—the idea—of a disallowable instrument surviving into a new Parliament. That was identified by the Standing Committee on Uniform Legislation and Statutes Review at the time as an issue that required a change to the standing orders.

We have before us now a bill that, although substantially similar, is not identical to the 2020 bill—that particular provision is missing. If it were to emerge by way of some government amendment to the bill that there had been an oversight and the government would like that provision to be reinstated as it would like the 2021 bill to be consistent with the earlier version, we will again find ourselves in a situation in which the findings of the previous committee become relevant, particularly recommendation 8 of that report. It would assist us as we consider this matter—that is, the change to standing order 67—to get some form of assurance from the government that it is no longer its intention to proceed with that mechanism to see a disallowable instrument in a new Parliament. That was certainly the McGowan government's position in the last Parliament. It appears that is no longer its position. The government is certainly entitled to change its view on that, but it would be helpful to get an explanation as to why there has been that change of position and whether it is the intention of the government, certainly for the duration of the forty-first Parliament, not to proceed in that fashion. That is to say that we will not see other bills introduced during the forty-first Parliament that might anticipate the idea of a disallowable instrument surviving into a new Parliament. If that is the government's position now, then we can put to one side and dispense with recommendation 8 from the previous committee. But if the government is minded to either amend the bill, which the chamber will

consider shortly, to make it consistent with the earlier bill or, indeed, bring in this type of mechanism in a future bill, or this concept or notion, then now would be the prudent time for us to put in the form of words suggested by recommendation 8 rather than find ourselves in a situation in which we have to do that at another stage.

I am very mindful, Acting President, that it has taken the government more than two, but not quite three, years to bring this issue to the table of the Parliament. If there is going to be a problem, we do not want to have to deal with it in another three years' time. So while we are considering standing order 67, let us make sure the version of standing order 67 is exactly what the government intends and that there has not been any omission or lack of consistency or oversight. When I compared the 2020 bill with the 2021 bill, I noted a number of what have been referred to as drafting or stylistic changes, but there are occasions when things have simply been missed and have now been picked up through a further review. Is this one of those situations? If it is not, and the government can give us that assurance that it is not its intention to be able to have a disallowance motion dealt with in the way that is proposed in the Legal Profession Uniform Law Application Bill 2021, then all well and good.

I turn to the 136th report of the Standing Committee on Uniform Legislation and Statutes Review. I thank the chair of the committee for taking us through the report and the committee's findings and recommendations. It is worth noting that the committee made some comments about parliamentary sovereignty issues. I particularly want to draw to members' attention to what the committee says at paragraph 5.37 —

> Parliament's sovereignty and law-making powers are diminished if there is nothing in the Bill to ensure that a disallowance motion will be debated. Parliament may be denied the opportunity to consider the amending Act, thus eroding Parliamentary sovereignty.

That led the committee to make finding 2, which says —

> Clause 9 of the Legal Profession Uniform Law Application Bill 2021 erodes the Western Australian Parliament's sovereignty and law-making powers.

Paragraph 5.38 says —

> Bringing Victorian amending Acts within the ambit of SO 67(1), ensures that disallowance motions are automatically moved under SO 67(3) and brought on for debate.

Paragraph 5.39 continues —

> Victorian amending Acts would be included in the definition of 'regulation' in SO 67 if the word 'statutory' is deleted because they are instruments made subject to disallowance by a written law.

Consequently, at finding 3, the committee says —

> Standing Order 67 will apply to Victorian amending Acts that are made subject to disallowance in a Western Australian Act of Parliament if Standing Order 67(1) is amended to remove the word 'statutory'.

That is the recommendation before us. By the removal of that word, we will be able to capture those Victorian amending acts because they will now meet the test, the definition, of "regulation" in standing order 67. Further to my earlier point, Acting President, as far as I can see there will not be a mechanism to allow for what was originally intended in the earlier iteration of the bill whereby a disallowance might carry over between Parliaments. That will not be addressed by what is before us here, and I want confirmation from the government that that is precisely what it intends and why that is what is intended. What change has occurred?

That said, in conclusion, I thank the government and the parliamentary secretary responsible for the bill for their compliance with the committee's second recommendation on this bill, which we will consider in due course, to not be third read—it has not even been second read—until such time as we get this right with regard to standing order 67. It is my view, and the view of the opposition, that this will be an improvement that will not only facilitate this bill, but also, indeed, will in due course help us deal with the Fair Trading Amendment Bill 2021 and any other like bills that the government might like to introduce in this chamber of the Parliament.

Question put and passed.

FINANCE LEGISLATION AMENDMENT (EMERGENCY RELIEF) BILL 2021

Second Reading

Resumed from 14 September 2021.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [7.20 pm]: Thank you, Acting President. I have to say that it is a relief to take off the mask, to be honest.

Several members interjected.

Hon Dr STEVE THOMAS: There is a bit of cheek coming from the opposite side of the chamber, Acting President, so my half-hour address just turned into an hour! I am sure everybody is just hanging on for a good discussion about compensation for COVID.

Let me start by saying that the opposition will be supporting the Finance Legislation Amendment (Emergency Relief) Bill 2021 because although it does not require the government to give tax relief or take the burden off business, it gives the government the opportunity to do so. There are two areas I want to address in this bill. The first is just the functioning of the bill. It is my hope that we can get through this potentially without going into the committee stage. We want to get through some of the basic principles. Then I want to have a more rounded discussion about the compensation process for COVID outcomes. I will start with the bill itself. This bill effectively removes the need for the government to come to Parliament to provide economic relief for businesses in the event of what it deems to be an emergency. Obviously, the first question mark that we face with this bill is whether it diminishes parliamentary scrutiny. Is it really a burden upon the government to bring legislation through to the Parliament in order to provide relief? I would imagine the government, as it has done with other bills of this nature, has suggested that it is the time frame with which it wants to operate so it does not necessarily have to draw up legislation, present legislation and negotiate it through the Parliament. I would have some sympathy for that position. If we can roll out tax relief more quickly and relieve the burden for those who are beset particularly by government-imposed rules that impact on their capacity to make a profit, then there is probably a legitimate argument.

It becomes a bit more difficult when we consider the time frames by which most of the government's compensation processes have been occurring. The question we probably should consider is whether the time frame that it has taken to get compensation out there is primarily held up by the functioning of Parliament—the democratic process—or whether this is more about the time frame the government takes for its administration and its administrative process. I will make reference to this at a later stage of my contribution but, in reality, in the latest round of business compensation, businesses still do not have a time frame by which processing will occur, so it may well be the case. Most compensation, in the current system, is paid for after the fact. Businesses put in an application once they can demonstrate a significant reduction in turnover, for example. They actually have to get to the end of that process and then seek to apply for compensation as part of the government's package. In fact, the legislation to empower that, in many circumstances, can take some time to go through. But I get the basic principle and that is if the government can provide, in the early stages, some certainty to businesses that a package will be available in which their tax package will be reduced, then particularly for small business and those businesses that are closer to the edge, it will be a good thing. For that reason, above anything else, the opposition will be supporting the bill before the house because it does give some additional freedom. But, of course, we remain concerned that the parliamentary oversight process under this government seems to be repeatedly in question or under attack.

This is a government that tends to seek to bypass the parliamentary scrutiny process. There are not many parts of the parliamentary scrutiny process that we have a lot of faith in at the moment. If it were not for the excellent estimates committee of the Legislative Council and its ability to provide some unbiased advice, I would have to say that the scrutiny that is able to be applied to this government is less than scrutiny that has been applied to any government in the past, despite the best attempts of the opposition. There is a concern, obviously, that a lack of parliamentary scrutiny may not be a good thing. If it was the case that there were other options within this bill potentially that could be moved around, I think we would have great concerns but the simple reality is that this bill will provide the opportunity for the Treasurer, in conjunction with the Minister for Finance, to declare some tax relief process that does not need parliamentary scrutiny. There are some bits in there that I think are worthy of noting. I refer to the second reading speech where the minister referred to what might be reduced and the way it might be reduced. When allowing a tax relief or grant relief measure, I quote —

> A tax relief measure means a waiver of tax, a reduction in a tax rate, an exemption from tax, or a deferral of the due date for lodging payroll tax returns.

Effectively, in that process, it means that there is no opportunity for surreptitious increases in taxes or generally a way to manipulate the system. It is only up to the Treasurer to provide waivers, exemptions, extensions and reductions. I think that very much restricts the Treasurer to a position where he or she is able only to put money back into the pockets of taxpaying businesses rather than the reverse. For that reason, I think this legislation is worthy of support. It also says in the second reading speech that the declarations "can be used only in limited circumstances". It has to be an —

> … emergency situation declared under the Emergency Management Act 2005 or a public health state of emergency declared under the Public Health Act 2016.

Obviously, that would include the current COVID crisis, which I think has been declared under both acts at various times, and it might be due for an extension in the not-too-distant future. I think that will be a particularly interesting debate. The minister also said that —

> The declaration can contain relief measures for a period that occurred before the emergency was declared or before the tax relief declaration came into effect.

I think that is another good measure in that people can apply this to a profit-making period that occurred before a major downturn occurred—for example, if there is a significant lockdown. Interestingly, the second reading continues, stating that the —

> … measures also cannot be declared for a period longer than two years. This is on the basis that longer term relief measures should be supported by specific legislation.

We could get into an argument about whether two years is the most appropriate period. I would have thought that two years is a very long time for most emergencies. I know that the government is very keen. We have now been under COVID emergency provisions really for effectively a two-year period and there is some argument that, after that, you want to get back into general management or you are doing something wrong. However, having looked at this and examined the various parameters and how we might vary them, I think that, ultimately, the debate around whether two years is better than one year or one year is better than 18 months is probably not a useful debate or a good use of the time of the house. We are prepared to accept that a two-year period is a long time, for the most part, to be honest. Outside of a pandemic, we would hope that most emergency declarations—for natural disasters, for example—would not take that long. In his second reading response, the minister might comment on how the time frame was arrived at and why two years was considered the most appropriate time. I am a little concerned that, for the most part, that is probably too long a time.

The bill is not particularly complicated or big. It will provide emergency tax relief and it will allow the Treasurer to make changes to the first home owner grant. Again, I quote from the minister's speech —

> Corresponding amendments will be made to the First Home Owner Grant Act to allow the Treasurer to declare an increase to the grant or cap an amount to alleviate the financial or economic impacts of a declared emergency.

I hope that in the minister's second reading response he might give an indication about how the use of the first home owner grant is of particular use in an emergency situation. I will use the current COVID situation as a good example. Thanks to reasonably generous state and commonwealth housing grants, the construction industry is in an absolute boom. The biggest issue for the construction industry is not a lack of work; it is a lack of labour and materials. I think it is an exaggeration to say that people are now waiting three years to build a house, but it is not an exaggeration to suggest that people are waiting two years to build a house that would, in normal circumstances, have taken six to eight months. That is just a reflection of the popularity of the housing market at the moment. It is exceedingly hot and driving up prices, to some extent, to the point at which a large number of people have been priced out of the marketplace. I am interested to know from the minister why an increase in the cap of the first home owner grant is considered to be such a good economic tool to use. In particular, I am interested to hear his comments on how changes to the first home owner grant impact on the overall price of housing, because there are plenty of construction businesses that simply increase the price of housing to absorb the very generous subsidies, which have mostly now ended, paid by the state and commonwealth governments. The price of housing construction, I have to say, went through the roof.

I think we need to be very careful about using the lever of housing subsidies as an economic stimulus. I have been around in economic circles long enough to know that it is a very popular move for governments, particularly close to an election. I am not suggesting that is happening in this case, but governments around election time like to start talking about putting additional revenues, grants or subsidies into the housing market. It sounds very good, but most of the time I suspect they are trying to appeal to the younger demographic who have largely been priced out of the housing market. At some point we should have a debate in this chamber about the economics of house prices and what the trend has been over the long term and what impact subsidies generally have on that. I think that without doubt we would see a significant increase in the price of established houses and the cost of the construction of houses when government money is available. Funnily enough, it seems to be absorbed very quickly into the price of housing. Is it really a stimulus package? It certainly encourages young people in particular, I guess, to take a loan and get into the housing market, but whether they are any better off is a really interesting part of the economic debate. Is the economy better stimulated through that process, or is it simply that those people who make good money out of that industry make even better money out of the industry and that it does not trickle down to other parts of the economy? We have not seen a major shift, for example, in wages in the construction industry, but we have seen a major increase in the price of housing as a result, from memory, of grants of up to almost $70 000 off the price of a house if the state government grant is added to the federal government grant and the first home owner grant. A massive amount of money was plunged into the system without necessarily seeing a benefit to anybody but the profit margins of the construction companies or developers. It is a great debate to look into. I am hoping to avoid the need to go into the committee stage of the bill to ask these questions because my questions are very much around the philosophical basis of the bill rather than asking about the specifics, because the bill itself is reasonably straightforward. I would appreciate an answer to those key questions on the technicalities of the bill because I think it would be useful. Having said that, the opposition will support the bill, even if the answers are not exactly what we want them to be because any bill that allows a Treasurer or government to reduce taxation has to be worth some support.

As part of this process, I would like to initiate a discussion around the government's response to the COVID crisis in particular and, to some degree, crises in general. Much of what is encompassed in the Finance Legislation Amendment (Emergency Relief) Bill is very much based around the support for business and the reduction of taxation for business. That is a very good thing, but the examples of support that the government has provided for business and industry throughout the current COVID crisis would have to be described as patchy, at best, and, in some circumstances, I would describe it as wholly inadequate, and I stand by that definition. When COVID first

arrived in early 2020, there were significant lockdowns. The problem—the government might use this as a reason for this bill—was that the compensation that businesses, especially small businesses, could apply for was delayed and it was small. The response was modest, at best, and inadequate, at worst. I could understand if the Western Australian government was in the same situation as the New South Wales or Victorian governments. They had budget deficits that were forecast to be in the billions of dollars. Their state debt blew out when they tried to compensate for massive outbreaks of COVID and those governments did not have a massive iron ore industry that not only effectively funded all the government's expenses and costs, but also made the government rich in the process. I can understand New South Wales and Victoria being modest in their response to the business community. They might have had to temper the support that the government could give. However, Western Australia has made a fortune out of COVID.

Western Australia had a $5.8 billion surplus last financial year and it has pencilled in a $2 billion or $3 billion surplus this financial year. The price of iron ore has remained remarkably steady. I am drawn to a question I asked in February 2019 of the then Treasurer about what would happen if the price of iron ore stayed above $US90 a tonne and was told that no-one was modelling for that because it was highly unrealistic. Today, the price of iron ore is in the order of $US150 a tonne. It did drop; it came down. It is Thursday in a couple of days and I suspect the minister can expect a financial question about the average iron ore price for the 2021–22 year to date. Call it a psychic event, but I suspect a question along those lines might come up. I think we will find that the government budgeted a higher price for iron ore this financial year because it would have been ridiculous to go back to the $US64 it has used every other year. At one point it looked like it might even come under the government average, but it is actually looking pretty good at the moment. I noted a media article, I think from last week, that suggested that the budget surplus might be another $5 billion one. I am not quite ready to call it that high at the moment. I am claiming credit for starting the $5 billion budget surplus discussion for the last financial year. I am not quite ready to call it yet, but let us say that we hit $4 billion anyway. It looks like it is going to be another $4 billion. If there was a $5.8 billion surplus last year and there is a $4 billion surplus this year, that will be $9.8 billion. When we look at it, the amazing thing is that this state looks like having a $15 billion surplus over five years, and the reality is that that might be an underestimate. In fact, it is exceeding expectations, but not because of the financial decisions made by the government. To some extent, the government is struggling to spend the money. It is parking it in special-purpose accounts. There is obviously an issue with expenditure, with such massive resource and construction projects happening. The time frames for Metronet are blowing out for realistic reasons. The Leader of the House often quotes me in question time and says that I say delays in projects are not only understandable, but also probably not a bad thing. That is true; I have said that on numerous occasions. I have said that in public and in private. When there is this massive spend in both the public and private sector, it is hard to keep up. When the borders are closed and the workforce is limited, that will obviously make it even worse. So I understand that. But it means that the government has got so much money, it is struggling to get it out the door.

I have to say that I love the analogy of Scrooge McDuck rolling around in the Money Bin. Every time I manage to get that in the media, it is worth a celebratory something. I think it is a ripper. I know the younger generation struggles to know who Scrooge McDuck is, but in my generation he is well known. Scrooge McDuck rolling around in the Money Bin is apt. *The West Australian* nearly printed a picture of it on the front page; it was very close. The only thing that was missing was the beak. Apart from that, it was effectively the Premier rolling around in the money bin. Again, I claim that one. I reckon I got that close.

When a government has so much resource and so much capacity to support business in particular, it revels in changing the rules at every opportunity. To some degree, the legislation before the house will assist that, because now the government does not even have to bring some of these tax relief measures into the Parliament; it can just walk out there and announce them. But this government revels in keeping everybody on tenterhooks. This is a government that says, "We love changing the rules, and you'll jump to them, and in a week's time we might change them again. We'll announce an opening date, but then we will reverse it and change it." This is the most astounding thing: I read an article in a newspaper this week that said that the Premier might change his mind again and put a date in place, but he would not give more than a week's notice. I thought that was surely the most arrogant statement that this demonstrably arrogant Premier has made. He is saying, "I am just letting you know I am going to change the rules again, but I am not going to give you any notice. I will give you less than a week's notice; I might give you a couple of days' notice." It demonstrates to me that at that level the government has no understanding of how business operates, because less than a week's notice means that if a business makes changes, its week-long roster has already been set and so has its pre-purchases. This government has a complete lack of understanding of how business operates.

What does business require for compensation and COVID management? It needs certainty and consistency, and it needs as much notice as it can get. Every time the government makes changes, it impacts the viability of business and adds cost to business, and drives a few more businesses into bankruptcy. That happens every time the government makes a set of changes. The Premier comes out and says things. It is almost a weekly event now. It seems to happen on Thursdays, which is good, because that seems to be my day to do some media as well. In a couple of weeks, I will follow the Premier out. He walks out there and says, "I have decided to make a few more changes. I have given nobody any notice, business does not know, but here we go, I have got a date, I have removed the date and I have made changes."

By the way, some of those changes are positive. The changes that the Premier announced the week before last, I think, on the new isolation roles were good. I put a press release out that said these were good changes. It would have been nice if there had been a bit of lead-in time though—if business could have been made aware. The problem is that even with good changes, business needs time to prepare and adapt, and nobody in the government at this point seems to be looking after business. It is easy to say that business can look after itself to some degree, and to some degree that is true. Things have been so traumatic that Wesfarmers announced it was going to move some of its executives over east. To be honest, I do not know whether that will assist the process. However, I make this point: Wesfarmers can afford to do that and its business allows for it, but there are nearly a quarter of a million small businesses across the state of Western Australia and not many of those can suddenly decide to shift their chief administrator to Sydney or Melbourne. The mum-and-dad corner store that is struggling to deal with the business mandates that have been applied by the government can hardly send one of the two owners over to Sydney because they want some sort of consistency. Small business has no power that it can exert. It deserves a bit more respect from the government. But it is not so much about what the government does. The most recent compensation, which was announced only last week, was for $77 million for a range of industries that have been particularly smashed by the government's regulations and rules around COVID, no more so than the events industry. But there are still significant issues with that. First off, there is an application process. Businesses do not know how long it will take. As I asked in question time today, the focus of that compensation, let us say for the events industry, is ticketed events. What will all those people who supply to non-ticketed events have to do? They will have to go back to the previous small business grants that were announced, which are very, very small. The amount of $77 million for nine industry streams basically ignores every other industry stream. What did I say about the $77 million compensation package announced by the government? I said it was far too little and far too late, and I absolutely stand by that. This government is probably shifting from having a $2 billion surplus to a $4 billion surplus on its books this financial year. It has a couple of extra thousand million dollars that it could spend, and its total compensation package announced last week was for $77 million. The government is very good at bringing money in, but it is not good at supporting the businesses that unfortunately have been damaged because of the rules imposed by it. I accept that rules have had to be imposed for the most part but some of them potentially are over the top. This government has the wherewithal to provide the most generous packages in Australia yet it has generally been the least generous. A week ago, the state of New South Wales announced a billion-dollar compensation package for businesses and it wanted the feds to step in and match it. It is a state that is already billions of dollars in debt with deficits of billions of dollars. This state, with surpluses of billions of dollars, is one-tenth as generous. It is a pittance by comparison. This government absolutely has the capacity to be more generous and, to be honest, it could be more generous far more quickly. It has far greater capacity than any other government in Australia to support the business community and the business sector. I would like to see a far greater focus. The Finance Legislation Amendment (Emergency Relief) Bill 2021 is a good step and we support it. We are prepared to allow it to pass. We will actually support it. I am happy to vote in favour of it because it will allow the government to take a bit less tax out of businesses' pockets in particular, but it will also increase the amount it pays in grants to first home buyers, and those are good things.

The government changes the rules on a whim. I think the Premier enjoys having everybody jump at his beck and call. He has developed a degree of arrogance and likes being the puppetmaster. He likes having everybody waiting for his next announcement. It probably makes him feel very powerful because the whole state is at his whim. But what he is doing by changing the rules is toxic to business and it is toxic to industry. We have finally seen a little bit of a shift in the community of late, particularly the business community. The Premier was getting a dream run from the media and he had all the business organisations on his side. Anybody who criticised the Premier in the first two years probably took their reputation in their hands and held it at risk. In the last couple of months, businesses have finally started to work this out. Suddenly, a lot of people are unhappy—I put aside those who march because they do not want to be vaccinated. There are businesses trying to do the right thing that are unhappy about the mandates they have to enforce. We need to bear in mind—this is why I like to see some support for business—that the business community is doing far more of the heavy lifting than is the government in relation to COVID-19. Who is applying the vaccine mandates as people walk into shops? It is not a government worker standing out the front checking the vaccine certificate of people who walk into a cafe or a bottle shop. In terms of applying a vaccine mandate to enter bottle shops, dare I say it that in some regional communities in particular, it has boosted the rate of vaccination significantly so we can probably consider it a successful measure. But each one of those businesses has to have somebody checking and all that comes at a cost. There are businesses out there doing the right that are losing staff to businesses that are doing the wrong thing and that needs to be supported. It is interesting to see that the government has stepped up enforcement on that, which is a good thing. I know that there are businesses that do not like it and we need to be really careful with this. The target has to be businesses that are deliberately flouting the rules rather than businesses that are accidentally struggling or simply do not understand how to apply the rules. I have spoken with businesses, including construction businesses, down my way that have seen subcontractors and workers walk out the door and into the business two blocks away because the business they left applied a vaccine mandate and the competing business did not. That provided a specific advantage.

I am pleased that the government has arced up on enforcement. Hopefully, we embarrassed it to the point at which it had to enforce it. I am not necessarily sure that the police are the most ideal people to do this. I asked questions of the Minister for Health in December. The advice I received via the Minister for Emergency Services—I was

going to say the Minister for Mental Health—was that 59 staff members of the Department of Health were targeting this. I am interested to see how much compliance is occurring, but at least compliance is happening. Work is being done in this sphere. I know the government has copped some criticism for it but in reality this is an important component, and if I get the opportunity, I am happy to support that activity. We cannot have one business doing the wrong thing and gaining a competitive advantage over businesses that are doing the right thing. Work on compliance needs to continue, despite the frustration of a lot of businesses. A lot of businesses struggle with the rules. I got a phone call from an orchardist who has one set of rules for orchard workers for whom vaccine mandates do not apply but that orchardist also has a packing shed to which some vaccine mandates apply and a retail outlet to which all vaccine mandates apply. It is an immensely complex process. We need to make sure that we support businesses as a part of that and, to be honest, I do not think we are there. I can give examples of ministers of the government—obviously not the minister who is dealing with this bill—who were asked to explain the rules around vaccine mandates for businesses but they could not explain them. They were asked by their chambers of commerce but they could not explain those rules. It is not easy. If ministers of the Crown struggle to explain the rules of vaccine mandates, what chance does a poor business have of understanding them? What chance does the one employee, one–owner business have of being certain of the rules?

I find myself in the unfortunate situation of giving a lot of advice to businesses. I am always very cautious about that because at some point that might come back to bite me and potentially there is some liability in that. It is absolutely the case that a lot of businesses are struggling with the application of these mandates and in some cases they are being abused. I spoke to a hotel owner at one point, for example, who said, "We have an unvaccinated person who is a regular at the hotel who said to us, "I'll be here next week; you need to get a bigger bouncer"". There are people who will take that extreme measure and we need to be as supportive of business as possible.

Not everything the government does is bad. There are some very good components to the compensation package but, as a rule, the government's compensation package is reactive rather than proactive and it is insufficient. I come back to the point that this government has the greatest capacity of any government in the country to support the business community but it seems incredibly reluctant to do so at a time when businesses are screaming out for support. The bill before the house will hopefully provide a little more of that support. We will not know whether it will until the Treasurer or a Treasurer provides it. We may well pass this bill before the house and it might never get used because the current Treasurer seems very keen on accumulating money in the money bin, obviously very keen in swimming in it. The reality is that that capacity exists now. We would like to see this legislation being used and some evidence that the government will genuinely support business, and not just the businesses that make a lot of noise. There are a lot of businesses for which compensation, despite being shut down, has been unattainable. I sometimes use the example of the allied health community. You can get an exemption to see your doctor but a lot of allied health professionals had to close down and were completely excluded from compensation.

It is true that not every business is worse off in the pandemic. I know of tourism businesses that are better off. Some businesses in the low to middle of the marketplace, particularly regional accommodation, have done very well, thank you very much! I suspect that the general accommodation community in Perth will say that it has been damn hard on them, and some at the higher end of the market that generally rely on international tourists have been decimated. The government says that some businesses have done all right, which is true, but that does not excuse the lack of support provided to all those businesses that have been on their knees.

The events industry, for the most part, has a couple of months' life left in it; otherwise, it is in dire straits. The problem for the events industry is that this is about not only the big concerts that come to Western Australia; it is astounding how much interest is also generated by regional shows. Guess what? Regional shows happen in spring and summer, and maybe the beginning of autumn, but we are two-thirds through summer and most events have closed down. There was a bit of movement with some events last year, particularly following the announcement that the borders would open on 5 February. The continuing closure of our border smashed the industry for another couple of months with events being cancelled. That industry is getting belted again and it needs support fairly quickly.

I will sum up, because I do not intend to take my full allotted time. The bill before the house is welcome, but it is a very small step compared with the capacity of this government to deliver significant support for industries that have been smashed by government-imposed sanctions. This is the least generous but richest government in Australia. It speaks volumes that the government that can afford to do the most is doing the least. This reflects the government's complete lack of understanding of and support for the business sector. I support the bill.

HON NEIL THOMSON (Mining and Pastoral) [8.02 pm]: I will speak briefly on the Finance Legislation Amendment (Emergency Relief) Bill 2021. Like my colleague Hon Dr Steve Thomas, I support this very important piece of legislation in the current circumstances. As outlined by my honourable colleague, the bill provides a limited approach to the issue. Whilst state taxes impose a significant burden on small and medium-size enterprises, the relief that this bill will provide will be limited, given the challenges facing some sectors in the community.

I commend this legislation and note the dire circumstances faced by some small and medium enterprises, particularly the hospitality and tourism sectors in my region. We have heard in this place a lot of commentary that is not necessarily accurate. It is important to put on the record how hard the tourism industry is finding the current situation,

in not only my hometown of Broome but also places like Kununurra. This is the challenge we face. The potential for payroll and other forms of relief that could support the tourism industry in particular are worthy of consideration. However, the state's main lever is payroll relief.

The industry faced challenges following the change in the date to open our border. I commend the state for putting together the package for the tourism industry that was announced a few days back. Support, whether in the form of grants or tax relief, is no substitute for small business being able to trade and achieve its outcomes. Data from the tourism industry for September to December 2021 shows that visitation numbers have increased. There has been an amazing boom in intrastate visitation to regional destinations, which is to be commended. People from Perth have travelled to places like Exmouth, Broome and other regional areas. As someone who lives in Broome, I know that in July and August Chinatown was wall-to-wall traffic. It was hard to go into a shop and get a coffee; in fact, I avoided the main part of town for a time because it was so busy, which is unlike our community. That has given people the wrong impression about what is going on in the tourism industry. When meeting with a number of business owners and tour operators, I was told there had been a reduction in the total amount spent in the industry. This has been borne out by the data. The total spend in the tourism industry in the north west reduced by 10 or 11 per cent by the end of 2021. We have seen a reduction of the tourism spend, which might be a reflection on Western Australian tourists; they do not spend as much as interstate tourists, which our industry relies on substantially during normal seasons.

I was listening to commentary in the other place today and it was rightly pointed out that expenditure increased when the borders were open for a time. We had direct flights coming in from Sydney and Melbourne for a time. That is where the increased dollar spend comes in. In recent times, I talked to companies that are really struggling, hence my support for the bill. I hope the government will look at smaller companies that may already have payroll tax exemptions, because the exemptions in this bill may not impact them very much at all; they may be well and truly below the threshold for the payment of payroll tax. I hope the government has looked thoroughly at the composition of the industry and how it is struggling, because the tour operators that travel up the Gibb River Road through to Home Valley and some of those communities in the remoter parts of the state are facing a wall. I hear their pleas. They took millions of dollars of bookings on the expectation that the border was to open on 5 February, and now they face this huge uncertainty.

Yes, I commend the government insofar as some financial support has been provided and I commend the government for the emergency provisions for tax relief, but I think there really needs to be a forensic examination of these companies to see the state of play, whether it is through the Small Business Development Corporation or another arm of government. Perhaps an assessment could be done of how they are tracking with their profitability and balance sheet situation. I can say only what I hear and what I hear is that scores of businesses, particularly in the East Kimberley, are facing the wall because of the change to the border restrictions—for example, businesses that provide bus tours, charter flights and those higher end experiences. It is not just about towing a caravan to Broome and parking at the caravan park. That has been fantastic; we have had an incredible amount of that in Broome. But often those tourists, who are very welcome—the industry needs them—do not spend the money; they generally go to Coles and Woolies and fill up their vehicles and have a great time at Cable Beach and so forth. But they are not the same value proposition that we need to get back into our state, particularly in the north.

I did not want to take up too much time. I just wanted to bring that to the table, because I saw the opportunity during debate on this bill. I commend the bill to the house, but I ask for thorough testing, whether it be through Treasury or the Small Business Development Corporation, of the beneficiaries of the tax relief, because there are significant thresholds. Businesses of certain sizes will not be paying payroll tax, so the scope for the provision of support to them under this bill will be limited. I think that assessment really needs to be done. I commend the bill to the house.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [8.12 pm] — in reply: I thank Hon Dr Steve Thomas for his contribution this evening and for his indication that the opposition will be supporting the government. I was going to say that the government has got it right. I also thank Hon Neil Thomson for his contribution. Certainly, in relation to his contribution, I am happy to ensure that the appropriate minister gets a copy of *Hansard* so that they can at least read what he has said in the chamber tonight, noting of course his advocacy for our shared electorate.

Hopefully, I have answers to all the points that have been raised. Obviously, I will not address some this evening, and members will happily ask questions about them on Thursday and we will have fun and mirth on Thursday, but not so much tonight. There was a range of questions. The first question was about whether the bill will diminish parliamentary scrutiny, which I think were the words the member used. It is not about reducing the time frame for passing legislation; it is about providing certainty for taxpayers and ensuring equity for taxpayers. A tax or grant relief measure can be beneficial only to taxpayers and grant applicants. Requiring the tax or grant relief declaration to be disallowable would introduce uncertainty and possibly inequity for taxpayers. If the declaration were disallowed by Parliament and the emergency relief were withdrawn, it could mean that some taxpayers would benefit from the relief measure, while other taxpayers would not. This is undesirable when providing urgent financial assistance following an emergency. Certainty about the government's commitment to provide relief is critical in an emergency. I am told that this approach is consistent with the emergency relief power in Victoria, where the Treasurer's direction to the commissioner to administer a tax relief measure is not disallowable by Parliament.

Additional safeguards have been included in the bill to ensure that the powers are not used inappropriately. They include that the powers can be used only in response to an emergency situation or a state of emergency declared under the Emergency Management Act 2005 or a public health emergency declared under the Public Health Act 2016. The Treasurer must consider it necessary to provide relief to taxpayers for the purpose of alleviating the financial or economic effects of the declared emergency. The powers can be used only to provide relief for up to two years and the powers cannot be used to declare a tax or grant relief measure more than 12 months after the emergency has ended. The tax or grant relief declaration setting out the eligibility conditions and the details of that measure must be published in the *Government Gazette*, which provides more transparency for taxpayers and grant applicants.

The member asked me to comment on the time frame and why it is two years. I am told that it may be appropriate for long and unprecedented emergencies such as the COVID-19 pandemic. Two years is an appropriate time in situations such as the Wooroloo bushfire and cyclone Seroja. It is to give sufficient time for landowners to rebuild their homes and to receive an exemption for that period.

Without an exemption, owners of properties destroyed by the Wooroloo bushfire and cyclone Seroja would have to pay land tax on the property that was their family home. This is because the land would no longer qualify for the primary residence exemption under section 21 of the Land Tax Assessment Act 2002, as there would be no private residence on the land. An exemption is available for up to two assessment years for private residential property under construction or refurbishment. However, given the high activity currently being experienced in the residential building market, most landowners affected by the recent disasters are unlikely to be able to commence or complete construction or refurbishment within the exemption requirements. The power will also be used to continue exemptions for other properties—for example, land used for a primary production business if the land is prevented from being used for the exempt purpose because of the damage caused by the cyclone, bushfire or emergency.

The honourable member asked a question about the first home owner grant. I have written down his words; I was paying great attention. He asked how the first home owner grant is of use in an emergency and how increasing the cap is a good economic tool. He also asked how changes to the first home owner grant have impacted on the cost of housing. I cannot comment on the second part. We have had a perfect storm in many regards. We came off a period when not much building was happening in Western Australia and the banks were not lending for houses, so money was provided by the state and the commonwealth to help enliven the market again. Of course, that happened with COVID-19; mining companies brought workers back from the east or ensured that fly-in fly-out workers no longer flew in from Queensland and that they lived in Western Australia. All these things happened at the same time. Some people came from overseas as well. It has been difficult, but certainly it has been a perfect storm. A number of policy decisions have been at play at the same time, so who could say how or whether the first home owner grant has impacted the cost of housing? But it has kept businesses alive. Certainly, in that early period, a number of housing companies and associations had indicated to me in my conversations with them that they were going through tough times and were going to start letting staff go; in fact, many did let staff go. This kept people in business and gave them a pipeline of work and some confidence that they could see the future ahead of them.

The first home owner grant could potentially be used as an economic stimulus in an emergency or for any reason the government sees fit to support policy settings; for example, it could be used to encourage first home owners to settle in a certain emergency-affected area. The grant can be increased for transactions for purchases of homes in a local area that has been affected by a disaster such as a bushfire or cyclone. In relation to how they might be used in an emergency, grant payments can already be administered without legislation. Legislating for grant relief powers to increase the grant or the cap amount puts more processes around the grant; for example, it will allow the existing enforcement provision and objection rights to apply to the measure.

The honourable member made another comment about the slow delivery of small business grants. The bill will apply only to the delivery of tax relief and first home owner grant relief measures. The taxes that will be covered include duties—transfer duty, landholder duty, insurance duty and vehicle licence duty—land tax, payroll tax, betting tax, metropolitan region improvement tax, the on-demand passenger transport levy, the declared pest rates and penalty tax payable under a taxation act. The bill will not cover other business grants. The other grant payments can already be delivered without legislation and, in fact, they have been; they have been dealt with by a range of ministers. I should make the point in response to both the honourable member's comments and Hon Neil Thomson's comments that a number of ministers have the responsibility to work with different industries on COVID-19 relief measures. Some of those measures have been announced, and, indeed, ministers continue to engage with and listen to various industries in Western Australia that may be affected by COVID-19, to find out what they are going through and to act at the appropriate time.

The honourable member made a comment that the power under this act might never be used. The Treasurer announced a two-year exemption for properties affected by the Wooroloo bushfire and cyclone Seroja disasters as part of the 2021–22 budget. That can also be used to provide further relief from COVID-19 if required. The Treasurer will use the new powers to continue land tax exemptions in 2021–22 and 2022–23 for eligible properties that were destroyed by the Wooroloo bushfire and cyclone Seroja disasters, and those exemptions were part of the 2021–22 budget.

The honourable member made the comment—I know he did not say it about this government—that governments like to provide tax relief in the lead-up to elections. As the member quite rightly pointed out, that was not the case for the legislation before us. This legislation will be used to provide relief only from the economic effects of a declared emergency and cannot be misused. Hopefully, that allays the honourable member's fear.

The honourable member made some comments about the COVID-19 pandemic. I have to say, and I have said it before in this place, there was no "How to deal with a COVID-19 pandemic" book on the bookshelves of government or anywhere, and so we have all come to this very quickly and it has hit us. Although agencies might have had pandemic plans, I do not think anyone quite expected what we have experienced over the last two years. The government has been as nimble as it could be, and certainly will continue to work with the various stakeholders.

The member mentioned the iron ore price. My advice is that it was $US146.76 at the close of business on 14 February. It did go down to 92¢ —

Several members interjected.

Hon STEPHEN DAWSON: It was $US92. Thank you; I am glad you are both listening. That was very quick. It was $US92 in November last year. Although it was high for a period last year, it dropped substantially.

Hon Dr Steve Thomas: It was apparently highly unrealistic.

Hon STEPHEN DAWSON: It dropped substantially. We are talking about world economies and, you know, geopolitics and stuff, so I think we have been prudent in terms of what we have put in the budget document for what we anticipate coming in from iron ore.

I think that is certainly all the points I have written down and that the advisers have provided. Again, I thank the honourable member for his contribution.

I am not sure that Hon Neil Thomson was overly critical but he was certainly critical to a degree about the assistance that has been provided to business—small business and otherwise—over the past few months. The government has already provided a number of tax relief measures to businesses. The payroll tax threshold was increased and it was brought forward. Payroll tax was exempted for a period in 2020 for employers whose taxable wages were less than $7.5 million. Wages subsidised by JobKeeper were exempt from payroll tax. Wages subsidised by the boosting apprenticeships commencement scheme are exempt from payroll tax. There was a one-off $17 500 grant paid to employers whose annual Australian taxable wages in 2018–19 were more than $1 million and less than $4 million. There was a range of other things certainly in this portfolio and the finance portfolio that the advisers were able to outline to me, but other assistance was provided throughout the pandemic to a range of industries. I would not rule out further measures as we go forward should they be needed and a decision is made by cabinet that they are needed.

People have worked incredibly hard over the last two years but we have lots of learnings and we look forward to getting out the other side and having a proper review of what we have been through. Certainly, the legislation before us is good legislation because it will allow the government to be nimble. I am happy to admit, as a minister and a member of Parliament, that governments are not always nimble. The bureaucracy can sometimes be slow, but I think legislation like this will allow us to provide assistance to those who need it in a more timely fashion. With that, Mr Acting President, I commend the bill to the house.

Question put and passed.

Bill read a second time.

[Leave granted to proceed forthwith to third reading.]

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Emergency Services)**, and passed.

COURTS LEGISLATION AMENDMENT (MAGISTRATES) BILL 2021

Second Reading

Resumed from 4 August 2021.

HON NICK GOIRAN (South Metropolitan) [8.27 pm]: I rise on behalf of the opposition to speak on the second reading of the Courts Legislation Amendment (Magistrates) Bill 2021. This 12-clause bill that covers some 11 pages will make very significant changes to the way that the Children's Court in our state is administered. I note that this is a very important bill for the government, and I draw Mr Acting President's attention to the state of the house.

[Quorum formed.]

Hon NICK GOIRAN: I can well understand why government members do not want to be here during the consideration of this bill, because this bill stinks. It will make very significant changes to the way the Children's Court is administered and these changes are highly controversial, a point that is well known to members opposite, who are frankly and understandably embarrassed about this bill. What makes it worse is that the bill before the house

cannot possibly be described as urgent. If we take a moment to look at the program that has been proposed by the government for this week, six bills have been listed. Two of those bills are being dealt with in a cognate fashion, so we could say that, in a sense, there are five bills, but technically there are six bills. Of those six bills, four fall under the Attorney General's portfolio. The list of priorities starts with the bill that is before us—the Courts Legislation Amendment (Magistrates) Bill 2021—and then goes to the cognate debate on the two legal profession uniform law bills, and finishes with the Administration Amendment Bill 2021. If government members understood what these bills were doing, they would reverse that order. Of the bills that are under the Attorney General's portfolio, this is the least urgent of the lot, yet the government has brought it on first. When the government replies and explains its position on this bill, it has a duty to explain exactly how this could possibly be considered a priority over the other two bills. For those members who will not necessarily be interested in what I have to say about this, I draw to their attention what the Law Society of Western Australia has to say about this. On1 December last year, the Law Society issued an open letter to members of the Legislative Council—not the one members will have received over the course of this week, but we will get to that—that says —

> Dear Honourable Member
>
> If the following Bills do not pass this year, there are only 4 parliamentary sitting weeks next year prior to 1 April. Therefore I ask why with the support of both the Government and the Opposition can't these two pieces of uncontroversial but important legislation be dealt with and passed this year?

In this letter of 1 December last year, the Law Society goes on to list the Administration Amendment Bill 2021, the Legal Profession Uniform Law Application Bill 2021 and the Legal Profession Uniform Law Application (Levy) Bill 2021. I am not going to take members through what the Law Society had to say on those two matters because we will deal with that when we get to those bills, hopefully in the not-too-distant future. On 1 December, the Law Society wrote an open letter to every member of the Legislative Council indicating that those were the two priority bills. What did the government do? On the first sitting day back after the long summer recess, it buried those two bills. Instead, unbelievably, it brought on this bill, which, as I said, is highly controversial and absolutely not urgent. If the government disagrees and thinks there is some genuine, authentic explanation for how this bill could be a greater priority than those other two I have mentioned or that package of three bills, I look forward to that explanation in due course.

Members might not be aware that this bill, which is apparently the second-highest priority bill for the McGowan Labor government to consider as we return in 2022, had its genesis in a highly contentious public stoush between the President of the Children's Court and one of the magistrates who exercises jurisdiction in the Children's Court. I think it is fair to describe that case as unprecedented. Again, I invite government members to indicate to me whether there have been other Western Australian cases in which a magistrate has effectively taken her boss, the President of the Children's Court, to court to sue him, as I understand it, over bullying allegations and the like. We will get into that a little bit later. If the government does not think that is unprecedented and that there have been other cases of judicial officers suing each other and alleging bullying and the like, then I welcome an indication of that, but I think it is fair to describe this as unprecedented. That is the genesis of this particular bill. Serious allegations were made by the parties in the litigation. This case settled last year part-way through the trial. It appears that now, in February 2022, the government is seeking to somehow resuscitate or revive its stalled legislation that will give power to the President of the Children's Court to achieve what it appears he was unable to achieve by way of negotiation or through the litigation process. One of the consequences of the bill before us could be to retrospectively trigger the magistrate's resignation. I will get into that in due course.

As I said, this 12-clause bill, which I think is really by far the most controversial of the bills before us this week, will amend the Children's Court of Western Australia Act 1988 and the Magistrates Court Act 2004. As I understand it, there are currently six full-time magistrates in the Children's Court and I think there is also one casual magistrate who operates in that court. During the briefing that was provided to the opposition quite some time ago now, before the government decided to stall this legislation last year, no doubt because of the fiasco that was occurring at the time with the spectacle of judicial officers involved in a civil trial—I will try to unpack how that came about and the role of the Attorney General in due course—I seem to recall that it was indicated that all magistrates in Western Australia receive dual commissions. That is to say that they are able to hear Children's Court matters but, in practice, most of the magistrates, other than those who have been specifically allocated to the Children's Court, hear only what could be described as general Magistrates Court cases—I think some have referred to them as adult cases—unless they are on circuit in the regions. It would appear that a Children's Court was established as far back as 1907 by the State Children Act. That came somewhat as a surprise to me during my research into this matter. I note the second reading by the then Minister for Community Services on 15 June 1988 on the Children's Court of Western Australia Bill. For the benefit of Hansard, this was the second reading in this chamber and is found at page 1091 of *Hansard*. The minister states —

> Children's Courts in Western Australia were first established under the Children's Act 1907. This was consistent with a trend which began in the United States in Illinois in 1899, and spread throughout Western countries around the turn of the century.

> The philosophy underlying the establishment of Children's Courts, particularly in the United States, was based on a belief that offending children were victims of undesirable environments and therefore should be treated in a similar manner to neglected children. This meant that, under the new regime of Children's Courts, it was seen as more important to inquire into the background of the offender rather than deal with the offence itself, and to plan appropriate treatment on that basis.

The Children's Court is presided over by what can be described as special magistrates or special judges. Again, I turn to the second reading debate that occurred on 23 October 1907 when the Colonial Secretary said —

> Part IV. refers to the establishment of children's courts, and to State children generally. So far as this portion of the Bill is concerned it is an entirely new departure, and one which I am sure will be approved by everybody. It is provided that these courts shall be presided over by special magistrates. They shall be held in a separate building from the usual courthouse, and if it is not possible to obtain a separate building, such as will be the case in the country districts, the children must be tried in the magistrate's room. The special justices who are appointed to sit will have all the powers conferred under the Justices Act, 1892. The benefit that will be derived from having these special courts rather than bringing the children in any way into contact with criminals will be apparent to members. It is farther provided that neglected children not be confined in a lockup, but in the policeman's house or be sent to some respectable person to be taken care of until they have to appear before the court, and thence be hoarded out or sent to an institution.

That was all said in 1907 about the then State Children Bill. I note in the second reading speech for this bill that the Parliamentary Secretary to the Attorney General, and, indeed, supported in the speech given by the Attorney General in the other place, recognises that the Children's Court is a specialist court. I take that to mean that the court is dealing with vulnerable people and matters with far-reaching consequences, including the criminal offending of children, but also the care and protection matters with regard to children. I think it is fair to say that it has been well recognised that there is a need for the specialisation and expertise of Children's Court magistrates. I think that has been recognised around the nation; it has not simply been recognised here in Western Australia.

I draw to members' attention and to the attention of the parliamentary secretary, a study of the Children's Court of New South Wales. This was conducted as part of a national assessment of Australia's children's courts in 2014. This particular study, at page 19, has this to say —

> The specialised and expert staff of the Children's Court, especially specialist magistrates, were identified as central to the role and effectiveness of the Court. Specialist Children's Court magistrates claimed they possess the knowledge and skills to manage highly complex cases, understanding and addressing the vulnerabilities and needs of children and young people with due consideration of the research evidence on child development and child psychology.

It goes on to say on the following page —

> In both jurisdictions a perceived strength was a sense that the calibre of practitioners is high, and that the specialism the court afforded, allowed for this. For example, one magistrate explained:
>
> > *There is a reasonable degree of expertise amongst specialist children's court magistrates and that gets applied …….a number of experienced practitioners, which mean that things are conducted well.*

This particular review of the New South Wales Children's Court concluded with some recommendations. I specifically draw two of them to members' attention. It concludes at page 46 by saying —

> A number of recommendations have been devised to further support and strengthen the operation of the NSW Children's Court.

The first of which was to maintain the specialisation of court-affiliated staff, and, secondly, to strengthen specialist knowledge by the consistent, continual provision of training and professional development relevant to understanding children and young people for non-specialist magistrates. That is the situation in New South Wales with regard to the recognition for the specialisation and expertise of Children's Courts magistrates.

I will turn to the situation in Victoria. The Children's Court of Victoria has a statement of priorities. This document covers the period from 2019 to 2021. At page 5 under the heading "Our unique role", the Victorian Children's Courts says —

> Our judicial and administrative offcers are passionate and dedicated to the work of the Children's Court and possess distinctive skills and qualities demanded by our specialisation, including:
>
> - court craft
> - interpersonal skills
> - knowledge of child development
> - awareness of family dynamics, including family violence
> - knowledge of associated services, and capacity to access these on behalf of our users

Again, if I turn to the experience in Queensland, the Queensland government, in a document prepared by the Strategic Policy Department of Justice and Attorney General from February 17 titled "Improving child protection matters in Queensland courts", had this to say at page 16 —

> Overall, respondents were very positive about the appointment of dedicated Childrens Court Magistrates.

It goes on to assess the benefits of dedicated Children's Courts magistrates. This is found in table 5 on page 16. I will highlight a couple of portions of those benefits about appointing dedicated children's magistrates. The experience in Queensland is the benefit is increased specialist knowledge of dedicated Children's Courts magistrates.

The comments were —

> A benefit of appointing dedicated Childrens Court Magistrates is their knowledge of child protection proceedings, and appreciation of the types of issues this jurisdiction commonly involves. Magistrates themselves acknowledge that their expertise in child protection had grown and other stakeholders also noted the benefits of having Magistrates that understood the issues facing parties.

It goes on to list another benefit —

> **Ensuring orders are the least intrusive**

Also —

> This active case management approach helps ensure the orders made were the least intrusive possible

The third benefit listed is the familiarity with parties and a respectful approach. Part of those comments included —

> The respectful and open approach of Magistrates (whether specialist or not) was also highlighted as a key enabling factor for participation by parents and young people

The fourth benefit provided was —

> **Holding DCCSDS to account for actions taken between mentions**

It goes on to say —

> The active case management and more inquisitorial approach of some dedicated Childrens Court Magistrates has increased the level of accountability of DCCSDS —

That is the Department of Communities, Child Safety and Disability in Queensland —

> as the Department is increasingly held to account for ensuring that action is taken between court appearances.

The last benefit listed in Queensland for this specialisation is the efficiency due to the knowledge of material the prior to court offence. It goes on to say —

> Several dedicated Childrens Court Magistrates noted that, as they are familiar with matters and have time to read material, there are fewer adjournments.

That seems to be the recognised position across at least three of those substantial jurisdictions in Australia—New South Wales, Victoria and Queensland—about the need for and benefit of dedicated Children's Court's magistrates and the recognition of that. I read into all of that that none of those dedicated Children's Court's magistrates should then be the subject to whims of the President of the Children's Court. Over the journey, there have been reforms to the Children's Court and, in particular, reforms made by the Children's Court of Western Australia Act 1988. This followed some criticism that the juvenile justice system was too permissive, gave too much discretion and was unable to rehabilitate offenders. If I can quote from the debate from 1988. Again, this is a continuation of that second reading speech I referred to earlier given on 15 June 1988 in this chamber. The then minister had this to say —

> There are a number of fundamental aims in this legislation. The first is to provide for the establishment of a Children's Court with sufficient status and power to fulfil its social mandate. Secondly, there is a need to provide adequate safeguards for the rights of individuals who appear before the court. In a number of areas this involves reducing the administrative discretion currently available to officers of the Department for Community Services and to provide far greater accountability through the court system. Thirdly, there is a need to provide an adequate range of options to the court in dealing with the very significant problem of juvenile crime, but at the same time to reduce the very high rate of juvenile incarceration in Western Australia.

Later, the second reading speech goes on to say —

> The court will be headed by a judge, with the title of President …

Later again it says —

> A number of recent reports have expressed concern that the Children's Court does not have sufficient status to deal with the important issues of custody and guardianship of children which are dealt with in care and protection applications. The changes in the constitution of the court will allow the more complex and contentious of these cases to be to be dealt with by a judge, and thus receive adjudication at a level

> consistent with their seriousness. In a significant departure from the current system, the Children's Court will have exclusive jurisdiction to deal with all criminal offences committed by children, except where a child elects for trial by jury or in certain circumstances where a child is co-accused with adult offenders.

They are some of the reforms that were undertaken in 1988 to strengthen the Children's Court and the creation of the role of the President—as I say, the ability to deal with these care and protection applications and the more complex and contentious matters to be dealt with by the President and the exclusive jurisdiction with regard to these criminal offences.

I note that in all of that, again, in the 1988 debate, this time in the debate the transpired on 23 August 1988, Hon Phil Pendal had this to say —

> The transfer to the Crown Law Department, coupled with the reconstitution of the court with provision for a judge in charge with the title of president, will at the very least ensure that the court becomes a far more professional tribunal than in the past … First, the appointment of a president and, secondly, the appointment of legally qualified Children's Court magistrates.

He went on to say —

> I recall a few years ago researching some major changes that occurred in the Children's Court jurisdiction in the 1930s. The Government of the day considered a major and radical departure from the norm in that a person with legal qualifications was not to be appointed as a Children's Court magistrate. Instead the Government of the day opted for a person who was a minister of religion in order that the workings of the Children's Court could be not only humanised but be seen to be humanised. Some 50-odd years later we have, in this case, turned a semicircle because that is no longer the flavour of the month; it is no longer appropriate to have people in charge of a Children's Court at magisterial level who are not qualified magistrates or legal practitioners.

These types of reforms have certainly occurred over the journey. In this case, the President of the Children's Court, as a judge, gives them the ability in that same court to deliver or hand down longer periods of detention or imprisonment. Again, I refer to that early debate of 15 June 1988 in which the minister in charge of the bill had this to say —

> A judge in the Children's Court will have all the powers of a Supreme or District Court judge in passing sentence on young offenders …

He later went on to say —

> Therefore a judge in the Children's Court will have unrestricted power to order periods of detention or imprisonment up to the maximum prescribed penalty for the offence in the adult criminal system. However, magistrates will be limited to orders of six months' detention or three months' imprisonment …

He went on to say —

> To deal with varying workloads in relation to the more serious offences, it will be possible for a judge of the Supreme Court or District Court to also sit in the Children's Court as required. In addition, it will be possible for the president to give extended powers to a magistrate in relation to a particular case …

He further went on to say —

> However, in an exceptional case, where a magistrate considers this to be inadequate, it will be possible to adjourn the case for sentencing by a judge.

He later concluded his remarks by saying —

> An important new provision, to provide for consistency of sentencing in the Children's Court, is a power for the president to review sentences of magistrates or members. This will provide a speedy, accessible and relatively inexpensive alternative to appeals to the Supreme Court against sentences in the Children's Court.

He finally went on to say that this "will mean that the more complex and contentious cases will in future be dealt with by a judge in the Children's Court in the first instance".

For the benefit of the parliamentary secretary, the author indicates that over the journey the reforms that have been made provide a massive amount of work for the President of the Children's Court. They have got heaps to do with all of these things that Parliament asked him or her to do at that time. There is certainly no spare capacity to be involved in these side skirmishes with a magistrate from the Children's Court, which certainly appears to be what happened last year. As I say, the President's role, as I understand it when I look at all of that reform over that time, was enacted to improve the public perception of the Children's Court to allow it to deal with all offences committed by children and provide for tougher penalties. It strikes me that the bill currently before us is now shifting from that role of the President in terms of what was intended—that being from one that had extended power and improved the professionalism of the Children's Court to one that will now interfere with the independent administration of justice. I seek, and I think numerous members of the legal profession would seek the same, an assurance from the Attorney General that the President's decisions once this bill passes will be grounded in the workload of the

Children's Court and will be unrelated to personality clashes between the President and the Children's Court magistrate. We would want an assurance that it will be confined to objective factors such as numbers and locations of cases and not subjective considerations about the suitability of a Children's Court magistrate, as determined in the opinion of the President.

The parliamentary secretary will certainly be aware that under the Magistrates Court Act 2004 and the Children's Court of Western Australia Act 1988, the Governor appoints magistrates by way of a commission. The Magistrates Court Act states —

> Unless the acting magistrate has consented, the Governor must not determine that an acting magistrate working full time is to work other than full time, or vice versa.

It cannot be done without the consent of the magistrate. That is the position at the moment according to Western Australian law. I refer there to schedule 1, clause 9(7). In contrast, as I understand it, the government is proposing to amend the Children's Court of WA Act so that the President of the Children's Court can decide whether a magistrate performs Children's Court functions on a full-time or part-time basis. I refer there to proposed section 11 in the bill. The Chief Magistrate may or may not consent to the president's decision, but provided that the Chief Magistrate initially consents, the president will have the power to determine that a magistrate is not required at all or is required to undertake work on a reduced, part-time basis. I refer there to proposed section 11(4). It seems to me that the government is proposing that the president will have absolute discretion in making such decisions, which evidently does not exist at the moment, and specifically will not have to consider the seniority or length of service of a magistrate or any other matter. I refer there to proposed section 11(6). I have to say that this will not be done without controversy.

In the absence of any other information that the government would like to provide us, it is very difficult to avoid the conclusion that this is all being done in response to the Crawford v Quail litigation. It is very difficult to avoid that conclusion. More to the point, it is simply because the president did not get what he wanted—that being the removal of Magistrate Crawford from the Children's Court. It is very difficult to avoid that conclusion. If I have got that wrong, I ask the government explain it. Why was this bill put on hold in the middle of that case and has now suddenly emerged? This litigation, this stoush between these two judicial officers, has cost the taxpayers of Western Australia more than $274 000. That is the information that the Standing Committee on Estimates and Financial Operations received during the most recent budget estimates. Would you believe, Acting President, that that $274 000 was just the legal fees paid by the taxpayers of Western Australia for President Quail? I do not how much other money has been expended by the government on this stoush, but it is more than a quarter of a million dollars. I would like to know how much the final amount was. We found out during estimates that the negotiation—the side deal that occurred—that led to the litigation ending and the settlement of the case has resulted in annual costs to the taxpayer of between $70 000 and $80 000 per year. Why is that? It is to cover an additional support officer. Again, that information was provided during the estimates hearings.

When members take the time to familiarise themselves with the stoush that occurred between Magistrate Crawford and President Quail, it becomes obvious that the President of the Children's Court obviously had an issue with Magistrate Crawford. Substantial allegations were made against a magistrate in Western Australia, yet the President of the Children's Court came to the conclusion that that position would not justify bringing her position before Parliament to determine whether to terminate her position. That is how these people get removed—matters are brought to the Parliament and the Parliament makes a decision. But apparently the allegations against Magistrate Crawford were not so serious as to justify that. It appears, from everything that I can discover in this matter, that Magistrate Crawford would not agree to transfer out of the Children's Court, which was what the President of the Children's Court, Mr Quail, wanted. He wanted her to transfer out of the Children's Court into the general Magistrates Court but she would not agree. The president then tried to get the Chief Magistrate to transfer her. But guess what? He would not agree to it either. President Quail was saying that he wanted the supposedly troublesome Magistrate Crawford out of the Children's Court. Mind you, members, quite apart from the fact that she has been there a heck of a lot longer than he has—I do not know whether that was an issue—he wanted her moved out, but she would not agree so he went to the Chief Magistrate. Guess what? He would not agree either. The Chief Magistrate, incidentally, has also been there a heck of a lot longer than the President of the Children's Court.

What happened next in this saga? The President of the Children's Court knocked on the door of the Attorney General—that is a figure of speech, for the benefit of *Hansard.* More accurately, he communicated with the Attorney General. He then sought to—I use the phrase carefully and intentionally—orchestrate a situation. He wanted the Attorney General to appoint an additional magistrate to the Children's Court. This all happened in January last year. This way, if Hon John Quigley, the Attorney General, were to appoint an extra magistrate, President Quail could say to Mr Quigley, "Look, I've now got too many magistrates. Magistrate Crawford is surplus to our requirements", and he could direct her to return to the Magistrates Court. If members think that I am making up any element of this, I draw to their attention that this was all revealed in the transcript of the trial between Catherine Patricia Crawford and His Honour Judge Hylton Quail in the Supreme Court of Western Australia. There were effectively, if members like, three days to this trial. Day 1 was Monday, 11 October 2021. Day 2 was the following day, Tuesday, 12 October 2021. For a very short period, there was a bit of action on Wednesday, 13 October 2021, and that is because the parties

then settled. They had this almighty stoush for the first two days, which was reported in the media and the like—it was very unseemly—and then they came to a settlement and that was reported to Justice Allanson. This was all in October last year.

I want to take a moment to substantiate all the things that I have just said about these two judicial officers by reading directly from the court transcript. I will start with part of the transcript from Monday, 11 October 2021. It is truly astonishing stuff. There are pages and pages of it, but I will just read some portions because I note that, regrettably, this is a time-bound debate. On that day, the following is said by Mr Donaldson. For the benefit of members, Mr Grant Donaldson, Senior Counsel—from recollection, a former Solicitor-General for Western Australia—represented Magistrate Crawford during this trial. He said to Justice Allanson —

> Now, there was around this time correspondence also between Judge Quail and the Attorney General.

He goes on to say that it was a letter of 7 September. The transcript continues —

> … 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 …

He quotes Judge Quail's letter to Attorney General Quigley, which states —

> I have recently concluded an inquiry in relation to the conduct of Magistrate Crawford. It is not necessary for me to go into the detail of what occurred but I have determined that her misconduct does not require a referral to you. However, her misconduct was serious and she no longer has my confidence. While she is fit to continue sitting as a magistrate, I do not regard her as a suitable person to continue sitting as Children's Court magistrate.

In his submission, Mr Donaldson, the barrister representing Magistrate Crawford, went on to say —

> So just pausing there, as your Honour will come to see, one of the great mysteries in this matter is that Judge Quail thought that her Honour perfectly adequately—seemingly continue to sit as a magistrate and that the findings that he made not reflect on her capacity to do that, but that her Honour was not a suitable person to continue sitting in the Children's Court.

He then went back and quoted this famous letter between President Quail and Attorney General Quigley, and stated —

> As you know, Ms Crawford has been the subject of a number of substantiated complaints over the years.

I will revert to Mr Donaldson's submission to the Supreme Court judge in which he states —

> Now, when Magistrate Crawford saw this letter, your Honour, she was—and will give evidence that she was horrified because her Honour was not aware that she had ever been the subject of a substantiated complaint of any matter concerning Wager P while she was the president of the Children's Court —

For the benefit of members, President Wager is the Chief Judge of the District Court. Mr Donaldson continues —

> and that Judge—her Honour will give evidence that they had never been stated to her by Judge Wager, nor by Judge Quail. And likewise, her Honour will give evidence that she … was not aware, prior to seeing this document in discovery, that Judge Reynolds had ever had any conversation with the Attorney General about her conduct. And in any event … Judge Quail knows that—seems to know that the Attorney General knows certain matters about her.

Mr Donaldson, barrister representing Magistrate Crawford, goes back to this famous letter to the Attorney General, and the next sentence states —

> She is also difficult to manage. Consumes an inordinate of time as head of jurisdiction. And her poor relations with staff of the Children's Court creates considerable disharmony. Because the Children's Court is a small court and she represents 20 per cent of our magistrates, the effect of her behaviour is disproportionate.

Mr Donaldson again refers to the Supreme Court judge and continues —

> Now, can I pause there, your Honour, to make this observation. This is the president of the Children's Court writing to the Attorney General about a magistrate. And saying that she is difficult to manage, which was a matter that never had been—evidence will show, had never been stated to Magistrate Crawford by Judge Quail:

Mr Donaldson goes back to quote from this letter —

> That she consumes an inordinate time of Judge Quail's time as head of jurisdiction.

He goes on to say —

> The evidence will be from her Honour that that had never been stated to her.

Again, quoting the letter —

> And had poor relations with staff of the Children's Court creates considerable disharmony.

I go back to the submission. He states —

> Again, your Honour, there will be evidence that that had never been stated to her by Judge Quail or anybody else. And your Honour, this letter will be relevant to the characterisation of his Honour's conduct. But for a letter such as this, your Honour, to be written to an Attorney General about a judicial colleague without notice to the colleague or to that colleague and to express it in the terms that it has—the terms that Judge Quail did, your Honour, we will—we say reflect upon the finding that your Honour has to make as to the purpose that his Honour had in making the directions that he did.

Then, at the bottom of this first page, he goes on to quote this famous letter —

> I am firmly of the view that Ms Crawford should now be moved back to the Magistrate Court where, if her behaviour continues, it would be more easily managed and the effect of it ameliorated by reason that it is but one of 27 magistrates. The Chief Magistrate also has greater magistrate management powers than I do.

Mr Donaldson's submission continues —

> Again, no doubt, his Honour will be giving evidence about that paragraph.

Tabling of Paper

Hon MATTHEW SWINBOURN: The member is reading copiously from a transcript, which I presume is a document. I ask that the member table the document from which he is reading.

Hon NICK GOIRAN: I thank the parliamentary secretary for his invitation, but I most certainly am not going to be doing that, if for no other reason than I am still quoting from it at the moment. If he would like to make a request at the conclusion of my speech, I will be happy to give it consideration.

A member interjected.

Hon NICK GOIRAN: That is how the system works, unless the member thinks I can somehow continue to quote —

A member interjected.

The ACTING PRESIDENT (Hon Jackie Jarvis): Member! Member! I ask Hon Nick Goiran to resume his seat while I take advice.

Under standing order 59, a member must identify a document quoted from during debate. I believe Hon Nick Goiran has done that. Standing order 59 states that at the conclusion of a speech, the member can be asked to table the document.

Parliamentary secretary, I recommend that you call for the document to be tabled or I can request the document to be tabled at the end of the speech.

Debate Resumed

Hon NICK GOIRAN: Thank you, Madam Acting President. I did say all that earlier, much to the disturbance of the Leader of the House, for reasons unknown to me.

I am still reading from the transcript that I identified earlier as the transcript of proceedings at Perth on Monday, 11 October 2021. For the benefit of the parliamentary secretary I am referring to page 184. To repeat what Mr Donaldson had said —

> Again, no doubt, his Honour will be giving evidence about that paragraph.

Over the page, the famous letter is again quoted in the transcript, which obviously the Attorney General has access to. It reads —

> If the Chief Magistrate will not agree to a swap of Ms Crawford with another magistrate as I expect he will not —

Mr Donaldson continues his submission to the Supreme Court judge and states —

> and can I pause there, your Honour. That proved to be true and, with respect, Judge Quail always knew, the evidence will show, that the Chief Magistrate would not make a direction for her Honour to go back to the Magistrates Court.

Mr Donaldson again refers to the letter and states —

> If the Chief Magistrate will not agree to a swap, I recommend that the next magisterial appointment be an appointment to the Children's Court. Ms Crawford will then be surplus to my requirements and you could direct that she return to the Magistrates Court.

That is all set out in a letter from President Quail to Attorney General Quigley. That is why I said earlier that President Quail has orchestrated this whole situation. How else can anyone read that particular sequence of events? Certainly it exercised Mr Donaldson very much as the barrister for Magistrate Crawford.

Mr Donaldson continues with his submission and states —

> So therein, your Honour, is the basis of the plan as to how to deal with Magistrate Crawford and therein is perhaps the best evidence that your Honour will see, other than the evidence that will be given about this, as to the purpose of Judge Quail in making the directions that he purported to do in December and in February.

The plan was to just appoint an extra magistrate to the Children's Court and Magistrate Crawford will then be surplus to requirements and the Attorney General can direct her to go to the Magistrates Court because the Chief Magistrate will not do it. It pains me to say it, but time is rapidly running out. The transcript contains stacks more. If time permits, I will come back to it. It is astonishing that this was the genesis of the matter before us. The government has brought this bill in effectively to give President Quail what he wanted all along.

This is serious interference with the independence of the judiciary and our justice system. That is why all members got a letter from the Law Society of Western Australia advocating very strongly about this matter. These reforms are going to create a situation in which the management of the magistrate is now going to involve the President of the Children's Court. Meanwhile, while all this is happening, including the debate on this bill, my question to the government and to the parliamentary secretary, if he could pass this on to the Attorney General, is: what on earth is the Attorney General doing about these explosive revelations from the trial? It would appear that the answer is nothing.

The reason I have come to that conclusion is that on 17 November last year, the parliamentary secretary responded, in his capacity as the representative for the Attorney General, to a question from me about some of these things. Members should keep in mind that in all of this there are some allegations in court of tampering of evidence. Tampering of evidence is what has been alleged at certain stages in this trial. It was not in some other country or jurisdiction; it was in our state—tampering of evidence. When I asked the Attorney General what he is doing about that, the response from his hardworking, long-suffering parliamentary secretary was —

> I thank the member for some notice of the question. I provide the following answer on behalf of the Attorney General.
>
> (1)–(5) It is not appropriate for the Attorney to address matters involving individual judicial officers.

If it is not appropriate for the Attorney General, who is it appropriate for? Who is going to get to the bottom of this tampering of evidence? I cannot believe it. We are talking about allegations of evidence tampering in Western Australia. One judicial officer has accused another of this, and the Attorney General of Western Australia has said that it is not appropriate for him to address these matters. Not appropriate! Who is going to raise it? In the meantime, as the government's second priority on the first day back after the long summer recess, it is going to try to ram this bill through, despite the fact that the Law Society is saying, "No, these other bills are far more important; we told you about that last year."

This bill stinks. Something is not right with all of this and I expect some explanation from the government about it. It should not think it is going to get away with it. After all of that, $274 000 of taxpayers' money was used to fund President Quail defending himself against bullying allegations by Magistrate Crawford, and seemingly the Attorney General's fingerprints are on certain elements of this, according to the transcript. Meanwhile, the Attorney General says that it is not appropriate for him to address matters. Why not? I still ask the question: if it is not him, by all means tell us who? Who in Western Australia is going to deal with these allegations? Are we going to try to pretend that we are going to forget about it and move on to the next bill?

It is not that the Law Society and the opposition are the only ones to have expressed concerns about this controversial bill. I note that in August last year, an article in *The Australian* of 6 August last year titled "Magistrate bill 'a risk to judicial integrity'" written by Victoria Laurie states —

> The Magistrates Society said the proposed changes would make the chief magistrate subservient to the wishes of the Children's Court president.
>
> A letter sent to the Attorney-General and seen by The Australian noted Mr Quigley's explanation to parliament.
>
> "Despite your comments … there might be a lingering perception that the bill has been introduced to resolve some of the issues raised in the Supreme Court litigation in the matter of Crawford v Quail.
>
> "In our view, legislative intervention is not warranted nor desirable," the letter said.
>
> "We are concerned that it potentially sets a precedent for future governments to follow when faced with unpalatable litigation."

I quickly draw to members' attention that of course the Law Society has also had plenty to say about this. Members will be very familiar with the letter they received in the last week, so I ask them to re-read it, or to read it for the first time if they have not already, to familiarise themselves with the matter. I want to draw to members' attention this letter that the Law Society wrote on 9 August last year.

Again, members should have received it, but to refresh their memory, in the second paragraph, the Law Society says —

> The Executive remains concerned about particular provisions in the Bill which give the President of the Children's Court ***an unfettered, non-reviewable discretion*** to direct that a particular Magistrate shall no longer perform duties under their Commission in that Court.

On clause 7, it says —

> This provision, and related supporting provisions, potentially imperil judicial independence of decision making …

It also says that there does not appear to be any similar unfettered, non-reviewable discretion in other acts that govern the position of magistrate and that it does not reflect current community standards. It goes on to say —

> … the Bill as drafted **will** affect more than "*the administration of the Court*".

It finally says —

> New legislation that may impact the independent administration of justice in our community is the business of every Law Society. The Executive is disappointed there has still been **no** consultation with the Law Society of Western Australia.
>
> …
>
> We urge that the Bill be deferred for further consultation and consideration.

That was in August last year. Conveniently, the government decided to shelve this bill. It decided to bury it because it was getting quite embarrassing with the Law Society starting to fire up on it. Now, all of a sudden, it has re-emerged. Of course, it is no surprise that every member received that letter from the Law Society the other day. If members have a copy of it in front of them, they will recall that once again it said that there had still been no consultation. In August, the Law Society alerted us all, including the government and the Attorney General, to the fact that there had been no consultation with it. Here we are now in February and the position is the same, such is the arrogance of the McGowan government. Surprise, surprise!

We want to know what the heads of jurisdiction have to say about this. Does the President of the Children's Court agree with this bill? I bet he does. What about the magistrates? What about the Chief Magistrate, the Chief Justice and the Chief Judge? Have any of them been consulted? When I asked the parliamentary secretary about this in August last year, guess what the response was? I quote from 31 August 2021 —

> All communications between the Attorney General and his staff and the heads of jurisdiction concerning the allocation of judicial resources are strictly confidential and the subject of public interest immunity.

I am going to conclude on this point for the benefit of members: Parliament is being asked to make a decision about the judiciary and the government is covering up what the judiciary has to say about this. It is covering it up. I have asked for information on multiple occasions: what do the heads of jurisdiction think about this bill? The government will not provide it. This is why the government is constantly being referred to as the most secretive since the WA Inc government. There is no good reason why it cannot provide this information to Parliament. It cannot expect members of Parliament to make a decision that is going to affect the judiciary, especially after this almighty stoush that cost the taxpayers of Western Australia more than a quarter of a million dollars, with unresolved allegations of evidence tampering. It cannot expect us to provide wholehearted, full-throated support for this bill. The Law Society and the Magistrates Society are firing up and, in the meantime, the government is hiding information from Parliament. Which judicial officers have been consulted about this and what have they had to say about it? Has anyone raised any concerns; and, if they have, what did they say? The government should not hide it behind this garbage of "All communications between the Attorney General and his staff and the heads of jurisdiction concerning the allocation of judicial resources are strictly confidential". Parliament deserves to know before it makes a decision that is going to affect the judiciary. If there are judicial officers who do not agree with it, we need to know.

The only way we are going to get to the bottom of this is by referring this matter to the Standing Committee on Legislation. Do not groan, Leader of the House. If you have something intelligent to say, get up and say it, because this is a serious matter! I told you before that there are allegations of tampering with evidence. That is no small matter. It might be for you, but any fair-minded individual will say that if a judicial officer is alleging that there has been tampering with evidence, we need to get to the bottom of it. At the very least the Attorney General should or he should tell us who is going to do it. But this business about trying to keep everything secret is disgraceful. As I said at the start of my contribution, this bill stinks. There is something wrong with this bill. That is why it has been quickly escalated and expedited to the top of the list.

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

HON NICK GOIRAN (South Metropolitan) [9.29 pm] — without notice: I move —

> That the Courts Legislation Amendment (Magistrates) Bill 2021 be discharged and referred to the Standing Committee on Legislation for consideration and report by not later than 23 June 2022.

Tabling of Paper

The ACTING PRESIDENT (Hon Jackie Jarvis): Member, while we are waiting for copies of that motion, would you like to table the documents as previously requested?

Hon NICK GOIRAN: Thank you, Acting President. I decline the request on the basis that it is a confidential document. It was provided to me in confidence. I do not have the consent of the people who provided it to me.

Hon Sue Ellery: Was it a transcript or not?

Hon NICK GOIRAN: I will not be tabling it and it is a confidential document. If government members have a problem with that, they need only to knock on the Attorney General's door, because he has access to this information.

The ACTING PRESIDENT: Members, I know that the member has stated the document is confidential.

Hon MATTHEW SWINBOURN: The member cannot just invoke confidentiality and then expect that we are going to accept that on face value after he stood here and accused the government of being the most secretive in the world. He identified the document at the beginning of his contribution as a transcript of court proceedings; there is no confidence in that document and the member should be required to table it.

The ACTING PRESIDENT (Hon Jackie Jarvis): Members, there is no point of order. The member has identified the document as confidential.

Debate Resumed

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [9.32 pm]: Thank you, Acting President. I can put the government's position quite shortly: we will not be supporting the referral of the motion. We do not think there are any grounds for it to be referred to the Standing Committee on Legislation. I am sure we will cop a lot of abuse for that along the way, but we have had no previous notice from the member that he intended to do this, so I intend to keep my contribution short.

Division

Question put and a division taken, the Acting President (Hon Jackie Jarvis) casting her vote with the noes, with the following result —

Ayes (8)

Hon Martin Aldridge	Hon Steve Martin	Hon Dr Steve Thomas	Hon Dr Brian Walker
Hon Donna Faragher	Hon Tjorn Sibma	Hon Neil Thomson	Hon Nick Goiran *(Teller)*

Noes (19)

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

Pairs

Hon Peter Collier	Hon Klara Andric
Hon Colin de Grussa	Hon Stephen Dawson

Question thus negatived.

Second Reading Resumed

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [9.38 pm] — in reply: I stand to give the government's reply to the second reading debate on the Courts Legislation Amendment (Magistrates) Bill 2021. I thank Hon Nick Goiran for his contribution, as colourful as it was at times. Some parts of it were informative. Other parts of it were—what is the word?—hyperbolic. To some degree, I will take some of the questions that he put, although I am sure he put them earnestly, as rhetorical in nature and perhaps let a couple of them through to the keeper.

We do not accept Hon Nick Goiran's contention about the government's motive for this bill at all. There were proceedings on foot that involved Magistrate Crawford and President Quail of the Children's Court. That had a bearing on identifying an issue with the structure of the Children's Court and the powers of the president. This bill has not been brought on urgently. We have dealt with urgent bills before. The process for dealing with urgent bills is now set out in the standing orders. We have not sought to exercise any of those urgent requirements. The bill will progress as any other bill does. It is also worth noting that the bill was originally introduced to the Legislative Assembly in June last year and this bill was read a second time in August last year, a time at which the proceedings that have been referred to between Crawford and Quail were on foot. The government did not progress

with the bill during that time because it would have perhaps been a little bit inappropriate for us to have done that while those matters were being litigated. There is no issue with that. This Parliament could have dealt with those issues if we had chosen to do so, but we thought it was prudent to step back. As I said, a bill introduced in August can hardly be described as one that has been treated urgently. Those of us who have been around the house for a few years know the argument about how the bill we are currently dealing with today is the government's number one priority and how dare that be the case! There are always more important things to deal with! This is a constant refrain from the other side and you can take it or leave it as you like. I take it as rhetoric and as hyperbole. As we say, the government of the day has the privilege and responsibility to determine the order of bills. If members opposite do not like that, when the next election comes around they can be more attractive to the people of Western Australia and get themselves elected. They will then get to decide the order of the bills in this place. I think it is important that we do not get caught up in that rhetoric about the urgency or otherwise of this bill. The bill is important, as is every bill that is brought before this Parliament. There is no question about the importance of the bills that we bring before the Parliament. This bill is not urgent in the sense that we have not sought a motion under the standing orders to make it urgent, and we will deal with it accordingly.

I am conscious that we have only a few more minutes left and am not going to be able to get through my reply in great detail, hence perhaps the reason for some of my waffling, for want of better word, a little bit, but I will try to get a little bit more focused and make a couple of other points.

On what the Law Society of Western Australia said on 1 December last year about the priorities of this chamber, I note with some disappointment, as I am a member of the Law Society, its lack of insight into the parliamentary processes that occur here for the bills that we deal with. The Law Society was advocating for us to deal with the Administration Amendment Bill, an extremely important bill, and the uniform legal profession bills, which are also important. What it did not really appreciate was that Hon Nick Goiran has amendments on the notice paper for the Administration Amendment Act. As I recall, back in December last year, the Legislative Assembly had arisen for the year and was not sitting. We were sitting and the Law Society was pushing us to deal with those bills. If we had dealt with those bills and the amendments put forward by Hon Nick Goiran that the Law Society supported were agreed to, the bill would have had to have gone back to the Assembly, which was not going to sit again until today.

Several members interjected.

Hon MATTHEW SWINBOURN: We are not supporting your amendments, member.

The PRESIDENT: Order! Order! Third time lucky. Hon Matthew Swinbourn has one or two minutes.

Hon MATTHEW SWINBOURN: Thank you, President.

The other issue with the uniform legal practice bills was a report from the Standing Committee on Uniform Legislation and Statutes Review that we had to deal with, which we have just dealt with today at the very first opportunity this year. That was order of business 1—not this bill, but the uniform legislation committee's recommendations. We have dealt with that. We have now adopted the recommendations to change standing orders. The uniform legal profession bills are listed on the notice paper for us to deal with at a later date. The Law Society might need to go back and do a bit of its own homework about parliamentary procedures before it starts lecturing members about the priorities of this chamber.

Hon Alannah MacTiernan interjected.

Hon MATTHEW SWINBOURN: I will leave that one to the Minister for Regional Development to pursue in another matter, because I am not quite sure what she is referring to there.

Several members interjected.

The PRESIDENT: Order! One minute!

Hon MATTHEW SWINBOURN: Thank you. Just for the member's sake, I want to speak very briefly about the legal proceedings so that members understand what happened with the legal proceedings and what it got up to. There was a trial. The trial had three days, as the member pointed out. A number of aspects happened in that trial, but—perhaps not unusually—in this case, as can happen, the trial was stopped and discontinued, as I understand it, under the actions of the plaintiff Miss Crawford, who was the instigator of those legal proceedings, not the President of the Children's Court, who was the respondent in those proceedings.

Debate adjourned, pursuant to standing orders.

DAVID ATKINS

Statement

HON KYLE McGINN (Mining and Pastoral — Parliamentary Secretary) [9.45 pm]: I rise tonight to give a speech on a young gentleman whom I met last year and who has really inspired me to get up and deliver a speech on his behalf. His name is David Atkins. I met David at an Ability WA conference at Crown casino, which was an amazing day, in my role as Parliamentary Secretary to the Minister for Disability Services. When I met David, he

was playing in a band that was performing at the event. He came up to me later on and made a comment that I have made in this chamber before. It has stuck with me and still will, I think, for many years to come. He said that he understands that people with disabilities do not get to serve in Parliament—that is what he put to me. Because he had autism, he would not be able to be in Parliament. From there we got in contact with him and brought him and his family along to Parliament. His mother, Alexandra, grandmother, Eileen, and sister, Rebecca, came up in October and were given an amazing tour—they tell me—by the amazing staff at Parliament House, who always deliver a really good, informative tour. David is a very smart young man who holds information very well, and I had the pleasure of having a very good lunch with him and his family and had some really good conversation. I said to him that there are many examples of people with disabilities making it into Parliament and into positions that support Parliament, whether that be at ministers' offices or as staff within Parliament House et cetera. I challenged David to go away and write something to be read into *Hansard*, which he was really happy about, and I am about to deliver what he has written. I urge members to listen and be inspired like I have been by David. He writes —

> Hello, my name is David Atkins. I have High Functioning Autism. I was diagnosed with PDD–NOS (now called ASD–HFA) at the age of 3 in Qld. I have been the recipient of Qld & WA Government and Federal Government funded therapy and support services ever since I was diagnosed. This has predominantly been through DSC and then NDIA funded services at the WA Autism Association. I have been a student in the public and private school systems with additional support from EA's. I'm now 18 and trying hard to obtain some kind of qualification before I finish high school in 2022. Luckily the Cyril Jackson Senior High School in Bassendean has a special unit for people like me to help us navigate alternate pathways to attaining qualifications which enable us to pursue our quest to self-actualise and have agency over our lives.
>
> Did you know that around 80% of people with autism are unemployed in the UK & US and the figure is around 60% in Australia? That is a waste of talent! Look at the founders of many of the world's great digital platforms and how many are on the autism spectrum. Not all of us are maths and coding geniuses, but we all have our own special superpowers which we need to tap into to create value and ensure we are not a burden for society.
>
> My ultimate goal is to live my life aligned with my values—which are social justice and protection of democracy—and strengths—which are a photocopier visual memory and an obsession with geopolitics. I would like to be self-supporting and independent, so I need to turn my strengths and values into my unique value proposition to serve needs in the market, where I can get paid. The Japanese call this Ikigai. There are no services available to teach kids like me how to navigate the world in a way where we can be the best possible versions of ourselves. The services I have received over the past 15 years have been becoming gradually less value adding as I get older. The model is a highly patriarchal blanket approach which assumes the lowest common denominator. It's a deficit-based model and it's spirit-breaking.
>
> So what would I like done about it?
>
> I'd firstly like to see **more options for online learning** so that we can progress through the years of primary and secondary schooling at our **own pace** and learn in a format that **caters to our learning styles**. We should not be expected to move on to the next grade each year if we are not ready. I was left behind at grade 4 and never recovered. I have heard this is commonly where autistic children decouple from the neurotypical population —

David likes big words —

> This doesn't mean I'm not capable of comprehending information more advanced than year 4, it just means I have been unable to show, through standardized, online, time-limited & unsupported tests like NAPLAN & OLNA, that I can comprehend information that is expected of someone my age. This decoupling gets worse as the years go by, as I progress up the years along with my neurotypical peers, without keeping up. By now I should have graduated from high school with at least an OLNA certificate or at best an ATAR for university entrance. I've had to fast fail & pivot through four different schools trying to figure out how best I can attain some qualification. My school has now given up on OLNA and has pivoted me to a Cert II in Adult Education (Reading, Writing & Numeracy). I have a long road ahead to catch up with my peers to be able to possibly study geopolitics at uni so I can get my dream job in the Australian Defence Force, who by the way don't recruit people on the autism spectrum.
>
> My family have tried to help me navigate a complex web of services and barriers to my progression over my lifetime. We've found as I have grown older that many of my funded disability services no longer make a difference. As we look for what is available that adds value and doesn't suck me into the black hole of despair that is Centrelink, we feel we are pretty much alone. Expectations for people like me are so low in society, I am directed towards the Disability Pension and jobs squashing boxes in Woolies. So the next problem to be solved is **how do we help autistic people figure out their ikigai** so they can go on to become the best possible version of themselves and add value to society? It may require them to be founders of their own startup. Or it may just be a better job matching service where employers understand the value of people on the spectrum rather than treating them like a charity case.

As I said, that is very powerful to come from a young man. David, I see, has passion, drive and a commitment to find a place for himself in this world, and I believe that he will find that space. His mother was absolutely lovely and his sister was amazing. They enjoyed their time in Parliament. I hope that we as a Parliament continue to show people that this is the people's place and the people's Parliament. Everyone has a right to be represented in here. I hope that those words that David has put on the record in *Hansard* will not be his last. I look forward to seeing him in Parliament one day.

Statement

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.53 pm]: I want to take a few minutes to respond and thank Hon Kyle McGinn for reading in David's letter. It is not the first time that someone on the autism spectrum has raised the issue that our online literacy and numeracy assessment and National Assessment Program — Literacy and Numeracy do not take account of the particular needs of people on the autism spectrum. In particular, when it comes to assessments that require a degree of critical analysis of chunks of literature that requires some analysis of subtext within the literature, it structurally works against the skill set that people on the autism spectrum have. I particularly remember meeting a group of autistic students at a Curtin University program who put it to me that although they were able to be incredibly successful in computer programming—despite the point David makes; they were actively being recruited by Microsoft and others—they could not achieve a Western Australian Certificate of Education because they could not successfully complete the OLNA.

This is not the first time I have heard the arguments that David has put, but he makes a very strong case and through Hon Kyle McGinn I will endeavour to meet with David to arrange for him to brief and to tell the story to the School Curriculum and Standards Authority, the state's curriculum and assessment body.

YOUTH CRIME — KIMBERLEY

Statement

HON NEIL THOMSON (Mining and Pastoral) [9.55 pm]: I rise to provide a short clarification on a matter that has been in the news lately. Over the last few days I have been travelling throughout the Kimberley meeting with people in the community who have been concerned about the terrible crime rates that we have been having, particularly in December. December had the highest rate of crime in almost every category of crime, with the exception I think of motor vehicle theft, which was the highest in September. There has been a growing sense of urgency around this issue. I must say, and it deserves correction in this place, that the Minister for Police, Paul Papalia, really does deserve correcting, and some of his comments are quite disappointing.

At the start of the process, I was organising forums because this was really coming from the community, and the minister made comments in the media. These comments actually assisted the promotion of those forums because when we started in Broome, about 60 people turned up to have a discussion, a very fruitful conversation that I will speak of in more detail at another time. We then went to Kununurra. By the time we got to Derby, over 150 passionate people had gathered and came up with some very positive suggestions. The community really came together and as I said in that meeting, it was a matter of people power.

We heard very recently, and I think it might have been two days ago, on 6PR and again on Nadia Mitsopoulos' show on ABC 720, that the minister was pleading with the federal communications minister to deal with the issue of videos on TikTok and other social media of competitions between gangs of youths to outdo each other. There was this sort of plea, as though it was a problem from the federal government. Fortunately, we have another part of government it is called the federal government, and it has committees. The Senate Environment and Communications Legislation Committee met today. In fact, my colleague and friend Senator Dean Smith sought some clarification on this matter. I think it really put paid to the terrible distortion of the facts that were put forward by Minister Papalia. What became very apparent in the interrogation of the public servants, the eSafety Commissioner and her other staff, was that there is a very good relationship between the WA Police Force and the eSafety Commissioner. In fact, the eSafety Commissioner's role is to be advised by law enforcement agencies across Australia in different states to provide information when there are problems. The eSafety Commissioner then assists those law enforcement agencies in order to deliver outcomes.

We heard Minister Papalia say that this had been an issue since September, and there was some media on this previously. The interesting fact is that despite this letter of pleading that somehow the eSafety Commissioner had not been acting, this whole narrative has been debunked. It highlighted that the minister has not been doing his job. It is quite clearly not the case. After some to-ing and fro-ing with staff it came back that this letter was dated 4 February. The first time the eSafety Commissioner had been asked to do anything about this was on 4 February, yet here we have the minister saying he has been aware since September. What has the minister been doing in that time? We know that this has been building, and, of course, December was a terrible month. Really, what has the minister been doing? It was on 4 February. How did the minister receive that letter? The minister received the letter through *The Australian*. How cynical. Here is the minister, with probably a few spin doctors in his office, seeing that the community is pulling together in these forums. We have local governments, shire presidents, all jumping up and down about the situation.

Hon Kyle McGinn: There had been other forums, too.

Hon NEIL THOMSON: Absolutely there had been other forums, and the minister has done absolutely nothing. The pressure is coming on. This is the thing I said to people in the community. I said, "Do you know what? People power will deliver an outcome; because this government is so hooked on spin, the only way you will get them to do anything is to get together and present."

Several members interjected.

The PRESIDENT: Order!

Hon NEIL THOMSON: That is the cynicism of it. He puts this letter into *The Australian*. He does not write a letter back in August or September; he sends it to *The Australian* so he can get some sort of narrative that somehow he is the saint in this matter. Actually, the minister has been asleep at the wheel and should be ashamed of himself. He should have dealt with it much earlier and got on to this issue and sorted it out.

I might leave that there, thank you, President.

SOUTH WEST BUSHFIRES

Statement

HON STEVE MARTIN (Agricultural) [10.02 pm]: I would like to make a couple of quick remarks about the events of Sunday, nine days ago. Before I do, I would like to congratulate Hon Kyle McGinn on bringing David's story to the house. On Sunday, nine days ago, I was on the main street of my little town of Wickepin about 6.30 at night as the town was being evacuated, and I can honestly say I never thought I would be in those circumstances. It was a horrible day. There was a nasty fire in our part of the world and there was also one in Corrigin and Bruce Rock. As the sun was setting, people were driving out of town. I would like to say a few thankyous to the people who saved that town from burning. Corrigin was in a similar situation. Members should imagine, if they will, sitting around at 10.30 on a Sunday morning at home, in the workshop or in the garden, and they get the call to attend the fire. These are volunteers. Every single one of the people at that fire for the first seven or eight hours of it were volunteers. People cannot train for that. It was an extraordinary day. People dropped what they were doing, left their families, jumped in a ute or truck and drove to the fire. When you drive to the fire, as I was doing that morning, you get that sick feeling in your stomach and hope it is not too bad, and this was as bad as it could be for volunteers. The conditions were catastrophic. It was 42 degrees. There were 65-kilometre-an-hour gusts of wind. Livestock, humans and property were in danger. On behalf of us all, if members do not mind, I would like to sincerely thank every one of those volunteers at every one of those fires in Denmark, Bridgetown, Wickepin, Narrogin, Corrigin, Bruce Rock, and more recently, of course, Jerramungup, Ravensthorpe and Hopetoun—it has been a bad week and a half—who rose to that occasion. They are terrifying events. We got through the entire weekend with nobody being killed. Given the severity of the conditions that those volunteers faced, that was quite remarkable. As bad as it was and as much damage as there was, it would have been much, much worse if those hundreds and hundreds of volunteers had not done what they did. I give a huge thankyou to those volunteers.

The professionals turned up and did a wonderful job. At one moment, in the sky above the small part of the fire where I was standing, I saw six or seven helicopters parked above me. These are not small choppers; these are great big helicopters sucking water out of dams at about house-roof height. They drop the water on the fire, come back to the dam, suck some more water up and go and put something else out. They did that for hours and hours. In my little part of the fire, I saw that they saved three or four homes, a shearing shed and probably people. They were magnificent. I do not know where they are based; I am attempting to find out. That was extraordinary work. The fixed-wing guys have a longer turnaround but they also did a wonderful job. Hon Martin Aldridge and I and some of our lower house colleagues went to the fireground three or four days later, and there was a pretty seamless working relationship between the volunteers and the professional firefighters. I thank all of them. The lesson we learnt from that visit is how much work lays ahead of us. There are months and months—years in some cases—of work for those communities and those people to do. The rebuild will be enormous. The volunteers are back on the fireground, watching those fires. There was a little outbreak on Sunday when the fire jumped containment lines, so they have that ahead of them. We saw a moonscape of black ground. It will be a confronting task for those people to walk out of their homes for the next five months before it rains in May or June and greens up the landscape. They will rally together. They need local and state government support, and hopefully they will trigger the federal disaster funding and get some federal support. On our behalf, I would like to thank all the people who helped out last weekend. Thank you.

House adjourned at 10.07 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

POLICE — VISITING REGIONAL PSYCHOLOGIST PROGRAM

439. Hon Peter Collier to the minister representing the Minister for Police:

I refer to the Visiting Regional Psychologist Program, and I ask:

(a) how many visits to regional areas did the psychologists make in:

(i) 2018;

(ii) 2019;

(iii) 2020; and

(iv) 2021 to date; and

(b) which regional areas did the psychologists visit in:

(i) 2018;

(ii) 2019;

(iii) 2020; and

(iv) 2021 to date?

Hon Stephen Dawson replied:

The Western Australian Police Force advise:

Psychological services are provided to Western Australia Police Force officers and staff in regional Western Australia through the agency's Internal Psychology Unit (IPU) and through onsite regional visits, as well as telephone/virtual support by the Employee Assistance Program (EAP) – coordinated by Converge International.

(a)–(b)

Region	**IPU 2021**	**EAP 2019**	**EAP 2020**	**EAP 2021**
Great Southern District	3	4	11	18
South West District	2	19	33	20
Mid West–Gascoyne District	5	6	13	14
Goldfields–Esperance District	1	0	4	12
Pilbara District	1	7	5	10
Kimberley District	3	4	8	9
Wheatbelt District	0	2	10	5
Total	15	42	84	88

Notes:

(a) (i)–(iii) Prior to 2021, data on regional visits was not tracked in the WA Police Force Internal Psychology Unit records system. A mechanism is now in place to track data on visits to regional areas.

(b) (i) s Converge International (Employee Assistance Provider) commenced collecting and tracking WA Police Force data only from 2019, data is not available for 2018.

(a) (iv) Data has been provided for the entire year.

(b) (iv) Data has been provided for the entire year.

PUBLIC SECTOR MANAGEMENT —
STATE OF THE WA GOVERNMENT SECTOR WORKFORCE REPORT

441. Hon Dr Steve Thomas to the Leader of the House representing the Minister for Public Sector Management:

I refer to the State of the Western Australia Sector Workforce 2021–21 Report released 18 November 2021 that showed that salaries comprised $13.5 billion, or 39 percent of general Government expenses and grew at 4.5 percent last year, and I ask, of the 15,500 employees converted to permanency, what was the average level and salary of those contracts?

Hon Sue Ellery replied:

The growth in FTE has been in frontline services, with almost 80% of the growth from Health and Education alone.

We make no apologies for hiring more nurses, doctors, teachers, and teaching assistants; unlike the Leader of the WA Liberal Party who states he would cut jobs from the public sector.

Under the previous Liberal National Government, FTE reported in the Budget increased by 13,314 from 97,348 to 110,662. This is despite five rounds of voluntary separations at a cost of $393 million.

The State Government has provided certainty to thousands of workers and their families by providing permanent employment, rather than contract or temporary employment, as was the case under the previous Liberal National Government.

The conversion of casual employees to permanency has occurred for over four years. To calculate the average level and salary of each employee would require each department and agency to manually prepare the information for each employee.

Manually preparing this information would require considerable time and is not considered a reasonable or responsible use Government resources.

ENERGY TRANSFORMATION ASSOCIATION FOR THE KIMBERLEY

442. Hon Dr Brad Pettitt to the minister representing the Minister for Energy:

I refer to the Energy Transformation Association for the Kimberley (ETAK) group which was awarded a $45,000 Western Australian Advocacy for Consumers of Energy (WA ACE) funding grant in November 2020 to "…develop a co-design platform to raise awareness and understanding of the energy needs of the Kimberley's communities", and I ask:

(a) according to the Gen Off-Grid's website it is "…part of a coalition of organisations called Energy Transformation Association for the Kimberley.". Can the Minister confirm who the members of this coalition of organisations are:

  (i) if no to (a), is the Minister confident that conflicts of interest are being adequately dealt with in terms of the outcomes of the grant provided to ETAK by the WA ACE;

(b) given there is no information on the ETAK website stating who its members are, can the Minister specifically confirm that oil and gas company Buru Energy is part of the ETAK coalition;

(c) is the Minister aware that Buru Energy is planning a solar farm in the Roebuck Energy Precinct that would also require a large volume of gas to produce its claimed energy output;

(d) can the Minister confirm whether mining company Sheffield Resources is part of the ETAK coalition;

(e) can the Minister confirm whether H & M Tracey is a part of the ETAK coalition;

(f) according to the application for incorporation by ETAK, the address of the association is 12 Flowerdale Road, Broome. Is the Minister aware that this is the same as the business address for Gen Off-Grid;

(g) can the Minister confirm that the applicant who submitted the application for Incorporation for ETAK, is an employee or contractor of Gen Off-Grid;

(h) will the Minister table the grant application submitted by ETAK which successfully resulted in the $45,000 grant from the WA ACE fund;

(i) will the Minister table the final grant agreement between ETAK and WA ACE;

(j) if no to (h) and/or (i), why not;

(k) in the application for Incorporation, it states that the category which 'best describes the association's main objects or purpose' is 'Promotion of the interests of a local community.' How will the Minister ensure that it will be the interests of the local community that will be promoted and not the interests of fossil fuel, for-profit companies and mining corporations through the $45,000 grant provided to ETAK; and

(l) has ETAK completed their grant project:

  (i) if yes to (l), will the Minister table the grant outputs for the project; and

  (ii) if no to (l), when is the project expected to be completed?

Hon Alannah MacTiernan replied:

(a) No. The membership of incorporated associations does not form part of the assessment criteria for the Western Australian Advocacy for Consumers of Energy (WA ACE) grants program.

  (i) Yes.

  Advocacy activities supported by the WA ACE grants program are intended to assist community organisations, small businesses and households to represent the views of energy consumers.

ETAK's grant application, which included its objectives and proposed use of funding, was assessed against the program criteria.

Application assessment was undertaken by an independent panel, each member of which completed a conflict of interest disclosure process.

Grant outputs are publicly available on the Energy Policy WA website, including a report on the activities undertaken.

(b) Refer to (a).

(c) Not applicable.

(d) Refer to (a).

(e) Refer to (a).

(f) No.

(g) Yes. This potential conflict was identified and considered during the application and assessment process.

(h) No.

(i) No.

(j) Publicly available grant outputs provide the relevant information.

(k) Refer to response (a)(i).

(l) Yes.

(i) The grant outputs are available on the Energy Policy WA website.

(ii) Not applicable.

MINISTER FOR ENVIRONMENT — BIODIVERSITY CONSERVATION ACT

443. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

Under s.38 of the *Biodiversity Conservation Act 2016*, a person may nominate to the Minister a native species or ecological community for listing as threatened in a particular category; or nominate to amend, repeal a listing; or nominate a threatening process for listing, and I ask:

(a) how many nominations have been received for listing of a threatened species in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21;

(b) how many nominations have been received for listing of a threatened ecological community in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21;

(c) How many nominations have been received for listing of a threatening process in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21;

(d) how many nominations have been received for amending or repeal of a listed threatened species in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21; and

(e) how many nominations have been received for amending or repeal of listed threatened ecological community in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21?

Hon Stephen Dawson replied:

(a) (i) None.

(ii) 1

(iii) None.

(iv) 2

(b) (i) None.

(ii) None.

(iii) None.

(iv) None.

(c) (i) None.

(ii) None.

(iii) None.

(iv) None.

(d) (i) None.

(ii) None.

(iii) None.

(iv) None.

(e) (i) None.

(ii) None.

(iii) None.

(iv) None.

MINISTER FOR ENVIRONMENT — BIODIVERSITY CONSERVATION ACT

444. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

Under s.39(2) of the *Biodiversity Conservation Act 2016*, the Minister must give a person who makes a nomination written notice of the Minister's decision on the listing, amendment or repeal the subject of the nomination; and under s.39(3). If the Minister's decision is that the listing, amendment, or repeal is not to be made, the notice must include the reasons for the decision, and I ask:

(a) how many written notices has the Minister made under s.39(2) in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21; and

(b) how many written notices has the Minister made under s.39(3) in:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20; and

(iv) 2020–21?

Hon Stephen Dawson replied:

(a) (i) None.

(ii) None.

(iii) None.

(iv) None.

(b) (i) None.

(ii) None.

(iii) None.

(iv) None.

MINISTER FOR ENVIRONMENT — BIODIVERSITY CONSERVATION ACT

445. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

Why has the Minister for Environment not made an order for the listing of specially protected species, or threatened species, or extinct species, or extinct in the wild species, or threatened ecological communities, or collapsed ecological communities since 2018?

Hon Stephen Dawson replied:

Listing of native species, ecological communities and threatening processes (s13–39) of the *Biodiversity Conservation Act 2016* (BC Act) commenced on 1 January 2019.

The notices published in 2018 were under the provisions of the former *Wildlife Conservation Act 1950*.

The BC Act requires listings under Part 2 to be in accordance with the ministerial guidelines (s260). The Ministerial Guidelines were finalised in 2021. Nominations for listings of threatened species are currently being considered.

PRESCRIBED BURNING — BIODIVERSITY CONSERVATION ACT

446. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

(1) How many authorisations were granted under the *Biodiversity Conservation Act 2016* to take or disturb threatened species in the course of or as a result of prescribed burning or wildfire suppression in:

(a) 2018–19;

(b) 2019–2020; and

(c) 2020–21?

(2) How many authorisations were granted to modify threatened ecological communities in the course of or as a result of prescribed burning or wildfire suppression in:

(a) 2018–19;

(b) 2019–2020; and

(c) 2020–21?

Hon Stephen Dawson replied:

(1) (a) 36 (32 DBCA and 4 other).

(b) 71 (49 DBCA and 22 other).

(c) 71 (53 DBCA and 18 other).

(2) (a) None.

(b) None.

(c) None.

GOVERNMENT REGIONAL OFFICERS' HOUSING — REGIONS

447. Hon Wilson Tucker to the Leader of the House representing the Minister for Housing; Local Government:

I thank the Minister for the information he provided in response to a question I asked prior to Budget Estimate Hearings regarding vacant Government Regional Officer Housing properties in the Kimberley, Pilbara, Midwest/Gascoyne and Goldfields region, and I ask:

(a) of those properties vacant for more than three months, how long has each property been vacant for;

(b) of those properties vacant for more than three months, how many have been identified for refurbishment or redevelopment;

(c) of those properties vacant for more than three months that are unallocated to a client agency, please provide the department's reasoning/status for the property being vacant or unallocated; and

(d) of those properties vacant for more than three months in Kalgoorlie, please provide the property condition reports?

Hon Sue Ellery replied:

(a) Allocated GROH properties may be vacant at a point in time for a number of operational reasons, including the recruitment and deployment of new employees and the need for availability for employees providing relief work. GROH properties vacant for more than three months, as at 21 September 2021:

Allocated to Client Agency			
Region	**Vacant 3–6 months**	**Vacant 6–12 months**	**Vacant 12+ months**
Kimberley	13	13	4
Pilbara	6	11	4
Midwest–Gascoyne	9	6	4
Goldfields	6	10	15
Total	**34**	**40**	**27**

Unallocated			
Region	**Vacant 3–6 months**	**Vacant 6–12 months**	**Vacant 12+ months**
Kimberley	1	1	28
Pilbara	7	11	52
Midwest–Gascoyne	1	1	23
Goldfields	0	2	17
Total	**9**	**15**	**120**

(b)–(c) Unallocated GROH properties may be vacant for a number of reasons, including public sector employees seeking private housing rather than GROH; aged stock; being poorly located in the district/town; the district/town being in decline due to economic factors, resulting in lower demand; and, awaiting refurbishment or earmarked for redevelopment.

The Department of Communities is currently assessing all vacant properties, including long-term vacant GROH properties with no demand from client agencies, with a view to bringing these properties back online as soon as possible. Where appropriate, GROH properties that no longer meet the requirements and demand of client agencies are being considered to be made available for clients on the public housing wait list.

Looking after Western Australia's GROH stock is key to ensuring these properties stay in the system for longer. The McGowan Government is investing $12.8 million to conduct detailed building assessments on more than 10,000 ageing GROH and public housing assets. These assessments will be critical to ensuring these homes remain part of our state's social housing stock for many years to come.

(d) Of the properties vacant for more than three months, located in Kalgoorlie:

One private lease has ended and the property has been returned to the private owner.

One property no longer meets the requirements/demand for GROH and will be made available to a client on the public housing waiting list.

One property is undergoing further assessment due to structural damage.

Five properties are undergoing significant maintenance and will be occupied in the second half of 2022.

Three properties were undergoing vacated maintenance following client agency employee turnover and will be occupied shortly.

CYCLONE SEROJA — RECOVERY GRANTS

449. Hon Martin Aldridge to the Minister for Emergency Services:

(1) I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Recovery and Resiliency Grants for Insured Residents' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of approved funding by local government area?

(2) For the 'Clean Up Assistance for Uninsured Residents' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of approved funding by local government area.?

Hon Stephen Dawson replied:

The Recovery and Resilience Grant program for insured is a reimbursement grant. Payments cannot be undertaken until the Invoice has been paid by the owner. Once an applicant is assessed as eligible the timing of the grant payments is dependent on progress of works and is not within DFES control.

(1) As of the 31 January 2022:

(a) $45 million has been allocated for the Recovery and Resilience Grant for Insured Residents program.

(b) 270 applications have been received.

(c) 2 applications have been approved and paid.

(d) $33,109.42 has been disbursed

(e)

Local Government Area	**Funds Disbursed**
City of Greater Geraldton	$13,109.42
Shire of Mingenew	$20,000.00
Total	**$33,109.42**

(2) As of the 31 January 2022:

(a) The 'Clean Up Assistance for Uninsured Residents' program is funded through Category A of the joint Commonwealth–State Disaster Recovery Funding Arrangements (DRFA) and is uncapped.

(b) 14 Expressions of Interest have been received.

(c) 3 applications have been assessed as eligible pending evidence of non-insurance, with the remaining 11 expressions of interest being case managed.

(d) No funds have been disbursed to date.

(e) There is no disbursal of funds as the works are undertaken by the State through a works contract.

For the Primary Producer Recovery Grant

The Primary Producer Recovery Grant is administered by the Department of Primary Industries and Regional Development.

(1) As of the 31 January 2022:

(a) $26,300,000

(b) 42

(c) 15

(d) $258,001.67

(e)

Local Government Area	**Funds Disbursed**
Morawa	$87,727.27
Northampton	$120,000.00
Greater Geraldton	$35,274.40
Dalwallinu	$15,000.00
Total	**$258,001.67**

For the Measures to Assist Primary Producers program

(1) DFES advises as of the 31 January 2022:

(a) These are demand driven assistance measures. There is no capped total funding for the assistance measures in this category.

(b) 13

(c) 7

(d) $18,372.09

(e)

Local Government Area	**Funds Disbursed**
Perenjori	$7,162.09
Northampton	$9,710.00
Chapman Valley	$1,500.00
Total	**$18,372.09**

For the Cultural and Heritage Asset Clean-Up and Repair Grant program.

(1) The Cultural and Heritage Asset Clean-Up and Repair Grant is administered by the Department of Planning Lands and Heritage.

(a) $1,960,000

(b) 34

(c) 0

(d) 0

(e) Not applicable.

For Community and Recreational Clean-Up and Restoration Grant program

(1) The Community and Recreational Asset Clean-Up and Restoration Program is a reimbursement scheme as opposed to a grants program and is jointly funded through the Commonwealth–State Disaster Recovery Funding Arrangements.

(a) $2.2 million allocated to the Community and Recreational Asset Clean-Up and Restoration Program (Local Government)

$2.1 million allocated to the Department of Biodiversity, Conservation and Attractions for the restoration of tourism sites and recreational assets that are managed and owned by the State

(b) Seven claims received

(c) Seven claims have been approved for payment, of these:

four claims have been reimbursed

three are awaiting completion of works and submission of claim documentation

(d) $73,972.52

(e) Claim amounts reimbursed to date are as follows:

Local Government Area	**Amounts reimbursed**
Northampton	$66,289.10
Mount Marshall	$5,635.00
Greater Geraldton	$1,125.60
Chapman Valley	$922.82
Total	**$73,972.52**

For the Small Business Recovery Grant Program

(1) The Small Business Recovery Grant Program is administered by the Small Business Development Corporation.

(a) $16.970m

(b) As at 28 January 2022, 37 applications have been submitted

(c) As at 28 January 2022, 14 applications have been approved

(d) As at 28 January 2022, $249 289.82 has been disbursed

(e)

Local Government Area	**Amounts reimbursed**
Northampton	$213,023.82
Morawa	$25,000.00
Perenjori	$24,742.00
Greater Geraldton	$13,036.00
Total	**$275,501.82**

CYCLONE SEROJA — RECOVERY GRANTS

450. Hon Martin Aldridge to the Minister for Agriculture and Food:

(1) I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Primary Producer Recovery Grant' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of funds disbursed by local government area?

(2) For the 'Measures to Assist Primary Producers' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of funds disbursed by local government area?

Hon Alannah MacTiernan replied:

I request the Honourable Member please refer to Legislative Council Question on Notice 449.

CYCLONE SEROJA — RECOVERY GRANTS

451. Hon Martin Aldridge to the parliamentary secretary to the Minister for Small Business:

I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Small Business Recovery Grant' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of approved grants by local government area?

Hon Kyle McGinn replied:

I refer the Honourable Member to Legislative Council Question on Notice 449.

CYCLONE SEROJA — RECOVERY GRANTS

452. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Heritage:

I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Cultural and Heritage Asset Clean-Up and Repair Grant' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of approved grants by local government area?

Hon Samantha Rowe replied:

(a)–(e) Please refer to Legislative Council question on notice 449.

CYCLONE SEROJA — RECOVERY GRANTS

453. Hon Martin Aldridge to the minister representing the Minister for Energy:

I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Western Power Relief Package' please identify:

(a) how many customers applied for the Western Power Extended Outage Payment;

(b) how many customers were approved;

(c) what is the total funds disbursed to date; and

(d) please provide a breakdown of funding by local government area?

Hon Alannah MacTiernan replied:

(a) 634 customers applied for the $1000 Generator Assistance Payment and 17,654 customers applied for the Special Extended Outage Payment.

(b) 254 claims for the $1000 payment have been approved, and 17,105 claims have been approved for the Special Extended Outage Payment.

(c) The amount paid for the $1000 payment is $254,000 and for the Extended Outage Payment is $2,733,600.

(d) Western Power does not keep records by Local Government Area.

CYCLONE SEROJA — RECOVERY GRANTS

454. Hon Martin Aldridge to the minister representing the Minister for Water:

I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Water Corporation Relief Package' please identify:

(a) how many customers applied for a water relief package;

(b) how many customers were approved;

(c) what is the total funds disbursed to date; and

(d) please provide a breakdown of funding by local government area?

Hon Alannah MacTiernan replied:

(a) The relief package was automatically applied to all 2,317 accounts in Kalbarri and Northampton. An additional 122 customers outside of Kalbarri/Northampton applied for assistance.

(b) In total, 2,439 customers were supported through the Water Corporation's Natural Disaster Assistance Package.

(c) Under the assistance package, the McGowan Government, through the Water Corporation, provided allowances totalling approximately $2,745,000.

(d) Kalbarri/Northampton are both within the Shire of Northampton and received allowances totalling approximately $2,724,000. Water Corporation is unable to confirm the local government area of 122 customers.

CYCLONE SEROJA — RECOVERY GRANTS

455. Hon Martin Aldridge to the minister representing the Minister for Environment:

I refer to the Cyclone Seroja recovery grants and financial assistance and I ask, for the 'Community and Recreational Clean-Up and Restoration Grant' program please identify:

(a) the total funding pool available;

(b) the number of applications to date;

(c) the number of approvals to date;

(d) total funds disbursed to date; and

(e) please provide a breakdown of approved grants by local government area?

Hon Stephen Dawson replied:

Please refer to LC QON 449.

CHILD PROTECTION — FORCED ADOPTIONS

456. Hon Nick Goiran to the Leader of the House representing the Minister for Child Protection:

I refer to the Senate Community Affairs References Committee: Commonwealth Contribution to Former Forced Adoption Policies and Practices from February 2012 and I ask for an update on what the McGowan Government is doing with regards to the following:

(a) Recommendation 8 which recommends that the Commonwealth, States and Territories urgently determine a process to establish affordable and regionally available specialised professional support and counselling services to address the specific needs of those affected by former forced adoption policies and practices;

(b) Recommendation 10 which recommends that financial contributions be sought from State and Territory Governments, institutions, and organisations that were involved in the practice of placing children of single mothers for adoption to support the funding of services described in the previous two recommendations;

(c) Recommendation 13 which recommends all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers; and

(d) Recommendation 17 which recommends that the States and Territories extend their Find and Connect information service to include adoption service providers?

Hon Sue Ellery replied:

(a)–(d) The Department of Communities regularly attends Adoption Sector Meetings with other agencies such as Relationships Australia and Adoption Jigsaw and members from support groups are also invited to attend.

Communities continues to consider recommendations from the Senate Community Affairs References Committee: Commonwealth Contribution to Former Forced Adoption Policies and Practices.

The State Government provides funding to Adoption Jigsaw WA and the Adoption Research and Counselling Services to provide state-wide free support services to those affected by adoption. Relationships Australia provides a Find and Connect information service and the Adoption and Research Counselling Services and Adoption Jigsaw WA provide search, contact and mediation services.

The Commonwealth Government funds the Forced Adoption Support Service, provided by Relationships Australia. This is a free service accessible in Western Australia, Victoria, New South Wales and Tasmania that can be accessed over the phone or online by those not in a position to visit face to face or that live in rural or regional areas.

Communities' Adoption Services currently provides adoptees with a letter which can be provided to Births, Deaths and Marriages to obtain an original birth certificate.

Communities is working to consider integrated birth certificates including identifying the extent of legislative changes required.

POLICE — STATE HAZARD PLAN

458. Hon Dr Brad Pettitt to the minister representing the Minister for Police:

I refer to the US Astute class nuclear submarine that visited HMAS Stirling Naval Base on Garden Island in October 2021 and I ask in reference to the HAZMAT Annex A Radiation Escape from a Nuclear Powered Warship State Hazard Plan (State Hazard Plan):

(a) was this State Hazard Plan put into place for the recent visit of the US Astute class nuclear submarine:

  (i) if no to (a), what hazard plan was in place for this visit;

(b) was the Commissioner of Police responsible for the safety of the public:

  (i) if no to (b), who was responsible for the safety of the public; and

  (ii) if yes to (b), what kind of training and preparation for the visit was given to the Commissioner and by what agency;

(c) when was the last training exercise conducted for a visit by a nuclear warship:

  (i) did this include responses for a nuclear submarine;

  (ii) if no to (c)(i), why not; and

  (iii) has there ever been training for emergency services to respond to a nuclear submarine incident along our shorelines;

(d) point 3.3.3 of the State Hazard Plan is that the nuclear warship or in this case a nuclear submarine be "removed to sea or to remote anchorage" within a specified time limit" and I ask, how far out to sea and what remote anchorage are specified in the case an alarm is raised;

(e) was there any radiation monitoring in place during the visit of the Astute class nuclear submarine:

(i) if no to (e), why not; and

(ii) if yes to (e), what were the readings of that monitoring; and

(f) were "preliminary actions" set out in 4.2.1 of the State Hazard Plan conducted, specifically:

(i) was there an assessment of the state of preparedness of all involved in State organisations:

(A) if no to (f)(i), why not; and

(B) if yes to (f)(i), what were the findings of that assessment; and

(ii) was there a pre-visit exercise conducted:

(A) if no to (f)(ii), why not; and

(B) if yes to (f)(ii), what agencies were involved and when was the exercise conducted?

Hon Stephen Dawson replied:

The Western Australian Police Force advise:

(a) Yes, as the Royal Navy's Astute Class Submarine is a Nuclear Powered Warship.

(i) Not applicable.

(b) Yes.

(i) Not applicable.

(ii) The Western Australia Police Force is supported by specialist advice from subject matter experts operating as part of the Port Safety Organisation inclusive of the Australian Nuclear Science and Technology Organisation and Australian Radiation Protection and Nuclear Safety Agency. Further assistance is provided by other trained and qualified government combat and support agencies such as the WA Department of Health, Department of Fire and Emergency Services and the Australian Defence Force.

(c) 21 February 2019.

(i) Yes.

(ii) Not applicable.

(iii) Yes.

(d) Three Nautical Miles from the baseline and anchorage would be decided with consultation with the Port Safety Organisation.

(e) Yes.

(i) Not applicable.

(ii) No observable increase in the external gamma radiation level above background.

(f) Yes.

(i) Yes.

(A) Not applicable.

(B) At a meeting of the Nuclear-Powered Warship Visiting Ships Coordinating Committee each stakeholder confirmed their state of preparedness for the visit.

(ii) No.

(A) Due to the short notice of visit.

(B) Not applicable.

CORONAVIRUS — VACCINATION STRATEGIC COORDINATION GROUP

465. Hon Martin Aldridge to the Leader of the House representing the Premier:

I refer to question on notice 264 answered on 12 October 2021, in particular reference to the Vaccination Strategic Coordination Group (VSCG), and I ask:

(a) can the Minister confirm that the VSCG did not hold its first meeting until 7 October 2021;

(b) has the VSCG met weekly since 7 October 2021;

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

(d) please table any agendas, minutes, reports, or findings of the VSCG to date?

Hon Sue Ellery replied:

(a) Yes.

(b)–(c) As of 15 December 2021, the VSCG had met on 7 October 2021, 21 October 2021, 10 November 2021, 16 November 2021, 8 December 2021 and 15 December 2021.

Members of the VSCG (Director General, Department of the Premier and Cabinet; Director General, Department of Health; Vaccine Commander and the Chief Health Officer) meet multiple times a week outside of the VSCG.

(d) [See tabled paper no 1063.]

ENVIRONMENT — SCARBOROUGH LNG PROJECT

472. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

In May 2021, the International Energy Agency said that no new oil and gas fields can be developed if the world is to meet the goal of net zero emissions by 2050 and keep global warming to 1.5 degrees. In November 2021, following Western Australian government approvals, the $16 billion plan by Woodside described as Australia's biggest new fossil fuel investment in nearly a decade was given the go ahead, I ask the Minister:

(a) what is the expected total scope 1, scope 2, and scope 3 greenhouse gas emissions respectively of the entire Scarborough–Pluto project, including its associated and interlinked projects;

(b) is the Scarborough–Pluto project expected to result in increases in Western Australia's domestic emissions:

(i) if yes to (b), by how much is Western Australia's domestic emissions expected to increase:

(A) by 2030; and

(B) over the lifetime of the project; and

(c) is the Scarborough–Pluto project expected to result in increases in other emissions:

(i) if yes to (c), by how much are other emissions expected to increase:

(A) by 2030; and

(B) over the lifetime of the project?

Hon Stephen Dawson replied:

(a) The Department of Water and Environmental Regulation has provided the sources below where information on greenhouse gas emissions from the Scarborough and Pluto projects may be accessed.

Information on the greenhouse gas emissions associated with the Scarborough proposal in both Commonwealth and State waters is available on the National Offshore Petroleum Safety and Environmental Management Authority website and includes estimates for scope 1, 2 and 3 emissions.

The Pluto LNG Facility Greenhouse Gas Abatement Program which details greenhouse gas emissions for train 1 and train 2 is also available on Woodside Energy Limited's website.

Woodside has set interim and long-term emissions reduction targets for the Pluto LNG facility to reduce net emissions by:

(A) 30% by 2030

(B) 35% by 2035

40% by 2040

65% by 2045

100% by 2050

There is no single source document providing the requested information.

(b) The State is currently looking into a number of measures to reduce its greenhouse gas emissions. While the changing greenhouse gas profile of the State means that it is not possible to determine any changes with perfect accuracy, it is acknowledged that the project may result in a temporary low percentage increase of scope 1 greenhouse gas emissions to the domestic emission profile from the Pluto LNG plant. As noted above, Woodside has set emission reduction targets for the Pluto LNG plant to net zero by 2050 which would result in a steady reduction compared to the baseline without abatement.

(c) In answering this question (c), the Minister for Environment advises that there is no single source document providing the requested information.

The Department of Water and Environmental Regulation has provided the sources below where information on other air emissions from the Pluto LNG Facility may be accessed.

The Pluto LNG facility (train 1) air emissions are reported publicly in the National Pollutant Inventory, available on the Commonwealth Department of Agriculture, Water and the Environment's website, which identifies annually reported kilograms of substances emitted.

The National Pollutant Inventory may be accessed to identify a range of emissions historically from 2010–11 through to the most recently reported year of 2018–19.

The anticipated Pluto LNG facility expansion air emissions from train 1 and 2 are publicly available in Appendix A of the Pluto LNG Air Quality Management Plan, available on Woodside Energy Ltd's website.

Data from these sources may be accessed to determine a range of emissions under a range of assumptions.

CORONAVIRUS — SMALL BUSINESS — TRANSITION PLAN

475. Hon Martin Aldridge to the parliamentary secretary to the Minister for Small Business:

(1) I refer to Western Australia's border reopening on 5 February 2022 and concerns from the small business community that they have not been provided with adequate advice, as reported by WA Today on 14 December, and I ask, what advice or guidelines has the State Government issued to businesses regarding their obligations if a COVID-19 outbreak occurs at their business after 5 February 2022?

(2) What advice or guidelines has the State Government issued to businesses regarding their obligations to confirm the vaccination status of patrons after 5 February 2022?

(3) Will workers who test positive to COVID-19 after 5 February 2022 be able to continue to work, or will they be required to self-isolate, and for what length of time?

(4) What support will the State Government provide businesses or individuals if they are unable to open or attend work due to a COVID-19 outbreak after 5 February 2022?

Hon Kyle McGinn replied:

(1)–(2) The Department of Health website provides guidance to businesses and locations that have been identified as COVID-19 exposure sites. A wide-range of business tools, resources and guidance is published on the WA Government and Small Business Development Commission websites. This information will continue to be updated based on public health advice as WA's Updated Transition Plan proceeds.

(3) Western Australians who test positive to COVID-19 self-isolate for a minimum of seven days. If no symptoms present after day seven, you can leave self-isolation with no testing required. If symptoms are still present at day seven, individuals must continue isolating until symptoms clear.

(4) Workers are able to access the WA Government's $320 COVID-19 test isolation payment if they directed to isolate while waiting for a PCR test result, are unable to work from home and do not have access to paid leave or other income.

Individuals who cannot earn an income because they must self-isolate, quarantine or care for someone who has COVID-19 are able to access a pandemic leave disaster payment through Services Australia.

The State Government has provided nearly $10 billion in COVID-19 response measures to support frontline services, businesses, households and boost our economic recovery. The State Government will continue to provide targeted support and assistance as required.

ENVIRONMENT — DERBY TIDAL POWER PROJECT

480. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

I refer to the proposed Derby Tidal Energy Project, and ask:

(a) is the Minister aware that the Environmental Protection Agency (EPA) rejected this proposal in 1999 on the basis that "the overall environmental consequences of the proposal were unacceptable and the proposal should not be implemented";

(b) have any concerns put forward by the EPA in 1999 been allayed by the provision of new information by the proponent;

(c) in 2003, Shadow Treasurer Colin Barnett stated on the ABC that the proposal failed environmentally and technically, has the situation as described by Mr Barnett changed:

(i) if yes to (c), what has changed;

(d) in Ministerial Statement 941 dated July 2013 it states that "within 5 years from the date of this statement, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of 5 years from the date of this statement". Has the proponent received any extensions to the five-year limit:

(i) if yes to (d), when did it receive any extension(s) and how did the proponent demonstrate that the commencement of implementation was 'substantial';

(e) I refer to Statement No. 941, 22 July, 2013, what implementation conditions and procedures were to have been completed by now;

(f) I refer to Statement No. 941, 22 July, 2013, have any implementation conditions and procedures been completed:

(i) if yes to (f), which ones have been completed;

(g) has any compliance reporting been provided for the Derby Tidal Power Station Project as described in Statement No. 941, 22 July, 2013:

(i) if yes to (g), will the Minister table all the compliance reporting; and

(ii) if no to (g)(i), why not;

(h) how many Monitoring Plans, Reports, Program's, Operational strategies and Modelings are required according to Bulletin 941;

(i) the EPA stated in Bulletin 1071 that as "No new information has been submitted by TEA to provide greater certainty on the issue of impacts on and management of mangroves – that the EPA's objective for mangroves cannot be met". Has any new information come to light that shows the EPA's objective for mangroves can be met:

(i) if yes to (i), will the Minister table the information; and

(ii) if no to (i)(i), why not;

(j) in Bulletin 1071, the EPA said In Bulletin 1071, the EPA said "it is appropriate for the EPA to reiterate its conclusion from Bulletin 942 that the EPA's objective for mangroves cannot be met." And there was uncertainty "…associated with the factors of mangroves and sedimentation." Has any new information come to light that shows the EPA's objective for mangroves and sedimentation can be met;

(k) is the Minister aware of the report *A critical appraisal of the Consultative Environmental Review: Derby Tidal Power Project Doctors creek, Kimberley* by Dr Vic Semenuik;

(l) is the Minister aware that the Doctors Creek area is one of "International significance as a macrotidal, mangrove-vegetated tidal flat";

(m) Dr Semenuik identified a number of information gaps in the proposal, can the Minister provide evidence to show that these information gaps have been filled to the satisfaction of the EPA and herself:

(i) if no to (m), why not;

(n) according to the Referral document submitted under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), reference EPBC Act 2010/5544, the proponent has submitted a map (page 4 of 40) that is different to the map it has provided in its "NOTIFICATION OF CHANGES TO THE DERBY TIDAL POWER PROJECT (ASSESSMENT #1073) UNDER SECTION 43 OF THE ENVIRONMENT PROTECTION ACT 1986" (page 9), can the Minister confirm which is the correct map;

(o) the proponent in its "NOTIFICATION OF CHANGES TO THE DERBY TIDAL POWER PROJECT (ASSESSMENT #1073) UNDER SECTION 43 OF THE ENVIRONMENT PROTECTION ACT 1986" states that the proposal would supply electricity to Broome and Derby as well as the "possibility of serving other customers, for example mineral processing", specifically a zinc refinery at Derby. The referral under the EPBC Act states that the proposal would provide power to Derby, Broome and the Kimberley Liquefied Natural Gas (LNG) Precinct at James Price Point. According to an article on ABC News (North-west Australian tidal power project in final stages of federal environmental approvals, 2 July 2021), the proponent stated that the project could supply – *"…mines in the area that are in the process of being established. There's the Curtin Airbase, the Kilto abattoir and there's a prawn farm potentially also in the works," he said. "We have built into the costings all the power transmission infrastructure for supplying things like Sheffield Mine."* Is the Minister aware that there is no proposal for a zinc refinery at Derby, the Kimberley Liquefied Natural Gas (LNG) Precinct at James Price Point is no longer going ahead, the Kilto abattoir is in mothballs, no prawn farm has been approved, the 'Sheffield Mine' is using gas from the Pilbara, no other mines are likely to require electricity, Horizon Power is not seeking electricity from

the project and that according to a story in the Broome Advertiser (*Proposed Derby tidal energy project could slash Kimberley power bills by more than 50 per cent*, 17 June, 2021), "The Derby supply will be online from 2034, after existing power supply contracts expire…";

(p) has the company recently disclosed to the Government or EPA where it would sell electricity to:

(i) if yes to (p), will the Minister table the information;

(q) if the proponent does not have evidence, it has a market for the electricity, does this make the environmental approval redundant;

(r) how many hectares of mangroves would be destroyed for the proposal; and

(s) has the proponent got any evidence that mangroves would grow back post project implementation:

(i) if yes to (s), will the Minister table the evidence; and

(ii) if not to (s)(i), why not?

Hon Stephen Dawson replied:

(a)–(c) I am advised that in 1999 the EPA recommended in its assessment report that the proposal not be implemented. In 2000 the then Minister for Environment received appeals against the EPA's report and the appeal decision was that the proposal could proceed subject to conditions. In 2013 the then Minister for Environment issued environmental approval for the proposal in Ministerial Statement 941. This statement contains conditions that require further information, plans and studies to be submitted by the proponent prior the commencement of construction to ensure the proposal's effect on the environment is regulated and managed. The proponent has not substantially commenced the proposal.

(d) No.

(e) Implementation condition 4-2 related to the submission of a compliance assessment plan and was required within nine months of July 2013. Implementation condition 3-1 related to substantial commencement and was required to be completed by 22 July 2018. I am advised that the proponent is currently seeking a time limit extension for condition 3-1.

(f) Yes.

(i) The proponent has completed Condition 4-2 (compliance reporting) for Ministerial Statement 941.

(g) Yes.

(i) I hereby table these Compliance Assessment Reports:

(1) AECOM (2015) Derby Tidal Power Project Compliance Assessment Report

(2) AECOM (2016) Derby Tidal Power Project Compliance Assessment Report 2016

(3) AECOM (2017) Derby Tidal Power Project Compliance Assessment Report 2017

(4) AECOM (2018) Derby Tidal Power Project Compliance Assessment Report 2018

(5) AECOM (2019) Derby Tidal Power Project Compliance Assessment Report 2019

(6) AECOM (2020) Derby Tidal Power Project Compliance Assessment Report 2020

(7) AECOM (2021) Derby Tidal Power Project Compliance Assessment Report 2021

[See tabled paper no 1064.]

(h) Eleven environmental management plans, survey reports or strategies are required.

(i) Ministerial Statement 941 requires the proponent to prepare and submit a Mangrove Research and Establishment Program and undertake research trials for the approval of the Department of Water and Environmental Regulation to provide further information on the issue of potential impacts on and management of mangroves. I am advised that the proponent has not submitted this information.

(j) Ministerial Statement 941 requires the proponent to undertake detailed hydrodynamic and sedimentation modelling (condition 8), based on information from the Mangrove Habitat Baseline Survey (condition 7), to predict where mangroves will be impacted and be able to recolonise (condition 9). I am advised that these reports are required to be submitted to the Department of Water and Environmental Regulation for approval prior to commencement of works. I am advised that the proponent has not submitted this information

(k)–(l) I am aware that there has been some significant work to examine the importance of the Doctors Creek area.

(m) Ministerial Statement 941 requires the proponent to undertake and submit a range of plans, reports or strategies for the approval of the Department of Water and Environmental Regulation before the proposal can be implemented. I am advised that a number of the plans and reports are required to address the uncertainties in relation to mangroves, sedimentation and geo-heritage.

(n) I am advised that the proponent has submitted a different map to the Commonwealth Department of Agriculture, Water and the Environment for its assessment under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. Ministerial Statement 941 describes the proposal approved under the E*nvironmental Protection Act 1986*. If the proponent wishes to change the proposal approved under Ministerial Statement 941, an application must be made under section 45C or section 38 of the *Environmental Protection Act 1986*.

(o)–(q) The current environmental approval in Ministerial Statement 941 includes the construction of power lines to distribute power to major centres in the West Kimberley. Condition 13 of the Ministerial Statement requires that the details and route of the power transmission infrastructure must be submitted for approval prior to construction. I am advised that the proponent has not submitted the details and route of the transmission infrastructure to the Department of Water and Environmental Regulation for approval. While the proponent has received environmental approval for the Derby Tidal Power Station under the *Environmental Protection Act 1986*, there are other matters in relation to the distribution and retailing of power to customers that require review and consideration by other decision-making authorities.

(r) Up to 1500 hectares of mangrove communities.

(s) Condition 9 of Ministerial Statement 941 requires the proponent to implement the proposal to achieve an outcome of a self-sustaining mangrove community within specified areas. Achievement of this outcome is reliant on the proponent submitting plans and studies for mangrove research and establishment, as required by the conditions. I am advised that the proponent has not submitted the plan for mangrove research and establishment to the Department of Water and Environmental Regulation for approval.

NATIVE FOREST — JARRAH LOGGING

481. Hon Dr Steve Thomas to the minister representing the Minister for Forestry:

I refer to the Government's announcement of 8 September 2021 on the ending of most native timber harvesting in Western Australia, and I ask what volume of jarrah logs have been extracted to provide access to mining, including for bauxite and mineral sands, in each of the last five years in relation to sawlogs?

Hon Alannah MacTiernan replied:

Year	**Jarrah sawlogs (m3)**
2016	15,695
2017	8,552
2018	8,522
2019	5,646
2020	10,268