Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT

FIRST SESSION

2021

LEGISLATIVE COUNCIL

Wednesday, 16 June 2021

Legislative Council

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THE PRESIDENT (Hon Alanna Clohesy) took the chair at 1.00 pm, read prayers and acknowledged country.

MITCHELL FREEWAY — SOUND WALL

Petition

HON MARTIN PRITCHARD (North Metropolitan) [1.03 pm]: I present a petition containing 56 signatures, couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned support *sound mitigation measures to be installed on the west side of Mitchell Freeway between Hepburn Avenue and Warwick Road*.
>
> We therefore ask the Legislative Council to recommend *sound mitigation measures to be installed on the west side of Mitchell Freeway between Hepburn Avenue and Warwick Road*.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 280.]

FIONA STANLEY HOSPITAL — NEUROENDOCRINE TUMOUR PATIENT REFERRALS

Petition

HON KYLE McGINN (Mining and Pastoral — Parliamentary Secretary) [1.04 pm]: I present a petition containing two signatures, couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned support the identification of Fiona Stanley Hospital as the ideal referral hospital for all WA NET patients, regardless of geographic location, due to the well-established and experienced NET specialised treatment service, open and current NET clinical trials, as well as the home of the national NET registry sponsored by NeuroEndocrine Cancer Australia.
>
> Due to the rareity, complexity and unique nature of the disease, it is widely recognised that to provide optimal care and provide the best outcomes, NET patients must be referred to a specialised Multidisciplinary Team (MDT). These MDT models can be statewide or institution based, however, must be accessible to all and run by NET specialists. Extensive global research concludes that NET patients must then be treated under the guidance of a centre of excellence to ensure that they get access to the most current treatments under the latest national and international guidelines.
>
> This is a successful model, implemented in all Australian states and territories except for WA. This has led to dire patient outcomes and premature death of WA residents, due to delayed diagnosis, access to appropriate and timely treatment, access to specialists and specialist support through a dedicated NET nurse coordinator.
>
> We implore the WA Government to save and improve the lives of its citizens, and to recognise this urgent need, by mandating that all NET referrals go to Fiona Stanley Hospital as a state recognised centre of excellence in Neuroendocrine Tumours
>
> We therefore ask the Legislative Council to support this action to be taken by Legislative Council

[See paper 281.]

PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — NATIONAL LIVESTOCK IDENTIFICATION SYSTEM

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [1.05 pm]: Earmarking of sheep and earmarking or branding of cattle has been in use in Western Australia as a compulsory permanent livestock ownership identifier for over 100 years. It is currently mandatory under state biosecurity legislation. Since the development of the National Livestock Identification System, earmarks and brands are only useful for identifying the original owner of livestock, not the actual movement of livestock through the supply chain, which is essential for biosecurity. All other Australian jurisdictions have removed mandatory earmarking requirements from their legislation and the Northern Territory and Queensland are the only two jurisdictions to retain branding

provisions for cattle. In light of this, I asked the Department of Primary Industries and Regional Development to seek contemporary views from industry on compulsory earmarking and branding. DPIRD consulted with livestock owners, producer organisations, supply chain members, animal welfare groups, veterinarians and the general public, receiving 574 responses to a survey. The majority of the submissions—64 per cent—supported the deregulation of earmarking and branding, and I have asked the department to commence drafting regulatory amendments to reflect this. I acknowledge that support for the deregulation of marking and branding varies by region, with those in the northern pastoral regions less supportive of the changes. Those still wishing to earmark or brand their livestock can continue to do so and the department will continue to maintain the stock brand register and allocate brands and earmark symbols to all livestock owners. However, it will now be up to individual owners whether they use these identifiers on their own animals. Owners will be required to apply an NLIS device to their cattle by the age of six months in the south west land division and by the age of 18 months in the pastoral region, or before leaving the property, whichever occurs first. Currently, an NLIS device needs to be applied only before the cattle leave the property, regardless of age. We expect these changes to be implemented in early 2022 and DPIRD will work closely with producers to manage the transition.

PAPERS TABLED

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

DISALLOWANCE MOTIONS

Statement by President

The PRESIDENT (Hon Alanna Clohesy): Before I give the call to Hon Lorna Harper, I will point out that there are 34 notices of motion for disallowance. This reflects the length of time that the committee was not able to meet since Parliament was prorogued. The committee has now met and its deputy chair is about to present us with 34 notices of motion to disallow.

Notice of Motion

1. Road Traffic (Towing of Vehicles) Regulations 2020.
2. City of Greater Geraldton Public Places and Local Government Property Local Law 2020.
3. Shire of Coolgardie Waste Local Law 2020.
4. Town of Port Hedland Waste Local Law 2020.
5. City of Belmont Consolidated Local Law 2020.
6. Consumer Goods (Products Containing Button/Coin Batteries) Safety Standard 2020.
7. Consumer Goods (Button/Coin Batteries) Information Standard 2020.
8. Consumer Goods (Button/Coin Batteries) Safety Standard 2020.
9. Consumer Goods (Products Containing Button/Coin Batteries) Information Standard 2020.
10. City of Bayswater Waste Local Law 2020.
11. Bush Fires Amendment Regulations 2021.
12. National Disability Insurance Scheme (Worker Screening) Regulations 2021.
13. Curtin University Statute No. 5—Election of Council Members.
14. Mindarie Regional Council Waste Facility Site Amendment Local Law 2020.
15. City of Cockburn Parking and Parking Facilities Amendment No. 1 Local Law 2021.
16. Shire of Broomehill–Tambellup Activities in Thoroughfares and Public Places and Trading Local Law 2020.
17. Shire of Broomehill–Tambellup Cemeteries Local Law 2020.
18. Shire of Broomehill–Tambellup Fencing Local Law 2020.
19. Shire of Broomehill–Tambellup Health Local Law 2020.
20. Shire of Broomehill–Tambellup Waste Local Law 2020.
21. City of Gosnells Standing Orders Amendment Local Law (Number 2) 2020.
22. Town of Cottesloe Local Government (Meetings Procedure) Local Law 2021.
23. City of Rockingham Fencing Local Law 2020.
24. City of Canning Dog Local Law 2021.
25. Shire of Broome Waste Local Law 2021.
26. Town of Victoria Park Fencing Local Law 2021.

27. Shire of Gingin Meeting Procedures Amendment Local Law 2021.
28. Racing Bets Levy Amendment Regulations 2021.
29. City of Bayswater Activities in Thoroughfares and Public Place and Trading Local Law 2020.
30. City of Kalamunda Dogs Local Law 2021.
31. City of Kalamunda Extractive Industries Local Law 2021.
32. Shire of Peppermint Grove Activities in Thoroughfares and Public Places and Trading Local Law 2021.
33. Shire of Peppermint Grove Fencing Local Law 2021.
34. Shire of Peppermint Grove Waste Local Law 2021.

Notices of motion given by **Hon Lorna Harper**.

SENIORS' SAFETY AND SECURITY REBATE

Notice of Motion

Hon Martin Pritchard gave notice that at the next sitting of the house he would move —

> That the Legislative Council notes the McGowan government's reinstatement of the improved seniors' safety and security rebate and the impact that this $16 million election commitment will have in ensuring that our seniors are protected and secure in their homes.

CHILD DEVELOPMENT

Notice of Motion

Hon Donna Faragher gave notice that at the next sitting of the house she would move —

> That this house —
>
> (a) recognises that the early years are identified as a critical period in a child's life marked by rapid and significant changes in their physical, cognitive, social and emotional development; and
>
> (b) calls on the McGowan government to significantly increase its investment in this critical area.

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION — LEGISLATIVE ASSEMBLY STANDING ORDERS

Motion

HON NICK GOIRAN (South Metropolitan) [1.27 pm]: I move —

> That this house —
>
> (1) acknowledges the ongoing important role undertaken by the Joint Standing Committee on the Corruption and Crime Commission in this forty-first Parliament;
>
> (2) notes that the standing orders of the Legislative Assembly apply, as far as they are able, to the work of the committee and that —
>
> (a) pursuant to standing order 270, committee deliberations will be conducted in closed session; and
>
> (b) pursuant to standing order 271(2), no member of the committee nor any other person may publish or disclose evidence not taken in public, including documentary evidence received by the committee unless that evidence has been reported to the Assembly or that disclosure has been authorised, on motion, by the committee;
>
> (3) notes the comments of Mr Matthew Hughes, MLA, on 13 May 2020;
>
> (4) notes the content of Legislative Assembly message 9 received on 26 May 2021; and
>
> (5) emphasises its expectation that all members serving on any parliamentary committee in this forty-first Parliament will respect and adhere to the standing orders under which their committee is operating; and
>
> acquaints the Legislative Assembly accordingly.

This time last week, the chamber considered a motion on notice from me dealing with the deaths of two Western Australians. The outcome of that motion was a unanimous collaborative piece of work. It is in that same endeavour that I hope the outcome of today's motion will set the standard for the forty-first Parliament. We have an opportunity here today, as the 36 members of the Legislative Council in the forty-first Parliament, to draw a line in the sand, put the events of the fortieth Parliament behind us and now reconfirm our commitment to the standards that we wish to adhere to in this place.

The example with which I would like members to consider this matter through the lens of is the Joint Standing Committee on the Corruption and Crime Commission. This particular standing committee is somewhat unique in that it is a committee that exists as mandated by law. Specifically, section 216A of the Corruption, Crime and Misconduct Act 2003 mandates that the houses of Parliament must establish a joint standing committee comprising an equal number of members appointed by each house, and that the functions and powers of the joint standing committee are to be determined by agreement between the houses. Members will be aware that our standing orders, and no doubt the standing orders of the other place, set out the functions and powers of that joint standing committee. This joint standing committee exists following the abolishment of its predecessor, the Joint Standing Committee on the Anti-Corruption Commission.

Why do we have the Joint Standing Committee on the Corruption and Crime Commission? Western Australia has many government and statutory agencies, but very few are overseen by a dedicated joint standing committee. This is one of them. I draw members' attention to the extraordinary powers that the Corruption and Crime Commission has by virtue of the statute from which it derives those powers. They can be found in part 6 of the Corruption, Crime and Misconduct Act 2003. For the benefit of members, these extraordinary powers, which ordinary Western Australians and ordinary agencies do not have, include the power to enter and search premises, and to assume identities. Its officers can, if you like, masquerade as a different person for the purposes of investigation and to conduct controlled operations. "Controlled operations" is a cute term that actually means that when an operation or investigation is taking place, the officers who are performing that investigation are permitted to break the law. That is called a controlled operation. I can well imagine certain circumstances in which officers might need to be in association with certain notorious individuals in our state and in order to obtain information and conduct that investigation, they might need to go into that arena with an assumed identity as part of a controlled operation. They are also permitted to undertake what is referred to as "integrity testing programs". What is an integrity testing program? It could include quite deliberately setting somebody up to test whether, as a result of the circumstances that were constructed as part of the operation, they intend to break the laws of Western Australia. These are extraordinary powers. On top of all that, the Corruption and Crime Commission has the ability to bring people before it and to compel them to provide information. So great is that power that the Parliament decided that any information that was provided under compulsion could not be used in a court of law against the individual.

These are not all the powers that the Corruption and Crime Commission has; indeed, it has a range of powers under part 4 of the act. Those powers go directly to a function to fight organised crime and include the ability to issue what is called a "fortification warning notice" and a "fortification removal notice". When outlaw motorcycle gangs decide to set up structures to fortify themselves, the Corruption and Crime Commission has the capacity to inject itself into that and to have those fortifications removed. They do that when acting in concert with the Western Australia Police Force, and there is a specified process under which those types of matters can occur. The two members of this chamber who have been appointed to the Joint Standing Committee on the Corruption and Crime Commission might like, during the course of the forty-first Parliament, to inquire with the Corruption and Crime Commission about those extraordinary powers and how frequently or, indeed, infrequently they are being used.

In addition to that, at the request of the government in the fortieth Parliament, amendments were made to the role of the Corruption and Crime Commission, which gave it an expanded remit to undertake what are known as "unexplained wealth investigations"—that is, when individuals in Western Australia seem to be sitting on large mountains of gold. Investigators, particularly the WA police, might find it very curious that some of these underworld figures are sitting on such mountains of gold. These particular laws allow the Corruption and Crime Commission to make applications in concert, as I recall, with the Director of Public Prosecutions to have these individuals explain the basis for this massive wealth that they are sitting on. All of these things, cumulatively, are what I described as extraordinary powers.

It is for those reasons that the Parliament decided there would be a double layer of oversight when it came to the Corruption and Crime Commission. To the best of my recollection, no other agency has that type of oversight. Certainly, other agencies report to parliamentary committees, but I cannot recall another agency that has this dual layer. The second layer to which I refer, other than the Joint Standing Committee on the Corruption and Crime Commission, is the Parliamentary Inspector of the Corruption and Crime Commission. Parliament decided that these powers were so extraordinary that it would appoint, through the government, a person as parliamentary inspector to have special oversight over the CCC and, in addition to that, Parliament would establish a joint standing committee to oversee the CCC and the parliamentary inspector.

I trust that members do not require too much persuasion to agree that the role of the Joint Standing Committee on the Corruption and Crime Commission is indeed an important one, because somebody needs to be watching the watchdog. Those members who are unfamiliar with the genesis of the Corruption and Crime Commission may wish to read what I recall is a two-volume report that arose as a result of the Kennedy royal commission, which expressly looked at corruption in the police force. Ultimately, the Corruption and Crime Commission was formed to make sure we had a powerful body that can oversee what the WA police are doing. It is perhaps very timely that we should be having this debate in circumstances in which there seems to be some dispute that has arisen between the powerful government and the powerful Commissioner of Police, in a different context.

Parliament will, in due course, be asked to arbitrate on that matter. We will deal with that on another occasion, but, because the Western Australia Police Force itself has special powers, including the ability to use force against Western Australian citizens, and has been found on multiple occasions to have used that force excessively, we have a Corruption and Crime Commission—a watchdog that oversees police activities, as well as other matters of serious misconduct in the public sector.

I want to acknowledge some of the former members of the Joint Standing Committee on the Corruption and Crime Commission. I had the opportunity to serve as the chair of the committee in my first term, in the thirty-eighth Parliament. I immediately found myself working with John Hyde, the then member for Perth. Mr Hyde and I continue to have a good rapport. He continues to work very strongly with the Global Organization of Parliamentarians Against Corruption. On the committee, with John Hyde as deputy chair, was Hon Matt Benson-Lidholm, a most honourable individual, a man of great integrity and a former Deputy President of this chamber. Frank Alban, MLA, one of my parliamentary colleagues from the thirty-eighth Parliament, was also on the committee. The four of us worked in a bipartisan fashion to ensure, at the time, that not only the Corruption and Crime Commission was held to account and properly overseen but also that the Parliamentary Inspector of the Corruption and Crime Commission at the time was also held to account and overseen, and that the government of the day—the Barnett government, of which I was a member—was also held to account for any of its reforms. In the thirty-eighth Parliament, we did that job for four years without fear or favour. We did our job. In my case, it certainly came at a cost in the relationship that I had with the then Premier who wanted certain reforms to be undertaken. Our committee said no. Those types of reform were inconsistent with the reason that the Joint Standing Committee on the Corruption and Crime Commission was formed in the first place. We did our job as four members on that committee and I thank those members—Mr Hyde, Mr Benson-Lidholm and Mr Alban—for their work in the thirty-eighth Parliament.

In the next Parliament, the thirty-ninth Parliament, I was asked once again to chair the committee and found myself working with Hon Adele Farina, a person whom I hold in the highest of regard, and has demonstrated over a long career in Parliament how to perform their job with integrity and competence. In the thirty-ninth Parliament, I was also working with the member for Warnbro, Mr Paul Papalia, now Hon Paul Papalia, for about a year until he was seconded to a different committee. Peter Watson, the member for Albany, now Hon Peter Watson, who became the Speaker then came onto the committee. The other members on the committee were Sean L'Estrange, the then member for Churchlands, who was later appointed a minister, and also Nathan Morton, MLA. I mention all those members because my experience over eight years of working on that committee as the chair was that, on each and every occasion, those members did their job without fear and without favour. At no stage during the course of those eight years were committee deliberations ever revealed, except in circumstances in which the committee agreed that the deliberations would manifest themselves in a committee report that would be tabled in both houses, as per the standing orders.

What I appreciated most about the work in that committee over those eight years was how cooperative and bipartisan it was. It was happening at a time when, in Queensland, I could see chaos with shall I say the sister committee that was operating in that jurisdiction. An ongoing dispute was occurring between the government of the day, the Parliament, the committee and the watchdog. At that time, looking from afar, I appreciated how different it was in Western Australia where we had a cooperative and competent committee. Yes, there was tension with the government of the day. Yes, there were tensions with the commissioners of the day. Yes, there were tensions with the parliamentary inspector of the day, but we did our job with integrity. We did it with competence. I appreciated the collaborative nature and the approach taken by those members.

We then found something quite different in the fortieth Parliament. I want to draw to members' attention the standing orders of the Legislative Assembly, the other place. I do this because, in this particular instance, the Joint Standing Committee on the Corruption and Crime Commission operates under the auspices of the other place and under its standing orders. Our standing orders, which are currently under urgent review, do not apply to the Joint Standing Committee on the Corruption and Crime Commission. The two honourable members who are serving on that committee do not need this book; they need the other one from the other place because that is what we, as a chamber, have asked them to do in serving on our behalf on that committee for the duration of the forty-first Parliament. I draw to members' attention a standing order from the other place that has been in place for quite some time, and certainly was in place as far back as the eight years that I was on the committee—standing order 270. It reads, very simply, one sentence —

> Committee deliberations will be conducted in closed session.

The standing order that follows deals with the disclosure of evidence. In particular, standing order 271(2) states —

> No member of the committee nor any other person will publish or disclose evidence not taken in public including documentary evidence received by the committee unless that evidence has been reported to the Assembly or that disclosure has been authorised, on motion, by the committee.

It is very clear. Even the members of this place who have only just joined the chamber in recent times—nearly 50 per cent—will have had an induction by the clerks at some point. If the induction was anything like the induction that I had 12 years ago, it was made crystal clear to us that if you want to get yourself into the hottest of water as

a member of Parliament, breach committee deliberations. It was made crystal clear to us. I doubt very much that the induction process has changed to such a degree that even the new members of this place would be unaware how serious and how grave that is. It is in this context that, in this motion, I have specifically drawn to the attention of members the comments made by the member for Kalamunda on 13 May 2020. Some members may ask why I did not refer to the comments made by the member the following day—the more outlandish remarks—on 14 May, and I will get to that in a moment. I am limiting the scope of our discussions today to 13 May because I want to make sure we are all agreeing to the standard for the forty-first Parliament. I want to be clear that when I am serving on a committee with the honourable members in this place, there is a meeting of minds as to what constitutes committee deliberations, and what can be released and what cannot be. For those who are unaware of the particular debate that was happening at that time, the context was obviously the appointment of John McKechnie as the Corruption and Crime Commissioner. On 13 May, the member for Kalamunda said —

> I did not support the letter sent from the committee chair to the Premier on 23 April, or the assertions within it, to which the media statement referred.

He went on to say —

> I table an email sent to the committee at 6.12 pm on 22 April recording that I did not support the observations made in the letter and I lay it on the table.

Members cannot do that. It has happened, but I again draw to members' attention the standing orders of the other place. If a member of this place did that, they should be called to account. There is no point in having a set of rules by which we are to operate if they are just going to be tossed away and disregarded. As I say, I remind even the newest of members who have been here for only a few weeks of what they were told at the induction process about committee deliberations. What does the standing order refer to? It states —

> No member of the committee nor any other person will publish or disclose evidence not taken in public including documentary evidence received by the committee unless that evidence has been reported to the Assembly or that disclosure has been authorised, on motion, by the committee.

It is the clearest possible breach to then say, "Here's a committee deliberation and I'm going to lay it on the table, without the authorisation of the committee." That was the standard, regrettably, in the fortieth Parliament. We have to draw a line in the sand and say that in the forty-first Parliament, the 36 members of this place will not adhere to that standard; we will revert to the standard that has always been the case.

This is no new matter, because I draw to members' attention the outcome of an inquiry in 2007 into the then member for Murchison–Eyre's unauthorised release of committee documents and related matters. The chairman's foreword is very instructive. The then Speaker of the Legislative Assembly, Hon Fred Riebeling, authored this particular foreword and he said at the start —

> This has been a particularly difficult inquiry for this Committee. The unauthorised release of Committee documents represents a serious breach of process and trust, specifically the processes that support the proper workings of the Parliament itself and the trust required between members as they go about their Parliamentary business.

He concludes his foreword by saying —

> In conclusion I reiterate the seriousness of the breaches discussed in this report, and implore all members —

Not Labor members or Liberal members, but all members —

> to take note of the consequences of such actions.

The Premier of the day was Hon Alan Carpenter and in response to this report in 2007, in referring to the member who had been inquired into, he said —

> He has done something that is wrong. He has done something that he should not have done. He has done something that was unwise and stupid but, profoundly and importantly, it was something that he should not have done as a member of Parliament. Therefore, he must suffer the consequences.

That is what Hon Alan Carpenter said in 2007. He set the standard. Hon Fred Riebeling, as the chair of the committee in the other place, set the standard. He said, "This is not acceptable; we're not going to tolerate it." I hope that members agree that that will be the case in this Parliament and that when they serve on a committee with me or any other member and an email is circulated, it will not be up to one of us just on our own whim to go ahead and table it.

On the following day, 14 May, the member in question clearly had no remorse about what had occurred, because in the debate, he said —

> … we know who the cannonball was who wrecked the proposition that we concur with the reappointment of the commissioner based upon the independent nominating committee recommendation. The cannonball was presumably Hon Jim Chown …

On the previous day, the member clearly breached the rules and tabled deliberations. There was no mere revealing of deliberations; he tabled it without authorisation. On the following day, he started to name people on the committee. When trust is broken, the committee process cannot work. Earlier today, I served on one of our committees and I have to say that it was a pleasure to work with those particular members and I have absolute confidence as we start our processes in the forty-first Parliament. I look forward to that continuing because I have every confidence that no member will behave in that fashion.

On 14 May, the member went on to say —

> … in terms of the information provided to the committee—and there was none from Hon Jim Chown …

He proceeded to name the honourable member again and made assertions about his conduct in the committee and then had a crack at Hon Alison Xamon and said —

> … the handmaiden to the executioner pulling the guillotine was Hon Alison Xamon.

This is the member for Kalamunda who referred to Hon Alison Xamon as the handmaiden to the executioner pulling the guillotine—the handmaiden to the executioner pulling the guillotine! That was the member for Kalamunda. If it is making people feel uncomfortable, they should go and talk to him and say, "This is not on. This is not the standard we want in this Parliament. We are not going to tolerate it in the forty-first Parliament. You might have got away with it in the fortieth Parliament, but this is not on." I know, having spoken in private to Hon Alison Xamon—she will not mind me saying this—that she was highly offended.

On 14 May, he went on to say —

> Some of the lines that you have provided to me outside of the committee have been provided to me by Jim Chown.

He also said —

> As I set out in the chamber yesterday, there were no materials from third parties put before the committee; nor confirmation of information to reflect adversely on the commissioner, Mr McKechnie.

He went on to say —

> At those meetings, the committee deliberated the Premier's nomination of Mr McKechnie, QC, for reappointment as the Corruption and Crime Commissioner.

He then went on to say —

> … when the committee considered the correspondence with Mr McKechnie, QC, in which he sought to be informed of, and provided with, any adverse material concerning him that the committee had before it at its previous meetings.

It is just staggering the level at which this member engaged in May last year. He went on to say —

> I want to assure the opposition leader that no such evidence was ever before the committee.

It is totally out of order on so many levels, and that is why in this motion I ask members that we note the comments of Mr Hughes. I have chosen the language "notes the comments" because I am trying to seek the agreement of members that we are drawing a line in the sand here. I am not asking honourable members opposite to condemn those comments, although I do not think it would be asking too much. Actually, I think it would be a refreshing change, but I do understand the nature of party politics. I am simply asking members to note those comments today. They do not even necessarily have to give an opinion of whether they think they were good, bad or ugly comments. I am just asking members to note them, to note the standing orders that apply in the other place and to acknowledge the ongoing and important role undertaken by the Joint Standing Committee on the Corruption and Crime Commission in the forty-first Parliament.

I am also asking that members note the content of message 9 received from the other place on 26 May this year. In fairness, members may not readily recall what was in message 9 from the other place on 26 May this year. In essence, it was the other place informing us of the appointment of two individuals to the Joint Standing Committee on the Corruption and Crime Commission for the forty-first Parliament. One of those members is Mr Love, the member for Moore, and the other member is the member for Kalamunda. Again, I am just asking members to note the content of the Legislative Assembly message. I am not necessarily asking members to agree with it or to tell me whether they think it is the best message that we have ever received from the Assembly. My personal view is that it is astounding that after a performance like that in the previous Parliament, a member would be reappointed to a committee of this sort. Nevertheless, it is the government's wish that the member for Kalamunda serve on this committee, despite his demonstrably poor performance in the previous Parliament. Again, members may not agree with my assessment of the member's performance in the previous Parliament, as is their right, but I ask them to note the content of that message.

Lastly, I urge members to provide their full-throated support to emphasising our collective expectation that all members of this place, whether they are Labor, Liberal, Green, Daylight Saving or Legalise Cannabis members—it does not matter which party they are from—respect and adhere to the standing orders.

I respect the fact that the standing orders are currently under urgent review, and we will see what the outcome of that is. As best as I can predict these things, I cannot imagine that the standing orders will change to say that it is okay to reveal committee deliberations. I cannot imagine that any member of this place, least of all those members with experience, would think that that would be an efficient and effective way forward for the operations of our parliamentary committees. I cannot imagine that. Therefore, I am proceeding at this point on the basis that for the duration of this forty-first Parliament, all of us who serve on standing committees or joint standing committees, and who may even serve on some select committees, are today, on 16 June 2021, making crystal clear our expectations with regard to serving on committees. We are making it crystal clear that we expect members to respect and adhere to the standing orders, so that we can have trust in one another when we are in the confines of a committee so that we can deliberate frankly.

It is worth taking a moment to reflect on why committee deliberations are private. It is a difficult task, particularly, I might say, but not exclusively so, for government members, to have to weigh and consider matters that the government is currently doing or not doing. Members want to be able to do that and to do their duty, which they swore to do at the start of the forty-first Parliament, in an environment in which they are open to being persuaded by the views of other members.

In the last Parliament, I had the opportunity to serve on the Standing Committee on Legislation. The chair of the committee was Hon Dr Sally Talbot. I do not think that it will surprise anyone to know that Hon Dr Sally Talbot and I have not always agreed on a range of policy matters.

Hon Stephen Dawson: On anything!

Hon NICK GOIRAN: I would not go so far as to say "anything", but when it comes to serious matters of child sexual abuse and other policy areas, we are of one mind.

The point is this: when I have been on committees with members who would ordinarily be on very different ends of the political spectrum from me, whether it was Hon Dr Sally Talbot in the last Parliament or former member for Perth John Hyde in my first term—he would tease me from time to time and say, "We should star in some kind of show with Mr Left and Mr Right!"—there was always respect for the process, adherence to the process and integrity of the process. There was always that. My experience with all those members I mentioned earlier is that when they turned up to the committee, they were open to being persuaded by arguments. Sometimes it might have been on some minor matter, such as the wording of a committee report. Other times we would thrash out a form of words to reach consensus. Sometimes we had to just simply agree to disagree and we then had a majority and a minority report. Perhaps that was no more evident than in the last Parliament on the Joint Select Committee on End of Life Choices, when I tabled my minority report.

It is okay to disagree, and we have done that in an environment in which there has been respect for, and adherence to, the process. Members have had the opportunity to persuade one another and consider each other's position. Members could openly reveal how they felt about a matter or what they might be leaning towards, and then another member might perhaps have indicated the error of their thinking or redirected them to some other evidence that might persuade them in a different way. That can be done in the confines of an environment in which there is trust. But when trust is broken, the committee process becomes unworkable.

I seek the support of members on the motion before the house. I endeavoured to draft the motion in a way that would seek the greatest amount of support from members. I understand that there are significant political challenges for members, particularly of the government, with some of my comments to date. They will feel a need to defend the member for Kalamunda, and it is their right to do so if they wish. I hope that there can at least be sufficient agreement on the five things set out in the motion—that is, that we can acknowledge the ongoing important role of the Joint Standing Committee on the Corruption and Crime Commission; we can note the standing orders that apply to that committee, including the two orders that I referenced; we can note the comments made in the other place last year; we can note the content of the recent message received in this place; and, most importantly, we can emphasise our collective expectation that members will respect and adhere to the standing orders of any parliamentary committee on which we serve in this forty-first Parliament. I think that if we can do that today, we will set the right tone and the right standard. We will have reset the standard and said, "This is what we expect in the forty-first Parliament. We can trust each other in that respect. The people of Western Australia can trust us to do our job properly." We will then be able to properly fulfil the oath or affirmation that we took only a mere month ago.

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.09 pm]: Members, at the outset of his commentary, the mover of the motion said that the outcome of his motion today will set the tone for this forty-first Parliament. Newsflash—no, it does not, and, most importantly, he does not. There are lots of events and important things that Western Australians are currently thinking and worrying about. With great respect to Matthew Hughes, what he said in the Legislative Assembly on 13 May 2020 is not one of them. In this available time, we could be debating a lot of things that really matter to Western Australians right now, but this is not one of them. This motion is example number—pick a number—597 of how sorry the once great Liberal Party in this place has become.

There are two Liberal Party members in the Assembly—there are more than that in here—and when members were making their inaugural and Address-in-Reply speeches, we were told that it is the expectation of the Liberal Party

members in this place that they will carry the burden of being the opposition. If this is how they are carrying the burden—by looking backwards, not forwards, and not addressing the issues that really matter to Western Australians—then they really have not learnt very much at all. If I may be so bold, this is so far removed from what the good members of the WA Liberal Party actually want members of this house to do that it is actually a bit sad and pathetic.

I have read our standing orders. I have had a quick look at the Assembly's standing orders. Nowhere did I find a reference to say that Hon Nick Goiran is the arbiter of how standing orders are to be interpreted; nor is he the mediator; nor is he the arbiter of whether a member in the other place—even a member in this place—is to be judged against the standing orders. No-one made him the arbiter, but he said we need to support this motion because he has laid out a sequence of events that he says demonstrates that a member in the other place breached the standing orders of the other place and that we should trust his judgement and analysis of whether or not that happened. Guess what? He is not in charge of everything. I know he wants to be. I know he is in charge of the Liberal Party, which is just such a shame for the Liberal Party, but he is actually not in charge of the Parliament. He is actually not in charge of determining whether a member of the Legislative Assembly has breached the standing orders. Do we know who is in charge of that? It is the same body that is in charge of it in this place—the procedure and privileges committee. That committee makes those judgements and that is where the argument is to be had. It is not for Hon Nick Goiran as a member of the Legislative Council to say, "I've read the documents, I've read the email, I've read the standing orders, and here it is; he breached it." It is not for him to determine that.

The member knows that under the standing orders in this place—I assume it is the same in the other place, but I do not know—one has to actually establish a case and then a judgement is made about whether there is any substance to that matter before the PPC goes on to investigate the matter in detail. None of that has happened because the other place rejected the motion put by the other side and so it did not proceed.

Hon Tjorn Sibma: Why's that?

Hon SUE ELLERY: You need to ask them! That is the thing. It is not for Hon Nick Goiran in the Legislative Council to say that he knows best about how the Assembly should determine, interpret, read, judge and measure against the performance of a member of the Legislative Assembly. That is not the role of the Legislative Council and it is not the role of Hon Nick Goiran. Both houses have a procedures and privileges committee and it is the job of those committees to determine these matters. The notion that this is a harmless motion and all we need to do is agree on some principles and it will all be okay is wrong. The motion is clearly a Trojan Horse. It is a platform for the honourable member to prosecute his argument that somehow the current Chair of the Joint Standing Committee on the Corruption and Crime Commission is inappropriate in that position because, according to judge and jury Hon Nick Goiran, he has breached the standing orders. That is not how it works.

We will not be supporting the member's motion. It is a Trojan motion; it is a nonsense motion; it is an offensive motion, but it is so revealing as to who controls the Liberal Party. It is so revealing as to the fact that members opposite cannot look forward. It is not my job to be the opposition, but, frankly, if I were asked to come up with a list of things that Western Australians were worried about right now, I could do it. This would be nowhere near the list. Do your job properly! Members opposite hold the government to account in this place. They can act as judge and jury when they are on the procedures and privileges committee of this place. Otherwise, it is not the member's place to make that judgement. Try to be a decent opposition. Try—just try—to campaign and prosecute the arguments on behalf of the good members of the Liberal Party in WA who want members to do that. Why do they not concentrate on that? Look forward, not backward. We will not support the motion.

HON TJORN SIBMA (North Metropolitan) [2.15 pm]: I rise to support the motion put by Hon Nick Goiran. It is a very sensible, balanced, moderate, principled motion that only the most highly invested, skewed and delusional partisan could find any problem with. What is so problematic about acknowledging, for example, the ongoing important role undertaken by the Joint Standing Committee on the Corruption and Crime Commission in this forty-first Parliament? What is so offensive to members opposite in the reason, common sense and principle of that first limb of the motion, unless it is that they find it disagreeable or they find that that standing committee has absolutely no purpose in the forty-first Parliament? The onus is on them to explain what is so offensive about such a statement of principle, fact and necessary accountability and oversight of the most powerful institution in this state—the Corruption and Crime Commission. I do not need to further elaborate on the extraordinary powers held by the CCC and the extraordinary powers held by a commissioner of that organisation, let alone the agents that work underneath that commissioner. If government members opposite find that so disagreeable, why do they not just come out and do it and disestablish that standing committee outright? Is that their proposition? Is that the proposition of the Leader of the House? I can only assume that it is. I can only assume that that is the case. Why might that be the case? Perhaps the redundancy of this joint standing committee is going to be revealed very soon to this chamber in the coming days, when a bill will be referred to us after it has been expeditiously dealt with today in the other place. What is the point of it? That seems to be the government's argument—that this is a standing committee that has no merits, performs no useful function and should be disestablished. What other conclusion can a reasonable person draw if they find that proposition offensive and they are not going to support it? What other conclusion is there to draw? I do not know.

I might just extemporise a little bit. It was not my intention to speak to this particular facet, but the Leader of the House in her contribution has invited me to do so. There was an interesting diversion there into how this chamber's time is best used; whether this matter under debate here is in the public interest or whether it is something that the public is deeply interested in. Need I remind the Leader of the House and government members opposite of how we spent the last Thursday of the last sitting week in this chamber? Was discussing some kind of pressing need to review standing orders the best use of that sitting day's time? Was that what the Leader of the House or government members were press-ganged about by their constituents? Was that the front-of-mind issue? It was not the unfortunate demise of the WA health system under this government or the housing crisis or any range of government dysfunction that has been covered by the marketing of the COVID-19 response. No. Apparently, according to the Leader of the House through her own actions, the most pressing issue of the day for the people of Western Australia was reviewing the standing orders in the upper house. The government cannot have it both ways. That is what the Leader of the House, unfortunately, has attempted to purport today.

With respect to the first limb of this motion, perhaps it is worthwhile undertaking a remedial walk through the functions and the powers of that standing committee as outlined on Parliament's website. I read this in only because the Leader of the House seems oblivious of this fact or seems to disregard it entirely. I prefer not to engage in this way, but I feel I have no other choice. The functions and powers of the committee are to —

(a) monitor and report to Parliament on the exercise of the function of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission;

(b) inquire into, and report to Parliament on the means by which corruption and prevention practice may be enhanced within the public sector; and

(c) carry out any other functions conferred on the Committee under the *Corruption, Crime and Misconduct Act 2003*.

That is why the committee is there. They are its core functions and roles. What is so disagreeable or unimportant or trivial about that? The argument seems to be that we do not need a committee to undertake those tasks. If that is truly the government's position, it should at least have the courage to come in here and say it outright. It has the numbers, so it can do whatever it wants to with them. The government could de-establish that committee, but perhaps that move is beyond the pale of even this government, which is taking every advantage of its numbers. That is to be expected, but I was not expecting it to do it in such a brazen and aggressive manner, but there we are; I live to be disappointed by the government on a daily basis.

I might also correct the Leader of the House on some of her assertions that Hon Nick Goiran was acting as judge or jury or arbiter on the performance of one member for Kalamunda, Mr Hughes. The terms of the motion are pretty clear. It is to note that member's comments and the timing of those comments, and to note those comments against the lower house standing orders as they apply to the conduct of that committee. What is so objectionable or trivial about holding parliamentarians against the standing orders, particularly standing orders that govern conduct in the course of committee hearings and particularly that committee, which is probably the committee that undertakes the most sensitive work on behalf of the Parliament and on behalf of the people of Western Australia? I have respect for the Leader of the House, but her contribution that she gave, although it was given with a great deal of vim and vigour and a great deal of passion, was probably the most intellectually disingenuous and disappointing contribution that she has made thus far, at least in the time I have been observing her performances. There is a contradiction that I would like to have clarified. She said that on the one hand it is not for us to hold anyone to the standing orders, but we just wasted all of last Thursday discussing standing orders ad nauseam. Is it the Leader of the House's view that standing orders are worth having or not? Hon Kyle McGinn can chatter and mutter as much he wants. It does not matter.

Hon Kyle McGinn: She is talking about the lower house standing orders. Why are we talking about them in the upper house?

Hon TJORN SIBMA: Does the member know why I bring it up? I bring it up for this point. The fifth limb of this motion states —

> emphasises its expectation that all members serving on any parliamentary committee in this forty-first Parliament will respect and adhere to the standing orders under which their committee is operating;

I make that point because we have the corollary standing order in this little book. Standing order 177 appears on page 90 if members, particularly new members, wish to familiarise themselves with it. It states —

> Committee deliberations shall be conducted in private session, and shall not be disclosed or published by any Committee member or person unless otherwise ordered by the Committee.

What is objectionable about that, or are we entering into this cowboy era in which the standing orders no longer apply? I would like to think, and I believe can think, that when I serve on a committee with government members, including Hon Kyle McGinn, I can trust you. Can I trust you? According to the Leader of the House, I do not know, because there seems to be a lack of commitment to this standing order and the corollary standing order in the other place. I would like to believe that is not the case and I can trust each and every single member with whom I am a colleague

on any committee, irrespective of their political party. That has been my experience and it was my experience throughout the entirety of the fortieth Parliament on select and standing committees, including in a special inquiry into the Local Projects, Local Jobs scheme and another into the establishment of a parliamentary budget office. Membership of that committee represented almost the full rainbow spectrum of political affiliation in this state. We had a Nationals member co-opted in place of a Liberal Democrat; a Labor chair; me as deputy chair; a member of the One Nation party, Hon Colin Tincknell; and a member of the Greens party, Hon Diane Evers. We worked on something that was reasonably complicated and politically loaded and we could do so on the basis of trust. We engaged in that work methodically and professionally for about 18 months. I would like to think that that represents the standard that applies always and should apply throughout the course of the forty-first Parliament. I would be saddened to be told otherwise. However, I infer from the Leader of the House's contribution that perhaps I should be saddened.

With all due respect to the Leader of the House, she should have thought twice about making the contribution. I mean that sincerely. There seems to be not so much a prohibition but certainly a clear message being sent that any matter, any criticism, even veiled, of the behaviour of the government or the executive powers—whatever they might be, in whatever form—is a forbidden area. If that is the case, we may as well pack up and go home right now. I do not believe that to be the case. I absolutely believe that we should prosecute the sworn roles and responsibilities that we undertook at the commencement of the forty-first Parliament. A strange tenet in the Leader of the House's argument seemed to infer that in some way we were backwards looking. We know why this motion is very uncomfortable for the government, and it has little to do with what might have happened in the course of the fortieth Parliament. It probably has everything to do with what is going on in the forty-first Parliament, particularly in the Legislative Assembly today. That is a related matter. I am going to preserve my remarks for the appropriate time but there is an obvious connection there.

I thought Hon Nick Goiran spoke clearly and properly about establishing standards—effectively the drawing of a line—and this is all this motion attempts to do. Why should we draw that line particularly in relation to an organisation as powerful and as sensitive as the Corruption and Crime Commission? I think we can express it in any number of ways, but I will quote from a contribution by Paul Murray in *The West Australian* of Saturday, 12 June. He commenced his article, which I think is well worth reading, in the following terms —

> It should go without saying that quasi-judicial agencies created by governments to fight corruption must not become mired in controversy or blighted with the stain of partisan politics.
>
> As is the case with the police and the courts, the public has the right to expect that these powerful investigative bodies are independent and above scandal.

I am glad Hon Nick Goiran did not put that quote into his motion because I fear that the government would have opposed it. Sometimes, yes, we want to save members from themselves. Why did I read in that quote? I read it in for these reasons: which institution of this Parliament works to ensure that the Corruption and Crime Commission is not tainted or blighted with the stain of partisan politics, if not for the bipartisan Joint Standing Committee on the Corruption and Crime Commission? I will call it an institution—it might now become an artifice; I hope not. It is designed to ensure that politics stay out of it. How do we ensure that politics stay out of it? One way to do that is to implement standing orders that apply equally to every member of either house, so that these deliberations, indeed, the most sensitive deliberations, concerning the performance of that agency and concerning matters, including but not excluding, the appointment of a commissioner, can be dealt with on their merits by members of Parliament acting solely as parliamentarians, not as partisan political delegates. I emphasise that point because in the course of debate—this is for the benefit of new members and is not intended with any measure of condescension—a view was put to the public by senior members, indeed senior ministers, of the McGowan government then and today that the purpose of that committee was effectively to rubberstamp the Premier's nomination to the point at which it was opined that the then Leader of the Opposition, Hon Liza Harvey, should have simply directed Hon Jim Chown to appoint the Premier's preferred pick as Commissioner of the CCC. That is contemptuous. That is troubling.

I made the point in our extensive bizarre double sitting day, last Thursday, that committees are not there as an adjunct to executive government; they are not there as an adjunct to caucus or cabinet or, dare I say, to Australian Labor Party headquarters. That is not the purpose of a parliamentary committee. However, public comments made by at least the Attorney last year and, I think, mirrored quite substantially by the Premier, seemed to indicate the contrary position, which was, no—I think this is problematic for government members of any committee—they are there under instruction, potentially. If that is the case, that impugns their integrity individually. It is also corrosive to committees generally speaking. It is absolutely corrosive to the conduct and performance of the Joint Standing Committee on the CCC.

I never thought I would have to stand here and address a motion like this, not defending it on its own measure but drawing members' attention to the very concerning remarks of the Leader of the House which, I am devastated to observe, are establishing a pattern of behaviour from executive government in its treatment of the Parliament. It is: that might is right, that numbers rule the day, that principle can be jettisoned, that the institution of the Parliament is just an encumbrance that can be worked through or crashed through or gone over or around. I think that is an appalling reflection on the judgement, the attitude and the culture of the McGowan government mark II. It really,

really is. I was not expecting to have to rebut those arguments, or at least draw members' attention to how concerning they might be. I would have thought that something as transparently virtuous—the word I am looking for—as the motion put in Hon Nick Goiran's terms could be endorsed wholeheartedly by every single member of this chamber irrespective of their political party.

If any government speakers come on—I doubt there will be—please debate this motion clause by clause and explain what is so objectionable about the importance of that committee. What is so objectionable about the standing orders? Why do we live under a rock and pretend the remarks by Mr M. Hughes, MLA, on 13 May 2020 never occurred? Why do we look the other way when asked to note the content of Legislative Assembly message 9 received on 26 May 2021, if not due to some sort of embarrassment? What is problematic about emphasising to government members the expectation that they comply with standing orders, particularly as they apply to committee deliberations? To stand in opposition of this marks members opposite as an enemy of this Parliament and its institutions. It marks them as a group of transactional political opportunists. I know this is exactly how they will conduct themselves for the next three and a half years but they need not. I implore them to cool their jets and think about things again, before it is way too late because the arrogance of this government is showing itself very, very early. It is downhill for members opposite from here but there will be a lot of collateral damage along the way to institutions that are important to organisations such as the CCC, which is important, and to the reputations of people who might put themselves forward as commissioners of that organisation.

I endorse this motion in the strongest possible terms.

HON MARTIN ALDRIDGE (Agricultural) [2.38 pm]: Thank you, Acting President. I rise to indicate my support for the motion and my absolute surprise that this motion will not be supported by the government. The display by the Leader of the House today, although in some respects surprising, in many respects was predictable in that she engaged the age-old tactic that the best form of defence is attack. It will be astounding, I think, and will be a poor reflection on this chamber when this motion comes to resolution, whether it be this week or next, that there will be members who will oppose the motion in its current form. It is obvious from the solitary contribution from the government so far that it does not agree with everything that Hon Nick Goiran set out in this motion. That is obvious. It has not been made clear why the government will oppose any or all of the five limbs of this motion. I can completely accept that government members might take exception with a particular argument, phrase or words used by Hon Nick Goiran in his motion before the chamber today, but I cannot understand or accept why any member of this place could possibly contemplate opposing the five limbs of this motion. The first of those five limbs states —

> (1) acknowledges the ongoing important role undertaken by the Joint Standing Committee on the Corruption and Crime Commission in this forty-first Parliament;

I would have thought that is hardly a debatable matter, unless of course members do not agree that the Joint Standing Committee on the Corruption and Crime Commission does undertake an important role; but I have not seen that put forward as an argument.

The second limb simply states —

> (2) notes that the standing orders of the Legislative Assembly apply, as far as they are able, to the work of the committee …

That is a statement of fact. I must admit that I am not that familiar with the Legislative Assembly's standing orders, but they are available on the Parliament's website, and it is obvious to any reader that that is a statement of fact.

The third limb states —

> (3) notes the comments of Mr Matthew Hughes, MLA, on 13 May 2020;

Perhaps it is the argument of the government that we ought not note the comments of Mr Matthew Hughes, MLA, on 13 May 2020. That is a possibility, but that argument has not been put by the Leader of the House today. The fourth limb states —

> (4) notes the content of Legislative Assembly message 9 received on 26 May 2021;

For those members who have had the opportunity to reflect on the *Minutes of Proceedings* of the Council on 26 May 2021, item 17 contains message 9, which states —

> The following Message from the Legislative Assembly was reported —
>
> Honourable President — Message No. 9
>
> The Legislative Assembly acquaints the Legislative Council that for the present Parliament the Legislative Assembly has appointed the Member for Moore, and the Member for Kalamunda as members of the Joint Standing Committee on the Corruption and Crime Commission.
>
> Hon M.H. Roberts
Speaker
Legislative Assembly Chamber
Perth, 26 May 2021

I would have thought that that was hardly a controversial matter, but perhaps the minutes incorrectly reflect the message and maybe that is the reason the government will oppose this motion. I do not think that is the case and it certainly was not the argument put by the Leader of the House.

That takes us to the fifth limb of the motion, which states —

> (5) emphasises its expectation that all members serving on any parliamentary committee in this forty-first Parliament will respect and adhere to the standing orders under which their committee is operating; and
>
> acquaints the Legislative Assembly accordingly.

This is probably the most deeply concerning limb, if it is the case that the government opposed this motion because of the fifth limb of the motion. The case has not been made at all, or detailed by the government, apart from a rant from the Leader of the House about looking backwards instead of forwards. I look forward to perhaps a more considered contribution by a member of the government that may better put their opposition to this motion. To be honest, in contemplating the motion being moved this morning, I thought the debate would be contested between government members and non-government members over some of the history of the joint standing committee perhaps or the conduct of its members, but I did not anticipate or envisage at any point that there would be a case made and a vote taken whereby members would oppose the motion in its current form. There are two hours and 43 minutes left to consider this motion, so perhaps I will be better informed at the end of that time as to the reasons that members will oppose this motion.

Opposing the motion is one thing, but if the motion is defeated—which, of course, the government can achieve with its numbers—a very concerning issue would be the message we would send to not only members of this place and its committees, but also the other place about operating under its standing orders.

In her contribution, the Leader of the House said a number of things. She commented that the matters under debate today are none of our business and of no interest to the Legislative Council, and that Hon Nick Goiran is not the arbiter or judge of these matters. The point that has been missed is that the joint houses of Parliament have four joint standing committees, of which two operate under the standing orders of the Legislative Assembly and two under the standing orders of the Legislative Council. It is of interest to this chamber when we send two members from this place to the other place to operate under its standing orders. It is absolutely our interest in the conduct of joint standing committees, regardless of whose standing orders they operate under.

I draw members' attention to page 125 of the standing orders, which makes it quite clear that a joint corruption and crime commission committee is established. Under schedule 1, clause 9.3 states —

> The Joint Standing Committee will consist of 4 Members, of whom —
>
> (a) 2 will be Members of the Assembly; and
>
> (b) 2 will be Members of the Council.

Clause 9.5 says —

> Without limiting the effect of anything contained in Assembly Standing Orders 289 to 292, the Standing Orders of the Assembly relating to standing and select committees will be followed as far as they can be applied.

I do not accept for one moment, particularly given the nature of joint standing committees and the way in which some will operate under Assembly orders and some will operate under Council orders, that it is none of our business. I do not accept that for a minute, and nor should the other 35 members of this chamber, particularly when we are exposing two of our members to the orders of the other place.

I turn now to the contribution of Mr Matthew Hughes, the member for Kalamunda, on 13 May 2020 to a motion moved by the then member for Dawesville on a referral to the Procedure and Privileges Committee. I pause now and say that I much prefer the way matters of privilege are considered in this place; that is, that a member ordinarily rises, under standing order 93, to raise a matter of privilege with the President. According to standing order 93(4) —

> The President may –
>
> (a) determine the matter and provide a ruling to the Council immediately; or
>
> (b) defer the matter and provide a ruling to the Council at the earliest possible opportunity.

I like this process because the house, once every four years, expresses its confidence in the President by electing that person to that office. When that occurs, we all must support and have confidence in the integrity and impartiality of the person holding that office. That is for many reasons but if for none other, it is the important role that the President must play in considering a matter of privilege under standing order 93. Standing order 93(5) states —

> If the President rules that there is some substance to the matter, —

"Some substance" is the threshold question, members —

> the President shall refer the matter to the *Procedure and Privileges Committee* for inquiry and report to the Council.

In my experience, this is always done with due contemplation, consideration and advice. In my time here, I do not think I have heard the President make an immediate ruling on a matter of privilege. In fact, for rulings, it can take some days, if not weeks, before a President reports to the house on whether a matter contains or does not contain substance. That is unlike what occurred in the Legislative Assembly on 13 May 2020, where the instrument of the other place when reporting a matter of privilege seems to be that it is done by motion. Of course, the problem with that instrument is that it then takes away the independent, impartial view of the presiding member and puts it in the hands of the numbers in the chamber. It is quite obvious with what occurred on 13 May 2020, and on plenty of other occasions, that these motions fall along party lines. On 13 May 2020, there were 15 ayes and 31 noes, all along party lines.

I want to provide a quote from the member for Kalamunda on that day, Wednesday, 13 May 2020. He said —

> Without revealing the contents of the committee's deliberations, I can advise the house of what was not included in the deliberations. This concept is interesting, —

I pause there to agree with him; this concept is certainly interesting. He continues —

> because we have this odd relationship between the act, which says nothing, and the committee, which is not bound to say anything, so we could never know unless the committee was prepared to divulge and unless this Parliament said, "You will provide us with the information." I hope that this Parliament at some stage chooses to do just that. Without revealing the contents of the deliberations, I can advise the house of what was not included in the deliberations. I can advise the house of what did not happen and what I did not support. There was never anything put before me, either at the meeting of 25 March or the meeting of 22 April, that would preclude the reappointment of John McKechnie as commissioner. I did not support the letter sent from the committee chair to the Premier on 23 April, or the assertions within it, to which the media statement referred. If members read both, I could not concur with the letter and I could not concur with the media release. I table an email sent to the committee at 6.12 pm on 22 April recording that I did not support the observations made in the letter and I lay it on the table.

A document was thereafter tabled. There are many, many problems. Members have to remember that a series of public comments that were made led to this matter of privilege being reported to the Legislative Assembly. This statement is deeply, deeply disturbing. As members of the Labor Party line up to oppose this motion, which sounds like the directive given by the Leader of the House, I want them to reflect on those words because that is the standard that they are choosing to accept by their actions.

What is more deeply disturbing is that I do not think the member for Kalamunda came to this point of view by himself. In fact, I have heard senior members of the Labor Party say to me directly that the application of privilege to committee deliberations applies only to what is done and not what is not done. That is an interesting concept, which is something that the member for Kalamunda said. The notion is that a member of a committee could say as he or she likes, unencumbered—they can make any comment about what is not done, or not heard, or not seen, or, according to the member for Kalamunda, can say what they did not agree with. If that is not a committee deliberation, I am not sure what is. If a committee takes a decision, a member may not agree with the committee decision but they are allowed to walk straight out of the committee room and tell the world that they did not agree with a decision of the committee taken just then. That is absolute nonsense that should be rejected.

The consequence of not taking that view, I think, will significantly disrupt the important work that our committees do. A number of members in this place recently had an opportunity to talk to our newest members about the importance of our committees. I made the point that some of the best work that occurs in this Parliament happens in its committees. In part, that is because of the way in which I think all members respect the role that the committees undertake on behalf of the house and, to the greatest extent possible, they are not partisan instruments of the chamber. The moment they become simply partisan instruments of the chamber, we might as well wrap them up and just thrash everything out here in the house. I think committees immeasurably improve the value of the Council's work and any way in which they are diminished is deeply concerning. I certainly hope that if this situation ever arose under our Council standing orders, this standard would not be accepted for one moment.

A further debate occurred almost 12 months later. The quote that I just referred to was from 13 May 2020. As reported in *The West Australian* on 12 June 2021, on 12 May 2021, I quote —

> During a debate on May 12 Love —

That is, referring to the Deputy Leader of the Opposition in the Assembly —

> raised the issue of a parliamentary rule which requires committee deliberations to be confidential.
>
> He warned new members they could find themselves referred to the Assembly's privileges committee for punishment by putting up Facebook posts about matters being discussed in private by committees.
>
> "As I look around, I am thinking that last year there was a heated discussion in this place when the member for Kalamunda became the subject of such a referral motion due to Facebook posts, which members of the Opposition thought were disclosing the deliberations of the committee," Love said.

> "That referral was defeated along party lines. The point is that it is best not to cross the line, but members should remember that if they do they will not only be overturning centuries of a process that has been built up to protect the institutions of democracy and parliamentary debate but also contravening the standing orders of this house and could be subject to a sanction.
>
> "Unfortunately that particular member did not seem to learn. When called to account by members through interjection the member for Kalamunda shouted out: 'You might think that. I told you. I can tell you what did not happen in that committee. Refer me to the Procedure and Privileges Committee again.'

That is what the member for Kalamunda said on 12 May this year.

Hon Darren West: Sharing the love!

Hon MARTIN ALDRIDGE: I look forward to the member's contribution when he can share the love in 24 minutes and 47 seconds.

In any sensible person's view, the confidentiality around committee business and committee deliberations cannot be characterised in the way that was done by the member for Kalamunda. The effect on our committees and their operations would be chilling. Often, the information that committees receive is highly sensitive and, in some cases, will never be released, and for good reason. Often, it is the case that governments, in providing information to committees, are the ones that put those points of view most stridently. They fully understand the need for committees to take evidence in private and I think, by and large, the committees fully respect the evidence that is provided in private. It does not prevent a committee from making a decision, in the appropriate circumstances and after appropriate deliberations, to make private evidence public. However, in my experience, that has always been done after considered deliberation, and almost always evidence that is received in private is retained in private.

I have concern that the chilling effect on committee processes of accepting the member for Kalamunda's view of the world will be that members of committees will feel less able to speak freely and without fear. My concern is that witnesses will be less likely to come forward and give evidence to committees and people will be less likely to make submissions to inquiries and maybe less likely to do so frankly. What message are we sending to executive government, its agencies and its public servants if we treat committee deliberations in this way?

No sensible argument has been put today for why this motion ought not be supported. In fact, as I said, it will be, and should be, deeply disturbing to all members if we accept the member for Kalamunda's standard, as it appears the government has, and defeat what is not a politically charged motion. Members cannot possibly find fault in any of the five limbs of the motion. The only possible conclusion that could be made is that the government does not want to note the comments of Mr Matthew Hughes, MLA, on 13 May 2020. That is not something that I had contemplated until I heard the address by the Leader of the House. Perhaps that is the position of the government; it is being shielded because the best form of defence is attack. Or is it that we do not want to emphasise our expectation that all members serving on parliamentary committees in the forty-first Parliament will respect and adhere to the standing orders under which their committee operates.

I serve on one committee, the Standing Committee on Procedure and Privileges. It would be plainly unacceptable if that committee were considering, for example, a matter of privilege, and members of that committee were free to come into this place or, indeed, go on Facebook, Twitter or whatever their choice of communication is and report fully on what was not heard, what was not seen, what was not received or what they disagreed with. That would plainly be a matter that any member should be prepared to report to the President as a matter of privilege under standing order 93. Surely that is not in dispute. If that is in dispute, we have a very grave and serious problem and I genuinely fear for the integrity of our committees and their members.

HON JAMES HAYWARD (South West) [3.04 pm]: We have heard some very strong arguments put by some very eloquent speakers on this side of the chamber—people who are very knowledgeable in this space. I do not claim to be one of those, but I am certainly happy to make my thoughts known in my contribution. One of the things that we have heard a lot about in this house in recent times is time management and how the opposition completely ruined the chances of the Labor government in the last term by filibustering and taking up time. Perhaps there is a feeling that that is what is going on right now. I am not sure that that is the case. In fact, the most time efficient way for the government to manage this motion would be simply to say that it agrees. If it cannot agree with a particular paragraph, as Hon Martin Aldridge pointed out, it could simply move an amendment to remove it. That could have been done and we could have moved on to important government business.

The idea that government members can stand in this house and yell at opposition members for doing what they are here to do—that is, hold the government to account—and blame us because they cannot manage their time schedules is a bit ridiculous. If time is critical, as has been pointed out by previous speakers, there would be no problem for the government to agree with most of the items in the motion. If there were a particular issue about that one paragraph, an amendment could have been moved and this could have all been done and dusted. Instead, we are locked into a debate, which we will get the blame for, because there is no flexibility by those on the other side.

A bit of advice was handed around about how the Liberal Party could improve its position at the next election. That is a long way away. As a bit of advice from the brand new guys, if there were a bit more toing and froing from

you guys, we would not burn up so much parliamentary time debating the issues. These issues are really important. The role and powers of the Corruption and Crime Commission are extraordinary, as has been pointed out by previous speakers. It is a very powerful body and it is completely appropriate that we have appropriate oversight and the correct systems in place to make sure that that is all done correctly.

That is it for my contribution on this motion. I encourage members to think about how we can best deal with this matter. Certainly, I would not want to vote against this motion, because I think, deep down, we all know that there is nothing wrong with what has been proposed and the integrity of Parliament is very important.

HON DR BRIAN WALKER (East Metropolitan) [3.07 pm]: I must confess that I am a little bit distressed to feel required to stand and speak in this debate. On the one hand, I heard this motion from Hon Nick Goiran. I have to say in the short weeks that I have been here, I have learnt to respect and admire him. I am not quite so sure that I can like him yet or, indeed, agree with him most of the time!

Several members interjected.

Hon Dr BRIAN WALKER: I think yesterday was a case in point. However, I do not doubt for one moment his principles and integrity. What we are looking at is a fairly old problem. I had the same problem in the medical field, in that I have certainly been held to account on the idea that I could speak out and tell things that had gone on behind my closed door. I will tell members a little story about this. A year or two ago, a friend of ours disclosed to me that she had breast cancer and asked what she could do about it. I gave some advice in a social context over a cup of tea—nothing stronger. On a number of occasions, I answered her questions and gave advice and a suggestion about how she could move forward. Some months later, we were talking in the street and my wife was present at the time. She was speaking to my wife and mentioned her breast cancer and my wife said, “What?” Our friend said, “Didn’t you tell her?” I said, “Absolutely not.” Even if it is in a social context with a friend, I am not going to disclose medical information to a third party without the express consent of the person involved. It just is not done. I cannot do that and I will not do that. This friend may have been surprised, but my wife was certainly not because she always asks me but she never hears what is going on behind closed doors. This is an ancient principle that is thousands of years old: quis custodiet ipsos custodies? We have dealt with this for a long time. Here we have a very important and fundamental committee, and it was said today: who cares? I think that the people who are affected by the workings of our Corruption and Crime Commission and the police beneath that would have a very keen interest in how their security and safety is being upheld. Today the principle of the motion is about people’s privacy and how it has been lost due to the use of the COVID contact tracing application. People are rightly saying, “I do not trust government.” I hear examples of that in this place.

I am a new member; I know nothing. Who am I? I am a complete beginner in this place, so I have nothing to say about the effects of the committee. I can say that when Hon Martin Aldridge was introducing us to the committees, he put the fear of God into me when he said, “Do not relate anything about the committee work beyond the committee.” That was a very, very clear principle. This morning I was speaking to a colleague as she was heading off to a committee meeting. We were talking in general terms and we both reminded each other that we cannot reveal anything about the conversations. That is a very standard thing to do and it was referred to earlier how very important it is. Why is it important? It is important because in this chamber I am on the crossbench. I do not have a dog in this fight. I am not the opposition; I am simply here to review the laws. Yes, there is cannabis involved, but I am here to review the laws. My duty is to the people of Western Australia and to my electorate in particular, and I hold myself accountable and honour bound to obey the laws.

We heard about the concept of the important laws that are in this very important book, the standing orders, which we hold ourselves to and which we will be debating shortly. I have to say that I am a little bit concerned about the importance that this will play in the near future. I do not know what is coming and I will pay close attention. One of the things we have to be aware of is that this is a matter of principles. I do not care who said what or why or to whom; I am concerned with one principle: have members abided by the principles laid down in the standing orders of whichever house? If they have not, surely they need to be held to account.

I give members an example from the medical board. In Tasmania a little while back, a doctor had the temerity to give patients dietary advice. They were overweight, diabetic and he was telling them to stop eating sugar, cut back on their food, lose weight and they would not need coronary artery surgery. A dietitian body took offence at that and took him to the medical board, which actually wanted to deregister him for the temerity of upholding one of the three principles of medical care: nutrition, exercise and mental health. These are the three standards by which we measure our wellness. He was taken to the medical board for daring to speak about nutrition as a health professional. It turns out that the medical board was acting a little bit beyond its remit, because it had been receiving improper advances from the dietitians’ council to prosecute this colleague of mine. This gave him serious trouble for I do not know how many years, and he lost his ability to work as a doctor. That is an example of a body, which controls all doctors in this nation, behaving in a manner that is not compatible with the honour and integrity of a guardian of our medical morals.

Are we seeing the same thing here? I do not know. I know that this principle affects every one of us at work in this place every day. It is the underpinning of everything that we hold dear. We are the “honourable” members, and we

hold ourselves to that standard. It was said earlier that we are the parliamentarians; the other place is for the politicians. We can allow them to be a bit of a rabble. We can amuse ourselves looking at question time. But here we are dealing with serious matters. We are looking at and reviewing the laws. One important part of that, as I have come to understand it, is the work of the committees. In this place we have the government, the opposition and then this little crossbench here, where every time we stand up we are judged by one side or the other, or, indeed, by our own side.

It is very difficult to get up here and speak openly if you have a body that is judging you at the same time and saying, "You cannot say this because it is flying in the face of what we know to be true." For example, just last week or the week before, I stood and reminded members opposite of the need to return to the precepts of 2003 with the Gallop laws regarding cannabis and how all of a sudden these had been forgotten. Complete silence came from the other side. I understand why. They could not say yes; they could not say no. It was difficult for them to take a position because both sides were wrong and that was unfair of me and I apologise for that. I should not have put members in that position. But in committee, I would like to know that when I am speaking with people of whatever persuasion, I am able to give my opinion and hear an opinion and form my opinions based on the facts that other people can express to me, and not be influenced by my party political, social political or any other biases that I have. Instead, I can judge based on the merits of the case. This will allow us to work alongside each other with trust. Outside this chamber, I can have a cup of coffee and have a discussion with each one of you and I would like that to be the case in the committee as well, not just in the political arena.

It is simple for us new members. This is the forty-first Parliament and I would like to know that we uphold high standards of honour and integrity. I would like to believe that this is a belief held by every single one of us here. I expect this and I demand this of myself and I demand it of everyone here. Am I asking in vain?

There was clear evidence here and I ask: is interpretation of the evidence really needed? Members may remember that I lived for a while in the Soviet Union where an authoritarian government is in place. I was living in a small city there of half a million people and I was not allowed to leave the boundaries of that city because I was under the watchful eye of the KGB. I recall standing face to face with a man who refused me permission to leave that city boundary and shouting in several very pointed words. I will translate those words because no-one speaks Russian. I said, "I am a free man." The look on his face was one of utter consternation. The concept of a free man in that country was unknown. I recall at that time a friend of ours was relating a story about a family member who was stuck for 40 years in a kolkhoz farm. He was not allowed to leave the boundaries of that farm except to go to the village to pick up stores and come back. That was considered normal. That was an authoritarian approach, and I would hope that we do not have that in this chamber, the other place or anywhere in this nation of ours.

When a committee has lost trust in the integrity and honour of a member, it could be the case—I do not know; I have not worked on a committee yet—that my ability to speak freely about an opinion I have on a matter may result in me being dobbed in to the party leader and my career coming to a halt. I do not know. I can imagine that that might be the case, especially if we do not know whether that member will spread the word outside, whispering secretly to someone else, "Did you know that member so-and-so has this opinion? I don't know whether we can have that member in that position." I do not know. Can that be the case? Can it be excluded if we allow lack of trust to become a standard among all the members here? These are honest questions. I do not know, but I would ask everyone here to consider: is it right to allow a state of affairs in which we are unable to trust what our fellow member is saying or doing, and we have to watch what we are saying; we have to talk in whispers to make sure that no-one else can hear us, otherwise we will have repercussions down the track? Here in open chamber, of course, everyone can hear what we say, but in committee, we have to be able to speak openly, freely and truthfully. I do not care which side it is, I have absolutely no interest in the political ideas. I have an interest in doing the right thing for the people of WA, and I am sure that every single one of us here shares that point of view; if not, then shame on them. I do not think I can say that to anyone here. What I can say is that there is likely to be the case whereby our political overlords give commands to us that we abide by them because we want to maintain our position. I do not know; I am a beginner. I am simply watching what happens on television and drawing my conclusions. I may be completely wrong, but I suspect there may be an element of truth there. Fear of open expression is the enemy of truthfulness in all our actions.

I refer again to the idea of principles of integrity and honour, which reflects on all of us here. I would ask that we put aside our personal ideals and go for those principles—the integrity and honour that belong to each one of us here—and abide by those. If someone has done something that is an offence under our standing orders, we ought to have the courage to stand up for one of our own. I told members a story about a medical board that was doing nasty things behind the scenes and ruining someone's life. The members of that medical board banded together to try to hide the truth. Can we allow that to happen in our society? How many other organisations allow that to happen? I am going to speak about a veterinary board in a short while. How do we know that we are going to have the same principles up there of honesty, integrity and honour?

Hon Dr Steve Thomas: We have very similar issues.

Hon Dr BRIAN WALKER: We have this problem throughout our society. We here need to set the example because we are the ones standing up there. We are the ones who are judged because we are the ones in the public eye. We are the ones who set the tone. It is up to us to maintain these standards and to express them, and I would ask that we

consider this with an open heart, an open mind, and do our very best for the people of WA, the people that we represent, and, indeed, for ourselves, for our own honour and self-respect. Whatever the truth of the matter is—I have nothing to say because I do not know the situation—what I am hearing troubles me. For our own wellbeing, mental and spiritual health, I ask that we listen to what is going on and take appropriate action, whatever that is, I do not know, but we must use integrity and honour to handle principles which affect every aspect of our life. Thank you.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [3.22 pm]: Although I was first elected in 2005, I find myself a little nervous following Hon Dr Brian Walker's excellent contribution this afternoon. It was one of passion and substance and I thought it was a fantastic contribution. I will disagree with Hon Dr Brian Walker on one point, and that is that he said he did not have a dog in the fight. The reality is that every person here is here to not only scrutinise legislation but also lead their community and represent their people, and in that circumstance, he has an enormous dog in the fight. He is not a poodle; he is a Great Dane in this particular battle. That is the one part that I potentially took exception to. It was a magnificent contribution. We have had some excellent contributions today.

It is with a little concern that I seek to address the motion moved by Hon Nick Goiran, my good friend, because members will obviously be aware that I am the Deputy Chair of the Joint Standing Committee on the Corruption and Crime Commission, and so am very limited in what I can say about that committee and its current operations. In this circumstance, I simply refer to point (1) of Hon Nick Goiran's motion, which acknowledges the ongoing and important role undertaken by the Joint Standing Committee on the Corruption and Crime Commission in this forty-first Parliament. I thank him for that part. Obviously, and I think on behalf of the committee, I thank him for the reflection of the importance of its work. I intend to effectively make no further comment on the functioning of the committee in the forty-first Parliament, except to say that we have a new member—I hope I get the name right—in Hon Klara Andric, with a hard C.

Hon Klara Andric: It is "Andric".

Hon Dr STEVE THOMAS: Sorry; I knew I would get that wrong. Hon Klara Andric has made an excellent start to her committee work and I am sure she will make a great contribution into the future, as I am sure will other members in other committees.

With that simply said, I do not propose to talk in great detail about the current operations of the committee. However, I do have significant history with and knowledge of the operations of committees and also, interestingly, the Corruption and Crime Commission. To give members the benefit of that experience, I am going to concentrate on part (5) of the motion moved by Hon Nick Goiran—that is, that this house emphasises its expectation that all members serving on any parliamentary committee in this forty-first Parliament will respect and adhere to the standing orders under which their committee is operating. That is incredibly important. I can say that because I have had experience of a committee that failed to operate at the level and standard to which it should have been operating. Members may not be aware that when I was first elected in 2005 to the house that shall not be named—the Legislative Assembly of this state, much to my shame these days; I was elected to the seat of Capel—I was on the Public Accounts Committee, which is a very important committee that watches over the state of Western Australia. The Public Accounts Committee fell foul of the Corruption and Crime Commission. President, I am going to run out of time today, but I put members on notice that I will be extensively referring to the Corruption and Crime Commission's fifth report of 2008, *Corruption and Crime Commission report on behalf of the Procedure and Privileges Committee of the Legislative Assembly*. That brings all these groups into one report. It was titled *Inquiry conducted into alleged misconduct by Mr John Edwin McGrath MLA, Mr John Robert Quigley MLA and Mr Benjamin Sana Wyatt MLA*. Obviously, Mr Benjamin Sana Wyatt, MLA, is no longer in the Parliament—he served with some distinction, and I will discuss the accusations against him—but Mr John Robert Quigley, MLA, is obviously the current Attorney General. That should be a great warning to all members that failing to adhere to the highest of standards when serving on committees can get even the most adept and the most legally trained members of this place in some significant trouble. I look forward to going into this process in some detail in a week's time.

Debate adjourned, pursuant to standing orders.

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Point of Order — Sixty-first Report — Ruling by President

THE PRESIDENT (Hon Alanna Clohesy) [3.28 pm]: Yesterday, the Leader of the House raised a point of order regarding the appropriateness of a committee report being listed on the notice paper as both an order of the day relating to a corollary motion arising from a committee report and as an order of the day for consideration of the report in Committee of the Whole. A corollary motion is one that emanates from some part of a report.

The sixty-first report of the Standing Committee on Procedure and Privileges was presented on 20 May 2021. Three corollary motions were moved at the same time under standing order 190 that each of the recommendations contained in the report to re-refer partly undertaken privileges inquiries to the committee be agreed to. These three motions were listed on the notice paper as orders of the day on the following day and they remain undebated. The sixty-first report itself, which contained a significant amount of material unrelated to the three recommendations

such as an update report to the Legislative Council on legal proceedings involving the Council and regarding the ongoing interactions between the committee and the CCC, was made an order of the day under standing order 188 to be noted under "Consideration of Committee Reports". Consideration takes place under standing order 110 for a maximum of one hour. Standing order 110(1) states —

> Consideration of Committee reports presented under Standing Order 188 (except reports pertaining to Bills) shall be listed for noting in Committee of the Whole House as orders of the day on the Notice Paper.

As a result of the presentation of the sixty-first report, that report is now listed as four separate orders of the day, and each order has its own distinct question for the Council to debate. I observe that there is potentially no limit on the number of orders of the day that a single report may generate due to corollary motions. Nevertheless, an identified fault with the standing orders is the potential for larger information reports and reports in the nature of discussion papers to slip through effectively undebated by the Council due to corollary motion debates on extension of time requests or on specific recommendations being treated as effectively covering the field of a report. I note that prior to 2012, standing order 336 simply provided —

> Consideration in a Committee of the Whole of a tabled report and the next stage of a Bill so reported is an order of the day for a future sitting.

In 2011, the Standing Committee on Procedure and Privileges noted in its *Review of the standing orders* that slow progress was being made in the consideration of committee reports and there was —

> … consistent critique of the process for considering Committee reports, and specifically the substantial delay between tabling a report and the subsequent consideration of that report by the House.

The resulting standing order 188 therefore clearly stated that all committee reports, except those pertaining to bills, are listed for consideration during the time assigned for consideration of committee reports on Wednesday afternoons. In August 2013, the Standing Committee on Procedure and Privileges further reviewed the standing orders and in its twenty-fourth report considered additional reform of standing orders 188 and 190. As a result of the 2013 amendments to the standing orders, procedural motions, such as to extend time for reporting, were to be incorporated within substantive committee reports. Consequently, there was an increased likelihood that a corollary motion relating to the extension of time recommendation would be listed as an order of the day whilst a substantive remainder of the report would continue to be listed separately on the notice paper for consideration in committee of the whole. This is not a duplication of debate nor a breach of the standing order against anticipation of debate. This is because orders of the day are put to a vote and either adopted and agreed to or negatived. By comparison, a report debated under consideration of committee reports is simply noted by the Committee of the Whole.

The last time that a Standing Committee on Procedure and Privileges report was listed as both an order of the day and under "Consideration of Committee Reports" was in 2018 when the fifty-first report, a discussion paper on an inquiry into motions on notice, was listed both as an order of the day in relation to a corollary motion to agree to recommendations to extend both reporting and submission deadlines for an inquiry and also under "Consideration of Committee Reports" in relation to the substantive discussion paper content of that report. As this was the first time that the issue had arisen under the new standing orders regime, although the report was presented on 18 September 2018 it was not identified by staff as requiring listing in the "Consideration of Committee Reports" section of the notice paper until the next day and was not added to the notice paper until 20 September 2018. Meanwhile, the corollary extension of time motion had been listed as an order of the day on the notice paper on 19 September 2018 and was considered by the Council on that day.

I am of the view that an interpretation of the standing orders that facilitates the debate of committee reports in their entirety is preferred.

I rule that there is no point of order.

I also note that the Standing Committee on Procedure and Privileges is reviewing the standing orders and this issue is one of the many matters under review.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Chair of Committees (Hon Martin Aldridge) in the chair.

Standing Committee on Procedure and Privileges — Sixty-first Report — Progress report: Supreme Court proceedings and matters of privilege raised in the 40th Parliament — Motion

Resumed from 2 June on the following motion moved by Hon Sue Ellery (Leader of the House) —

> That the report be noted.

Hon SUE ELLERY: I thank the President for her advice to the house. The motions that arise out of the sixty-first report, *Progress report: Supreme Court proceedings and matters of privilege raised in the 40th Parliament*, are orders of the day and are to be dealt with in due course. I want to take a couple of minutes to make some comments about what is in the report and what is not in the report.

To the extent that the report provides a chronology of certain events, I think it is a useful document. To the extent that there is some pejorative language in the report about whether a member of the executive, in this case the Attorney General, directly intervened—that is the language that is used and there is a bit of other language—I could find no evidence of that in this report. Members may be aware that subsequently there has been some media coverage of whether an exchange happened in a court proceeding. I do not know the background to that. All I know is what I read in the media. But in the report that is before us, I could not see the sort of silver bullet that categorically demonstrates intervention by the executive. However, what is absolutely clear—abundantly clear—is that the two parties to this dispute, if you like, did not have an agreement about how to deal with matters in dispute.

It is clear that the committee was firmly of the view that it had progressed pretty well and it was of the view—it expresses that at various points—it had reached agreement, but at other points in the report, its language is less definitive and it says it understood it had reached agreement. The bit that makes it starkest is on page 287 of the report, which contains the transcript of Commissioner McKechnie's evidence to the Standing Committee on Procedure and Privileges. The commissioner is asked about the procedure the committee had agreed to and asked to provide an explanation, and his response in the transcript is —

> … I do not think there was ever any agreement reached. I think, as sometimes happened, each side thought there was a particular position and there was not a meeting of minds on it.

If nothing else is clear from this, it is clear that an agreement was not reached in the minds of both parties at the same time, which is a fairly fundamental problem. It may well have been that the committee was genuinely of the view at various points that they had agreement. I think elements of that are laid out in the report, but also laid out in the report is a degree of uncertainty about whether that had been confirmed by the commissioner of the CCC. The significant takeout is that element of the first recommendation in the report that there needs to be a memorandum of understanding reached between the two. It is that element of the first recommendation that I think will be the most useful way to go forward.

I am not on the Standing Committee on Procedure and Privileges, so I do not know whether that committee is considering this report at all. I do not know whether it has it before it and is pursuing a particular line of action or progress. I think court cases aside—that is taxpayers' money being used—and principles of the Parliament's right to assert itself aside, what needs to be resolved is that an agreement be made between the two, because this kind of thing will happen again. It might take another 10 years or whatever, but, in my mind, that probably should have been pursued earlier than when the particulars of this matter first blew up. Members who have been around for a while will remember that a memorandum of such between the Parliament and the Corruption and Crime Commission was a recommendation from several years ago. It was obviously unfortunate that it had not been progressed by the time the particular circumstances here blew up.

I might leave my comments there. People will read this and draw their own conclusions. I went looking for the categorical evidence that there had been intervention by the executive and I could not find it. If somebody wants to point it to me they can, but I could not find it in this report. I am interested to hear what other members have to say. Even though I will leave the chamber on urgent parliamentary business, I will be astutely listening in my office.

The CHAIR: Members, before I give the call to any further members, I remind members that standing order 21 now applies without the application of the temporary order; that is, each member is entitled to one period of 10 minutes per report. At the discretion of the Chair of Committees and when no other member wishes to speak, a member may be allocated a second period of five minutes per report. Just be aware of those time restrictions that apply to consideration of committee reports.

Hon NICK GOIRAN: We are finally here; it has taken several weeks while the Leader of the House decided each week to try to hide this report from our consideration but here we are finally with an opportunity to consider it. It is no wonder the government did not want to consider this report given its staggering revelations. I am somewhat amused and perplexed that the Leader of the House has indicated that she was unable to find what she was looking for in the report. It might be helpful to read the report in its entirety and then she might be able to find the information she was looking for. It does not take too much to read the then President's tabling statement, which reads —

> facts have come to light that this was the result of the direct intervention of the Attorney General in the CCC's investigation.

The Leader of the House said that that assertion was made but she could not find anything in the report to back it up. In the limited time we have let us take a look at this matter, particularly for those who will not have had the opportunity to know its full history. At the outset, I encourage members to familiarise themselves with the various findings and recommendations in this report. Finding 1 states —

> The PPC finds that:
>
> a) a total of 499,174 records relating to five CCC notices to produce records were the subject of the PPC's parliamentary privilege review;

b) a total of 10,079 records were determined by the PPC to be subject to parliamentary privilege; and

c) a total of 489,095 records were determined by the PPC to be not subject to parliamentary privilege.

Those numbers are staggering and I, indeed, congratulate the members of the then Standing Committee on Procedure and Privileges and any staff involved on the sheer magnitude of the work that was undertaken. If nothing else, it demonstrates the sheer quantum of the Corruption and Crime Commission's self-inflicted frustration of its own investigation. It can avail itself of thousands and thousands of documents. If members read the report, they will see that at first, the CCC took advantage of the offer from the PPC but since then has said, "No, we won't do that; we'll wait for the outcome of the court hearing." Indeed, I am sure that we are all waiting for the outcome of that court hearing. I will speak more about that when other matters come before the house in due course.

I draw to members' attention that the executive summary in the report indicates that the PPC has subsequently carried out its own audit of the produced documents and determined that 1 120 privileged documents were handed over at that time by the Department of the Premier and Cabinet–State Solicitor's Office to the CCC—1 120 privileged documents. That means that the law of Western Australia has been breached 1 120 times under the auspices of the McGowan government. It is no wonder the Leader of the House did not want us to debate this report over the last few weeks—1 120 breaches of the law. These documents were handed over to the CCC subject to parliamentary privilege. It was noted that, of the 1 120 records determined by the PPC to be privileged yet were produced by the DPC to the CCC, they included—the committee helpfully sets them out in its executive summary—six categories. We have just had a discussion about the importance of the confidentiality of deliberations. We know what the government's view is. Let me tell members that the sixth dot point of item 10 in the executive summary reads —

> confidential parliamentary committee material, including committee deliberations and draft report recommendations.

Perhaps it is no wonder the government does not want to support the motion we were just considering and it has been trying to hide this report from Parliament for the last few weeks and prevent us from debating it. It has been revealed that, under the auspices of the McGowan government, the member for Rockingham and the member for Butler, the law of Western Australia has been breached more than 1 000 times.

People who are interested in the passage of this matter and the obsession with certain peripheral matters, might take the opportunity to read this report and see that the only material that ought never to have been provided were those subject to parliamentary privilege; for example, confidential parliamentary committee material. To put that into some context for members, as the chair of the oversight committee of the CCC for eight years, there were times when we received information, as members can imagine in our oversight capacity, about the operations of the CCC. The oversight committee has a job to oversee the CCC and its extraordinary powers. People communicate to it and have complaints about that body from time to time and now, under the McGowan government's dictatorial rule, these types of committee deliberations can be provided. It has been done; it has been found to occur 1 120 times.

The other matters indicated were draft parliamentary speeches, draft parliamentary motions, draft parliamentary questions, submissions from members of the public requesting a member to vote a certain way, documents indicating how a member intended to vote on a bill or another measure and, as I say, confidential committee deliberations. When a constituent of Western Australia comes to see us and seeks our assistance effectively as a last resort because they have been unable to go somewhere else, particularly if they are a whistleblower, they should have the confidence and the trust that that confidence will not be broken. We have just heard from Hon Dr Brian Walker, who, quite helpfully, reminded us about patient–doctor confidentiality. The same principles apply to solicitor–client privilege for my fellow learned friends in the legal fraternity. Under the dictatorial regime of the McGowan government, there is no respect for the rule of law. In this situation facts have come to light that the Attorney General has directly intervened in the Corruption and Crime Commission's investigation. It is most regrettable—although it no doubt suits the Leader of the House—that we are now operating in circumstances in which a member has a mere 10 minutes to speak to a report of more than 300 pages. It contains significant matters that have not been addressed and, as the Leader of the House has already indicated, will come up again. I draw members' attention to paragraph 5.49 on page 106, which says —

> Finally, in an sms message sent by the Commissioner of the CCC to the Attorney General dated Monday, 22 July 2019, the Commissioner wrote:
>
> > The DPC has delivered a USB in accordance with the requirements under the CCM Act. Any privileged material was identified —

Garbage! That is my interjection into the quotation, for the benefit of *Hansard*. That is absolute garbage. It says privileged material was identified—clearly not, as we had 1 120 breaches. Nevertheless, the quote continues —

> and removed prior to delivery. I have ordered that the USB remain in the secure exhibit room. In the absence of any indication to the contrary I will release it to the investigators later this week. Enjoy your last night in Bali.

This is John McKechnie communicating with John Quigley on 22 July 2019. This is a staggering, staggering revelation that a person who is supposed to be entirely independent and who is the corruption watchdog is colluding with the first law officer of Western Australia, the Attorney General, and seeking direction from him as to whether this material is going to be released to investigators! As if it is up to the honourable Attorney General to dictate whether this material goes to the investigators or not. There is so much more to be said about this particular matter, and I regret that we do not have time to deal with it today.

Hon TJORN SIBMA: In the 10 minutes I have been gifted, for the benefit of newer members I want to provide the circumstances surrounding this sixty-first report of the Standing Committee on Procedure and Privileges. I suggest that members make their way first to the then President's tabling statement and to the executive summary of this report. That is not all members need to know, but it is a very good starting point, because it is fair to say that this matter has been misrepresented both by members of the government and the media. To apply the most charitable interpretation to that misrepresentation in respect of the media's reportage, one might observe that the issues at stake are actually complex and that the material germane to the subject matter contained in this report—essentially, two Supreme Court actions—are extensively detailed. Nevertheless, it is worthwhile that this discussion about committee reports comes on the back end of the motion that we debated recently, because it goes to the integrity of the committee's deliberative processes. It might come as some surprise to newer members that this report was largely authored by five members who represented different political parties; obviously the ex-President Hon Kate Doust, ex-Labor member Hon Adele Farina, Hon Martin Aldridge, and Hon Simon O'Brien, who was the father of this house, which is to say to newer members that he had the longest term of service, some 24 years, so he knew what he was doing, and for a brief period of time, yours truly.

The circumstances upon which I was appointed to this committee have been discussed elsewhere, but I only draw attention to it for the fact that I came into this process with an open mind because the debate that I had heard inside and outside of this chamber, frankly, was a little confusing and a little opaque. Again, that is a function of some of the complexity involved. I was compelled to come to grips pretty quickly with over two years' worth of deliberations, some 80 meetings of the Standing Committee on Procedure and Privileges. What did I learn in the course of that experience? Well, I learnt some things, frankly, I would prefer never to have known about, because it did undermine something of my residual trust in the capacity of executive government and ministers of that government to conduct themselves properly. On that score, I refer to references made in the tabling statement, in the executive summary and in the body of the report, because once again I am compelled by the Leader of the House, through her politically clever and artful contribution, to correct some matters of fact. The Leader of the House put it to us that, effectively, the statements contained within the tabling statement and the executive summary were pejorative statements that reflected ill on the Attorney General. Members, they can be absolutely substantiated in pages 101 through to 106 of the report.

I cite additional evidence to the text message exchange just read in by Hon Nick Goiran—that is, another piece of evidence appears on page 101 of that report which refers directly to the outcomes of the Attorney General's direct intervention and involvement in this matter in a way that I would categorise, as an ordinary member of this chamber, to be absolutely inappropriate, and more properly I would say that a conscientious and conservative Attorney—not in a political or partisan way—would be minded not to do. I will read this reference to a letter from Mr Nicholas Egan, the State Solicitor to Mr John McKechnie, SC, dated 4 July 2019. This is footnoted at the bottom of page 100 and that footnote is interesting because it reveals that this evidence was obtained by the PPC only in December 2020. I refer members to paragraph 5.45, which reads —

> On 4 July 2019, Mr Nicholas Egan, State Solicitor, wrote to the Commissioner of the CCC in the following detailed terms confirming "the agreement" that had been reached between the Commissioner of the CCC and the Attorney General:

That is a reflection of a defined action that was recognised by the State Solicitor's Office. It is not a flippant accusation put in there without due regard or with scant regard to the facts of the matter; there was direct evidence that was confirmed in a letter from the State Solicitor, Mr Nicholas Egan, which confirmed the Attorney's direct involvement.

As reflected in the report, paragraph 2 of that letter relates —

> 'I understand that you —

That is, Justice McKechnie —

> have agreed with the Hon Attorney General a process under which:
>
> (a) officers of the [CCC] will assist officers of the DPC to identify those electronic documents which fall within the terms of the notices and then apply search terms to identify which of those documents —

That is, relevant documents —

> … are of interest to the CCC, but without any of those documents ever leaving the possession of the DPC, or being read, copied or retained by the CCC;

Independent members are allowed to take a view of whether that was a pragmatic or practical process, but what they cannot dispute is that this is direct evidence of the Attorney General's intervention. I put it to members that that is inappropriate and, in the context of the broader debate and the defence of a fundamental parliamentary principle—the principle of privilege—it was absolutely untoward and unwarranted. It should not have occurred. Why it sticks out and why it is so salient is because of a disputation over the process of an agreement being formulated by this house with the Corruption and Crime Commission, which would effectively manifest itself in a memorandum of understanding. In essence, it would provide scope for Parliament to facilitate lawful inquiries by the CCC but in a way that did not imperil parliamentary privilege. It seems to be the view, again, unfortunately put by the Leader of the House, that the burden of failure to strike an agreement rests completely with this Parliament and this house, and that is absolutely not true. In the 10 seconds available, I will say that this issue is not a partisan matter. It is not a trivial matter. It is a vitally important matter and it gets to the heart of the fundamentals of governance in this state.

Hon Dr STEVE THOMAS: Again, I will be very cautious about the comments I make today given the position that I currently hold. I suspect this is one of the most astounding reports that has ever been placed on the table in the Legislative Council. It is a most amazing document and it goes to the heart of a couple of key principles. The first of those has been mentioned; that is, the concept of privilege. For those members who perhaps have not looked into this, privilege in Parliament has been around for a very long time and it is considered to be a very important underpinning of Parliament. It is that we have to be able to have fearless, free and frank conversations with constituents and with each other. Those things need to be protected so that we are not at the whim of the law. Parliamentary privilege is very important. It is not universal and has never been so. Members cannot make a statement in this place and go outside and say, "I stand by the comments I made in that place" and assume that they are free and cannot be chased because parliamentary privilege in itself is limited, but it is critically important.

The report before us today goes to the key issue of privilege and whether privilege still exists. I would be very interested to know the government's position and whether it thinks that parliamentary privilege is still an important part of the Westminster system because I have not heard, in any of the debate from government members on these issues, whether they still believe in parliamentary privilege. I will make some comments next week on the motion about how some members of the government who believed very strongly in parliamentary privilege in their other lives perhaps do not so much today. I am very interested to hear what the government says about whether it still thinks that parliamentary privilege is important. We have not heard an indication from the government about its standing on parliamentary privilege and whether it thinks it still matters.

It might come as a surprise to government members that many people think parliamentary privilege is still essential in the same way that we heard before about doctor–patient confidentiality. We know that the legal profession also has obligations on what they can disclose. Surely members of the government consider that parliamentary privilege is still an important component of what we do. It was quite astounding to read it and I will jump to the executive summary of the incredible sixty-first report. This astounded me. I quote —

> Quite simply, it is the PPC's view that at the heart of this matter is an entirely inexplicable sudden cessation of good faith negotiations between the PPC and the Commissioner of the CCC. This coincided with the bald usurpation of the powers and privileges of the Legislative Council through the calculated intervention of the Attorney General and State Solicitor's Office (SSO), to the potentially unlawful benefit of the CCC.

I do not think I have heard a more important and potentially more damning statement in a committee report. We normally make rather bland statements in committee reports. Occasionally, they create a little bit of interest but this is one of the most important reports I think we have ever had. We have to take this at face value. This is an instance in which the issue of privilege is under threat. I do not want to pre-empt the decisions that might be made at a later date, but I will jump to paragraph 9, which I think is also critical. I quote, in part —

> After a month of negotiations between the PPC and CCC via written correspondence, and adjustments made to a protocol to account for the issue by the CCC of its second notice, the PPC was under the impression that a workable protocol had, in fact, been reached.

That is a protocol in which the CCC could access documents that may or may not, at that point, have contained privileged information. It continues —

> Then, without clear explanation to this day, the Commissioner of the CCC reneged on his earlier indicated approval of the draft negotiated protocol and immediately began separate negotiations directly with the Attorney General to displace the Legislative Council's proposed protocol with their own device.

Under what authority does the Attorney General displace the negotiations between the Legislative Council, as represented by the privileges committee, and any other organisation? It is one of the most astounding usurpations of the power of the Legislative Council that I have ever seen, if the report before us is to be believed. It is a report from some outstanding members on both sides of politics, members who carry enormous respect around Parliament, including members of the Labor Party who have probably been pilloried for taking that principled position in a way that I suspect nobody else would put up with. It is astounding to think that we should not give some weight to these recommendations.

The executive summary goes on. I quote —

> Despite repeated requests and, ultimately, orders from the PPC not to produce the likely privileged evidence to the CCC … the Director General handed over to the CCC approximately 70,000 documents on 22 July 2019 that in the SSO's opinion were not subject to parliamentary privilege. The PPC subsequently carried out its own audit of the produced documents and determined that 1,120 privileged documents were handed over at this time by the DPC/SSO to the CCC.

I will come back to this fundamental principle of whether privilege exists. It still astounds me and we have yet to hear government members give us an indication of their position on it. Does privilege exist, Deputy Leader of the House?

Hon Stephen Dawson: Mate, you're the one who's got the floor. Keep going!

Hon Dr STEVE THOMAS: I am waiting for someone in the government to give us an answer. Does privilege exist? If privilege exists then members of the government should be amazed and, to some degree, outraged by the sixty-first report dropped in this Parliament last month, but they have still given no answer. Members of the government, particularly new members, will have to make an assessment of whether they believe privilege is important. We are at, in my view, one of those great junctures in the history of Parliament in Western Australia. Members might think that the election was a great juncture and a great turning point, but that was simply a win–loss situation. This is a genuine turning point.

Hon Stephen Dawson: Is that how you put it: a win–loss situation?

Hon Dr STEVE THOMAS: Yes, a win–loss situation. You cannot win them all, minister.

This is a great turning point in the Parliament of Western Australia, because we, as an opposition, have to ask that fundamental question, and we have to keep asking it until the government gives us an answer in one way, shape or form. It does not seem to want to give us a verbal answer across the floor and that is okay. It will probably give us an answer in some form of action or legislation that will demonstrate a complete contempt for parliamentary privilege, which we will look at. Honourable members should remember that when they display contempt for parliamentary privilege, they are actually displaying contempt for this chamber, because we cannot operate without it. If members are determined to make sure that there is no great reflection on parliamentary privilege—if it does not matter and if they cannot answer that question—they will be holding this chamber in contempt. They obviously hold us in contempt. More importantly, the next time they are in the caucus room and the issue of whether the Legislative Council is an evil place filled with people who are just trying to hide stuff comes up, they need to ask themselves whether they are holding themselves in contempt as well. Surely privilege matters to all members who are sitting in this chamber and wondering where we can go with this debate. Is it simply the case that executive government rules and the Legislative Council of Western Australia no longer plays a relevant role in holding governments, Parliaments and legislation to account? That is where we are headed at the moment. We are headed to a place where there is no accountability, where it does not matter and where the first law officer of the land apparently can do things like conflate arguments, interfere with the functions of a committee and hold us all in contempt.

Hon COLIN de GRUSSA: I, too, want to contribute to the discussion on the sixty-first report of the Standing Committee on Procedure and Privileges. It is a very interesting, weighty report. However, if we are to break it down, I think the honourable Leader of the Opposition touched on the most fundamentally important part of this report. It is not who did what, who gathered which piece of evidence, who requested what and who set up the procedures. The most important aspect of this report is the concept of parliamentary privilege, which we operate under in the Westminster system. It is fundamental to our democracy. We cannot do what we do in this place or, indeed, in any Parliament without the sovereignty of parliamentary privilege.

I turn to Erskine May's *Parliamentary Practice*, the bible of the Westminster system and parliamentary privilege. Paragraph 12.1 outlines what constitutes parliamentary privilege. It states —

> Parliamentary privilege is the sum of certain rights enjoyed by each House collectively as a constituent part of the High Court of Parliament and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Some privileges rest solely on the law and custom of Parliament, while others have been defined by statute.

I will not go on to read more of that, but the point is that when we are in this place and we are debating various issues or are dealing with constituent issues, they ought to be protected by privilege because some of the matters that we raise in this place could ordinarily find us dealing with legal action that would in fact prevent us from doing our job. When a constituent comes to a member with a most grave issue that they cannot talk about publicly for fear of litigation and the member must raise it in order that we make better laws for the land in which we live, the member must have the protection of the sovereignty of privilege in Parliament. Indeed, there is very interesting reading on page 49 in chapter 3 of the sixty-first report. Parliamentary privilege was established in ancient times, but the chapter heading says "Parliamentary Privilege in a Terabyte Age". That is the critical point here. In the past, handwritten documents were passed around and it was probably a heck of a lot easier to establish what constituted a privileged document and what constituted proceedings in Parliament because there were far fewer documents to sort through. When we consider the modern email and computer systems that we use and the literally thousands upon thousands

of documents to consider, it makes it very difficult to quickly establish what is and is not a privileged document. Importantly, the role of establishing what is subject to parliamentary privilege is not for anyone but the Parliament, and that is one of the fundamental matters at the heart of this report. Yes, it is clear that we need to establish procedures to identify what is privileged, and those procedures need to work in circumstances in which there is a mountain of data to go through. However, who can determine that? The answer to that question is the Parliament. No-one else can determine that.

Debate interrupted, pursuant to standing orders.

[Continued on page 1501.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

STATE FINANCES — DEBT REDUCTION ACCOUNT

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

I refer to the Western Australian debt reduction account.

(1) What is the current balance of the account?

(2) What is the total income to the account from its inception in 2017–18 to date?

(3) What is the total paid out of the account from its inception in 2017–18 to date?

(4) Of the total in (3) —

(a) how much has been used to pay down existing government debt; and

(b) how much has been used as expenditure to replace the need for additional debt?

Hon STEPHEN DAWSON replied:

It is not even Thursday, honourable member! I thank the Leader of the Opposition for some notice of the question. The following answer has been provided to me by the Treasurer.

(1) As outlined on page 45 of the March 2021 *Quarterly financial results report* tabled in this house, the balance of the debt reduction account is zero.

(2) The total is $3.399 billion.

(3) The total is $3.399 billion. It is important to note that the debt repaid is from the previous Liberal–National government. Its incompetent management of the state's finances resulted in massive deficits that took the state from $3.6 billion in debt when it came to office, on a path to $44 billion by 2019–20. Net debt at the end of the March 2021 quarter stood at $33.6 billion, more than $10 billion lower than expected under the former Liberal–National government, despite the state government having to deal with COVID-19.

(4) (a) A total of $1.852 billion; and

(b) $1.547 billion.

CORONAVIRUS — SMALL BUSINESS GRANTS

275. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Small Business:

I refer to the $2 000 Perth, Rottnest and Peel small business lockdown grants that became available on 26 May 2021.

(1) How many applications have been received for the grant?

(2) How many applications have been approved for the grant?

(3) For successful applications, how many were businesses in each of the following payroll categories —

(a) $1 million to $2 million;

(b) $2 million to $3 million; and

(c) $3 million to $4 million?

(4) How many unsuccessful applications have been submitted for the grant?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. For the member's records, I represent the Minister for Small Business. The following answer has been provided to me by the Minister for Small Business as at 16 June.

(1) A total of 5 815 applications.

(2) A total of 2 362 applications.

(3) The applications process does not require businesses to supply this information.

(4) A total of 652 applications.

SALMON HOLES — LIFE JACKET TRIAL

276. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Fisheries:

I refer to the state government's compulsory life jacket trial at Salmon Holes in Torndirrup National Park near Albany that commenced on 1 January 2019.

(1) How many cautions were issued for not wearing a type 1 life jacket during January 2019?

(2) How many fines of $200 or more were issued for anyone not wearing a type 1 life jacket in the trial area for each month from 1 February 2019 until 1 June 2021?

(3) Were any cautions issued to anyone not wearing a type 1 life jacket in the trial area from 1 February 2019 until 1 June 2021?

(4) At the completion of the trial on 30 June 2021, how and when will the results be communicated to the public?

Hon KYLE McGINN replied:

I thank the member for some notice of the question.

(1) Nil.

(2) A total of 21 infringements were issued for the period 1 February 2019 to 1 June 2021 as follows: 24 April 2019, two infringements; 28 December 2019, two infringements; 2 March 2020, one infringement; 28 March 2020, two infringements; 24 April 2020, one infringement; 23 May 2020, one infringement; 26 December 2020, three infringements; 14 February 2021, one infringement; 15 March 2021, one infringement; 27 March 2021, two infringements; 28 March 2021, one infringement; 18 April 2021, one infringement; and 25 April 2021, three infringements.

(3) Four cautions were issued to minors.

(4) The Department of Primary Industries and Regional Development and the Department of Biodiversity, Conservation and Attractions will write to key stakeholder groups regarding the outcomes of the life jacket trial at Salmon Holes in the Torndirrup National Park, and a media release will inform the public of the trial outcomes. A time is yet to be determined for results of the trial to be communicated to the public.

SAFEWA APP — ACCESS

277. Hon TJORN SIBMA to the parliamentary secretary representing the Attorney General:

I refer to the Attorney General's concerning revelation that SafeWA app check-in data can presently be accessed by the Corruption and Crime Commission and by individuals making freedom-of-information applications.

(1) Has the CCC or any government agency or statutory authority other than WA Police sought access to contact tracing data at any time since the launch of the SafeWA app; and, if so, for what purpose?

(2) If yes to (1), was access granted or in the process of being granted prior to the introduction yesterday of the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021?

(3) Has any private citizen sought access to contact tracing data via freedom-of-information applications at any time since the launch of the SafeWA app; and, if so, for what purpose?

(4) If yes to (3), how many applications have been made, and has access to this information been provided in whole or in part prior to the aforementioned bill's introduction?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. The following answer is provided on behalf of the Attorney General.

(1) No.

(2) Not applicable.

(3) No. If such an application were made, even without the proposed legislation, the request would be refused under the grounds available in the Freedom of Information Act.

(4) Not applicable.

HEALTH — PREGNANCY INFORMATION

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

I refer to the revelation in the other place on 10 November 2020 that the McGowan government has removed the contact details of Pregnancy Problem House and Pregnancy Assistance from the WA Health brochures provided to women considering an abortion.

(1) Who made this decision?

(2) When was this decision made?

(3) Will the minister table a copy of the briefing note, advice or similar document that led to the decision being made?

(4) If no to (3), will the minister undertake to comply with section 82 of the Financial Management Act 2006?

Hon STEPHEN DAWSON replied:

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

(1) A decision has not been made to remove the contact details of Pregnancy Problem House and Pregnancy Assistance from the WA Health brochures provided to women considering an abortion. Content of the brochures is currently under review.

(2)–(4) Not applicable.

JARRAHDALE — SCHOOL BUS SERVICES

279. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Transport:

(1) Can the minister confirm that students living in Jarrahdale will not be able to access school bus services from 19 July 2021?

(2) If yes to (1), will the minister detail the consultation that was undertaken with the Jarrahdale community prior to this decision being made?

(3) If yes to (1), is the minister aware of the significant concerns being raised by families regarding the impact of the cancellation of these services; and, if so, will the minister reverse the decision; and, if not, why not?

Hon SUE ELLERY replied:

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

(1) No.

(2)–(3) Not applicable.

GOVERNMENT REGIONAL OFFICERS' HOUSING — RENT INCREASES — POLICE

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

I refer the minister to the increase in rent for Government Regional Officers' Housing in each of the regional and remote districts throughout Western Australia from 2017 to 2020.

(1) Has the Western Australia Police Force covered the entire rent increases for serving police officers in 2017, 2018, 2019 and 2020?

(2) If not, what proportion of the rent increases have been covered for each of these years?

Hon STEPHEN DAWSON replied:

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

The former Liberal–National government increased the maximum amount by which GROH rents could be increased to $30 a week from 2016–17 and built those increases into future budgets. The McGowan government froze GROH rents in 2019–20 and 2020–21.

The Western Australia Police Force has provided the following advice.

(1) No.

(2) From 2017–18, zero dollars.

GOVERNMENT REGIONAL OFFICERS' HOUSING — BROOME

281. Hon WILSON TUCKER to the Leader of the House representing the Minister for Housing:

I refer the minister to the answer provided to me on Tuesday, 15 June that "All GROH properties in Broome are currently allocated to client agencies". I ask again: how many GROH properties are currently vacant in Broome?

Hon SUE ELLERY replied:

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

Government Regional Officers' Housing properties are provided to a client agency to meet their need for housing. The client agency determines the allocation of properties to their employees, not the Department of Communities. It is not uncommon that client agencies may have allocated vacant properties to enable them to recruit and deploy suitable employees, including health staff, teachers and police.

The department advises that as at 15 June 2021, 27 GROH properties were vacant and awaiting allocation or reallocation. This includes 21 GROH-leased properties not owned by the department.

MEDICAL CANNABIS — PHARMACEUTICAL BENEFITS SCHEME

282. Hon SOPHIA MOERMOND to the minister representing the Minister for Health:

I thank the minister for his answer to my question without notice 193 on 1 June on medicinal cannabis and the pharmaceutical benefits scheme. Further to his answer to part (3), will the minister table the correspondence to which he referred; and, if not, why not?

Hon STEPHEN DAWSON replied:

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

Yes. I table the attached correspondence.

[See paper 282.]

CORONAVIRUS — VACCINATIONS

283. Hon Dr BRIAN WALKER to the minister representing the Minister for Health:

I refer the minister to the healthdirect Australia COVID-19 vaccination website, which is directing all those under the age of 50 here in WA, regardless of residential suburb, to the Claremont Showground centre. What factors, if any, are preventing the rollout of under-50s vaccination elsewhere across the metropolitan regions, and the state as a whole?

Hon STEPHEN DAWSON replied:

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

The commonwealth manages the COVID-19 vaccination program, allocating vaccines to providers, including the primary care sector and WA Health. Within the WA Health vaccine allocation, there are no impediments to the rollout of vaccination opportunities to people aged between 30 and 49 years.

The Pfizer vaccine, which is currently allocated to under 50s, is available at the following metropolitan areas: the Claremont clinic; the Joondalup and Kwinana clinics in the week commencing 21 June 2021; and the Redcliffe clinic in the week commencing 28 June 2021. In regional areas, Pfizer is available at the Bunbury COVID-19 community vaccination clinic and has been offered at 38 locations across country WA at various points in time. As supply increases, the program will further flex up and ensure that convenient options are available for all Western Australians to be vaccinated.

SAFEWA APP — ACCESS — POLICE INVESTIGATION

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

I refer to data retained by the state government and its contractors in relation to the SafeWA contact registers and application.

(1) On how many occasions has information been sought for a purpose other than responding to the COVID-19 pandemic?

(2) On how many individual occasions has information been provided for a purpose other than responding to the COVID-19 pandemic?

(3) On what date did the Minister for Health and/or his office first become aware of the request from the WA Police Force?

(4) Please table any advice or correspondence received by the Minister for Health in relation to the release of data to investigative agencies or others.

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 Health.

(1) WA Health has received seven requests for SafeWA data for purposes other than responding to the COVID-19 pandemic. These were all requested by the WA Police Force as individual orders to produce.

(2) WA Health provided SafeWA data in response to three of these requests, relating to two police investigations.

(3) It was on 31 March 2021.

(4) Advice is being sought before any documents are tabled.

WATER AND ENVIRONMENTAL REGULATION — FARM ACCESS

285. Hon JAMES HAYWARD to the minister representing the Minister for Water:

I refer to the land access powers of the Department of Water and Environmental Regulation.

(1) Does the department have procedures in place to arrange access with landholders to ensure that farm biosecurity and staff safety requirements are met?

(2) If yes to (1), what are those procedures; and, if not, why not?

(3) In what specific exceptional circumstances does the department consider it appropriate to access properties without contacting landholders?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Water has provided the following answer.

(1)–(2) Entry to private property for departmental purposes is undertaken with consideration given to any farm biosecurity advisory signage and in accordance with the following process. First, seek consent to enter if practical. If consent is obtained, no further authorisation is required. If consent is not obtained or not required, officers may enter under the relevant applicable statutory provisions. Should entry be physically opposed, officers are instructed to notify their branch manager, the compliance and enforcement unit and the divisional director to seek advice and to obtain, where appropriate, a warrant under section 72(6) of the Water Agencies (Powers) Act 1984. If a warrant is obtained, the department will request the WA Police Force to accompany the officer when entry is made in order to ensure officer safety. Officers must document all entries made as either a file note or a report to their manager/supervisor. Should a legislative quarantine requirement be in place for the property, the officer will not enter without appropriate authorisation.

(3) The exceptional circumstances whereby the department considers that it may be appropriate to access private property without first contacting the landholder include, and are covered by, section 71(1) of the Water Agencies (Powers) Act 1984, which provides for entry onto property without notice for the purposes of routine inspection, or routine maintenance, or to ascertain whether any offence against the relevant legislation has been or is being committed. Section 73 of the same act provides that entry may be made without notice in the case of an emergency, which may be actual or apprehended danger or health risk to any person or property; the occurrence of injury, disease or damage attributable, or which might be attributable, to any defect in, or any malfunction, misuse or improper use of, the works of the minister. Notice is to be given once the emergency has passed. Under section 72(3) of the same act, notice is deemed to be given and the department may enter when the landowner cannot be located after reasonable attempts have been made by the department to do so and the department has affixed on the land notice of entry for at least 48 hours.

LOT 350 — KALGOORLIE

286. Hon NEIL THOMSON to the minister representing the Minister for Lands:

I refer to lot 350 in the City of Kalgoorlie–Boulder.

(1) Did the City of Kalgoorlie–Boulder initiate a crown land inquiry for lot 350 on 23 October 2018 with the Department of Planning, Lands and Heritage, and also notify the Department of Mines, Industry Regulation and Safety of its application on the same day?

(2) Has the city been in regular contact with government agencies, including DPLH, DMIRS and the Department of Jobs, Tourism, Science and Innovation since lodging its crown land inquiry on lot 350?

(3) Was the city provided with a flowchart by JTSI, developed in collaboration with DPLH and DMIRS, on 8 May 2020, mapping out the state and city processes for lot 350 and lot 500 to address mining tenure and to provide the city with a lease for lot 350, and is the minister aware that the city followed the flowchart in good faith, as provided?

(4) Did DPLH and the city reach agreement on a draft lease template for lot 350 and draft sublease template for the Eastern Goldfields Mining Company Pty Ltd in late August 2020?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question, and I apologise: some of the information that was given to me yesterday in relation to a question on a similar matter was incorrect. I apologise to the member and to the house. The following information has been given to me by the Minister for Lands.

(1)–(3) The Minister for Lands is aware that the Department of Planning, Lands and Heritage received a crown land inquiry from the City of Kalgoorlie for lot 350 on 23 October 2018. I clarify that that was not in 2020. The Department of Planning, Lands and Heritage has been in regular contact with the city. For information related to agencies other than DPLH, the member should refer his questions to the appropriate minister.

(4) The Department of Planning, Lands and Heritage regrettably provided an incorrect response to part (1) of yesterday's question without notice 263. The department had reached an agreement with the city on a draft lease template for lot 350, and a draft sublease template for Eastern Goldfields Mining Company Pty Ltd. However, as the member should be aware, while negotiations can be undertaken at officer level, the final decision on the disposition of land lies with the Minister for Lands. In this case, given the outcomes of the industrial lands study, the decision has been made that the land will be developed by DevelopmentWA as a strategic development area. The minister says that he apologises to the house for the error.

Several members interjected.

The PRESIDENT: Order!

WA RAIL ACCESS REGIME — REVIEW

287. Hon STEVE MARTIN to the minister representing the Treasurer:

I refer to the WA Treasury review of the Western Australian rail access regime. Given that in February 2020 a final decision paper was released, can the Treasurer give an update on the government's response to the review?

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 Treasurer.

Since the release of the final decision paper, the Department of Treasury has continued to consult with stakeholders on the implementation of the reforms. Regulatory amendments are being developed to act on the recommended changes.

MACHINERY-OF-GOVERNMENT CHANGES —
DEPARTMENT OF JOBS, TOURISM, SCIENCE AND INNOVATION

288. Hon Dr STEVE THOMAS to the minister representing the Minister for State Development, Jobs and Trade:

I refer to the McGowan government's machinery-of-government changes announced in April 2017 and implemented in the revamped Department of Jobs, Tourism, Science and Innovation from 1 July 2017.

(1) What has been the cost to the department of the changes by financial year from 2017–18 to date?

(2) What is the quantum of savings registered by the department by financial year from 2017–18 to date as a result of the changes?

(3) What reduction in senior executive service–level staff occurred in the department as a result of the changes?

(4) What additional costs and savings have been budgeted for in the future as a result of the changes?

Hon ALANNAH MacTIERNAN replied:

The member will like this answer! I thank the honourable member for some notice of the question.

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

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 2021

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

I refer to recent answers from the minister concerning the compatibility of extant commercial and recreational activities with special purpose zones to be established for Aboriginal culture and heritage under the Conservation and Land Management Amendment Bill 2021.

(1) At what point or points in the decision-making process will the operators of extant commercial or recreational activities be advised that their operations are likely to be incompatible with the purpose of the above-mentioned category of special purpose zones?

(2) What specific rights of reply or rights of appeal embedded in this process will be granted to these operators to challenge or amend a determination of incompatibility?

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) Operators of existing commercial or recreational activities are consulted during the preparation of an indicative management plan for a marine park. Activities that are potentially incompatible are identified in the indicative management plan. Where activities may be incompatible with the conservation purpose of a special purpose zone to be established for Aboriginal culture and heritage, operators will be notified at the time the indicative management plan is released for public comment.

(2) The decision to approve a marine park management plan, which amongst other things addresses the zoning and incompatible uses, rests with the Minister for Environment following the concurrence of the Minister for Fisheries and the Minister for Mines and Petroleum. Any stakeholders, including operators of commercial and recreational activities, can take their concerns to the relevant minister prior to a management plan being approved.

CRIMINAL INJURIES COMPENSATION SCHEME — REVIEW

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

I refer to the Attorney General's direction on 21 September 2017 which triggered the Department of Justice's review of the criminal injuries compensation scheme, which, although scheduled for completion by October 2018, was not completed until 27 November 2019.

(1) Is the Attorney General aware that the department recommended that the current scheme be amended in accordance with the recommendations set out in the review report?

(2) On what date was approval given to develop a business case?

(3) On what date was the development of the business case completed?

(4) Will the Attorney General table the business case?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question, which was originally asked on 3 June. I do not currently have an answer to that question, but one will be made available to the member tomorrow.

METROPOLITAN CHILD DEVELOPMENT SERVICES — WAIT TIMES

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

I refer to metropolitan child development services. Will the minister advise of the current median wait times for children in the primary years of schooling to access paediatricians, audiologists and clinical psychologists?

Hon STEPHEN DAWSON replied:

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

METH BORDER FORCE

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

I refer to the commitment of the Labor government to establish a meth border force.

(1) How many sworn police officers were attached to the meth border force in 2018, 2019, 2020 and 2021 to date?

(2) How many specialised intelligence staff were attached to the meth border force in 2018, 2019, 2020 and 2021 to date?

(3) How much funding has been allocated to the meth border force in 2018, 2019, 2020 and 2021?

Hon STEPHEN DAWSON replied:

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

(1)–(3) The McGowan government's commitment to provide 100 extra police officers and 20 specialist support staff for the meth border force initiative has been delivered. Since 2017–18, $168.7 million has been provided to the Western Australia Police Force for this important initiative. The Western Australia Police Force advised that the details sought cannot be provided in the time available.

MURUJUGA ROCK ART — MONITORING CONTRACT

293. Hon WILSON TUCKER to the minister representing the Minister for Environment:

I refer the minister to her media statement made yesterday, 15 June, announcing the appointment of Calibre Ventures to monitor the Murujuga rock art. Given the cultural significance of Murujuga as the largest collection of rock art in the country, I ask the following questions.

(1) On what grounds was the contract with Puliyapang cancelled?

(2) Of the $7.2 million contract, how much has been paid to Puliyapang to date?

(3) Were all moneys paid to Puliyapang cost-recovered from licence holders; and, if not, will the minister please provide the breakdown of state government moneys paid?

(4) When did the government first publicly reveal that the contract with Puliyapang would be cancelled?

(5) When did the procurement process for a new monitor begin?

Hon STEPHEN DAWSON replied:

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

(1)–(2) This information is commercial-in-confidence, including with respect to contractual obligations.

(3) Funding for the monitoring program is provided by Woodside Energy, Rio Tinto and Yara Pilbara.

(4) The government did not publicly disclose termination due to confidentiality obligations. The government responded to media queries from Wednesday, 9 June 2021.

(5) The procurement process began immediately following the termination of the contract on 30 April 2021.

SAFEWA APP — ACCESS — POLICE INVESTIGATION

294. Hon MARTIN ALDRIDGE to the Leader of the House representing the Premier:

I refer to the government's admission that data associated with mandatory contact registers and the SafeWA app have been accessed and used for purposes other than the COVID-19 pandemic response.

(1) On what date did the Premier first become aware that data was being accessed and used for a purpose other than was intended by the government?

(2) On what date or dates did the Premier meet with the Commissioner of Police in relation to this matter?

(3) On what date did the Premier "request" that the Commissioner of Police and the WA Police Force discontinue seeking access to data?

(4) Does the Premier intend to notify app users who have had their data released to WA police contrary to the commitment that he and his government gave to them; and, if so, when?

Hon SUE ELLERY replied:

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

(1) The Premier first became aware in early April.

(2) The Premier first raised the issue with the police commissioner on 14 April. There were a number of follow-up conversations.

(3) The request was made during the initial conversation.

(4) No.

TRANSWA — ALBANY–PERTH

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

I refer to Transwa services provided in Albany.

(1) Are there any plans to upgrade facilities at the Albany terminus to accommodate passengers in terms of improved shelter, seating and toilets?

(2) If no to (1), why not; and, if yes to (1), when will these upgrades be completed, and will they include provisions for disabled and elderly passengers?

(3) Can the minister provide statistics on how often the Transwa service from Albany to Perth has broken down in the period from 1 July 2020 to date and the delays these breakdowns resulted in?

(4) Does the minister have any plans to improve the reliability of Transwa bus services in regional areas?

Hon SUE ELLERY replied:

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

(1)–(2) The new Albany Transwa booking centre was completed in July 2019. It has internal seating for passengers within the booking centre, covered external areas for seating and for the road coach boarding areas, and accessible toilets are available at the old railway station.

(3)–(4) There have been five mechanical breakdowns to date from 1 July 2020 from a total of 1 050 services.

PETROGLYPHS — BURRUP PENINSULA

Question without Notice 257 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [5.01 pm]: I would like to provide an answer to Hon Dr Brad Pettitt's question without notice 257 asked yesterday. I seek leave to have the response incorporated into *Hansard*.

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

Answer

(1)–(3) Annual rock art monitoring continues to be undertaken by Yara, as required under its Commonwealth approval. It is a requirement of the approval that the results are published. Further questions regarding approvals issued under federal legislation should be directed to the Commonwealth government.

Woodside, Yara and Rio Tinto also undertake air quality monitoring required by their State approvals.

Monitoring studies will commence in late 2021 following a review of the study design by the Murujuga Circle of Elders, the Murujuga Rock Art Stakeholder Reference Group and independent peer reviewers. This will ensure that the study design is world best practice and is culturally safe and scientifically robust.

Leading experts from Curtin University, Artcare and Chem Centre will work closely with the Murujuga Aboriginal Corporation and its rangers to design and implement the program.

ON-FARM EMERGENCY WATER INFRASTRUCTURE REBATE SCHEME

Question without Notice 266 — Answer Advice

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [5.02 pm]: Yesterday, Hon Colin de Grussa asked about the national on-farm emergency water infrastructure rebate scheme. First of all, I want to make a general point that Western Australia has received only around two per cent of the $15 billion that the commonwealth government has spent on water management projects. Western Australia comprises one-third of the continent but we have got two per cent of that expenditure. When the federal government decided it was going to continue its on-farm emergency water infrastructure rebate scheme, which the state government had been administering through the Department of Water and Environmental Regulation, it decided that we were going to have to pay 50 per cent of that rebate. Previously, the federal government had fully funded it—we of course objected. Nevertheless, Minister Kelly was able to negotiate with the commonwealth that the 511 farmers who had made an application before the money ran out would get a rebate, and that was valued at $2.8 million. We have prioritised a $7.3 million project to upgrade or recommission the community dams in the state's wheatbelt and great southern. We have allocated $3.65 million towards that. It is our view that it is a much better expenditure of resources, and we urge the federal government to stop its unilateral approach and develop a bilateral approach by which we can agree on which projects we should prioritise for funding.

HON CHERYL DAVENPORT AND HON MURRAY MONTGOMERY — QUEEN'S BIRTHDAY HONOURS LIST 2021

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [5.04 pm]: Before we return to consideration of committee reports, I have a brief statement.

I rise to inform the house of two former members of the Legislative Council who were recognised in the 2021 Queen's birthday honours list.

Hon Cheryl Davenport was recognised as a Member of the Order of Australia for significant service to the Parliament of Western Australia and to the community. Ms Davenport was a member for South Metropolitan Region from 1989 to 2001, and was the Labor shadow Minister for Seniors from 1997 to 2001 and shadow Minister for Women's Interests in 1997. During her time in Parliament, she was a member of various standing committees including—as they were known then—the Standing Committee on Legislation, the Standing Orders Committee and the Standing Committee on Public Administration, and was Deputy Chair of Committees for three years ending in 1996.

She has chaired a number of Western Australian government committees, and has also chaired, or been involved in, many other committees—everything from deputy chair of the review into the motor vehicle repair industry to chair of the Western Australia Network of Alcohol and Other Drug Agencies. Ms Davenport was also chief of staff to the Norfolk Island government from 2011 to 2013, advising on legislative and governance matters.

Ms Davenport's community involvement is extensive, as is her involvement in the Australian Labor Party, of which she is a life member. When inducted into the Western Australian Women's Hall of Fame in 2016, her citation noted —

> The Hon. Cheryl Davenport was the driving force to ensure women and their medical practitioners in Western Australia were free of fear and prosecution if they chose to terminate their pregnancy. While in Opposition, Cheryl introduced a private members bill in the WA Parliament negotiating with sensitivity and respect to deliver the women of Western Australia safe and healthy reproductive choice.

In 2021, she was awarded an honorary doctorate of letters by Curtin University for services to women's health, equity and social justice. We congratulate her on this most deserved recognition of service.

The second award recipient is Hon Murray Montgomery who was recognised as a Member of the Order of Australia for significant service to the Parliament of Western Australia and to the community. Mr Montgomery was a member for the South West Region from 1989 to 2001. During his time in Parliament, he was National Party shadow Minister for Sport and Recreation, Youth and South West from March 1989 to November 1992, and then coalition shadow Minister for Sport and Recreation from November 1992 to February 1993. He was also a member of various select and standing committees including the Chair of the Estimates and Financial Operations Committee and Deputy Chair of Committees from June 1993 to May 2001.

Mr Montgomery has had extensive involvement and held various positions with the WAFarmers, the Australian Meat Industry Council, the Western Australian Farmers Federation and the Denmark campus of the Western Australian College of Agriculture, taking a keen interest in agriculture education.

His community involvement in the great southern is extensive. He is a patron of, or a member of, many organisations as well as being heavily involved in his local church, St John's Parish, Albany. We congratulate him on his deserved recognition of service.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Chair of Committees (Hon Martin Aldridge) in the chair.

Standing Committee on Procedure and Privileges — Sixty-first Report — Progress report: Supreme Court proceedings and matters of privilege arising in the 40th Parliament — Motion

Resumed from an earlier stage of the sitting.

Hon COLIN de GRUSSA: Before the taking of questions, I was reflecting on the fact that the fundamental heart of this document is the concept of parliamentary privilege, which is so important for the work that we do here. I do not pretend for one minute to be an expert on parliamentary privilege at all, but as MPs we all need to have a good understanding of the rights that it affords us in this place. It is a fundamental underpinning of our democracy. More than that, it allows us to do what we do. The sixty-first report of the Standing Committee on Procedure and Privileges helpfully lays out some of the issues around parliamentary privilege in a terabyte age. Some of the data that we hold is privileged and some is not. The issue is how we determine which data is privileged and who should determine which of that data is privileged. Paragraph 3.11 on page 49 refers to the definition of parliamentary privilege, which comes from the New Zealand House of Representatives by the look of it, and the case Attorney General and Gow v Leigh. Paragraph 3.11 of the committee report states —

> The purpose of parliamentary privilege at its most practical is to prevent retribution by the executive and others against Members of Parliament and those involved in parliamentary proceedings and to protect the free flow of information necessary in an effective deliberative democracy. An erosion of the immunity would likely have a 'chilling' effect on the information available to Members and the legislature.

I will repeat that last sentence —

> An erosion of the immunity would likely have a 'chilling' effect on the information available to Members and the legislature.

That is critically important. An erosion of parliamentary privilege, a usurping of parliamentary privilege—any erosion of it—would have a chilling effect on our ability to do our job here and to represent our constituents. One of the great misnomers in the whole privilege debate is that privilege—maybe it is the wrong word—is not about us having more privileges than other people or being privileged; it is about protecting our democratic process. It is about protecting the information that we bring to this place for debate and that our constituents bring to us in order that we may raise their particular concerns in Parliament. It is fundamentally important—I cannot overstate that—to our democratic process, and it is not something that we should ever let be undermined for any purpose. That is not to say that our corruption watchdog should not be able to do its job—absolutely not. However, it is to say that the job of determining what is privileged is the job of the Parliament. In Parliament we have the Standing Committee on Procedure and Privileges, the members of which are our representatives on these matters, and it is their job to make that determination on behalf of Parliament.

I will refer to some other aspects in the report. I turn now to page 61 and the number of records, if you like, that have been reviewed. This is the important part. We are talking about many records having to be reviewed to determine whether they are privileged. We cannot just hand over a bunch of information and hope that the people at the other end will get it right, because this is about our democracy. Paragraph 3.43 states —

> … 499,174 records have been reviewed for parliamentary privilege by staff of the PPC.

That is an extraordinary number and a heck of a lot of work. It is absolutely essential that the only information that we allow to be taken is information that is determined not to be subject to parliamentary privilege. The fact is that out of all those records, 10 079 were subject to parliamentary privilege. The vast bulk of those records could be given to the Corruption and Crime Commission, as necessary. This is not an attempt in any way to hold up investigations. This is about ensuring that the work of the Parliament can continue and that the protection of our democratic processes will continue under the incredibly important auspice of the Westminster system—parliamentary privilege. We cannot allow that to be usurped in order to satisfy any particular agenda.

Hon KATE DOUST: I rise tonight to make some comments on the sixty-first report of the Standing Committee on Procedure and Privileges. This report, of course, is a progress report. It was tabled on the final day of the fortieth Parliament. As I said on that day in my capacity as the then President, this report was to bring all members up to speed with where the privileges committee had arrived at that point. As members are aware, just over two years ago this process kicked off with a meeting with the Corruption and Crime Commissioner in relation to notices that were issued to obtain the data of three former members of this chamber and their staff.

First, I want to thank all members who participated on that committee and certainly the staff, because this has been probably one of the most onerous processes that I am aware of in my 20 years in Parliament and probably one of the most significant issues that we have had to deal with in this chamber. I know that all Parliaments across the country are looking at the outcome of this process because the decision that will be provided by the courts, hopefully in due course, will have an impact on how privilege is managed in all those places.

Right from the word go, the privileges committee certainly wanted to work with the Corruption and Crime Commission. Certainly during the first month, as members can see in the report, a lot of work was done with the CCC to work out an agreement. I want to be really clear about where we wanted to go, because it is still reflected in recommendation 1 of this report that the privileges committee of this chamber firmly believes that there should be a permanent arrangement with the CCC and other agencies to deal with these issues of privilege, such as who gets to determine privilege and who manages that process, just as agreements are in place in other Parliaments around the country to that effect and have recently arisen and worked in other Parliaments. The committee was always of the view that an arrangement should be put in place and was working to that effect. It came as a surprise when suddenly that agreement seemed to have evaporated and nobody could articulate what had happened. The committee thought it was acting in good faith with the CCC to be able to work with it to sift through the documents and the data it wanted to go through and to provide it with the non-privileged material. I will not talk about what happened at that point because I think other members have canvassed those issues sufficiently today. I would imagine that over the next couple of years there will be opportunities to talk more when those issues arise. However, I do want to say that even though the committee had stalled and no longer had that arrangement, by other mechanisms it worked through the data—I think one of the previous speakers referred to the more than 450 000 items in the dataset—and the Legislative Council had made a range of determinations, as members will see in the report. On 10 separate occasions, the committee wrote to the CCC, commencing in December 2019, only a few months after the process commenced, and worked all the way through until 1 April this year. On 10 separate occasions, the PPC wrote to the CCC and said that all the CCC had to do was issue a fresh notice and it could have the non-privileged data. It was not an issue. We really wanted to give it to the CCC. We were prepared to give it to the CCC and wanted to cooperate with it.

I want to make it clear that the behaviour that instigated this initial inquiry should not be condoned. No-one on that committee condoned, supported or agreed with the actions of those former members. I do not think anyone in this chamber would take that view either. We wanted to do whatever we could as a committee to enable the CCC to do its job.

On one occasion, the Corruption and Crime Commission provided fresh notices to obtain 34 non-privileged documents, which we immediately handed over after discussion. All those things happened and we genuinely believed that we would be able to proceed and work with the CCC. Unfortunately, that did not happen and we now know the story. We ended up with two court proceedings. The hearings for court proceeding 2717, the President of the Legislative Council of Western Australia and the Corruption and Crime Commission and others, were held on 22 and 23 April. We still await the decisions of Justice Hall to find out where we will go with that. I note that the other action that was moved on behalf of the Attorney General, which is CIV 2716 of 2019, the Attorney General of Western Australia v the President of the Legislative Council of Western Australia and others, was adjourned on 22 April this year, so that is in abeyance. I have only a few more minutes but the volume of this report is substantial. I know that we could probably dip in and out of this report on an ongoing basis. It is mandatory reading material for all new members. If they really want to get their head around the issue of privilege—I think they will need to because it will come up again over the next couple of years—I encourage them to read through this document and to look at the earlier reports that set out the facts of what occurred at the time. Once members get past the first five chapters, the report will provide them with the best information about privilege and the relevant cases that have happened in various Parliaments around the world, and they will read a range of transcripts of hearings that were conducted during the process. This report is about giving members the culmination—the whole box and dice, if you like—up to that point so that they have the full story in front of them in anticipation of whatever decision is handed down in due course.

As I said, I am not going to comment on the actions of the Attorney General. Unfortunately, the media has done enough in that space. From my own personal perspective, it has been a very difficult two years because quite often we were not in the position of being able to make comment because of the nature of the material we were dealing with or the government agencies that we were dealing with on particular aspects of this issue. It was always quite distressing to read stories in the media that ran a particular line that was not always factual. In a couple of cases, sadly, journalists ran stories with information that they had gleaned from confidential documents, and I am still not sure how that information was obtained. It is quite disappointing that those things happened.

I do not know what is going to happen to those former members; that is up to the appropriate agencies to resolve. Who knows where that will go. However, the Standing Committee on Procedure and Privileges did its job, acted in good faith and played with a straight bat. It wanted to enter a proper and permanent arrangement with the CCC to ensure that it had access to non-privileged data, and I say "data" because the world has changed and it is not in the traditional sense of volumes of paper documents necessarily. Sadly, that has not occurred. In contrast, however, the committee entered into a number of arrangements with the Western Australia Police Force to assist it with the work that it was doing. We did not have to go through any legal proceedings. We had to incur costs, unfortunately, and I note that it has been an expensive process, but it was not always of our own choosing. More often than not, the committee was forced to seek extensive legal advice. Hopefully, that will put the committee in good stead for future direction. I hope that all members read this report, go through the details provided in the appendixes and read the story about what led up to the court action.

Hon PETER COLLIER: With only two minutes to go, I reiterate what everyone has been saying. There is a misguided notion that somehow privilege can be flippantly passed away, but it cannot. Doctors have privilege with their patients, lawyers have privilege with their clients, journalists have privilege with their sources and Parliament has privilege. It is not a word; it is a culture that determines the very fabric of Parliament. I say to every single member in this chamber that they will learn that the longer they are here, the more they will respect privilege. Members will be contacted by people and they will not want their information shared; that is called privilege. They will not contact members if they think that someone can come in and take that information from them. That is the very fabric of privilege. I urge members to please respect the privilege of Parliament. This thing has been turned overtly political and it did not need to be. As Hon Kate Doust just said, the committee was quite willing to hand over the non-privileged information. I will never in a million years protect anyone from the law, but I will protect their right to hold on to that privileged information. If anyone has done anything wrong, they will suffer the consequences of the law. It is a shame that the Standing Committee on Procedure and Privileges and the Corruption and Crime Commission were acting together cooperatively, collectively and effectively until the Attorney General became involved; that is a real shame. But the implications of ignoring privilege are profound for every single person in this chamber. This is a wonderful report, and I commend the members of the previous privileges committee.

Question put and passed.

Progress reported and leave granted to sit again, pursuant to standing orders.

BUILDING AND CONSTRUCTION INDUSTRY (SECURITY OF PAYMENT) BILL 2021

Committee

Resumed from 15 June. The Deputy Chair of Committees (Hon Steve Martin) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Progress was reported after clause 73 had been agreed to.

Clause 74: Establishment of retention money trust accounts and payments into trust accounts —

Hon NICK GOIRAN: As we dive back into this 140-clause bill, I note that the minister had taken some matters on notice overnight and was potentially coming back to members today. Maybe this is a convenient time to provide an update.

Hon ALANNAH MacTIERNAN: Yes. I undertook to get back to Hon Nick Goiran with some figures on the number of complaints received by the Small Business Commissioner regarding subcontractor non-payment. The figures that I have been provided with show that the Small Business Development Corporation has received 161 complaints relating to non-payment within the building and construction industry since late 2018. Four matters received recently are currently being investigated and all other complaints have been examined and finalised.

I also undertook last night for Hon Dr Steve Thomas to look at issues in relation to adjudication applications in the other states. Our very diligent personnel have beavered away and gone onto the various websites of the other states and scoured some of that information. This document contains a synopsis of the relevant reports and extracts of relevant statistics that should give the member an indication of the number of adjudication applications made each year, the number of decisions made and the aggregated payment claim amounts versus the amounts determined in adjudication. I table that document.

[See paper 283.]

Hon NICK GOIRAN: Clause 74 is titled "Establishment of retention money trust accounts and payments into trust accounts". Clause 72(2) in particular has a time frame of 10 business days. What consultation occurred with stakeholders regarding the choice of 10 business days? I have had some people express concern about that. Can the minister communicate what kind of consultation occurred?

Hon ALANNAH MacTIERNAN: This was included in the exposure draft. The exposure draft provided that when a contract captured by this is entered into, the retention money trust account must be opened within 10 business days. If a contractor is subsequently captured by an increase in value in particular, they also have only 10 days to open the account. Some submissions asked that we look at extending that period to 20 days. We did not think that it would be too onerous for a contract requiring a retention trust account at the outset to come within the purview of the bill because most banks will open a new transaction account within a couple of days. But it was recognised that if a construction contract latterly comes within the purview of the bill, then perhaps there might not be the same awareness, so we provided for 20 days in which to open an account.

Hon NICK GOIRAN: Thank you for that explanation, minister. Is there any appetite on the part of the government to consider making it 20 days across the board? It would seem that that would have created some simplicity. The minister just acknowledged that it was originally 10 days but that the government was persuaded to extend it to 20 days in certain circumstances. I have received some stakeholder feedback that suggests that the simplest model would be to allow for 20 days across the board. If the government does not have an appetite for that and it wants

to stick with what it is, what is the disadvantage of not having 20 days? There must obviously be some manifest benefit to the system and to the scheme to insist on maintaining the 10 days. It is not immediately apparent to me, but perhaps the government has an appetite to change it anyway.

Hon ALANNAH MacTIERNAN: We would not consider changing this. I do not think that an enormous amount turns on it either way. When a contract at the very outset is of a scale that comes within scope of the legislation, there is no reason an account could not be opened within 10 working days—that is two weeks. Our view is that that is part of the discipline of the system. We want people to attend to this in a speedy way. Although it would not have an enormous impact either way, we think that it is not unreasonable to require this after a whole range of matters have been done. People will have checklists when they enter into these contracts. One of those things will be to set up a retention trust account within 10 working days. I do not see this as being problematic, and we certainly do not see that as being a practical impediment to business.

Hon NICK GOIRAN: Was this issue of the 10 and 20-day period considered by the Fiocco review; and, if so, what was the recommendation?

Hon ALANNAH MacTIERNAN: It was not considered in the Fiocco report.

Hon NICK GOIRAN: I have one further question on this clause. If the retention money trust account is established on the eleventh day, what penalty will be imposed in those circumstances?

Hon ALANNAH MacTIERNAN: We do not see that that would necessarily be an offence under the act. However, a statutory trust is implied immediately after 10 days and a party could take action against the principal here if they had failed to set up that trust account because effectively they would be in breach of their trust obligations; that is, they could have arguably even stolen someone's money. That money should be in a trust fund because at that point they do not have beneficial ownership of that money.

Hon NICK GOIRAN: There is obviously the civil remedy to which the minister refers. However, just to be clear, no criminal penalty would apply in this instance?

Hon ALANNAH MacTIERNAN: As I understand it, the statutory penalties apply only if it has never been established. If we see one that has not been established, we take action. I am advised that if that is then established, the action would no longer exist; it would simply be a civil requirement. Bear in mind that what we are trying to do is get people to put money into the retention fund. As I think we discussed earlier, there is a statutory right for the party whose interests have not been properly protected to suspend works until that is remedied.

Hon NICK GOIRAN: That is a good explanation. If there were any desire on the part of the government to incentivise people to comply with this provision, I suspect that if they read *Hansard* and saw that the minister indicated that there could be some allegation of stealing money, they might be suitably incentivised to take the action. It was probably that phrase that sparked my interest to clarify for people whether any criminal liability will flow from a provision that states that we want people to do it within 10 days and, in different circumstances, we want it done within 20 days. There are some stakeholders out there saying that it would be easier for them if we would let them all do it within 20 days. The government is saying that probably not much turns on it one way or the other. I agree with the minister on that point. However, if we are now talking about criminal sanctions that might apply because someone does something on the eleventh business day for whatever reason—sickness or any other reasonable delay—then that would probably be a concern to some of these stakeholders. I hear from the minister that in the end when push comes to shove, only a civil remedy applies and no criminal sanctions are applicable.

Hon Alannah MacTiernan: That is correct.

Hon Dr STEVE THOMAS: Clause 74(4) refers to the establishment of retention money trust accounts. Paragraph (a) appears to refer to effectively one trust per contract: if people build something and they have six contracts, they can have six trust accounts under the act; or, under paragraph (b), people can have a single trust account for all the contracts and all the subcontractors. Am I right in thinking that in my example of six subcontractors, there cannot be two trust accounts with three contracts each? They cannot be grouped as such; they are either individual accounts or all in. Is that how I am supposed to read that clause?

Hon ALANNAH MacTIERNAN: From the advice that I am being given, the member's analysis is correct. There are only two options; that is, one account per beneficiary to keep all moneys separate and easily identifiable or people may choose to have a single account. The member's question is whether there can be mob groupings of accounts. The advice I have is that that is not the case. The member's analysis is correct: there is a choice of one account per beneficiary or per contract, so there might be multiple beneficiaries on one contract. That is, there can be one per contract or multiple contracts; one cannot have multiples of multiples.

Hon Dr STEVE THOMAS: Is there a reason why? It might be convenient to group like contracts potentially. Is there a reason it is either/or and no other choice?

Hon ALANNAH MacTIERNAN: It is just really for administrative efficiency and I suppose it is to stop new complexities arising when trying to track down how many accounts one has.

Clause put and passed.

Clauses 75 to 77 put and passed.

Clause 78: Trust account interest and fees —

Hon Dr STEVE THOMAS: I thank the minister for providing additional information while I was out of the chamber on urgent parliamentary business. It looks most interesting but I will not be reading it until I have finished the bill. I will go through it though. Clause 78(4) refers to the fees and charges payable to the recognised financial institution. It is fair enough that the institution will charge a fee for a trust. Certain institutions tend to crank up their prices under certain circumstances when money is available. Is there any indication of what those charges are like and whether the government might need to keep a watching brief on how high those charges might climb? I ask that as someone who remembers 22 per cent interest rates.

Hon ALANNAH MacTIERNAN: Because this is simply a transaction account, payments will be made into the account. It is not an overdraft account. It is anticipated that the fees will be minimal. Research that has been done indicates that monthly account fees will range from zero to $10 a month.

Clause put and passed.

Clauses 79 to 87 put and passed.

Clause 88: Application for authorisation —

Hon NICK GOIRAN: I am pausing for a moment. We sped past clause 87. Obviously, I will ask a question about clause 88, which is what we are up to. Before I do, I ask the minister and her colleagues to turn their minds to clause 87, which we have just passed over, in light of the remarks relating to criminal liability that we were making earlier when considering clause 74. We have passed over clause 87, but if any correction to the record needs to be made, I am sure that that will be done at some time.

With regard to clause 88, will the prescribed appointors that currently exist under the Construction Contracts Regulations 2004, specifically rule 11, automatically qualify as an authorised nominating authority under part 5 of this bill, or will the prescribed appointors need to go through the application process set out in clause 88 of the bill?

Hon ALANNAH MacTIERNAN: I thank the member for the question. Very quickly on the first question relating to clause 87, I am advised that one could take legal action. It could be an offence not to set up an action but if an action was taken against someone and, in the interim, they set up the retention fund, they could not be prosecuted. For example, if it was found at the end of the contract that they had not set up the retention fund, they could be prosecuted because they would not be in a position to remedy that situation. That is the advice I received, but I will not continue any longer on the clause that we have already passed.

The prescribed appointees under the existing legislation will not automatically be authorised as nominating authorities. It is considered that this is a bigger, more robust, role under this legislation than under the previous legislation. Everyone will start afresh and will have to make an application to the Building Commissioner, who will make a determination.

Hon NICK GOIRAN: During that period of time, will people who qualify have a period of 12 months from assent to continue their role as a prescribed appointor before then becoming a nominating authority 12 months later?

Hon ALANNAH MacTIERNAN: The prescribed appointees can obviously continue in their role and the other legislative regime will continue for those contracts that are not covered by this legislation. Those who want to apply once all the regulations are in place can make their application and they could become nominating authorities. It is not a question of having to discontinue being a prescribed appointor but, rather, having the option to take on a different role under this legislation.

Hon NICK GOIRAN: If the minister looks at clause 110, she will see a transitional registration process set out there. Was any consideration given to providing for a transitional registration provision along those lines for these nominating authorities who are currently serving as prescribed appointors under the current act?

Hon ALANNAH MacTIERNAN: Consideration was given but, as I said before, a determination was made that the role of the nominating authority is a bigger role than under the existing role of the prescribed appointees. We felt it was appropriate that they need to satisfy a new process. Clause 110 is needed to provide administrative flexibility, which allows for the registration of an adjudicator under the Construction Contracts (Former Provisions) Act 2004 to carry over for a provisional period of 12 months, within which time such individuals will need to apply for full registration. We will get the nominees in place. They can continue their role. While we are assessing the nominating authorities, the existing adjudicators can continue in their role.

Clause put and passed.

Clause 89: Maximum number of persons who may be authorised —

Hon Dr STEVE THOMAS: I am interested in why there was a need to suggest the regulations may need to prescribe the maximum number of persons who may be authorised as nominating persons at any time. Surely so many authorised nominating authorities would be set up. Is there a reason we need a specific limit?

Hon ALANNAH MacTIERNAN: We will make a determination on how that limit will be set. It is important. We do not want every man and his dog, Uncle Tom Cobley and all, to be there because we will need to have oversight and regulatory control over supply and demand with respect to the services of the persons who are authorised as nominating authorities. We do not want a situation in which the market is saturated, as we may undermine the capacity and professionalism of the authorised nominating authorities. We anticipate that we will probably be looking at five or six of these nominating authorities.

Hon Dr STEVE THOMAS: I thank the minister and I get what she is saying. I am not sure why we would not just simply have in mind that we need five or six and approve five or six. Is there a risk that someone might inadvertently somehow approve 15?

Hon ALANNAH MacTIERNAN: No, at this point we have a particular expectation of what the number of cases might be. As the member said, when we look at cases from other states, our supposition of 250 cases per year is probably quite reasonable, and that could be satisfied at this point. But maybe in five years' time, if the fabulous boom that is going on under the McGowan government continues, we might need to double that amount, and it would be better to be able to do that in regulations than to prescribe the number at the outset.

Clause put and passed.

Clauses 90 to 96 put and passed.

Clause 97: Code of practice for nominating authorities —

Hon Dr STEVE THOMAS: I am interested to see what the code of practice might be for nominating authorities. I do not imagine we have seen it yet, but when does the government expect to have that ready to go in terms of regulations, and is it likely to be based on a particular model—either an eastern states model or an existing building and construction process?

Hon ALANNAH MacTIERNAN: It will go out with the draft regulations for consultation. I think I outlined in my reply to the second reading debate that it would be things like professional conduct; managing of conflicts of interest; setting of fees; appointment of adjudicators; conduct of review adjudicators; reports to the Building Commissioner; and complaints handling. The code will be part of the regulatory package, so it will be enshrined in regulations and will go out with all the other materials for consultation.

Clause put and passed.

Clause 98: Making and determining applications for authorisation before commencement of Division —

Hon Dr STEVE THOMAS: This is an interesting clause. It states —

> (1) An application for authorisation as a nominating authority may be made and determined under this Division before all the provisions of this Division come into operation.

But surely that is not before the provisions that relate to the applications and authorisations come into operation. We are not going to go through that process before we declare the parts of the legislation that will actually enable it.

Hon ALANNAH MacTIERNAN: The advice is that this provision will allow the receival of these applications prior to the requirements coming into effect and the particular parts being proclaimed. We can see the purpose of it, because we want to make sure there is a suite of nominating bodies that have been given authorisation by the time the division comes into effect. Although division 1 of part 5 may have come into effect, no-one will be able to use the new adjudicating process because there will not yet be any persons authorised to appoint an adjudication. This authorises the agency to receive applications in advance of the proclamation of those clauses.

Hon Dr STEVE THOMAS: I do not know how common that is. I just thought it was interesting that we would receive applications to authorise something before it is authorised, but I take the minister's word for it. I have not seen too many of those, so I am not too certain how common it is.

Hon ALANNAH MacTIERNAN: Just to explain, because I share the member's puzzlement: apparently this provision has an earlier commencement date, so this provision will commence first. I understand where the member is coming from.

Clause put and passed.

Clauses 99 to 119 put and passed.

Clause 120: Review of Act —

Hon NICK GOIRAN: With regard to the review of the act, in the 2020 bill it was determined that part 7, "Consequential amendments to other Acts", would not be reviewed. This is now to be reviewed under the current bill. What is the genesis of that change?

Hon ALANNAH MacTIERNAN: The advice of Parliamentary Counsel was that part 7 of the bill contains consequential amendments to the Building Services (Registration) Act 2011, the Building Services (Complaint

Resolution and Administration) Act 2011 and the Construction Contracts Act 2004. The Building Services (Registration) Act and the Building Services (Complaint Resolution and Administration) Act already have review clauses, so it was considered that it would be a doubling-up of review because those bits that are consequential amendments are already part of the review process that was enshrined in those other pieces of legislation.

Hon NICK GOIRAN: That is fair, but the query then arises: why have we changed from that? In the 2020 bill we excluded part 7; we were not going to review it for, no doubt, exactly the reasons the minister has just mentioned, but under this new provision on page 110 of the bill it is now the effectiveness of the whole bill, and what is being deleted from the previous bill is the phrase "(other than Part 7)".

Hon ALANNAH MacTIERNAN: Sorry, I have a different explanation now. Parliamentary counsel's view was that because they were consequential amendments, those provisions become spent upon the proclamation of the legislation. Therefore, given that they were spent provisions, there was no point in reviewing them, but there was no need to exclude them from review because they were spent. Obviously, between the two bills, parliamentary counsel reviewed this and came up with a number of these stylistic felicities.

Hon NICK GOIRAN: I thank the minister; that does explain it. Yesterday, the minister tabled an eight-page document that set out the summary of the changes. I am looking at the version that was updated at 6.37 pm yesterday. In that document, the explanation that is given about clause 120 states that the government would like the statutory review provision to be triggered once clause 72 commences. I note that on page 110 of the bill at line 15, reference is made to clause 71. Can the minister clarify whether the government intends this to be clause 71 or clause 72, and whether an amendment needs to be made as a result? Irrespective of that, why has that clause, whether it is clause 71 or 72, been selected?

Hon ALANNAH MacTIERNAN: The view of parliamentary counsel was that this should be triggered by the proclamation. The five-year review should occur on the anniversary of the coming into play of a significant portion of the bill. We wanted to make sure that all of the essential elements of the bill had been operational and that five years had passed from the time all the significant provisions of the legislation had been proclaimed. As we outlined in earlier discussions, the retention trust is the second substantive and, I guess, most important, component of the bill, and it is anticipated that the retention trust will commence 18 months after royal assent. We think it is appropriate that the proclamation of that clause, headed "Retention money to be held on trust", triggers the beginning of the five-year period, because we want five years to see how the system as a whole, with its various components, is operating. That will be the second tranche of the bill to be proclaimed, and we believe that is then the appropriate date to start the five-year clock running for the review.

Hon NICK GOIRAN: I am happy to take this by interjection if it is of assistance. Is it intended to be clause 71 or clause 72?

Hon ALANNAH MacTIERNAN: Clause 71 is the most appropriate one because it has the deeming provisions that say that regardless of the action of the principal, the trust exists.

Hon NICK GOIRAN: That is fine. I do not want to get the minister worked up, because we are nearly finished. I just make the observation that yesterday when the amended document was tabled, this row at page 7 was amended, and yet the document says "section 72" and now we are being told it is clause 71. It does not help the ease of passage of these bills when we continue to be provided with inaccurate documents. That said, it sounds to me that given the period of time the minister referred to, the act will not be reviewed until six and a half years from now. Is it the intention that clause 71 will be proclaimed in 18 months' time? I think the answer to that is yes. The question then is: when is it intended to proclaim clause 120?

Hon ALANNAH MacTIERNAN: It is intended that clause 120 will be proclaimed as part of the first tranche, but I think five years is appropriate. These schemes are complex and we need a period of time to see how they operate. I think it would be appropriate for us to have a review five years from the commencement of the full operation of the legislation. I am advised that clause 120 will be proclaimed in the first tranche. I think we are now saying that clause 71 will commence 18 months after royal assent. The security of payments provision will commence 12 months after royal assent and the retention trust provision will begin to step in 18 months after royal assent.

Hon NICK GOIRAN: This is more of a comment to conclude. I make the observation that, in effect, a report will not be tabled in this place for probably seven and a half years by my count. Let us assume that assent happens this week or next week. Eighteen months later, the second tranche will be proclaimed. That will include clause 71. Then there will be five years until the review starts, so that is six and a half years, and then, of course, there is a 12-month period. It will be seven and a half years before we get a review document of the Fiocco–Swinbourn quality. I think seven and a half years is really stretching things; nevertheless, the minister has provided an explanation, and I just make that observation.

Clause put and passed.

Clauses 121 to 132 put and passed.

Clause 133: Part 5A inserted —

Hon Dr STEVE THOMAS: This will be my last question. This is potentially the most important clause in the bill, to some degree; it is the anti-phoenixing component. I think it is well overdue and probably a very good part of the legislation. I refer to the functioning of it to make sure that it is not too lenient, because it provides a fair bit of leeway to the board, or that, at the other extreme, it is not too harsh. What review process will the government have in place to make sure that the anti-phoenixing process works, and how quickly will we see that review happen?

Hon ALANNAH MacTIERNAN: Very quickly, this is a consequential amendment of the building services legislation. That review is set down by statute for 2024, so we will have a review of this in 2024.

Hon NICK GOIRAN: When will clause 13 be proclaimed?

Hon ALANNAH MacTIERNAN: We anticipate that to be done in 12 months' time as part of the first tranche.

Clause put and passed.

Progress reported and leave granted to sit again, pursuant to standing orders.

EDUCATION — INVESTMENT

Statement

HON STEPHEN PRATT (South Metropolitan) [6.22 pm]: Last week I had the opportunity to visit Applecross Primary School and Booragoon Primary School with the Minister for Education and Training, Hon Sue Ellery; the local member for Bateman, Kim Giddens, MLA; and my colleague in the South Metropolitan Region, Hon Klara Andric. We visited to celebrate the opening of new administration blocks in both schools and had the wonderful opportunity to listen to both school choirs. It is great to see firsthand the impact that the McGowan government's investment is having on improving education, both in the South Metropolitan Region and across our state. These investments in schools in Bateman, including $1.5 million committed to upgrading Applecross Senior High School's science, technology, engineering and mathematics facilities, will ensure that every child has access to the best standard of education possible.

Kim Giddens, MLA, will further deliver on her election commitments by securing $80 000 for Ardross Primary School, with the aim of supporting the upgrade of school facilities and infrastructure to be more sustainable, be energy efficient and reduce ongoing running costs, as well as improvements for their drinking fountains and turf for the kindy and pre-primary play areas. It is clear that the new member for Bateman is committed to supporting education in her electorate and will be an effective advocate for her community for many years to come.

In Wellard, the Minister for Education and Training and Hon Reece Whitby, MLA, member for Baldivis, will deliver the much-needed new Wellard Village primary school, which is expected to be open in 2023. I note that on top of the $2.5 million the McGowan government has allocated for the establishment of an education support unit at Pine View Primary School, Reece Whitby has delivered on his election commitment of a further $90 000 to help upgrade school facilities in the Baldivis area.

The McGowan government's continued support for education in Western Australia highlights our commitment to provide our kids with better opportunities, no matter their postcode, and prepare them for the jobs of the future.

CLIMATE CHANGE — EMISSIONS TARGET

Statement

HON DR BRAD PETTITT (South Metropolitan) [6.24 pm]: I rise to speak again on the urgent need for this state to show leadership and address the climate crisis. I use the word "leadership" explicitly because this is at the heart of it. I thought about what we mean by leadership in the sense of having a clear vision of where we want to go and a willingness to make tough decisions based on the best information and evidence that is in front of us. I think the McGowan government has shown strong leadership during the COVID-19 pandemic. It did exactly that. Where we are not showing strong evidence-based leadership is around climate. On that basis, the future health of this state is under threat. We are also missing out on some key opportunities.

I draw members' attention to the government's own Climate Health WA inquiry, which identified this decade—between now and 2030—as the vital decade to address climate risk and recommended holding us to the target of limiting global temperature rise to 1.5 degrees Celsius. That is the really important bit. It is part of the Paris Agreement. Evidence everywhere suggests that this is at the heart of what we need to do. I will quote the Premier, who stated in Parliament in 2019 —

> The science of anthropogenic climate change has effectively been settled for two decades, and no serious government can ignore the policy implications.

I absolutely agree with that statement. It is a strong statement, but it is one that we need to back up with strong action. Our emissions in this state are rising. The government's own climate policy acknowledges that our emissions are rising and are expected to grow in the short to medium term under the business-as-usual approach. That is important

because not only will they grow, but they are growing from the point at which this state has among the highest emissions per capita on the planet. We need to see action. Some good steps have been taken in the right direction, and I am very pleased to see that we have a Minister for Climate Action. I really like that term. That says to me that the government will not consider doing business as usual, but I was concerned when I looked at the Scarborough project over the last week that a business-as-usual approach was taken to that approval process. We are seeing, once again, Woodside and BHP set the climate targets rather than meeting those that are consistent with our international obligations. If we were serious, we would not be approving such weak conditions. The Woodside and BHP project that recently got environmental approval will see 1.2 billion tonnes—not million, billion—of greenhouse gas released into our environment, making it the most polluting fossil fuel project in the country. There are targets, one of which is to reach 30 per cent fewer emissions by 2030. Although that 30 per cent target is not nothing, most of those reductions will come in nine years, not now. That is not the kind of thing we need to see now.

I want to be clear that this is not something that only the Greens and I are saying. I was reading a really interesting report by a bunch of institutional investors—over 500 of them called Climate Action 100+—including Australia's largest superannuation funds and international giants like BlackRock. Climate Action 100+ has clearly said that we must speed up emissions cuts and that this was, in its words, a "game changer" for the oil and gas industry. This was on the back of the International Energy Agency's report last month that contained a very stark warning that we should avoid funding any new oil and gas projects if the world is to achieve the Paris accord's goal of limiting global temperature rise to 1.5 degrees.

Clearly, we have not got our targets right to reduce emissions on that part of the Scarborough project. Of course, the other part is the rock art. The level of emissions from the Woodside and BHP Scarborough project will further damage the First Nation's world heritage rock art on the Burrup. Only one year on from the horrific destruction of the caves at Juukan Gorge, unfortunately, I fear that more of this state's amazing heritage, which goes back many tens of thousands of years, will be destroyed. In fact, emissions from the Pluto LNG processing facilities are damaging the rock art, as was revealed during question time today. A Senate inquiry has looked into this very matter and federal Labor agreed that this is of huge concern. Although I welcome yesterday's announcement that a new contract was being awarded to monitor emissions, what I do not want to see happen is that we simply monitor and record its destruction. As someone put it, is this just Juukan in slow motion? I certainly hope not. We are at a really important point in the climate crisis and the Burrup. I would love both houses of Parliament to take this challenge seriously and to not have a further four years of business as usual. We need to step up to the challenge and the opportunities that lay ahead for a clean energy future.

KIMBERLEY LAND COUNCIL — PARLIAMENT HOUSE PROTEST

Statement

HON NEIL THOMSON (Mining and Pastoral) [6.30 pm]: I rise to bring to the attention of the house today's protest on the steps of Parliament House by Aboriginal leaders from the Kimberley, many of whom are from my home town of Broome. I know that the sentiments expressed were sincere and from those whom I recognised in the crowd, I know that the people who were present had travelled from as far away as Nyikina Mangala, Yawuru, Miriuwung Gajerrong and Bunuba country. I spoke to many leaders after the proceedings were completed and their disappointment that no government representatives were in attendance was palpable. As an MP representing the Mining and Pastoral Region, I accepted an invitation to come forward to speak to Mr Anthony Watson, the chair of the Kimberley Land Council, who asked me to take possession of two letters, which he was seeking to give to the Premier and the minister. I have undertaken to present these letters to Parliament. I understand that often representatives in government and Parliament have different views from people across the region, but we should always be available to listen and engage, even during symbolic moments such as today. I seek leave to table both letters for consideration.

[Leave granted. See paper 284.]

THERAPEUTIC GOODS ADMINISTRATION

Statement

HON DR BRIAN WALKER (East Metropolitan) [6.32 pm]: I am going to speak about a medical question. Yes, it does involve cannabis, but members will see why in a moment. I am an authorised prescriber for a number of drugs. Let us take heroin, for example. Members might be surprised to know that if I have schedule 8 prescribing permission, I can prescribe OxyContin and oxycodone, and I can prescribe OxyContin from a number of different companies. I can prescribe tramadol and buprenorphine, which I can prescribe in patch form and no-one asks any questions because I have permission to prescribe S8 drugs. When I seek to prescribe medicinal cannabis, I need first of all to apply to the Therapeutic Goods Administration to be allowed access to the website that allows me to prepare a five-page form. Once I have filled that out, I am able to apply for an individual patient, for individual preparation, to receive cannabis. When I have done enough of those, maybe 10 or 100, I can apply to become an authorised prescriber. To become an authorised prescriber for cannabis, I need to apply for permission to prescribe a combination of either CBD and/or THC. One would think it would be simple. For example, company A has three preparations;

one that is CBD dominant, one that is THC dominant and one that is a mix of the two. When I apply, I am allowed to specify for what I can prescribe it—autism, epilepsy, chronic pain, anxiety and insomnia. I note that. I apply to the committee, which then applies on my behalf to the government to become an authorised prescriber. It is a boring process; it takes a long time and costs $500 to apply for it. Having achieved that ability to prescribe CBD and/or THC in three different forms, one would think that I would be able to prescribe all forms of CBD and all forms of THC because I am an authorised prescriber. But, no. Let us say that there are 30 different companies, all of them providing CBD and/or THC in roughly the same proportions. Should I wish to prescribe from company A, I can fill out a form, off it goes, here is the script for the patient and they can take that script to the pharmacy to obtain their medicinal cannabis. If I want to get exactly the same formulation from company B, I have to apply to the TGA and wait several days for the application to come through, which may be refused, or I can apply to become an authorised prescriber for company B by paying $500; and for company C by paying $500; and for company D by paying $500. Is it any wonder why doctors find this process onerous and expensive when all they are looking to do is simply prescribe THC and/or CBD in whichever combination? If doctors are authorised for one, why not be authorised for all? Members, I asked the TGA about this. It said, "Yes, we know. It's not very clever. This is not the right thing. We expect it'll be about two months before we can get permission for all THC and CBD." That was a year and a half ago. Even now, I am coming across patients who require for, say, chronic severe pain or mental distress, a particular form of cannabis and I am able to prescribe that to them without going through the onerous process of applying separately because I do not have the permission to prescribe it. It could also be—this has been refused as well—that I have one preparation for a patient, but because it was not specified for, let us say, autism, it will be refused; "You cannot prescribe this for autism because you did not apply for that during the application process." It is the same stuff.

We are dealing with rampant stupidity on behalf of those who are in charge of organising, authorising and permitting doctors to prescribe a simple drug, which, from a side effects point of view, is a heck of a lot safer than the heroin that I can freely prescribe. I am not asking for any action here. I am simply asking that the house takes notice of this unacceptable situation and that it be documented in *Hansard* so that I can refer to it later, because this unacceptable situation is causing distress for patients and difficulty for doctors and action needs to be taken. I thank members for listening.

KIMBERLEY LAND COUNCIL — PARLIAMENT HOUSE PROTEST

Statement

HON ROSIE SAHANNA (Mining and Pastoral) [6.37 pm]: In regards to Hon Neil Thomson's comments, as far as the group of Kimberley people who turned up this morning, we did not know until this morning that they were even here. If we had known, we would have made an effort to go out and talk to them. They are aware that they have to follow a process; even Hon Neil Thomson knows that. I know all the people who were out there. I got a text this morning saying, "Hey, we're going to be at Parliament House at 11.30." I just wanted to say that.

House adjourned at 6.38 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ATTORNEY GENERAL — PORTFOLIOS — STAFF LEAVE BALANCES

53. Hon Tjorn Sibma to the parliamentary secretary representing the Attorney General; Minister for Electoral Affairs:

As at 30 June 2020 and as at 31 December 2020, for each agency/department within the Minister's portfolio, can the Minister please provide in tabular form the total dollar value of accrued annual leave balances and the number of staff to whom those balances apply, for leave balances of the following periods:

(a) four weeks or less;

(b) four to five weeks;

(c) five to six weeks;

(d) six to seven weeks;

(e) seven to eight weeks; and

(f) eight weeks and more?

Hon Matthew Swinbourn replied:

Department of Justice

At 26/06/2020	Annual Leave Weeks	Dollar value	Count of Employees
(a)	four weeks or less	$8,488,115	4179
(b)	four to five weeks	$4,031,811	732
(c)	five to six weeks	$3,831,577	521
(d)	six to seven weeks	$3,596,850	429
(e)	seven to eight weeks	$3,319,327	317
(f)	eight weeks or more	$20,152,231	1, 039
At 25/12/2020	**Annual Leave Weeks**	**Dollar value**	**Count of Employees**
(a)	four weeks or less	$10,503,737	4085
(b)	four to five weeks	$5,727,532	766
(c)	five to six weeks	$4,979,736	526
(d)	six to seven weeks	$5,037,855	446
(e)	seven to eight weeks	$4,806,206	368
(f)	eight weeks or more	$25,078,983	1, 142

Dates provided are as at the pay dates closest to those requested. Data is inclusive of the State Solicitors Office and the Equal Opportunity Commission.

Western Australian Electoral Commission

At 30/6/2020	Annual Leave Weeks	Dollar Value	Count of Employees
(a)	Four weeks or less	$70 091.49	21
(b)	Four to five weeks	$40 663.66	5
(c)	Five to six weeks	$56 175.86	5
(d)	Six to seven weeks	$30 342.41	3
(e)	Seven to eight weeks	$60 356.29	4
(f)	Eight weeks and more	$117 258.66	5
At 31/12/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$71 696.12	20
(b)	Four to five weeks	$56 845.19	6

(c)	Five to six weeks	$47 358.58	4
(d)	Six to seven weeks	$71 794.12	5
(e)	Seven to eight weeks	$15 083.34	1
(f)	Eight weeks and more	$181 875.26	9

Commissioner for Children and Young People

At 30/6/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$59774.62	16
(b)	Four to five weeks	$9002.79	1
(c)	Five to six weeks	$25166.21	2
(d)	Six to seven weeks	$0	0
(e)	Seven to eight weeks	$0	0
(f)	Eight weeks and more	$48967.39	1
At 30/12/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$30193.76	10
(b)	Four to five weeks	$46843.47	4
(c)	Five to six weeks	$24575.76	2
(d)	Six to seven weeks	$0	0
(e)	Seven to eight weeks	$0	0
(f)	Eight weeks and more	$56574.18	9

Office of the Information Commissioner

At 30/6/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$47,753.01	7
(b)	Four to five weeks	$47,753.01	1
(c)	Five to six weeks	$47,753.01	3
(d)	Six to seven weeks	$0	0
(e)	Seven to eight weeks	$0	0
(f)	Eight weeks and more	$0	0
At 31/12/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$13,459.79	13
(b)	Four to five weeks	$0	0
(c)	Five to six weeks	$0	0
(d)	Six to seven weeks	$0	0
(e)	Seven to eight weeks	$0	0
(f)	Eight weeks and more	$0	0

Legal Aid WA

At 30/6/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$797,956.80	280
(b)	Four to five weeks	$293,097.10	31
(c)	Five to six weeks	$191,834.30	18
(d)	Six to seven weeks	$136,722.90	10
(e)	Seven to eight weeks	$119,934.50	8
(f)	Eight weeks and more	$249,282.20	12

At 31/12/2020	Annual Leave Weeks	Dollar Value	Count of Employees
(a)	Four weeks or less	$800,926.76	276
(b)	Four to five weeks	$345,862.14	36
(c)	Five to six weeks	$221,569.49	19
(d)	Six to seven weeks	$77,614.78	6
(e)	Seven to eight weeks	$125,378.49	6
(f)	Eight weeks and more	$352,594.58	18

Office of the Director of Public Prosecutions

At 30/6/2020	Annual Leave Weeks	Dollar Value	Count of Employees
(a)	Four weeks or less	$795,833	177
(b)	Four to five weeks	$319,700	30
(c)	Five to six weeks	$199,236	16
(d)	Six to seven weeks	$288,161	18
(e)	Seven to eight weeks	$199,035	10
(f)	Eight weeks and more	$881,548	31

Leave liability information (dollar value and number of staff) is not available for the period as at 31 December 2020. The ODPP's payroll system does not retrospectively provide reporting of leave entitlement (and monetary value) for past dates.

While the information (dollar value and number of staff) can be obtained, it is not possible to do so within the timeframe provided for response. The ODPP would need to manually calculate every staff member's leave figures.

Corruption and Crime Commission

At 30/6/2020	Annual Leave Weeks	Dollar Value	Count of Employees
(a)	Four weeks or less	$217,895	21
(b)	Four to five weeks	$374,980	79
(c)	Five to six weeks	$214,403	14
(d)	Six to seven weeks	$168,929	11
(e)	Seven to eight weeks	$159,833	9
(f)	Eight weeks and more	$23,319	1
At 31/12/2020	**Annual Leave Weeks**	**Dollar Value**	**Count of Employees**
(a)	Four weeks or less	$206,397	20
(b)	Four to five weeks	$378,035	74
(c)	Five to six weeks	$353,838	26
(d)	Six to seven weeks	$168,335	10
(e)	Seven to eight weeks	$53,503	3
(f)	Eight weeks and more	$42,290	2

LEGAL AFFAIRS — SUPREME COURT AMENDMENT RULES (NO. 2) 2020

92. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Supreme Court Amendment Rules (No.2) 2020*, and I ask:

(a) what was the catalyst for bringing about these amendments to the rules;

(b) who was consulted prior to these amendment rules being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment rules addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) (i) Alignment of the Court Order 11A with a recommendation of the Council of Chief Justices of Australia and New Zealand's (COCJ) Rules Harmonisation Committee and endorsed by the COCJ in respect of the Hague Service Convention rules.

(ii) Amendments were made to Orders 58, 59, 67, 69 and 75 to fully recognise the Court's transition to mandatory electronic filing, and to reflect minor changes to the Court's preference for the Chief Justice or the Principal Registrar to make certain directions rather than the Senior Master.

(iii) Various amendments were made to Order 70 following a request by the Select Committee into Elder Abuse to implement recommendation 33 of the Statutory Review of the Guardianship and Administration Act 1990 (2015):

> 33. That the Chief Justice is asked to consider amending the Rules of the Supreme Court 1971 to make it clear that a guardianship order or an administration order only renders a person incapable of making decisions for themselves if the order encompasses the subject matter of the proceedings.

(b) There has been consultation with the Court's Civil Practice Committee, District Court of Western Australia, State Administrative Tribunal, Office of the Public Trustee, Commonwealth Attorney-General's Department and the COCJ Harmonisation of Rules Committee.

(c) No.

(d)–(f) Not applicable.

LEGAL AFFAIRS — MAGISTRATES COURT RULES AMENDMENT RULES 2021

93. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Magistrates Court Rules Amendment Rules 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the rules;

(b) who was consulted prior to these amendment rules being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment rules addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) With the continued development of the court's Electronic Case Management System (ECMS), the Magistrates Court of Western Australia moved to make the lodging of documents, listing of hearings and providing of documents to court users in the civil jurisdiction, a more efficient, effective and electronic process. Multiple, separate amendments were progressed in the same instrument, relating to mandating lodgement of documents through ECMS (eLodgement), listing hearings electronically through ECMS, providing documents or notification of hearings electronically through ECMS and creating new court processes.

Mandating eLodgement in the Civil Jurisdiction of the Magistrates Court

Since 2014, the Magistrates Court has been accepting civil documents for lodgement by means of the ECMS. These amendments to the Magistrates Court (Civil Proceeding) Rules 2005 (CP Rules) and the Magistrates Court (Minor Cases Procedure) Rules 2005 (Minor Case Rules) now mandate that documents in civil proceedings are to be lodged electronically using the ECMS (with some exemptions). Provisions have also been included that allow the Court to grant an exemption to a court user from the requirement to use ECMS, should they not have access to, or be able to utilise it (r96 of the CP Rules). These amendments, changes and new processes were implemented to improve court efficiency, and ensure court resources were being utilised as effectively as possible.

Fixing hearings generally through ECMS

As part of the movement to a fully electronic court process, the Department of Justice identified a number of rules that required a registrar to manually list a court hearing, when certain applications were made. Amendments were made to the Magistrates Court (General) Rules 2005 (General Rules), to allow for the ECMS to list hearings for these applications, rather than requiring a registrar to manually do so (r13D of the General Rules). Additionally, minor amendments were made relating to providing documents or notification of hearings electronically through ECMS, where these notifications are generated through the system using the information provided in the ECMS. These new processes were introduced to continue to improve court efficiency around the listing and notification of court hearings.

Warrant of Commitment Inquiry Process

The Fines, Penalties and Infringement Notices Enforcement Amendment Act 2019 (FPINE Amendment Act) amended the Fines, Penalties and Infringement Notices Enforcement Act 1994 (FPINE Act) to make a number of changes to the fines enforcement process, one of which relates to the establishment of a new warrant of inquiry process. The legislation overseeing the warrant of commitment inquiry process is covered by Division 3E of Part 4 of the FPINE Amendment Act. Section 52R(4) provides that Rules of Court made under the Magistrates Court (Civil Proceedings) Act 2004 may deal with the practice and procedure that applies to warrant of commitment inquiries and applications and orders made under that Division. Accordingly, the CP Rules were amended to set out new practices and procedures for when an application of this nature is made to and heard by the Court.

(b) Mandating eLodgment in the Magistrates Court

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals, Magistrates, Executive Managers (regional and metropolitan), Regional Manager, Registry Managers and Clerks of Court. Additional information is available to the public on the Magistrates Court website and was provided directly to law firms, the law society, and local shires.

Fixing hearings generally through ECMS

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals and Executive Managers (regional and metropolitan).

Warrant of Commitment Inquiry Process

As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals, Sheriff of WA, Registrar of the Fines Enforcement Registry and the Magistrates Court Manager of Customer Service.

(c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.

(d)–(f) Not applicable.

LEGAL AFFAIRS — MAGISTRATES COURT (CIVIL PROCEEDINGS) AMENDMENT RULES (NO. 3) 2021

94. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Magistrates Court (Civil Proceedings) Amendment Rules (No.3) 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the rules;

(b) who was consulted prior to these amendment rules being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment rules addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) In 2020, the Family Violence Legislation Reform (COVID-19 Response) Act 2020 (FVLR Act) was introduced. Part 5, section 31 of the FVLR Act amended section 9 of the Restraining Orders Act 1997 (RO Act), to allow for rules of the court to make provisions on how hearings under the RO Act can be fixed. As part of the movement to a fully electronic court process, the Department of Justice identified a number of rules that required a registrar to manually list a court hearing, when certain applications were made to the court.

As a result of this, the Magistrates Court made amendments to allow for parties to lodge documents electronically, as well as allowing certain hearings under the RO Act to be listed through the Court's Electronic Case Management System (ECMS), rather than requiring a registrar to manually list all hearings. These amendments, changes and new processes were implemented to improve court efficiency around the listing and notification of certain court hearings in restraining order matters, while also still giving the ability for persons who cannot use the ECMS to provide documents, and have their matters listed, manually.

(b) As these were Rules of Court amendments, the Chief Magistrate was consulted, and provided approval, prior to any amendments being sought. Consultation throughout the project took place with the Chief Magistrate, the Director Magistrates Court and Tribunals and Executive Management from the Magistrates Court (regional and metropolitan).

(c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.

(d)–(f) Not applicable.

LEGAL AFFAIRS — SUITORS' FUND AMENDMENT REGULATIONS 2020

95. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Suitors' Fund Amendment Regulations 2020*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) The Suitors' Fund Regulations 1965 had prescribed a levy of 20 cents since 1980, and the Suitors' Fund had not been able to meet its obligations under the Suitors' Fund Act 1964 from funds accumulated by the collection of the levy. The Suitors' Fund Amendment Act 2019 was passed to remove the 20 cent cap on the levy and permit the levy amount to be prescribed in regulations, as a means of addressing this ongoing shortfall. The Amendment Regulations are the result of the passage of that Act.

(b) The Amendment Regulations were developed in consultation with the Heads of Jurisdiction, the Appeal Costs Board, legal stakeholders and relevant government agencies, including Treasury, the Office of the Director of Public Prosecutions, and the WA Police Force.

(c) Yes.

(d) A view was expressed that the increase in the levy should proportionately reflect the drawdown on the Suitors' Fund by the respective court jurisdictions.

(e)–(f) The Amendment Regulations provide that the same levy is imposed on all court jurisdictions and is not linked to cost recovery of court operations. The potential benefit gained from paying the levy cannot be determined on a proportional basis per court jurisdiction, particularly when considering appeals. It is rather viewed as providing equal potential benefit regardless of the jurisdiction.

LEGAL AFFAIRS — SPENT CONVICTIONS AMENDMENT REGULATIONS 2021

96. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Spent Convictions Amendment Regulations 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) The Spent Convictions Amendment Regulations 2021 were made so that Western Australia could fully contribute to a nationally consistent worker screening regime for the National Disability Insurance Scheme. Nationally consistent worker screening came into effect with the commencement of the National Disability Insurance Scheme (Worker Screening) Act 2020 on 1 February 2021.

(b) The Attorney General was requested to make the Amendment Regulations by the former Minister for Disability Services to support the Act. Consultation occurred with the Department of Communities' Working with Children Screening Unit and the Department of Justice's Court and Tribunal Services Division.

(c) No concerns were raised in consultation.

(d)–(f) Not applicable.

LEGAL AFFAIRS — BAIL AMENDMENT REGULATIONS 2020

97. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Bail Amendment Regulations 2020*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) In 2020, the Family Violence Legislation Reform Act 2020 (FVLR Act) was introduced. Part 5 of the FVLR Act dealt with a number of amendments to the Bail Act 1982 (Bail Act), including to section 38. This amendment provided that victims are not to be deemed eligible to be approved as surety for an accused person, where there is a history of family violence between them and the accused.

Under section 37(1)(b) of the Bail Act, a surety approval officer must give a person applying to be surety a Form 9 "Information for Proposed Surety". The Form 9 is a prescribed form under the Bail Regulations 1988, and in section 5 identifies persons that are disqualified from being approved as surety. As a result of the above Act amendments, consequential amendments were required to the Bail Regulations 1988 to ensure that those additional persons who are now disqualified from being a surety under section 38(1)(d) were included in section 5 of the Form 9.

Additionally, court staff often act as surety approval officers and recommended that the Form 8 of the Bail Regulations 1988 also be amended. In section 7 of Part B of the Form 8, the applicant is asked to tick a box as to whether they "have any convictions, or are any criminal proceedings pending against you? If yes, give details." Court staff provided feedback that, where applicants have both convictions and pending criminal proceedings, they do not disclose details of both. These amendments split section 7 into two separate questions to alleviate the confusion, and make the Form 8 more clear for applicants.

(b) In relation to the FVLR Act, extensive consultation took place with a wide variety of internal and external stakeholders. In respect of the consequential Bail Amendment Regulations 2020, consultation took place with the executive managers of the Supreme Court, District Court, Magistrates Court, Children's Court and the Justice of the Peace Branch. Each person consulted supported the amendments made.

(c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.

(d)–(f) Not applicable.

LEGAL AFFAIRS — ATTORNEY GENERAL REGULATIONS AMENDMENT (HIGH RISK SERIOUS OFFENDERS) REGULATIONS 2020

98. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Attorney General Regulations Amendment (High Risk Serious Offenders) Regulations 2020*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) The Criminal Procedure Regulations 2005 (CP Regulations) were amended to reflect the current legislation and the means by which an offender is brought before the court because of a contravention. The High Risk Serious Offenders Regulations 2020 (HRSO Regulations) were amended to include a range of Commonwealth offences for the purposes of making an offender convicted of such offences eligible for consideration for a restriction order and a post sentence supervision order, which was the reason for section 5(5) of the High Risk Serious Offenders Act 2020 (WA).

(b) The Parliamentary Counsel's Office was consulted in relation to the amendments to the CP Regulations and the Office of the Director of Public Prosecutions was consulted in relation to the amendments to the HRSO Regulations.

(c) No.

(d)–(f) Not Applicable.

LEGAL AFFAIRS — RESTRAINING ORDERS AMENDMENT REGULATIONS (NO. 2) 2020

99. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Restraining Orders Amendment Regulations (No. 2) 2020*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns;

(f) if no to (e), why not; and

(g) why was the date of 1 January 2021 selected for commencement?

Hon Matthew Swinbourn replied:

(a) To detail the process for giving up possession and dealing with explosives surrendered or seized under the Restraining Orders Act 1997 (the RO Act).

(b) The Chief Magistrate, WA Police Force and the Department of Mines, Industry Safety and Regulation.

(c) No.

(d)–(f) Not applicable.

(g) To align with commencement of the relevant sections of the RO Act.

LEGAL AFFAIRS — FAMILY COURT AMENDMENT REGULATIONS 2021

101. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Family Court Amendment Regulations 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) In 2020, the Sheriff of Western Australia had cause to ascertain the fees to be charged by him as Marshal of the Family Court of WA for the execution of a Warrant of Possession issued under the Family Court Act 1997. Regulation 6 of the Family Court Regulations 1988 previously stated that, 'The fees payable to the Marshal are to be in accordance with Part III of the Fifth Schedule to the Rules of the Supreme Court 1971'.

The Fifth Schedule to the Rules of the Supreme Court 1971 was repealed by the Supreme Court Amendment Rules (No. 5) 2001. Following the repeal there was no subsequent amendment to the Family Court Regulations 1988, which specified the relevant instrument under which fees would be charged by the Marshal of the Family Court of WA when executing Family Court enforcement actions.

The Sheriff's fees for various enforcement processes issued by the civil courts are contained in Schedule 2 of the Civil Judgments Enforcement Regulations 2005 (CJE Regulations). In consultation with the Sheriff and the Principal Registrar of the Family Court it was determined that the fees set out in Schedule 2 of the CJE can equally apply to the Marshal of the Family Court of WA when executing Family Court actions. It was therefore decided to amend Regulation 6 so that Schedule 2 of the CJE would apply.

(b) The Sheriff of WA and the Principal Registrar of the Family Court were consulted about this proposal and agreed the amendment was necessary so that fees incurred by the Marshal are appropriately regulated and consistent with the fees charged by other civil jurisdictions.

(c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.

(f) Not applicable.

LEGAL AFFAIRS — FREEDOM OF INFORMATION AMENDMENT REGULATIONS 2021

102. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Freedom of Information Amendment Regulations 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the regulations;

(b) who was consulted prior to these amendment regulations being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment regulations addressed these concerns; and

(f) if no to (e), why not?

Hon Matthew Swinbourn replied:

(a) Section 100 of the Freedom of Information Act 1992 (FOI Act) requires that decisions under that Act by an agency are to be made by the "principal officer" of the agency, or an officer directed by the principal officer for that purpose. The Amendment Regulations were drafted at the request of the Minister for Health to identify the chief executive of each health service provider as the "principal officer" for the purposes of the FOI Act. This was to ensure a consistent approach to FOI applications made to health service providers and provide certainty as to the identity of principal officers.

(b) The Department of Health and the Information Commissioner were consulted on, and supported, the Amendment Regulations.

(c) No.

(d)–(f) Not applicable.

LEGAL AFFAIRS — SUPREME COURT RULES AMENDMENT (COURT OF APPEAL) RULES 2021

105. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Supreme Court Rules Amendment (Court of Appeal) Rules 2021*, and I ask:

(a) what was the catalyst for bringing about these amendments to the rules;

(b) who was consulted prior to these amendment rules being finalised;

(c) did any person consulted raise any concerns;

(d) if yes to (c), what were these concerns;

(e) have the finalised amendment rules addressed these concerns;

(f) if no to (e), why not; and

(g) why was the date of 3 May 2021 selected for commencement?

Hon Matthew Swinbourn replied:

Rules of the Supreme Court of Western Australia (Court) are made by the Court pursuant to the Supreme Court Act 1935 (WA) and are not delegated legislation made by Government. Nevertheless, the Court was asked if it would provide the information requested by the honourable member. The Court has kindly provided the following:

(a) These amendments facilitated the introduction of electronic filing in the Court's Court of Appeal Division.

(b) The Court introduced e-filing in the civil jurisdiction in 2018. There was extensive consultation with the legal profession through the Western Australia Bar Association and the Law Society of Western Australia at that time, and information/education sessions in relation to e-filing were held at the Court. The Court of Appeal Committee has been consulted during the drafting of these Amendment Rules, which was then followed by consultation with all the judicial officers of the Court.

(c) No.

(d)–(f) Not applicable.

(g) The technical developments were a necessary precursor to the implementation of electronic filing in the Court of Appeal were completed in early 2021.

3 May 2021 was selected for commencement in order to give sufficient notice to the legal profession of the impending change given the completion of the technical developments.

SCHOOLS — ENROLMENT PROJECTIONS — BOB HAWKE COLLEGE

109. Hon Donna Faragher to the Minister for Education and Training:

Can the Minister provide the most recent student enrolment projections at Bob Hawke College for the years:

(a) 2022;

(b) 2023;

(c) 2024;

(d) 2025; and

(e) 2026?

Hon Sue Ellery replied:

(a)–(e) The Department of Education reviews student enrolment projects on an annual basis. Due to changes in population demographics, projections are dynamic and subject to change.

Year	Number of Students
2022	836
2023	1,134
2024	1,444
2025	1,749
2026	1,783

DIRECTOR OF PUBLIC PROSECUTIONS — SUPPORT DOG CONTRACT

110. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to my question without notice, asked and answered on 12 May 2021, and your request that I place the final part of my question on notice, and I ask:

(a) will the Parliamentary Secretary now table the Phoenix Australia report commissioned on 19 February 2019 and delivered on 29 July 2019; and

(b) if no to (a), will you undertake to comply with s.82 of the *Financial Management Act 2006*?

Hon Matthew Swinbourn replied:

(a)–(b) The Phoenix Australia Report was commissioned by the ODPP to enable a review of mental health related workplace risks and obtain best practice recommendations. Staff of the ODPP were assured that the Report would be kept confidential and that they in turn should keep the Report confidential. With those considerations in mind, I understand the Director of Public Prosecutions, Ms Amanda Forrester SC, has extended an offer to personally brief the Member about the Report. The Attorney hopes that a briefing may assist the Member with any questions he has about the measures Ms Forrester has taken to care for her staff members' health and wellbeing.