Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2023

LEGISLATIVE ASSEMBLY

Tuesday, 28 March 2023

Legislative Assembly

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THE SPEAKER (Mrs M.H. Roberts) took the chair at 1.00 pm, acknowledged country and read prayers.

PAPERS TABLED

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

MISUSE OF DRUGS AMENDMENT BILL 2023

Notice of Motion to Introduce

Notice of motion given by **Mr P. Papalia (Minister for Police)**.

COST OF LIVING

Notice of Motion

Mr R.S. Love (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

> That this house decries the McGowan Labor government for its failure to deliver key services and meet budget commitments, compounding cost-of-living pressures on Western Australian households.

WESTERN POWER — OUTAGES — REVIEW

Removal of Order — Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [1.02 pm]: I advise members that in accordance with standing order 144A, the private members' business order of the day that appeared in the last notice paper as "State-Owned Electricity Networks" has not been debated for more than 12 calendar months and has been removed from the notice paper.

CORONAVIRUS — MANDATORY VACCINATION — REVIEW
MINISTER FOR EDUCATION AND TRAINING — PERFORMANCE

Removal of Notice — Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [1.02 pm]: I advise members that private members' business notices of motion 1 and 2, notice of which was given on 22 February 2022 and renewed for a further 30 sitting days on 13 September 2022, will be removed and will not appear on the next notice paper.

CRIMINAL INVESTIGATION AMENDMENT (VALIDATION) BILL 2023

All Stages — Standing Orders Suspension — Motion

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [1.03 pm] — without notice: I move —

> That so much of the standing orders be suspended as is necessary to enable the Criminal Investigation Amendment (Validation) Bill 2023 to be introduced forthwith without notice and to proceed through all stages without delay between the stages.

I would like to briefly speak to this motion. I want to acknowledge and thank the opposition parties for their understanding of the importance of having this proposed bill debated and passed today. I acknowledge that they have also postponed debate on their matter of public interest this afternoon, which is appreciated, and they have attended briefings on this bill. The Minister for Police will shortly explain the importance of the bill when he reads it in. I again urge the house to deal with this bill forthwith.

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [1.04 pm]: I briefly want to speak on the motion to suspend standing orders and the urgency of this matter. As the Leader of the House pointed out, the opposition supports the suspension to ensure that this legislation can be debated and passed in the required time frame. However, I want to make a few points about the government's treatment, in some ways, of this Parliament with its complete control of both houses of Parliament and its obvious record party room numbers. With that control of both houses of Parliament, one would expect a very smooth and efficiently running Parliament, probably the most efficient it has been in its history. A simple error of definition that has serious ramifications translates to another error of delivery from the government. This is systemic of this government that has, in some ways, arrogantly treated this house as nothing more than a place in which to rubberstamp its agenda.

I will briefly run through some of the 13 bills that have been rammed through the Parliament with little or no notice. It is almost getting to the point now that we expect on a weekly basis to have to turn up to a Monday briefing on some bill that Parliament will look at on a Tuesday or Wednesday. The problem is that we are not receiving these briefings in a timely manner. Obviously, this time we are dealing with a very serious issue and we had a very small window of opportunity in which to have a briefing, but my worry is about the lack of due diligence and the ability for our side of the Parliament to be a constructive contributor to the Parliament on these various bills.

In the space of two years, 13-odd bills have been introduced without notice or with a day's notice that require the suspension of standing orders to be considered. I will quickly run through them. There was the Planning and Development Amendment Bill 2022, which the minister then delayed the passage of by a day to allow the house more time to consider its implications; the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022, a bill that the government refused to justify; the Treasurer's Advance Authorisation Bill 2022 that sought an additional $820 million; the Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022, which the Minister for Small Business wanted to pass before he retired from that portfolio; the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021, which we know is still flawed and has seen the new minister dig in his heels; and the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, which was rammed through this house, breaking a promise that it would not be on the government's agenda. We have spoken about that one many a time. It was not on the agenda, but, funnily enough, the Attorney General and the Premier managed to put it straight on the agenda immediately after the election.

The SPEAKER: Member, if I can just interrupt for a moment. This is a motion to suspend standing orders. You are required to speak to the motion—so, for or against the motion—about whether we should suspend standing orders for the consideration of this particular bill. I will ask you to address the motion that is on for debate.

Mr P.J. RUNDLE: Thank you, Madam Speaker. I wanted to point out those particular bills—I have another half a dozen here that I will not run through—as an example of the modus operandi of the government. We understand the urgency of this bill and the scenarios that have led up to it that I am sure the Leader of the Opposition and the Leader of the Liberal Party will speak to.

As I said at the start, we will be supporting the suspension of standing orders. However, as manager of opposition business, I find it very disappointing that a pattern has developed over time whereby opposition members are briefed on a bill the day before and are then expected to somehow talk to all our stakeholders and come up with a coherent response to the bill.

The SPEAKER: Members, as this is a motion without notice to suspend standing orders, it will require an absolute majority in order to succeed. If I hear a dissentient voice, I will be required to divide the Legislative Assembly.

Question put and passed with an absolute majority.

Introduction and First Reading

Bill introduced, on motion by **Mr P. Papalia (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR P. PAPALIA (Warnbro — Minister for Police) [1.11 pm]: I move —

That the bill be now read a second time.

The Criminal Investigation Amendment (Validation) Bill 2023 will amend the definition of "serious offence" in the power of arrest provisions of the Criminal Investigation Act 2006 with retrospective application. The bill will address the unintended impacts on the power of arrest resulting from family violence legislative reforms that were progressed on an urgent basis in 2020 in response to the COVID-19 pandemic.

The power of arrest provisions in section 128 of the CIA authorise police officers to arrest persons without warrant in certain circumstances. The requirements for arresting a person for a serious offence are less stringent than for a non-serious offence. A police officer may arrest a person for a serious offence if the officer reasonably suspects that the person has committed, is committing or is just about to commit the serious offence. A police officer may arrest a person for a non-serious offence if the officer reasonably suspects that the person has committed, is committing or is just about to commit the offence, and one or more specified circumstances apply—for example, the officer reasonably suspects that if the person is not arrested, they will continue or repeat the offence or will endanger another person's safety.

Since 2012, the definition of "serious offence" under the power of arrest provisions of the CIA has included an offence under section 61(1) of the Restraining Orders Act 1997. Until recently, that section provided that it was an offence to breach a family violence restraining order or a violence restraining order. The breach of either an FVRO or a VRO was therefore a serious offence under the power of arrest provisions in the CIA.

In early 2020, the government progressed urgent family violence legislative reforms as part of the response to the COVID-19 pandemic. The Family Violence Legislation Reform (COVID-19 Response) Act 2020 enabled changes to the in-person and manual methods of operation used by the justice system. Those changes, among other things, improved access to restraining orders so that social distancing requirements would not be a barrier for victims of family violence who were seeking orders. These reforms commenced on 7 April 2020.

As part of these reforms, section 61 of the Restraining Orders Act was amended so that the offence provisions for breach of an FVRO or a VRO were split into two subsections. The offence provision for breach of an FVRO remains

in section 61(1) of the Restraining Orders Act. However, since 7 April 2020, the offence provision for breach of a VRO has been contained in new section 61(1A). As a result of the offence provision for breach of a VRO having been moved to a new section of the Restraining Orders Act, breach of a VRO is no longer a serious offence under the power of arrest provisions in the CIA. As a result, a police officer cannot arrest a person for breach of a VRO under the power of arrest for serious offences. Instead, the more stringent requirements for non-serious offences must be applied; that is, in addition to the police officer reasonably suspecting that the person has breached the VRO, the police officer must reasonably suspect that other specified circumstances apply, such as the person will commit or repeat the offence or will endanger another person's safety.

This is an unintended consequence of the family violence legislative reforms made in 2020 that has only recently come to light. The Western Australia Police Force has advised that between 7 April 2020 and 8 January 2023, the day before police officers were alerted to this issue, over 900 distinct offenders were arrested in respect of a total of over 1 500 breaches of VROs. Not all these arrests are impacted by the amendments made in 2020. The figures include offenders who were processed by police for additional offences at the same time as a breach of a VRO. The figures also include incidents when the more stringent requirements for exercising the power of arrest for non-serious offences might have been met.

That said, legislative amendments are necessary to address the risk that a number of arrests for breaches of VROs might have been made without legislative authority. Associated risks that might arise include potential civil claims, including for assault and false imprisonment, in respect of the unlawful arrest of persons for breaches of VROs. These might be matters when an arrested person resisted arrest and was subsequently charged with offences arising from that resistance; however, it might subsequently be held that the persons were acting in self-defence to guard against an unlawful arrest. Further, there might be issues surrounding the valid exercise of powers by police officers on arrested persons, including the carrying out of searches and forensic procedures on persons while they were in custody, the seizure of items found as a result of those searches and the imposition of bail conditions prior to their release.

To address the risk of claims in respect of unlawful arrests and to ensure that police officers will have appropriate powers of arrest in the future, legislative reform is required to retrospectively reinstate breach of a VRO as a serious offence under the power of arrest provisions in section 128 of the CIA. The Criminal Investigation Amendment (Validation) Bill 2023 will amend the definition of "serious offence" in section 128 of the CIA so that it will include the offence of breaching a VRO under section 61(1A) of the Restraining Orders Act.

The bill will also have retrospective application by providing that for the period beginning on 7 April 2020 and ending on the day the legislation receives royal assent, the definition of "serious offence" will be taken to have included the offence of breaching a VRO. The bill will ensure that anything done, or purportedly done, on or after 7 April 2020 is taken, and will always have been taken, to be as valid and effective as it would have been had the definition of "serious offence" in section 128 of the CIA included the offence of breaching a VRO. This will remove the risk of claims in respect of the unlawful exercise of the power of arrest or other powers that might be exercised in relation to arrested persons. This includes, for example, powers to conduct searches of, and seize items from, arrested persons.

The bill will also ensure that an act done on or after 7 April 2020 that would have been an offence if the definition of "serious offence" included the breach of a VRO will be taken to be, and to have always been, an offence. This will address the risk that persons who have committed an offence while resisting an arrest, such as assaulting a police officer, could claim that the arrest was unlawful.

The bill will give appropriate legislative authority for police actions in response to a breach of a VRO and the apprehension of offenders.

I commend the bill to the house.

MS L. METTAM (Vasse — Leader of the Liberal Party) [1.20 pm]: I rise as the representative for the police portfolio in the Legislative Assembly. Our shadow Minister for Police is obviously in the other house. The opposition supports not only the urgent passage of the Criminal Investigation Amendment (Validation) Bill 2023, but also the amendments in it. We also thank the advisers for providing a briefing on the bill.

This is very sloppy of the government, indeed. For the second time in a matter of five months, the McGowan government is rushing legislation through Parliament to address a loophole of its own making. We hear that over 900 arrests without a warrant have been made in Western Australia by WA police in relation to violence restraining orders between 7 April 2020 and 8 January 2023, and they are potentially jeopardised. These are serious offences that carry a penalty of a prison sentence of five years or more. In November 2022, we had to fix a bill related to illicit drugs in a similar manner. That was the government's legislation. It is extraordinary. It is embarrassing for the government, and we would not call it good governing.

Again, we are dealing with this legislation in good faith, as we did back in 2020, and we support the intent of what has been put forward. We are doing this without seeing the second reading speech. The government has had to make changes to the parliamentary process. We have put on hold a matter of public interest today, and there have been changes to the parliamentary program to support and ensure that this legislation is dealt with as soon as possible.

We absolutely support WA police in being able to go about their jobs and their duties, but record levels of police officers have left the force. The number of WA police men and women seeking mental health support has quadrupled over the last four years. There are over 100 unfilled positions in regional WA. There have been countless high-speed chases, as well as acts of car ramming, which has led to one officer sustaining a broken neck. We will add this to the list. For almost three years, WA police have not been adequately protected in the way they believed that they had been under the state's legislation allowing the arrest of a person of interest who is suspected of having breached a violence restraining order. The job of government is to protect the WA community. That is why we supported this urgency motion in the first place.

The minister raised the question of how our police can be expected to do their jobs when they are not protected. Much was made of the need to protect Western Australians during the COVID-19 pandemic, particularly from domestic violence, which is why we were also very supportive of the government's moves and the intent of the legislation introduced in 2020. We have supported efforts taken to address this, but there has clearly been an issue with the drafting of this legislation.

Recognising the urgency of this legislation and the need for it to go to the upper house as well, I will leave my remarks there. We absolutely support this bill and its retrospective application. Again, I thank the advisers for making themselves available last week and today for members of Parliament.

MR R.S. LOVE (Moore — Leader of the Opposition) [1.24 pm]: As the member for Vasse has outlined, we will support the Criminal Investigation Amendment (Validation) Bill 2023, which will overturn a drafting error—a mistake I guess it could be put as. A sloppy mistake was made in one of those many COVID bills that were rushed through this place in great haste during those uncertain times, when the opposition sought to provide the government with an opportunity to make the changes needed to keep Western Australia safe through the application of the COVID temporary order that was place in the fortieth Parliament. Apparently, this mistake happened in one of those bills.

We heard from the Minister for Police that an amendment to the Restraining Orders Act led to a provision relating to violence restraining orders being moved to a different section of that act. That was not picked up at the time the corresponding bill was rushed through Parliament, and, unfortunately, it led to, I think, 1 500 arrests relating to 900 people being potentially unlawful. From that were a whole lot of other ramifications for any consequential events that may have occurred following those arrests, which were then perhaps unlawful, relating to interaction with the finding of evidence, future proceedings or, in fact, the validity of bail if an order was breached.

We were briefed by the minister's advisers, and I report that the briefing to the entire opposition occurred only at 11 o'clock this morning and was limited to only 20 minutes. It was made clear that we could not have any more time than that as there was something important the advisers had to get to. The opportunity for members of the opposition to understand what this bill was about was there from only about 11 o'clock today. We were provided with one copy of the bill and explanatory memorandum at a briefing held last week, which was attended by me, the Leader of the Liberal Party, the shadow Minister for Police and the Leader of the Opposition in the Legislative Council. At the briefing, we were provided with one copy of the bill and we were told it had to be kept confidential within our group, which it was, so members of the broader opposition had only today to get an understanding of the bill. That did not leave a lot of time for them to properly scrutinise the legislation.

The Legislative Council is the place where legislation is especially scrutinised to make sure there are no mistakes as it comes from this place. Often, the time the government takes on bills is held up to some degree of ridicule. I know the Legislative Council's processes have been somewhat curtailed this term of Parliament from what they normally are, but in that place many mistakes in legislation are found.

It is an interesting fact that the Legislative Council has a scrutiny role. As part of that role, there is the Standing Committee on Legislation to which bills can be sent to be considered. I understand that committee has not been sent one piece of legislation in this term of Parliament, so it is a committee that has had no purpose. Presumably, members are being rewarded for sitting on that committee—I do not know whether they sit on other committees, which would negate that expense to the state—and perhaps research staff also are dedicated to the committee. That committee has not considered one bill in this term of Parliament. That does not indicate a government that takes the need to properly vet legislation seriously. This is an example of that.

These are serious matters that pertain to people's liberty and safety and the work of our police force, which we all support and want to see enhanced, appreciated and reinforced by a government that is doing its job properly to ensure that legislation it brings forward as a COVID rush bill is properly vetted, is properly written and is covering all bases.

It is interesting that we were told on 9 January that a senior constable at Midland uncovered the fact that the Criminal Investigation Act's serious offence provisions did not actually cover these violence restraining orders. All power to that senior constable! I do not know what position that person is working in—perhaps it is in prosecutions—but he picked up something that the government had not, which was that this is a serious situation. After that time, we were told that the police issued a broadcast to all members of the force to tell them that they had to use the more complicated path for arrests and had to have in mind all those other factors partly outlined by the minister in his

second reading speech when they make an arrest, rather than just a simple suspicion of a breach of a VRO. That senior constable is certainly owed a bit of consideration for promotion in the future and a reward for the merit of what he has done. I am not sure that the government and the drafters of the original bill deserve the same level of praise.

We will make every endeavour we can to ensure that this matter is put through Parliament today so it can gain royal assent and become part of the legal landscape almost immediately so people will have no ability to use the opportunity that might have been presented by the potentially invalid nature of some arrests. I note that the second reading speech the minister provided to Parliament today says —

> This will remove the risk of claims in respect of the unlawful exercise of the power of arrest or other powers that might be exercised in relation to arrested persons.

I would like a solid guarantee that that will be the case and that it will be completely removed. The minister can give those assurances to the house and perhaps give us an understanding of what the officer was engaged in because that story would be quite interesting to know. That person, who is not a commissioned officer or anything, seems to me to be doing a great job. I really believe that that person needs to be commended for their actions.

I return to the information provided to the opposition in order to properly examine this bill. The opposition asked for a copy of the proposed second reading speech to be provided or for roughly equivalent briefing notes. The advisers said that they would ask the minister, but that was denied. In the spirit of working with the opposition, one would have thought those things could have been provided. It does not serve the minister well to expect the opposition to maintain confidence, as it has done, and to work willingly and cooperatively when the information flow coming from the minister is not vast. I made a request to his office, and I was told he would be consulted. I was told today that he was consulted, and the answer was no. That does not speak of someone who wants to work willingly with both sides of the chamber to ensure that the legislation is passed. Thankfully, I believe we now have enough information to support the change, but, in my opinion, there was absolutely no reason for the information not to be provided.

I will conclude my remarks. We may have a very brief moment of consideration in detail. I understand from the Leader of the House that the government would like to have this bill sent to the other place before question time. We have agreed to move our matter of public interest to another day so that, in case consideration just happens to be interrupted by question time, it will at least get up there in plenty of time for the other place to discuss it just after three o'clock or thereabouts. It is our intention to try to assist to achieve the two o'clock deadline. I conclude my remarks, and I am sure we will see this bill progress through the Parliament today.

MR P. PAPALIA (Warnbro — Minister for Police) [1.35 pm] — in reply: I thank the members for their contributions, and I also thank them for their tolerance with regard to this necessary amendment, the urgent Criminal Investigation Amendment (Validation) Bill 2023. I note with regard to the Leader of the Opposition's concerns about the briefing that a couple of briefings were offered and taken last week. The first was with the leadership group and subsequently, on the second day, another was provided with the shadow police minister and advisers. Today, as the member is aware, we offered a further in-person briefing by advisers for the wider party and those who were interested.

It is a five-page bill. It has not been brought about by any error or failure by police, my agency or my office. It is a consequential amendment to a bill that was missed at the time of COVID. As I said at the outset in today's second reading speech, the Family Violence Legislation Reform (COVID-19 Response) Act —

> … enabled changes to the in-person and manual methods of operation used by the justice system. Those changes, among other things, improved access to restraining orders so that social distancing requirements would not be a barrier for victims of family violence who were seeking orders.

That was essential at the time of COVID and had to be passed rapidly. It could not be subject to the lengthy period of analysis that would normally have been the case in the upper house, as the member indicated. There was nothing intentional or malicious in rushing that legislation through; it was done to protect people at a time of serious threat.

I absolutely endorse the Leader of the Opposition's observations about the officer concerned who identified the omission. He did a great job. I cannot give the Leader of the Opposition the answer right now about how he came about it. Does the opposition intend or want to go into consideration in detail?

Ms L. Mettam: Just a brief consideration in detail.

Mr P. PAPALIA: I can find out. I can get the information about how he came about it. He was obviously doing a great job; I totally agree that he should be commended for identifying the omission that resulted in this correction of an unintended consequence at the time.

I commend the bill to house.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Ms L. METTAM: Our intention is to complete consideration in detail of the Criminal Investigation Amendment (Validation) Bill 2023 before question time. With regard to the commencement date, this issue was originally raised by an officer, as we understand it, late last year. Can the minister explain the time frame, and why the commencement of this bill is being introduced now, in March? Why has there been a time lag between the issues being raised by the officer late last year and what happened earlier this year?

Mr P. PAPALIA: There was quite a protracted process. Firstly, police had to confirm the concern that was raised by the senior constable. They then had to seek advice from Parliamentary Counsel and the State Solicitor's Office. As I understand it, there were some five drafts of the amending legislation to resolve that issue. It took some time to arrive at the point at which we could introduce it into Parliament.

Mr R.S. LOVE: Still on clause 2, I have been reading through this so I might be asking a question that has already been asked. Clause 2(2) states —

> Section 4 comes into operation on the day after that day.

That is, the day after the legislation receives royal assent. Why will it come into operation on the day after, rather than on the day it receives royal assent?

Mr P. PAPALIA: I am informed that that is normal drafting convention.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 128 amended —

Ms L. METTAM: This obviously deals with the substantive issue—the serious offence. The legislation has gone through a number of drafts and I would like some clarification. There were 900 people arrested, but 1 500 arrests. Can the minister clarify that?

Mr P. PAPALIA: There were 900 individuals, but some of them had been arrested multiple times, so there were 1 500 instances of an offence.

Ms L. METTAM: Can I assume that all those 900 individuals had breached a violence restraining order?

Mr P. PAPALIA: The answer is yes. Some were arrested for other offences, but they had all breached restraining orders.

Mr R.S. LOVE: On the subject of the original change, we are putting violence restraining orders back in under the serious offence provision. In the minister's second reading speech he mentioned the reason for the change in the first place: it was to separate family and domestic violence restraining orders from VROs. Could the minister clarify exactly what the intent was when that was being undertaken, and whether there is any indication that, having made that change, there has been any effect on the operations of the system with regard to that offence?

Mr P. PAPALIA: The change was not made in this legislation, but in the Family Violence Legislation Reform (COVID-19 Response) Act 2020. It was an unintended consequence; it was not intended to diminish violence restraining orders in any way and make them a less than serious offence. That was just something that happened when the legislation was separated. That is not my act, so with regard to the motivation for doing it in that act, it is not really something that I am across, but this consequential amendment is the thing we are dealing with. The need for a consequential amendment arose because that was what happened—because of the nature of what was going on at the time, the drafters missed that need.

Clause put and passed.

Clause 5: Part 15 inserted —

Mr R.S. LOVE: This is the clause that relates to the validation of acts that occurred in that period. We know it is from 7 April 2020 and we know that the police broadcast went out on 9 January this year. It is believed that, since that time, there have been no further arrests using that simple system, and instead a more complex method of determining whether a person is committing an offence is being used. Why does the validation period not extend to 9 January and instead extends to the day on which clause 5 of the Criminal Investigation Amendment (Validation) Bill 2023 will come into operation?

Mr P. PAPALIA: The broadcast is to the officers so that they change their behaviour, but the law still has to be amended and it must encompass the full period. That is why.

Clause put and passed.

Title put and passed.

Third Reading

MR P. PAPALIA (Warnbro — Minister for Police) [1.47 pm]: I move —

That the bill be now read a third time.

MS L. METTAM (Vasse — Leader of the Liberal Party) [1.47 pm]: As I stated in my contribution to the second reading debate, we certainly support the urgency of what has been presented—the Criminal Investigation Amendment (Validation) Bill 2023. I thank the advisers. The substantive issue here is about ensuring that when there is suspicion of a breach of a violence restraining order, the police have that important power to arrest. We support the police in being able to undertake their lawful duties. We have already raised concerns about the manner in which this bill came before the house, but we support its urgent passage through the upper house today.

MR P. PAPALIA (Warnbro — Minister for Police) [1.48 pm] — in reply: I again extend my thanks to the opposition for its indulgence on this important matter. With regard to the advance briefing, I repeat that we did everything we could, bearing in mind that there was a necessity to retain in confidence as much as possible the information that was being provided. I understand that copies of the bill were provided this morning to the opposition as well. I thank the opposition again for its support, and I look forward to the swift passage of this bill through the other place.

Question put and passed.

Bill read a third time and transmitted to the Council.

NICKEL (AGNEW) AGREEMENT AMENDMENT BILL 2023

First Reading

Bill read a first time, on motion by **Mr R.H. Cook (Minister for State Development, Jobs and Trade)**.

Explanatory memorandum presented by the minister.

Second Reading

MR R.H. COOK (Kwinana — Minister for State Development, Jobs and Trade) [1.50 pm]: I move —

That the bill be now read a second time.

The purpose of this bill is to amend the Nickel (Agnew) Agreement Act 1974, which I will refer to as the state agreement act, to ratify an agreement made on 20 December 2022 between the state and BHP Nickel West Pty Ltd, which I will refer to as the variation agreement. This bill is necessary in order to amend the Nickel (Agnew) Agreement 1974, which I will refer to as the state agreement, to primarily provide for the treatment at the Leinster nickel concentrator, constructed and operated under the state agreement, of nickel ore obtained from areas outside of the state agreement mineral lease, which I will refer to as third-party nickel ore; the blending at the Leinster facilities, constructed and operated under the state agreement, of nickel concentrates produced outside of Nickel West's operations under the state agreement with nickel concentrate produced by Nickel West from the state agreement mineral lease, which I will refer to as third-party nickel concentrates; and the inclusion into the state agreement mineral lease of additional land near Leinster currently held by Nickel West under specified mining tenements to accommodate Nickel West's continued operations at Leinster.

To put this variation agreement in context, I will provide some background on the state agreement, Nickel West and the Western Australian nickel industry, and the requirement to vary the state agreement. Nickel was first intersected by Western Selcast Pty Ltd in 1971 near Agnew, a former goldfields town approximately 980 kilometres north-east of Perth. Selcast subsequently formed a joint venture with Mount Isa Mines Ltd and the joint venture entered into the state agreement with the state on 21 November 1974. The purpose of the state agreement was to enable the joint venture to develop the nickel ore reserves and establish the Agnew area mining concentration and smelting facilities and associated works. The state agreement also provided for the establishment and operation of the nearby Leinster town site and Leinster airport.

In September 1988, Selcast transferred its rights in the joint venture to Western Mining Corporation Ltd. In 2005, BHP Billiton acquired WMC. The nickel mining and processing activities on the mineral lease are collectively referred to as the Leinster nickel operations and comprise three open-cut mines, the Perseverance underground mine and the Leinster nickel concentrator. Nickel West is 100 per cent owned by BHP, and is a fully integrated nickel business operating open-cut and underground mines, concentrators, a smelter and refinery all located in Western Australia.

The Leinster nickel operations are critical to Nickel West's vertically integrated mining, processing and refining operations, which directly employ over 2 500 people. Nickel West is the world's leading nickel supplier to the battery metals market, and over 85 per cent of Nickel West's nickel is sold to global battery materials suppliers. In addition to the Leinster nickel operations, Nickel West operates nickel mines at Mt Keith and Cliffs and processing facilities at Kambalda and Kwinana. These operate outside of the state agreement and are not subject to the variation agreement.

Western Australia is currently the sole producer of nickel in Australia and accounts for seven per cent of the world's production. The state's nickel resources consist of both sulphide and lateritic deposits, with most production derived

from nickel sulphide mines. Historically, Western Australia's nickel industry has been unique, in that many producers are dependent on the continued operations of competitors. Many companies sell ore to Nickel West for processing at its facilities. In turn, Nickel West relies on those companies to ensure consistent supply of ore to maintain operations.

Parliamentary ratification of the variation agreement will affirm the treatment of third-party nickel ores and blending of third-party nickel concentrates at the Leinster nickel operations, further ensuring supply to maintain operations and nickel supply to the battery metals market. The government's vision is for Western Australia to have a world-leading, sustainable, value-adding future battery industry that provides local jobs, contributes to skill development and economic diversification and benefits regional communities, as outlined in the *Western Australia's future battery and critical minerals industries* strategy update.

In 2020–21, nickel was Western Australia's fourth most valuable mineral sector, worth $3.5 billion. China, South Korea, Japan, the Netherlands and the United States accounted for around 82 per cent of Western Australia's nickel exports. In 2021, Nickel West produced the first nickel sulphate crystals from its nickel sulphate plant in Kwinana. The nickel sulphate plant is the first of its kind in Australia, and will produce enough premium nickel sulphate to make 700 000 electric vehicle batteries each year.

I now turn to summarise the key provisions of the bill and the variation agreement that are outlined in more detail in the explanatory memorandum to this bill that has been tabled for the consideration of members. The provisions of the bill essentially set out to amend the state agreement act to ratify the variation agreement, referred to in the bill as the 2022 variation agreement, a copy of which is inserted as the third schedule to the state agreement act. I now outline the key provisions of the variation agreement by reference to its impact on the clauses of the state agreement.

The variation agreement will insert a new clause 6B and will amend and modernise existing clause 8 of the state agreement, being the additional proposals clause to provide for, first, the treatment at the Leinster concentrator of third-party nickel ore, separately or blended with mineral lease ore, to produce nickel concentrates; and, second, the blending at the Leinster facilities of third-party nickel concentrates with nickel concentrates produced from mineral lease ore.

Proposed new clause 8(9)(a) sets out the scope by specified annual tonnage ranges and duration of third party–related ore treatment and concentrate blending activities at the Leinster nickel operations relating to particular third-party sources, and which may be varied over time in accordance with clause 8.

Proposed new clauses 10A and 10B of the state agreement will require Nickel West to prepare a community development plan and a local participation plan respectively. Proposed new clause 10A will require Nickel West to prepare and implement a community development plan that describes the company's proposed strategies for achieving community and social benefits. Proposed new clause 10B will require Nickel West to provide a clear statement on the strategies it will use, and require a third party to use, to maximise local industry participation benefits. I am pleased to say that Nickel West has also agreed to publish elements of its community development plan.

Proposed new clause 16A of the state agreement will allow Nickel West to incorporate into the state agreement mineral lease land near Leinster that is the subject of specified mining tenements held by Nickel West to support the continuation of the Leinster nickel operations. This will also reduce the burden of administering multiple tenements.

By way of modernisation amendments, clause 15 of the state agreement is to be amended to require Nickel West to pay rent for the state agreement mineral lease at the rate required by the Mining Act 1978, to make the mineral lease subject to the Mining Rehabilitation Fund Act 2012 and to require Nickel West to prepare, update and implement mine closure plans in respect of the mineral lease.

Further, clause 21 of the state agreement dealing with royalties is to be amplified and updated to align the return and payment of royalties with the Mining Act 1978, and clause 24, dealing with rating, will be amended for consistency with the state's gross rental value rating policy for mining, petroleum and resource interests.

In addition to these key provisions, a number of other legislative harmonisation and administrative matters will also be addressed, including by removing the need for ministerial approval of Leinster town site subleases in certain circumstances, and various redundant clauses, including in relation to existing towns, ports, railways and the purchase of electricity, being deleted. Ratification of this bill by Parliament will provide BHP Nickel West with investment certainty for major capital projects as BHP focuses towards future-facing commodities, and, in particular, to the battery and critical minerals market.

I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle (Deputy Leader of the Opposition)**.

VISITORS — DAVID AND PAM HUDSON

Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [2.00 pm]: I would like to acknowledge on behalf of the member for Hillarys some guests who are seated in the Speaker's gallery—that is, David and Pam Hudson. Welcome to Parliament. I hope you enjoy question time.

QUESTIONS WITHOUT NOTICE

JOBS — FEDERAL GOVERNMENT EMISSIONS POLICY

201. Mr R.S. LOVE to the Minister for Federal–State Relations:

I refer to the deal that the Labor federal government has struck with the Greens to pass its new safeguard mechanism legislation. Given that three of the biggest six emitters are Western Australian, what impact will this policy have on Western Australian jobs and how many jobs will Western Australia lose in the interests of achieving this Greens and Labor policy?

Mr M. McGOWAN replied:

The commonwealth government took a policy to the election to reduce emissions by 43 per cent by 2030. That was Labor's commitment at the federal election, which is, I would have hoped, something we all support. I do not know what the Nationals WA or the Liberal Party's position is on that, but I would have hoped they would support reducing emissions in that way, using the safeguard mechanism, which was put in place by the last Liberal government. That is the mechanism it is using. Does the Leader of the Opposition support the reduction of emissions using this? He does not. I thought it was an interesting question. The commonwealth government has made a commitment in that regard. The relevant Western Australian projects, obviously, have to work out ways of offsetting their scope 1 emissions. That is what they will have to do. As I understand it, they are relatively comfortable with that.

JOBS — FEDERAL GOVERNMENT EMISSIONS POLICY

202. Mr R.S. LOVE to the Minister for Federal–State Relations:

I have a supplementary question. With the introduction of these new laws, will the Premier seek to fast-track the removal of duplication of consideration of these emission matters between the Environmental Protection Authority and the federal authorities?

Mr M. McGOWAN replied:

I do not understand the question. The Scarborough project is, as I understand it, largely approved and it is a low-emission—certainly scope 1—project. Therefore, there is not a great deal of concern about it. In terms of the member's question, I think he might need to phrase it a bit better so that it can be comprehended.

ELLENBROOK RAIL LINE

203. Ms J.J. SHAW to the Premier:

I have framed my question in a way that is understandable! I refer to the McGowan Labor government's election commitment to deliver the Metronet Morley–Ellenbrook railway line.

(1) Can the Premier update the house on the McGowan Labor government's delivery of this world-class public transport project, which the former Liberal–National government failed to deliver in over eight years in office?

(2) Can the Premier outline to the house how this rail line will create significant benefits and opportunities for people living in Perth's north-east?

Mr M. McGOWAN replied:

I thank the member for Swan Hills for the question.

(1)–(2) Of course, the Morley–Ellenbrook rail line has had a long and chequered history. Members might recall that the Liberal–National government, upon its election in 2008, was fully committed to it. It said it was going to build it and committed to it before the 2008 state election. What happened then? Absolutely nothing. It committed to it again before the 2013 election saying, "It slipped off the agenda; we'll do it then" referring to the 2013–2017 term. What happened then? It did absolutely nothing. Then it committed to the Metro Area Express light rail project to Mirrabooka and a whole range of people invested, bought land and so forth on the basis that they were going to build around this light-rail project. What happened then? It did absolutely nothing.

When we arrived in office, we had to start from scratch because there were not even any drawings for the Morley–Ellenbrook line. The great news is this: the Minister for Transport, Rita Saffioti, has driven this project. The local members—the Minister for Health, the member for Swan Hills and the federal member for Perth—and I went out there on Sunday. The project is going ahead in leaps and bounds. There is a huge amount of work going on—huge engineering and construction work and a range of train stations being built. One of the last things you do when you build a rail line, strangely enough, is lay the track! We are now in the process of laying the track. We were there to have a look at the ballast and sleepers for 1.5 kilometres of the 21-kilometre rail line between Bayswater, Morley and Ellenbrook. This project will be the longest rail line since the Mandurah rail line was built by the last Labor government. It will halve the commuting time and mean that people in those rapidly growing suburbs—the hundreds of thousands of people in that part of Western Australia—will have access to a rail line.

What we have done, which I think is really important, is build massive and major infrastructure ahead of population growth to meet the needs of the population in the future. I compare and contrast that with what is going on in Sydney and Melbourne. In Sydney, a rail line is being built to the new airport in Badgerys Creek. That rail line will cost around $20 billion and it is the same distance as this one. It is roughly 20 times the cost per kilometre. There is another up to Chatswood, I think it is, which is nine kilometres or so. Again, it is 10 to 20 times the cost per kilometre of ours. The one in Melbourne is between 20 and 30 times the cost per kilometre of ours. That is because they are building them after the population is in place and after they are all built out, and they have to do all sorts of engineering, construction, tunnelling and so forth. We are building these important projects to meet the needs of the future urban growth of this state and this city and we are doing it much, much, much more affordably than they are in other states in Australia, by a factor of up to 20 times less than what it is over there.

This is terrific news for the state. I thank all the members involved. I thank the commonwealth for its contribution and I thank the Minister for Transport for the great work. The Ellenbrook railway is underway. It is being built and we are very hopeful we will open it during the course of next year.

SCHOOLS — SUICIDE AND SELF-HARM PREVENTION GUIDELINES

204. Mr P.J. RUNDLE to the Minister for Education:

I refer to the *School response and planning guidelines for students with suicidal behaviour and non-suicidal self-injury*. In light of yet another tragic suicide of a south west student, will the new Minister for Education consider making these guidelines mandatory across public and independent schools in WA; and, if not, why not?

Dr A.D. BUTI replied:

Of course, suicide is a tragedy for anyone, particularly a young person, so I will try to speak about this matter in a sensitive manner and not refer to any particular incident that may have happened. In regard to those guidelines the member referred to and independent and Catholic schools, I do not have authority to mandate it in any case. I think the member would understand that as the opposition education minister. We are the regulator of those schools. In regard to public schools, as the member knows, those guidelines are inserted into the policy. But in regard to the guidelines, it is not one size fits all. We allow individual schools to determine how they should respond. The schools ask the parents. The schools speak to the students who might be in danger. That is what should happen. I am sure the member understands that there is a need to be sensitive and flexible in this area. We do not mandate one broad policy to fit everyone. We have a policy, but the mandatory guidelines are inserted into the policy to be considered by every school in consultation with allied professionals—experts in the area—and the families. That is the policy at the moment. Obviously, we are always looking at and reviewing policies in this area, and that will continue.

SCHOOLS — SUICIDE AND SELF-HARM PREVENTION GUIDELINES

205. Mr P.J. RUNDLE to the Minister for Education:

I have a supplementary question. Further to that response, the last review of the guidelines was in 2021. Is the new minister considering reviewing those guidelines and amending the language, which could actually improve the implementation of the guidelines across all WA schools?

Dr A.D. BUTI replied:

Just to clarify, when I said "independent schools", I did not mean independent public schools, as they are within my authority; I meant independent schools. The member would know what I mean—the Anglicans and so forth and the Catholic system.

The year 2021 was not that long ago. The previous minister spent a lot of time considering the policies and guidelines. I have been in the role now for about three months and I have also considered the policies very, very carefully. This campaign is being driven by one individual—I think the member knows who that individual is—who is trying to whip up anger in this area, which he should not be doing. It is a very, very sensitive area. Shame on him! As members know, he lauded this great protest or mass demonstration that was going to happen at the footsteps of Parliament, and there were about five or six families. I felt sorry for those five or six families, because he gave them false hope. He is no expert in the area. We consider this matter very carefully. The Minister for Health; Mental Health and I have spoken about this matter. We take it very seriously and we decide what we think is the best way forward. We do not take lessons or advice from one individual who is hell-bent on causing fear, alarm and false hope for families who are suffering.

ELLENBROOK RAIL LINE

206. Ms L.L. BAKER to the Minister for Transport:

I refer to the major announcement on Sunday about the tracks being laid for the Morley–Ellenbrook line.

(1) Could the minister outline to the house the history of the Morley–Ellenbrook line project?

(2) Could the minister tell the house whether she is aware of any recent commentary on the project or the broader Metronet project?

Several members interjected.

The SPEAKER: Members of the opposition, I ask government members not to interrupt while your questions are being asked, and I ask you to pay the same courtesy to government backbenchers when they ask a question.

Ms R. SAFFIOTI replied:

I thank the member for that question.

(1)–(2) On Sunday, as the Premier outlined, we reached a major milestone on the Morley–Ellenbrook line. Over a kilometre of track has now been laid on that project. Of course, it is a project that Labor has supported from day one, and we are so proud to be delivering it. Labor is delivering where the Liberal Party failed.

I nearly choked on my pasta on Sunday night when I saw the Liberal Party commentary on the Ellenbrook rail line, trying to claim credit for it! The opposition spokesperson claimed that of the Metronet projects, there have not been too many that were not first thought of, planned or funded by the Liberal Party. That commentary did not match my recollection of events, so I did some research and stumbled across a source document called *A Liberal history of the Ellenbrook line*.

Ms S.F. McGurk: Has it got anything in it?

Ms R. SAFFIOTI: It does. I will go through it to outline the Liberal history on the Ellenbrook rail line. Do members remember when the then candidate for Swan Hills sent out a flyer saying that the Liberal Party would deliver the Ellenbrook rail line? The then opposition leader, Colin Barnett, said that it was the next logical extension. In government, the Liberal transport minister said there was a commitment to build the Ellenbrook rail line, and then in the midyear review, the then Treasurer, Troy Buswell, said that it was in the budget and they were going to commence it in 2010–11. Then, of course, they started changing the wording. The then transport minister said that they were going to "plan" to build the Ellenbrook rail line. The then Premier said it would be a second term commitment; they were not going to do it in their first term, but in their second term. Of course, in 2016, when the Liberal Party announced its transport plan, it said that Ellenbrook would not need a rail line until at least 2050!

Several members interjected.

Ms R. SAFFIOTI: I will keep going. After that, of course, we won the election. The true feelings of the Liberal Party came out when the then opposition leader said it would take a genius to come up with a business case to justify the Ellenbrook rail line!

Point of Order

Mr R.S. LOVE: Point of order.

Several members interjected.

The SPEAKER: Order, please, members!

Several members interjected.

The SPEAKER: Sorry, minister! Points of order are heard in silence.

Mr R.S. LOVE: The minister is clearly reading from a document that purports to be a Liberal document but is not, and she is in fact using a prop. I am inquiring whether she has your permission to use that prop and whether she is using it in the way that she indicated she would, because this is going to be a very lengthy response to a Dorothy Dixer.

The SPEAKER: There are two parts to that.

Ms L.L. Baker interjected.

The SPEAKER: Member for Maylands, I am speaking.

Firstly, the minister sought and got permission from me earlier today to use that document, so, yes, she does have permission to refer to that document in answering her question. Secondly, her reference to the document seems to be in accord with the question asked by the member for Maylands. On those two fronts, I will not be calling the minister to order at all. On the final little remark the Leader of the Opposition made about it being lengthy, that could be of concern to me. If the answer is too lengthy, I will draw that to the minister's attention. Minister, you may continue.

Questions without Notice Resumed

Ms R. SAFFIOTI: There are three question times' worth of commentary on this one, but I will wrap up soon!

Of course, the then opposition transport spokesperson, Liza Harvey, said the project did not stack up and called it marginal-seat politics. Since that time, we have seen the Leader of the Opposition trying to scratch off the

"Metrodebt" stickers in the car park. We have heard the member for Central Wheatbelt call Metronet "pet projects". We had the Leader of the Liberal Party stand outside and say that the Ellenbrook rail line should not be built under the plan that the government is delivering and that it should be changed or, possibly, delayed forever.

Members, we are delivering the Ellenbrook rail line. My last point is that after I had finished my pasta and was tucking into my tiramisu, I heard the opposition spokesperson say, "I'll believe it when I see it." I tell members what: as big as the project is, members cannot see it from the gardens of Parliament House! I urge members of the Liberal Party to stand in the middle of Ellenbrook with their Liberal Party posters and talk about the Ellenbrook rail line. If they had the guts, they would go out there and hold their press conference in the middle of Ellenbrook and talk about their history with the Ellenbrook rail line.

MENTAL HEALTH — EMERGENCY DEPARTMENT PRESENTATIONS

207. Ms L. METTAM to the Minister for Mental Health:

I refer to evidence provided to the Standing Committee on Estimates and Financial Operations last week in relation to the recommendations from the Chief Psychiatrist's 2020 *Targeted review*. Two and a half years on, why is there still no funding to provide the three vital multidisciplinary community intensive treatment services recommended to reduce emergency department presentations and inpatient admissions?

Ms A. SANDERSON replied:

I am very proud of this government's record on mental health. We have injected record funding into mental health services across the state—record funding. A range of work is occurring around emergency departments. We are prioritising those emergency department diversions, with the infant, child and adolescent task force to support children who are presenting with mental health issues and provide a more appropriate environment for them than an emergency department. I am absolutely proud of our record on mental health. We have a record increase in funding for mental health; we have started the journey on infant, child and adolescent reform for mental health for children and young people; and we had a significant uplift in staffing across our public mental health system over the last two years, directly with the child and adolescent mental health service and, in our regional centres, through the WA Country Health Service. We also run the emergency telehealth mental health service, CAMHS Crisis Connect, and a range of other important crisis services for children and adults in the mental health space.

MENTAL HEALTH — EMERGENCY DEPARTMENT PRESENTATIONS

208. Ms L. METTAM to the Minister for Mental Health:

I have a supplementary question. How can the minister say that mental health is a priority for this government when the Child and Adolescent Health Service knows what needs to be done to care for our most vulnerable children but the government is not providing the funding to deal with it?

Ms A. SANDERSON replied:

That is absolutely not true. The child and adolescent mental health service has received significant funding uplift. If the member had listened to the hearing, she would also understand what a difficult recruitment environment it is. It is a very challenging recruitment environment around the country. We are developing our peer worker framework and putting peer workers in our public system, particularly for children. That is very important, particularly for young people. That work is being led by Margaret Doherty, who is a very highly regarded community leader and lived experience advocate, and we are funding that work.

We have seen a significant uplift. I think it was around a 25 per cent uplift in staffing in the community CAMHS treatment sector. Some of those positions are not filled yet. That is not for lack of trying. It is certainly working hard to ensure it fills those roles. We have to fill the roles that are funded before we fund more. That is the way it works. We have to fill those roles, and we continue to rebuild a system that was left to rot for about eight years under the previous government, essentially. Those staff were not upskilled and they were not valued and the public mental health system under the previous government took a hit. Now we are rebuilding that youth child mental health system into a modern, responsive and really appropriate service for children who are experiencing mental health issues in a home and community setting. We are not bringing them into hospital or institutions, but supporting those children at home with their families.

HOUSING — TRANSPORT HUBS

209. MR S.J. PRICE to the Minister for Housing:

I refer to the McGowan Labor government's commitment to creating a diverse range of housing options for Western Australians.

(1) Can the minister outline to the house how this government's record housing investment is delivering affordable housing within Metronet precincts?

(2) Can the minister advise the house whether he is aware of anyone who opposes building new houses near transport hubs?

Mr J.N. CAREY replied:

I thank the member for his question.

(1)–(2) As members would be aware, very clearly we are ambitious about driving greater infill and density, particularly around transport hubs. We understand that if we want healthy and well-connected communities, we need infill and density that is accessible to public transport. As the Minister for Transport has repeatedly outlined, we are making an incredible investment in our public transport system. That is why our government is using a vast number of levers to encourage a mix of affordable social housing in Western Australia. We have created the housing diversity pipeline, which is identifying lazy land, particularly close to transport hubs like in Redcliffe. We are going out to the market and seeing what private and community houses can provide. We are going through the assessment of that land right now.

We are bringing in the build-to-rent tax exemption to encourage affordable rentals. We have also brought in a 100 per cent stamp duty rebate for affordable apartments at $500 000 and under and tapering up above that price. We have created the new Keystart urban infill product, which is a particular loan product that goes towards encouraging people to buy affordable apartments. We have created the new infrastructure fund, which is in part funding and assisting developers to build affordable infill, again, close to Metronet hubs. We have also announced our planning reforms, which are about streamlining so that we can get that medium to high–density housing built, because we understand that planning approvals create cost hurdles.

These are all reforms that our government is undertaking to accelerate the delivery of affordable apartments. I note this difference to the opposition; it does not support the planning reform. I also note that this opposition has no housing policy. Six years—no housing policy. Actually, we saw it last week. It hauled out to North Beach, a complex that it could not deal with in its eight years of government. It bought a few properties and threw up its hands. The opposition housing spokesperson was asked by the Channel Seven journalist, "How would you do it quicker?" There was radio silence. In fact, the silence was so embarrassing that the leader of the Liberals had to step in. I have stepped in puddles that are deeper than the opposition's policy framework! It has no policy substance. It criticised our reforms. On Sunday, it criticised our spot purchasing program. I repeat: it criticised our spot purchasing program. But consistently before then, it has called on us to embrace spot purchasing. This opposition has no policy depth and no policies that constantly contradicts itself. We clearly have a reform agenda. We are driving that reform agenda to accelerate the delivery of social and affordable housing in Western Australia.

GOLD CORPORATION — SECURITY

210. Mr R.S. LOVE to the Minister for Mines and Petroleum:

I refer to the information system audit of 22 March, which showed that in 2021–22, 86 per cent—nearly nine out of 10—of entities failed to meet benchmark endpoint security requirements. I also note the ongoing compliance and governance failures impacting Perth Mint and the know-your-customer review process that is underway.

(1) Is the minister aware that Perth Mint is seeking for certified copies of clients' identification to be sent to it via email, which is certainly not best practice?

(2) Can the minister outline what, if any, security measures Perth Mint is undertaking to protect clients' sensitive personal data?

Mr W.J. JOHNSTON replied:

(1)–(2) Firstly, in respect of the audit report, I do not believe that there was any adverse commentary about the Perth Mint in the audit report. I just make sure that the member understands that he is connecting unrelated issues. The audit report did not make any negative reflection on the data security arrangements of the Perth Mint. I think that is the first thing that we need to get on the table, because the structure of the question made it seem as though there was somehow a negative audit report on the data security arrangements at the Perth Mint, but clearly the member acknowledges that that is not true. There has not been any negative audit report on the data security issues. Firstly, let us get that on the table. If the member agrees that there have not been any negative outcomes from the audit report into data security, that probably answers the second part of his question.

GOLD CORPORATION — SECURITY

211. Mr R.S. LOVE to the Minister for Mines and Petroleum:

I have a supplementary question. Will the minister request Perth Mint to immediately cease and review its unsafe information-handling procedures?

Mr W.J. JOHNSTON replied:

I just make the point that the member is contradicting himself. As he just outlined, there is no adverse finding from the Auditor General on the data security.

Mr R.S. Love interjected.

The SPEAKER: Leader of the Opposition, you were given the opportunity to ask a supplementary question. That has to be a short and sharp question. You have managed that, but you cannot continue to interject on the minister.

Mr W.J. JOHNSTON: As the member outlined, there is no adverse finding of the Auditor General on the data security arrangements of the Perth Mint. Now let me go to another issue. I expect the Perth Mint to fully comply with its obligations under anti–money laundering arrangements.

Let us understand the purpose of the Mint. The Perth Mint's job is to facilitate goldmining operations in Western Australia. It has not been fully understood by the community what occurs. Because of the way the Mint buys gold from the goldmines in Western Australia, they are able to be paid for the gold on delivery at the Mint, and then the Mint sells the gold to others. That benefit means that the Western Australian gold industry can maintain its cash flow. In Australia there is a second gold refiner called ABC Refinery. It operates in Sydney. It is a competitor to Gold Corporation, and it is making remarks in the community about the operations of the Perth Mint. That is because it has a commercial reason to do so.

Again, I want the member to come back to the fundamentals. As the member said himself, there was no adverse finding on data security issues in the Auditor General's report. But now the member is saying that there were adverse findings.

Mr R.S. Love: I didn't comment either way.

Mr W.J. JOHNSTON: I am sorry, Leader of the Opposition. You were the one who started your question by referencing the Auditor General's report into data security systems.

Mr R.S. Love interjected.

Mr W.J. JOHNSTON: As I say, the Leader of the Opposition was the one who raised the question of the Auditor General's review of data security issues, and the point that I am agreeing with him on is that there was nothing in that report that reflected negatively on the management of data by the Perth Mint. The member then came up with a different reflection, which must be sourced from somebody, and I make the point that it was not sourced from the Auditor General.

MISUSE OF DRUGS AMENDMENT BILL 2023

212. Mr D.A.E. SCAIFE to the Minister for Police:

I refer to the McGowan Labor government's commitment to disrupting organised crime.

(1) Can the minister advise the house on how this government's new anti-drug laws will continue to disrupt and dismantle organised crime in Western Australia?

(2) Can the minister advise the house how these laws build on the McGowan Labor government's success in keeping the community safe throughout the COVID-19 pandemic?

Mr P. PAPALIA replied:

I thank the member for his question and for the support of his local police, which I witnessed when we visited Cockburn Police Station recently.

(1)–(2) We are addressing the incredible contradiction that has mostly been present in Western Australia whereby, as identified by the Premier, police can search someone coming into Western Australia for a banana or a pear or an apple, but they cannot search for methamphetamine, cocaine or heroin. That has been pretty much the case in most recent times, with the exception of 2020, which was a time when we had strong border controls. We had police officers greeting every arrival, pretty much. With those arrivals knowing that they could be searched, the consequence was a massive impact on meth flow into Western Australia. That was proven by sewage testing, which showed a 51 per cent drop in meth use across the metro area, a more than a 70 per cent drop in Albany and more than a 60 per cent drop in Geraldton. Not only are these extraordinary outcomes, but also there was a commensurate drop in crime. Crime dropped by more than 40 per cent across the state, which is incredible. It had an incredible impact on large volume crime against property and there were very positive consequences as a result of the search powers that were in place then.

We will create 22 search areas at all the major entry points to the state—road, rail, sea and air—to enable police to threaten to have a search at any time because the border search areas will be enacted, but they will be activated based on intelligence, as necessary, which will lead to a senior officer authorising use of the search area, with a very strong focus on intercepting particularly meth, but also other illicit drugs coming into the state. There will be a lot of limitations on the powers. They will not be in public places; they will be very constrained areas, and that will be defined in the act. There will even be aerial pictures of the search areas. The powers will not be able to be exercised in regard to persons engaging in exempt activities like political demonstrations, religious or cultural activities and medical emergencies. There will be Corruption and Crime Commission oversight, a statutory review and a sunset clause after five years if it does not work. But the primary objective is to try to replicate what happened in 2020—to give our police powers to disrupt the evil activities of organised criminals. From overseas and interstate, that is represented

by the activities of mafia, cartels, triads and other organised criminals who bring this stuff into the nation and into Western Australia and then it is distributed here by outlaw motorcycle gangs predominantly. Therefore, this is all about focusing on disrupting that behaviour, reducing the flow of meth in particular into the state, reducing crime and making the community safer.

YOUR SAFETY IN OUR HANDS IN HOSPITAL REPORT — RELEASE

213. Ms L. METTAM to the Minister for Health:

I refer to the *Your safety in our hands in hospital* 2021–22 annual report, which has not yet been released.

(1) On what date did the minister receive a copy of this report?

(2) On what date were the minister's suggested changes or feedback given back to the Department of Health?

(3) If this is such a good report, full of good news, why has it still not been published; and when will this report be published?

Ms A. SANDERSON replied:

(1)–(3) As I suggested when I answered this exact same question last week, the Leader of the Liberal Party can pop off the tinfoil hat and lose the conspiracy theories. This report was received, as I outlined last week, by my office late last year around November. Feedback was given by my office that there was a range of identifying case studies in there. As I said before, when people through no fault of their own and no actions of their own are thrust into the media spotlight if something occurs in a hospital, it becomes identifiable. This report is largely for clinicians and hospitals to go through to understand trends and to understand that when things go wrong, it is always a learning opportunity. Therefore, it is important that we continue to allow clinicians to learn from those severity assessment code 1 and sentinel events that happen throughout our system.

What the report does highlight is that there is a trend downwards of dangerous events in our hospitals. What also is missing in some of the Leader of the Liberal Party's narrative is the sheer volume of episodes of care that the public health system undertakes every year. Over one million episodes of care are undertaken by our system every single year, and the public system undertakes the most complex care. It takes patients that the private sector will not or cannot accommodate. The public sector does an incredible job in dealing with our most complex and our sickest community members. At times there is risk and it is important that that risk is managed and reduced.

As I said, the overall thrust of the report is that there is a trend downwards for those sentinel events. Feedback was provided by my office, and my understanding from the department is that the report will be uploaded when that feedback is incorporated. But that feedback was provided last year.

YOUR SAFETY IN OUR HANDS IN HOSPITAL REPORT — RELEASE

214. Ms L. METTAM to the Minister for Health:

I have a supplementary question. The minister has been sitting on this report for about five months. When will it be released?

Ms A. SANDERSON replied:

When the Department of Health releases it. It has had the feedback. The report has been through my office. We have given our feedback, and it is up to the good people in the Department of Health to publish it. It is not true that I have been "sitting" on the report. We received it, we provided feedback and then it was in the hands of the department.

Let us look at how the opposition uses information that it gets from the Department of Health. Let us look at how the opposition uses information that the department has released. As soon as the vaccine safety report was released by the department, a friend of the Leader of the Liberal Party and member of the Liberal Party Hon Nick Goiran got his hands on it and used it to undermine our incredibly successful vaccination campaign. That is how he uses information.

Ms L. Mettam interjected.

Ms A. SANDERSON: That is how he uses information.

Ms L. Mettam interjected.

Ms A. SANDERSON: Undermining —

Ms L. Mettam interjected.

The SPEAKER: Order, please!

Ms A. SANDERSON: I say again: that information has to be very carefully managed to protect people from egregious deep dives into data to expose their personal details. Again, Hon Nick Goiran has sought the personal medical information of women seeking late-term abortions and their doctors, to the point that he was mentioned in the annual report from the Information Commissioner. That is completely inappropriate. Information needs to protect patients.

FUTURE BATTERY AND CRITICAL MINERALS SECTOR

215. Ms R.S. STEPHENS to the Minister for Mines and Petroleum:

I refer to the McGowan Labor government's commitment to developing Western Australia's battery and critical mineral sector.

(1) Can the minister outline to the house how this government's partnership with Korean trading partners is building capacity in Western Australia's critical mining sector?

(2) Can the minister advise the house how this partnership will help drive further innovation in WA's mining industry?

Mr W.J. JOHNSTON replied:

I am very pleased to answer this question from the outstanding member for Albany.

(1)–(2) I just remind people that the south west of Western Australia is actually a major mining province in Western Australia with many jobs and opportunities flowing from that. It includes, of course, downstream processing like the Albemarle processing facility in Kemerton that takes feedstock from the world's number one lithium mine at Greenbushes. It is very important that we engage with our trading partners like Korea. We have had a future battery and critical minerals industries strategy in Western Australia since 2019 that has seen a multibillion-dollar investment in our downstream processing industry.

During my recent trip that included a visit to Korea, a visit that was opposed by the Liberal Party, I was able to witness the signing of a memorandum of understanding between the Minerals Research Institute of Western Australia and the Korean Institute of Geoscience and Mineral Resources, the equivalent body for the Korean government. This will enhance technological exchange between Western Australia and Korea while we work on improving our ability to find minerals, recover them from the earth, process them at the mine site and work on those extracted minerals to make the chemicals that are needed for our battery industry and to process rare earths as well. It will also allow for research on extracting critical minerals from tailings—that is, the material that currently goes to waste. Interestingly, that is demonstrated by Iluka Resources' rare-earth plant at Eneabba, north of Perth, which is going to take mine tailings and reprocess it to create rare earths. It will be an integrated rare-earth facility.

Western Australia has already achieved a great deal. One of the advantages of my travel was that I was able to let our international partners know of the great success that we have already had in midstream processing, not just our strong position in mining, and now our globally significant investments into the processing of those minerals into chemical products for industry around the world. This MOU with the Korean Institute will allow us to continue to develop the technologies that we need to create the high-paid, high-skilled jobs in Western Australia that the Labor government wants to see here.

I understand that the opposition, the Liberal Party in particular, does not want to engage with our trading partners. It criticises me, the Minister for Mines and Petroleum, for doing my job and —

The SPEAKER: Order, please, members!

Mr W.J. JOHNSTON: — visiting our trading partners and the key investors making Western Australian industry so strong, but I do not shy away from hard work and I am prepared to do that again. This MOU will assist us in transferring the technologies that we need to grow our industry in Western Australia.

The SPEAKER: The Leader of the Opposition with the last question.

E-SCOOTERS

216. Mr R.S. LOVE to the Premier:

E-scooters are being blamed for an alarming rise in severe injuries to both riders and innocent pedestrians, and as the cause of a number of house fires from exploding batteries. Given the alarming increase in such incidents, what action will the Premier's government be taking to address mounting community concerns?

Mr M. McGOWAN replied:

E-scooters have grown massively in popularity. We see them everywhere these days. People of all ages are using them. As we have seen, a number of people have been injured, people may have even been killed, and there have been issues with the interaction between e-scooter riders and also pedestrians. The police have undertaken operations in relation to these matters, in particular around the enforcement of noncompliance with regulations. Last year, it resulted in 267 offences with an infringement or court proceedings. This year 742 infringements have been issued and 39 e-rideables or scooters have been impounded as of 26 March. The other thing we are doing is far more in the education area to ensure that people who ride e-scooters are aware of the rules and requirements in place around them.

This is a difficult issue to resolve. E-scooters are growing in popularity amongst the public and this is an issue in every city and town all over the world. The idea that we ban them is not feasible, but we are engaging in far more education and enforcement in this area.

E-SCOOTERS

217. Mr R.S. LOVE to the Premier:

I have a supplementary question. Given the concerns raised by groups such as Department of Fire and Emergency Services and the medical community, does the Premier see the need to act more quickly to solve these issues?

Mr M. McGOWAN replied:

I just outlined to the member a range of enforcement and compliance initiatives taken by the government and the police, but it is a difficult issue to solve; the idea that it is somehow easy is not correct. Is the Leader of the Opposition's proposal to ban them?

Mr R.S. Love: No.

Mr M. McGOWAN: Is the Leader of the Opposition's proposal that anyone who rides one must have a licence?

Mr R.S. Love: No.

Mr M. McGOWAN: All right; so the Leader of the Opposition has no ideas in relation to this issue.

Several members interjected.

The SPEAKER: Order, please members! Leader of the Opposition and about a half-dozen ministers, please just let the Premier answer the question.

Mr M. McGOWAN: What is the member's policy idea?

Mr R.S. Love: I am not allowed to say anything. You have to ask the Speaker if I can answer the question. I am happy to outline a range of things.

Mr M. McGOWAN: The member comes in here and outlines a problem, but there are these issues in government that are difficult to solve. E-scooters have become ever more popular. They are particularly popular amongst people in their 20s and 30s who want to use an e-scooter rather than a car or a motorbike. They are popular amongst people who perhaps want to use an e-scooter to get to work so that they do not have to shower after riding a bike. All those sorts of things are happening out there. We are regulating it and we are enforcing compliance. We have put in place education in relation to these matters.

Several members interjected.

The SPEAKER: Members! This is not an opportunity for a debate.

Mr M. McGOWAN: I will tell the member again. Since 7 February 2023, there have been 742 infringements and 39 have been impounded; that is what has occurred in the last month and a half. Last year, hundreds of infringements were put in place as well. They are the initiatives that we are able to take. If the member has any other ideas, please pass them on.

The SPEAKER: That concludes question time.

ABORIGINAL CULTURAL HERITAGE ACT — REGULATIONS

Question without Notice 199 — Supplementary Information

DR A.D. BUTI (Armadale — Minister for Aboriginal Affairs) [2.47 pm]: Under standing order 82A, I would like to provide further information and clarification on part of a question asked last Thursday by the member for Central Wheatbelt. She asked —

> How much, if any, of the $10 million committed to establishing local Aboriginal cultural heritage services … has been allocated?

In my answer, I advised —

> … the first round of applications went out. It has been taken up by some of the local Aboriginal cultural heritage services. There will be more forthcoming as time proceeds to 1 July.

By way of clarification, I advise that the grant program commenced with a call for expressions of interest and so far 43 organisations and individuals have responded to that EOI, and more responses are expected prior to the act coming into effect on 1 July 2023. Two rounds of grants are available. Up to $80 000 is available for eligible corporations to prepare a readiness report identifying the skills and resources required to undertake the functions of a local Aboriginal cultural heritage service, and a further grant of $200 000 is available on designation as a LACHS to assist with capacity building. Organisations that receive a readiness grant will be able to use their readiness report to support their application to become a LACHS.

DIRECTORS' LIABILITY REFORM BILL 2022

Statement by Deputy Speaker

THE DEPUTY SPEAKER (Mr S.J. Price) [2.51 pm]: Members, today the Speaker received a letter from the Acting Clerk of the Legislative Council in the following terms —

> I refer to Legislative Council Message No. 91, in which the Council seeks the Legislative Assembly's concurrence with an attached schedule of amendments to the Directors' Liability Reform Bill 2022.
>
> Please note that in Amendment No. 1 of the Schedule, an identical error has been made in two separate places to the title of the Swan and Canning Rivers Management Amendment Act 2023.
>
> Specifically, the word "Amendment" has been accidentally omitted.
>
> In the Acting Clerk's opinion in both cases this is an obvious typographical error which, in the event that the Assembly agrees to the Council's Amendment No. 1 as passed by the Council, shall be corrected during preparation of the Bill for assent.

Accordingly, the Speaker advises that if the amendments are agreed to by the Assembly, the typographical errors will be corrected as part of the preparation of the bill for assent.

Council's Amendments — Consideration in Detail

The following amendments made by the Council now considered —

No 1

Clause 2, page 3, after line 24 — To insert —

(ha) section 145A —

(i) if the *Swan and Canning Rivers Management Act 2023* section 7 comes into operation on or before assent day — immediately after section 145 of this Act comes into operation; or

(ii) otherwise — when the *Swan and Canning Rivers Management Act 2023* section 7 comes into operation;

No 2

New clause 145A, page 56, after line 2 — To insert —

145A. Section 121A amended

In section 121A in the Table delete "s. 32(5)" and insert:

s. 32B(2)

Mr J.R. QUIGLEY — by leave: I move —

That amendments 1 and 2 made by the Council be agreed to.

These amendments were agreed to in the other place during its consideration of the Directors' Liability Reform Bill 2022. The amendments were necessary because due to the timing of the bill's passage through the other place, an act has been assented to that has affected a provision of this bill. I have previously explained that this bill proposes to standardise and reduce the number of derivative liability provisions across the statute book. This intention is reflected in the bill's amendments to the Swan and Canning Rivers Management Act 2006, which I will refer to as the SCRMA. The bill seeks to apply the new derivative liability provisions in the Criminal Code to the appropriate offences in the SCRMA. This will be achieved by inserting into the SCRMA a new section 121A that contains a table that specifies the offences to which derivative liability will apply.

The Swan and Canning Rivers Management Amendment Act 2023 was passed by the other place on 21 February 2023. I note that the amendment act received royal assent on 1 March 2023, but its operative provisions have not yet been proclaimed. Section 2(b) of the amendment act provides that all provisions, except for sections 1 and 2, will commence on a day fixed by proclamation. The significance of that amendment act is that it includes a provision that, when proclaimed, will affect the offence table in division 58 of this bill.

The table currently includes a reference to eight offences in the SCRMA—namely, section 30(3), failure by a river reserve lessee to comply with a default notice; section 32(5), contravening or failing to comply with a river reserve licence condition; sections 70(1) and (2), undertaking or causing to be undertaken any unapproved development; section 71(1), unauthorised filling in or reclaiming of part of the development control area normally covered by water; section 88, making false statements in connection with an application under part 5 of the act; section 101, contravening a river protection notice; and section 116(4), failing to comply with a notice under that section to

stop undertaking development, reclaiming or filling, or to remove or alter any development, reclamation or filling and restore the land as nearly as practicable to its previous condition. The amendment act will delete from the table section 32(5) of the SCRMA and insert in section 32B(2), a new offence that merits the imposition of derivative liability. The new offence will provide that a licensee who fails to comply with a default notice commits an offence, for which the penalty will be a fine of $50 000.

Mr R.S. LOVE: I would like to hear more from the Attorney General.

Mr J.R. QUIGLEY: There will be a fine of $5 000 for each separate and further offence committed by the person under the Interpretation Act 1984. New clause 145A of the bill will amend proposed section 121A, which will be inserted into the SCRMA by clause 145 of the bill. This approach was necessary to accommodate the fact that, depending upon when the remainder of the amendment act will be proclaimed, either section 32(5) or section 32B(2) of the SCRMA will be in operation at the time that new section 121A is inserted into it by this bill. New clause 145A will simply delete a reference in the table in proposed section 121A to section 32(5), which will no longer be operative when the remaining provisions of the amendment act have been proclaimed as it will be replaced with reference to section 32B(2).

The Legislative Council also passed a related amendment to clause 2 of the bill to ensure that new clause 145A will take effect at the appropriate time, depending upon when the amendment act is proclaimed. If the amendment act is proclaimed so that it commences first, an offence currently in the Swan and Canning Rivers Management Act will be deleted and a new offence will be in operation, as I described earlier. Clause 2(ha)(i) of the bill therefore provides a reference to the current offence to be amended immediately after proposed section 121A is inserted. However, if clause 145 of this bill commences before the relevant provisions of the amendment act are proclaimed, the current offence in the Swan and Canning Rivers Management Act remains operational, so proposed clause 2(ha)(ii) will ensure that the reference to the current offence in section 32(5) will remain until a new offence in section 32B(2) is proclaimed. For these reasons, the government supports the message and amendments remitted to this chamber by the Legislative Council.

Mr R.S. LOVE: This is just to confirm—this has been brought about by the fact that we had the Directors' Liability Reform Bill transition through Parliament at roughly the same time as the Swan and Canning Rivers Management Amendment Bill, which is now an act. Because the change occurred in the act, it now has to be reflected in the bill because it was not a change at the time when the bill was first being discussed. It must have been contemplated at that time so I imagine it could have been included in a transitional clause of some sort at that occasion. Can the Attorney General confirm whether it could have been covered by some transitional clause at the time the Swan and Canning Rivers Management Amendment Bill was being debated?

Mr J.R. QUIGLEY: Yes, the amendment act had not been passed or proclaimed, and it was wrong for this chamber to presume that the other chamber would proceed with it. We have to go on the law that is before the Parliament at the time. Members could make the assumption that, given the numbers, the bill would pass in the other place, but that would be highly presumptuous and we would not do that. We have to wait until the law is settled and then come back and clean it up.

Mr R.S. LOVE: Thank you. That was not quite what I asked. Perhaps I could have said a "contingency" rather than a "transitional arrangement"; nonetheless, we are where we are. Because of the crossover of timing, it has been decided to amend this section, as the Attorney General pointed out, by changes to the table in proposed section 121A, with section 32(5) to be replaced by section 32B(2).

The question I would ask is: during the Directors' Liability Reform Bill debate here, there was quite a bit of discussion about the different type of liabilities covered—types 1, 2 and 3. The Attorney General gave an indication that there were numerous bills of type 1, such as the Directors' Liability Reform Bill. No bills were covered by type 2, and the Attorney General went through a list of a number of bills covered by type 3. Can the Attorney General outline to the house which type of liability is incurred by section 32(5)?

Mr J.R. QUIGLEY: I cannot at the moment, but for each of the sections, we can go back to the original bill. They are set out in the act.

Mr R.S. LOVE: If one was to return to the original act, one would find the answer to that.

Mr J.R. QUIGLEY: Correct.

Question put and passed; the Council's amendments agreed to.

WORKERS COMPENSATION AND INJURY MANAGEMENT BILL 2023
WORKERS COMPENSATION AND INJURY MANAGEMENT AMENDMENT BILL 2023

Cognate Debate

Leave granted for the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023 to be considered cognately, and for the Workers Compensation and Injury Management Bill 2023 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 22 February.

DR D.J. HONEY (Cottesloe) [3.06 pm]: I rise to make a contribution to this debate as the lead speaker for the opposition, and I indicate that the opposition supports the bills that the government has put forward. I wish to talk generally about workers compensation, initially, and then discuss some aspects of the bills.

Workers compensation is an interesting area. My father was what we would call a swinging voter and someone who liked to contemplate and think about issues. One of the comments he made when I was a boy was about the role that unions have played in our workplaces. As he said, people like to criticise unions, but if it were not for unions, kids would still be crawling on their knees in coal mines, and we would not have seen an improvement in a lot of workplaces. I think that is especially true in workers compensation. To the chagrin of some of my colleagues, I make positive comments about unions in this place from time to time; equally, I will criticise them when I think they are doing the wrong thing. In the areas of worker safety and workers compensation, the union movement has played a critical role.

I remember vividly when I was a boy that it was men who almost overwhelmingly worked in heavy industries and the more dangerous jobs, and it was not uncommon that by the time those men had reached the end of their working careers, or even before the end of their working careers, they were effectively crippled. They could not do anything. Of course, in many occupations, they had to leave their jobs before they reached the age of 65 years and were eligible to get the old age pension, and there was little compensation for them.

I grew up on a small farm in the south west, as I think a number of members know, and I remember that my dad had to work off the farm to get enough income to support his family. One of the jobs he worked in was as a contractor for a company called Hannaford grader, and it used a pickle for the grain that was called Ceresan. That pickle was an organo-mercury compound. Can you imagine that? Certainly, some members in this place have had industrial experience, but that was an organo-mercury compound. I remember as a little boy my father taking me to the main warehouse where that company operated from. A number of middle-aged men were in the office. My father explained to me that their nervous system damage was so bad that they had the shakes severely and they could not even hold a cup of tea with one hand. They had to use two hands or get someone else to give them a cup of tea. The company had given them light work in the office to compensate them.

Workers compensation is a very important issue. Historically, there has been an acceptance that workers might suffer damage in the workplace. I note that this is a topic the Deputy Speaker was familiar with in his previous life—workers compensation is not a substitute for proper workplace safety. Too many workplaces still take the attitude that some types of work break people and that it is part of the job and is why people are paid more money.

Members know that I have had a number of different roles in my working life. I started work for a mining company. People can work it out if they look at my CV. The first mining company I worked for had a target of no more than six deaths a year, and, by and large, it met its target; that is, by and large, no more than six people died. Sometimes people did die. It was semi-accepted in the industry that the company had a generous pension scheme so that if the worker died, their family would essentially be financially okay, but that it was part of the job. To the good credit of the managing director who came into the company about the time I joined, they sensibly said that an organisation could not have a target for a number of deaths and that it was unacceptable. That stuck with me throughout my working career in the industry.

Within about two years of the managing director saying that managers would be held accountable for workplace deaths, the figure went to almost zero. That was a powerful lesson for me. The Minister for Mines and Petroleum in recent legislative changes has made it very clear that managers are accountable for workplace safety outcomes in a range of areas. It was a profound lesson to me that simply the managing director saying that that was unacceptable and then holding managers to account in fact resulted in a dramatic reduction. I think of all those dear people, almost exclusively men, who were killed simply because there was an acceptance of poor work practice that killed people.

Less extreme, I think there is still an acceptance in workplaces that work practices injure people. There was a major issue with my immediate previous employer, particularly for metalworkers using rattle guns, which are high-impact tools that destroy joints. Again, not to focus on the Deputy Speaker too much, but he knows that the Australian Workers' Union and the Australian Manufacturing Workers' Union in particular were very much at the forefront, and a couple of individuals really pushed that issue—that it was not acceptable for people to effectively lose the use of their hands, which was the case for a lot of people who used those tools. The company I worked for invested a lot of money in that area, but I still think that among the workforce and from the company there was too great a tolerance of people being injured—and if they were injured, there was always workers compensation to cope with that afterwards. I am certain that everyone in this chamber holds exactly the same view; that is, workers compensation is there for when all the other proper controls have failed. Obviously in the extreme case, it is misadventure by accident, but otherwise it should be a genuine surprise that someone needs workers compensation because workplaces should be safe and workers should be safe. They should be able to come to work and go

home in the same physical condition. More importantly, at the end of their working career, barring the misfortune of poor health that is not related to a workplace, those people should be able to enjoy a productive, happy, healthy life in retirement, not reliant on compensation. That is important whether they are retiring or whether they are mid-career.

As my colleague Hon Dr Steve Thomas said when reviewing this bill, it has been on the table since 2009. Its gestation period has been 14 years, so it is good to see it come through. Clearly some areas needed to be dealt with. As members know, the bill covers a range of areas. I will not go through them all. I probably will not do the forensic detailed analysis that I would normally do on a bill. The index of this bill is longer than most bills I see in this chamber, and the 445-page bill is certainly daunting to look at. Nevertheless, we will go through some areas in detail. I will summarise a few areas in the same order as they appear in the minister's second reading speech.

Clearly, some election commitments were incorporated in the bill, such as increasing the cap on compensable, medical and health expenses. That seems like a reasonable and fair provision. Any of us who have had to have even moderate medical procedures know that the cost has increased quite dramatically. The increase to $146 395 seems a reasonable extension. As the minister pointed out, it will prevent the unnecessary process where for reasonable medical expenses, someone who is subject to workers compensation has to go back to get extra expenses covered. The other election commitment to extend the injury compensation coverage period from 13 to 26 weeks also seems prudent.

There is a step-down change to the minimum safety net, including overtime allowances. People might say that workers should not rely on their shift bonuses and the like. However, the human reality is that that is what people do. Too many people probably spend 105 per cent of their total pay, but many people end up spending all of their pay, one way or another. It is very difficult for families to cope if someone in the household has a sudden loss of income. That is a reasonable clause.

The bill also contains a provision for lifetime care and assistance following catastrophic workplace injuries. The no-fault clause is in line with traffic injuries, for example. Obviously employers are insured for that, and as the bill makes very clear, employers have to be insured for workers compensation. A safety net provision will take care of it if an employer has somehow or other not carried out its responsibility properly. Not so long ago, there was almost an acceptance that if someone was injured, it was bad luck, to a degree, and the worker and their family were the ones who carried that burden. Ensuring that lifetime care is available for injured workers is a reasonable provision in the bill.

I am interested in the cost impacts. I note in the bill that rehabilitation is now to be a cost to the employer and not the insurer. Obviously that will impose an additional expense on the employer, but would that have seen a reduction previously?

Other parts of this bill—for example, extending the step-down period and the like—could increase insurance costs. If the rehabilitation expenses will be the employer's and will no longer be paid by the insurer, should the premiums paid by employers have seen some reduction? I note some actuarial work was done on the estimate of the increased cost. The estimate was a 2.83 per cent increase in premium rates. That would make a relatively minor difference of about 0.5 per cent to an employee's total payroll costs for a company. That sounds very moderate, given the change in scope. I wonder who else got to see those actuarial assessments of costs. For example, did industry groups get to see those calculations and was there some broad agreement on those calculations in terms of their likely impact? Based on those impacts and the fact that our doors have not been knocked down by employers complaining about this, they may be satisfied with it. However, I am interested to know whether anyone outside of the department got to see those actuarial assessments of the likely costs.

When I was in industry, I was very conscious of the area of the coverage of workers and injuries. Employers were outsourcing risk to contractors. In industrial workplaces I saw that there was a tendency for companies to outsource work considered to be dangerous. They handed off the responsibility for something they knew was a dangerous activity. Again, the Minister for Mines and Petroleum has introduced some changes to make sure that responsibility for injuries that occur in workplaces comes back to the primary operator of the workplace so that people cannot outsource the risk. However, as we know in our economy now, there has been quite a growth and generational change towards an entrepreneurial spirit in so called gen Y and gen Z. I think we are back to A again in the alphabet, as someone was telling me the other day. I am sure someone can enlighten me.

There are a lot of young people going out into that sort of gig economy —

Mr W.J. Johnston: Member, do you realise that gen X was, in fact, generation 10? It was never X as in the letter?

Dr D.J. HONEY: Yes. It sort of lost the meaning. Thank you minister, for pointing that out. It might be testing their knowledge of Roman numerals to go any further.

Mr W.J. Johnston: Indeed. It is the tenth generation since the United States War of Independence.

Dr D.J. HONEY: There you go! Fascinating. The minister often teaches me things. Sometimes I receive them very well and sometimes not so well. Thanks for letting me know that.

I think that there has been too much outsourcing of risk to contractors. I think this bill sets out to make it very clear who the employer is, especially for those in the gig economy. There are a lot of younger people now who might be working for four or five different companies. The truth is that they are doing regular consistent work and are, in effect, an employee of that organisation. In this case, those changes make sure those people do not fall between the cracks. Although we might think of an office environment as much more benign than the industrial environment that the Deputy Speaker and I both worked in, the reality is that those workers can be subject to a range of occupational illnesses that can significantly impact their ability to work.

We are now coming to the claims and provisions. The statutory limit on the time to process claims certainly makes sense in terms of the changes. Perhaps I might cover it later, but I note that people specifically suffered silicosis injuries and the like from working with stone. Sorry, I will talk about that later.

There will be a statutory limit on the time to process claims. I assume the intent of this, which I think is reasonable, is that the employer does not use obfuscation or time wasting to force an employee to accept a particular outcome and have it done.

I am interested to know what will happen. Certainly my experience in industry was that workers compensation claims were dealt with as a fairly routine matter. It was orderly and almost codified in terms of the nature of injuries considered. However, there are very complex matters that may require more time to decide. Will an avenue exist to extend the limit? There will obviously need to be strict controls to make sure that employers, particularly those with deep pockets, do not misuse that to extend claims to force claimants to accept an offer. However, I think overall the provision is a reasonable one, as is the area of settlements. The bill will enable settlements between employers and workers. Sensibly, in that provision there is no requirement for admission of fault on either side. That is something that can certainly facilitate a sensible settlement outcome with a given period. An injured person's circumstances may change in some way whereby rather than receiving a steady income, they are in a position in which that is no longer required. It may also be that they have an urgent need for a lump sum payment. In that case, they can come to a settlement. I note that there are safeguards in the bill. I am not sure if we will have time to go through those. I know the government is keen to get through this bill in this session. It is certainly not my intention whatsoever to frustrate the government in that. I also know there are a number of speakers. However, I would like to explore the safeguards in the bill that concern settlements. I am certain they are there to prevent coercion when one party has a lot of ability to force the other party to agree.

The provisions concerning injury management and return to work are critically important. This is an area I saw in play when people sat at home and focused on a misfortune. That can, in itself, be enormously destructive. In fact, employers making sensible arrangements to get employees back into appropriate work activity as quickly as possible was really critical, not just for the physical benefits, but also the social benefits and related psychological aspects. For many workers, the workplace forms a really crucial social support network. I know I am referring a lot to my previous employer, but I saw all of these issues on many occasions in my previous workplace. That workplace support was really important to many workers. Workers who got back in early and did appropriate rehab work would typically return to full work much sooner than workers who stayed away and did not return to work. My personal observation was that the mental health outcomes were far better when workers could get back to their normal routine, obviously making sure that the work they were returning to was appropriate and they were not doing anything that could aggravate the injury they already suffered.

One area I would like to explore a little bit is the issue around preventing employers and their agents from attending a medical consultation in which a worker is being physically or clinically examined by their treating practitioner. I want clarity around how far that could extend. I will again refer directly to my personal experience. In my previous employment, if a worker was injured, the supervisor was required to attend the medical service with the employee. They were not to be in the interview with the doctor, but to be there with the worker. There were a couple of reasons for that. The principal reason was to ensure that the worker had support—you know, did they need a taxi home or another family member to come along? The union was always informed when a worker was injured, and maybe they would want the union to come along and attend or whatever. I know this could be an area of concern for some members. I fully appreciate that they do not want an employer to sit in on an appointment or a consultation between an employee and a doctor or specialist, but sometimes injuries can be acute. They might occur at night-time or the worker's family members might be tied up and so on. The role of the supervisor in attending with the employee was not to somehow try to subvert the process, but to genuinely make sure that the worker had all the support they needed. For example, we did not want a worker to be sitting in outpatients for three hours, waiting for a family member to come and pick them up. With the great majority of families now, both partners work or a partner might be at home looking after kids. This was to make sure that proper efforts were made to completely support the worker so that they were not left alone. I am interested in how far the ban will extend. I fully appreciate the consultation side of it—that it is not appropriate for the employer to be there—but an employer might attend the appointment for the purposes of providing support. Obviously, this would not be for every appointment. It would occur particularly when there is an acute injury, not a chronic injury that has occurred over time—that is, the worker was injured in the workplace and is attending a medical service. I am sure the minister will correct me if I am off the mark here, but maybe that would not be regarded as the workers compensation part of it. If that is the case, my concern will be greatly allayed.

I have mixed feelings about the area of pre-employment screening in relation to the bill. I think I understand the concern correctly as it is a fairly obvious, intuitive concern; that is, just because someone was injured in a workplace once, should they never get a job again and be discriminated against? I will take members to the other side of the coin by referring to someone who worked in my work area. That person worked in the workplace for two years as a contractor and was regarded as a good worker by fellow workers. They were then employed on a full-time permanent contract with the company. They worked for three months and then reported a significant chronic injury and said they could not work. They then went through the workers compensation process. The person who was dealing with that workers compensation process was very experienced and even tempered, but this person was so demanding and demanded compensation completely outside any normal range that they irritated and frustrated the human resources person who was dealing with it so much—as I said, they were a very even tempered person—that they contacted the person's previous employer and said, "Listen, we just want to find out a little bit about this employee." They explained the work history of this person in the company. The HR person from the previous employer said, "It's fascinating that you have told me about that employee, because in fact that employee was paid $600 000—this would be 15 years ago—for being totally and permanently disabled." That person had come to my employer and had not alerted them to any history, and then tried to go through the same process with this employer. That seems very unfair to an employer. I want to know whether, in that situation, an employer would have the right to contact a previous employer to find out whether someone was, for example, totally and permanently disabled from that previous workplace. As an aside, I was telling this story to the member for Mount Lawley earlier today. As many members would know, the great majority of workers want everyone to come in and work hard. The fellow workers of this chap were not very impressed by the way he had behaved because they thought it brought the union and them into disrepute. Anyway, they came up and showed me an advertisement in the Mandurah newspaper for a real estate company that said that this person had gone into selling real estate. They thought that was an appropriate vocation! Coming back to the serious and substantive point, these situations do occur. I know they are in the minority, but there are situations in which some individuals make serial workers comp claims. They rely on the system. I know it might be different for other employers, but my experience was that my employer erred on the side of generosity with workers compensation and not on the side of meanness. Essentially, that was around the process—that you go through it, take things at face value, deal with it and move on.

There was the issue of penalties, and then the minister talked about the obligation on employers to maintain insurance. There is a doubling of the fine. The minister pointed out that it had gone to that in only very rare cases. I guess that begs the question as to why we need to do this, but perhaps it is simply to make employers more aware of their obligations. Obviously, all responsible employers have workers compensation insurance. The premium-setting mechanism has been changed, but, again, I have heard no claims that that is a particular issue for any employers. There is the modernisation framework for WorkCover WA to licence and regulate insurers and self-insurers. Again, that makes sense. We want to make sure that anyone who works in this space has the capacity to fulfil their obligations. Again, that seems like a sensible and reasonable measure. Obviously, there is a continuation of dispute resolution procedures. As I am married to a lawyer and one of my children is a lawyer, one area did catch my interest, and that is the requirement to remove non–legally qualified independent self-employed agencies from this area. I would have thought that the majority of those people would be ex–union stewards and the like, who would have developed significant expertise over their working career in this area and might feel that they can offer a quality service to employees and perhaps have special knowledge or sympathy for the employee's cause, enabling them to do that job better.

Again, I have not heard anyone shouting from the rooftops. I think the Law Society would be pretty pleased. I think about one in five law graduates work as lawyers these days, so I am sure that the lawyers are happy, but I am interested to know why that was required. Was a particular problem identified? Were there some dodgy actors, if you like? Were people who had no particular knowledge in this purporting to be agents and simply fleecing injured workers and not providing the proper service that they should?

We will see the streamlining of provisions for dust disease claims. This area needs more focus by companies and I think, over time, even more focus by government. If I can see one hazard to which workers are constantly exposed, it is dust. All dust is bad. As we have seen with vaping, the aspiration of even aerosol water with chemicals in it into human lungs causes significant immediate and long-term harm, and I find it extremely distressing. Particularly in roadwork, but also in other work, we rarely see workers wearing eye protection or dust protection as they use cutting discs to cut through the road surface or concrete. Dust exposure is insidious. As I said, all dust exposure causes long-term effects; some of it can cause acute damage, but all dust exposure causes chronic diseases. The dust from grain, road surfaces and particularly cutting industrial materials causes very substantial harm. Of course, we have seen a dramatic rise in silicosis and other diseases with synthetic stone materials.

I think if we could encourage the government to do one thing, it would be to increase inspections by tenfold, because too many employers pay no heed whatsoever to the basic occupational hygiene protection measures of ensuring that they cut material in a way that does not generate dust. They should all have water suppression on their cutting devices, but the other thing is that absolutely no workers should be working without adequate dust mask protection. From what I have observed around the community, workers wearing adequate dust mask protection is the exception.

I know some people in this place are familiar with occupational hygiene and will know this already, but those paper P2 masks are effectively useless for stopping particulate exposure. To prevent dust exposure, someone has to wear a full face mask with proper respirator cartridges on a clean face. A person with facial hair has to wear a powered air-purifying aspirator. I genuinely mean this. I think there could be much, much greater enforcement in this area. I am not blaming this government for it. Clearly, it was the case when our side was in government as well, but I think there needs to be a much more serious look. Obviously, the exposure to silica materials is acute. We see very early onset of illnesses but we need to see a much greater focus on preventing exposure to dust generally. In light of that, certainly the three-year limitation period for the commencement of common-law action once the 25 per cent impairment threshold is reached is a sensible measure in the legislation.

There will be no significant changes to overall governance and administration, so I think I have covered most of that.

I know the minister and members in this place will have been contacted by the United Firefighters Union of Australia, as the opposition has. For the sake of *Hansard,* I want to shine some light on the issues that it has asked the government about. I am interested in the government's response to this. As members all know, we have the firefighter presumptive legislation for cancer. Twelve types of cancers are presumed to have arisen in the course of firefighting and it has clearly been an issue for some time. People know that firefighters are exposed to it. I had a meeting with several members of the United Firefighters Union, including an expert in this area, and I must say my intuitive view was that that exposure would have been mostly through improper respiratory protection and people breathing in gases, but, in fact, I was told that there is significant evidence that it is through skin exposure, which I was genuinely surprised by. Typically, for cancer to arise from skin exposure, it has to be something that is extremely toxic; someone has to get very high concentrations before we see acute or even chronic health impacts.

I had no objection to the points that were put forward by the firefighters and, obviously, they are knowledgeable people in this area. They are saying that the list should be expanded to 19 to include thyroid, pancreatic, skin, cervical, ovarian, penile and lung cancer. The union also made very clear to me that whilst the epidemiological evidence has not accumulated yet, female firefighters are subject to particular diseases—in fact, to particular reproductive diseases. Again, the people in this place who are experienced in industry would know that typically the way problems are identified is that there are a lot of anecdotes; people observe trends in workplaces and then the science catches up with it afterwards. That is logical because if we are going to do something, normally it is beyond reasonable doubt and in this case we need sufficient statistics.

I am not trying to throw a spanner in the works, but that made me think about whether there is an issue if those things are prescribed in regulation rather than legislation. When I was thinking about that, I thought that perhaps if we prescribe it by regulation, it becomes too easy to change it and every government could be constantly bombarded with different work groups that want their particular concern inscribed in a regulation; having it in legislation creates a threshold that makes sure that only things that are reasonably certain are included and we do not put in things that are speculative or the opinion of someone who is very forceful or very influential but do not really have a scientific basis. I am interested in the minister's advice on whether there is a reason for legislating that inclusion versus regulating.

When I had the meeting with the United Firefighters Union representatives, they asked whether I support this legislation. I said that obviously I am very sympathetic. Very few people are not sympathetic to firefighters. These people are on the front line saving our lives. They go into situations when most of us are driving as fast as we can in the other direction. But I said I would like to see the detail and the union undertook to provide that detail. I know that the government is likely doing this, but I encourage it to look into this and particularly the concern about the reproductive chronic illnesses that the firefighters believe are affecting workers.

I will end my contribution there. As members can see from my contribution, overwhelmingly there is good support for this bill. I will say, minister, when I was talking to one of the major stakeholders in this, they were effusive about the degree of consultation that occurred with the government. Sometimes we on this side are critical of the government for not consulting or being very selective in consultation. Obviously, in this area the risk, if you like, is that there is a lot of consultation with the union side and not a lot of consultation with employers. There is an absence of people knocking down our door about this, but I had direct feedback from one of the major industry groups in the state and it was very happy that the government had gone to such great efforts to consult with it on this matter. Therefore, I commend the bill to the house.

MS C.M. COLLINS (Hillarys) [3.49 pm]: I rise today to also speak on the Workers Compensation and Injury Management Bill 2023. This bill will implement the McGowan government's 2021 election commitment to modernise WA's work health and safety laws, specifically our commitment for workers compensation. The bill is part of a number of industrial reforms that this government has put forth. It shows that we will stand up for workers' rights. Specifically, this bill looks to rewrite our workers compensation legislation, which has been a long time in the making. We had over 86 submissions from a wide range of stakeholders, and it was great to hear the member for Cottesloe endorse the high level of consultation that occurred during this process. Under the modernised act, scheme participants will be provided with the clarity and certainty that they need to work out who is covered, whether insurance is required, how to claim, what compensation is available and how to resolve disputes. I will briefly outline some of the key changes that will occur and then go into a bit of greater depth on specific areas.

The new bill will double the medical and health expenses cap and extend weekly compensation payments to 26 weeks. This will be more in line with the time it can take to recover from, and receive medical assistance for, an injury that is sustained at work. The catastrophic injuries support scheme amendments will ensure that people who are injured on the job will receive the same level of care as someone injured in a motor vehicle accident. That will remove the current imbalance. We will also be able to implement the recommendations of WorkCover WA's 2014 report *Review of the Workers' Compensation and Injury Management Act 1981*. This review found that the legislation was overly complex and it created a somewhat confusing and frustrating experience for Western Australian workers who were injured on the job.

When the legislation was first introduced in 1981, it was not complete and there was an understanding that additions and reforms would be made step by step along the way. This process of additions and amendments, unfortunately, only exacerbated the complexity of these important laws. It is no surprise, as we have heard already, in the era of apps for employers and the precarious gig economy, that more work has been necessary to define what it means to be a worker. Too many companies are attempting to sidestep their proper responsibilities to their workplace by messing with the employer–employee contract. These amendments will clearly clarify the status of the contractor and give much-needed flexibility to regulations to cover more workers so that they do not miss out on their earned entitlements. We need to make sure that the process for compensation claim payments is faster, fairer and offers support when it is most needed. WorkCover WA's review of the legislation found that the delay in unresolved pending claims was an ongoing concern. These reforms will increase the limit of medical and health expenses from 30 per cent to 60 per cent of the prescribed maximum limit. Also of concern was the low entitlements of dependants of a deceased worker, and the review found that the death entitlement lump sum should be increased to over twice the current rate.

I will focus more on an issue that we are hearing a lot about in the news—that is, silicosis. A recent study has pointed to one in four construction workers being exposed to silica dust from engineered stone and then getting silicosis. Workers who are exposed to unsafe levels of silica dust can get silicosis—a debilitating and sometimes fatal lung disease. Previously, a worker with silicosis did not receive the same rights as a worker with asbestosis. This is despite the fact that both conditions take many years before the frightening extent of damage to a worker's lungs and body is made clear. The legacy of asbestos dust risk is infamous in Australia. Although the risk was first identified by workers' advocates and the medical profession in the 1930s, it was not until 2003 that the material was banned in Australia. Today, the fight continues with irresponsible companies shifting the danger of asbestos to vulnerable communities in places like Cambodia, Indonesia, Laos and Vietnam.

As mentioned, silicosis is a long-term disease that is caused by the inhalation of unsafe levels of silica dust. If a person works with quartz, sand, stone, granite, brick, cement or any engineered stone products, they could be at risk. Silicosis cannot be reversed. In 2019, the rates of comparatively young Australian workers displaying symptoms from silica dust damage led to the creation of the National Dust Disease Taskforce. The task force handed down its final report in June 2021. The report lamented the re-emergence of an entirely preventable occupational respiratory disease that had ravaged Australian workers between 1940 and 1960. In no uncertain terms, the report stated that if workplace safety measures recommended by the task force were not taken up, there would be no other choice than to immediately ban the product. Recommendations include employers measuring silica dust levels in the workplace and conducting regular health monitoring of workers exposed to the dust. Another notable recommendation to the federal Parliament was to ban the importation of some of these engineered stone products by July 2024. The union representing workers who often use this stone, the Construction, Forestry, Maritime, Mining and Energy Union in WA, is running a petition calling for a ban on deadly engineered stone as well as stronger protections for all workers who are exposed to silica dust. Workers have a right to feel safe and have a healthy workplace, free of potentially deadly silica dust. I urge people to sign this petition. A federal move to ban importation, I believe, would demonstrate the seriousness of the health threat involved with this material.

We will be doing our part by amending the Limitation Act 2005 to address the discrepancy between asbestosis and silicosis, restoring equity for Western Australian workers living with silicosis. The Limitation Act places time limits for commencing civil legal proceedings and arbitrations. It was not designed with slow-acting poisons such as silica dust in mind and, as such, must be adjusted. The test for rebutting the presumption that the disease is caused by the duties of the affected worker will require the employer to supply proof, including whether the required exposure to dust was trivial or minimal. This is a necessary addition to ensure that innocent employers will have a legal method to prove when they are not at fault.

The other area that I will touch on is the catastrophic injuries support scheme. The Insurance Commission of Western Australia provides the catastrophic injuries support scheme for Western Australians who have suffered immensely through a motor accident. This no-fault support scheme was implemented in WA in July 2016. We will provide for workers who have suffered a catastrophic injury in the workplace to receive similar support through the Insurance Commission. This will allow workers who are suffering catastrophic injuries to receive a lifetime of tailored care and support based on their specific needs. The right of an affected worker to seek common-law damages will be retained. This will involve adjusting the interaction with the Motor Vehicle (Catastrophic Injuries) Act 2016 to avoid double coverage and compensation.

The other issue that I will touch on is employers breaching medical privacy rights. I want to take a moment to speak on an issue that is concerning for me and for workers across Western Australia, particularly young workers and new migrant workers. It is the issue of employers attempting to direct their staff to certain doctors and for a staff member to be present during the medical consultation in an attempt to influence the treatment of injured or sick workers. I want to reiterate that working people in Western Australia should have rights when it comes to workers compensation, yet what we have seen over the years is quite the contrary. We should have the right to choose our own doctor. A worker's boss cannot make this choice for them. In some cases, a specialist medical consultation may be appropriate if a workers compensation claim has been launched; however, a worker should obviously seek legal advice if this occurs. Workers should also have the right to a private consultation. There is no reason for a worker to have their boss or another staff member there with them. I am aware that in some cases an employer has offered to pay for the medical consultation, but this does not give the employer the right to be in the room with their worker. A worker's right to privacy extends to their personal health information and they should never sign away their right to allow the employer access to all of their medical information. A number of unions raised this issue in their submissions. I want to quickly readily a note from the Shop, Distributive and Allied Employees Association of WA —

> … the current system of workers' compensation is inherently adversarial. The current system is not one founded upon a meeting of equals. It is not a system where the parties have shared interests. It is not the case that the parties are working towards the same goals. The reality is that the insurers/employers are seeking an avenue by which to deny liability for the claim, and they do not seek ways in which they can accept liability.

A number of issues were raised in various submissions including employers intimidating employees, employees being too scared to pursue compensation because they were afraid of being stigmatised and overreach from self-insured companies already requesting access to medical information.

The Workers Compensation and Injury Management Bill 2023 seeks to address many of these issues. I would like to thank the unions for their submissions. I would also like to recognise the good work of the Fair Work Ombudsman in issuing clear advice that this sort of behaviour is heavily frowned upon in Western Australia. I thank the minister for introducing this bill to the house. It is a key pillar of the government's reforms to modernise the industrial relations system and I commend the bill to the house.

MR D.J. KELLY (Bassendean) [4.02 pm]: Mr Deputy Speaker, thank you very much for giving me the call and an opportunity to speak on the Workers Compensation and Injury Management Bill 2023. People would know that prior to coming into this place, I spent 20 years working in the trade union movement. Although I never worked specifically on workers compensation, it is an issue that is very close to the interests of the trade union movement and workers in particular. Can I say at the outset that prevention is better than cure. Although this bill is important, because people will inevitably be injured at work, the most important thing that we do is to ensure that our workplaces are, as best as possible, the safest they can be. I am not going to give members a technical outline of what makes a workplace safe other than to say that a union workplace is a safer workplace. All the research shows that when workers are represented by a union, their workplace is safer. I was in here earlier and heard the member for Cottesloe talk about some of his personal experiences. He gave quite a horrific example of the employer that he worked for in the mining industry that had a target of trying to keep workplace deaths below six a year. That is quite appalling. To the member for Cottesloe's credit, he said that was a terrible situation to be in. But what the member for Cottesloe never mentioned—I think people on the other side in the Liberal Party or the Nationals WA do not draw the dots—is that if an employer wants a workplace to be safe, they have to be prepared to allow workers to be represented by a union. Regardless of the rules put in place by an employer, it is often the case that workers do not feel confident enough to enforce those rules or their rights. They do not feel confident to do that if they act individually. Members opposite are ruthless in their pursuit of de-unionising the Australian workplace. By doing that, they are actually making workplaces less safe. Regardless of the rules in place, they are increasing the chances that workers will be injured at work. If an employer wants a safe workplace, they have to support workers being represented by their union. All the research shows that union workplaces are safer workplaces. As I said at the start, preventing injuries is a much better way to go than trying to fix the damage that has been done. Having said that, most employers try to do the right thing, but there are plenty of employers who, unfortunately, through cost pressures, thinking "She'll be right" or through just plain negligence, do the wrong thing.

I want to share one story from my time at the unions when I was quite a young industrial officer at the miscellaneous workers' union and we had cover at the Burswood Casino. This was before the Packers became the owners. We had a delegate out there who was a guy who had been reasonably active in the union. He was a cleaner who was working in the environmental services department. His knee gave way on him one day at work. He was going through rehabilitation and his doctors were saying that he was never going to go back to the quite physical work of being a cleaner. In the meantime, Burswood Casino had found him another role. Instead of being a cleaner, he was managing the equipment in the environmental services department—one could imagine how many vacuum cleaners it makes to clean the Burswood Casino. There was a job available in that area, the casino was happy for him to do it and he was enjoying it. He was perfectly capable of doing that job, notwithstanding his knee was not what it was

before. This guy became more active in the union, raised a few issues with management and then, out of the blue, management told him that within a week he had to go back to his old job as a cleaner, and if he could not do that, they were going to terminate his employment. He sought advice from the union. We represented him and said that the medical advice was that he could not go back to work as a cleaner. The job that he was currently in was there, so there was no reason why he should not stay in that role. After the week, Burswood dismissed him. He had been at the Burswood Casino for over a decade and he was a loyal employee, but they sacked him. We took him through the unfair dismissal process. The commission found that he had in fact been unfairly dismissed and it issued a return-to-work order.

Believe it or not, this is when the story really gets interesting. I was the industrial officer and told him that he should go back to work the next day in the position that he had left because he had a return-to-work order. About seven o'clock the next morning, I got a phone call from him. He had showed up for work and was at the employee podium where staff pass through to enter the rest of the casino. He said that he had showed up for work and the security guards had told him that he was not to enter the premises. I asked if he had told them that he had a return-to-work order. He said that he had explained all that but they would not let him in. I told him to get them to contact human resources because there had obviously been some misunderstanding. He said that they could not do that because HR does not show up until nine o'clock and it was only seven o'clock. I said, "Fine; just go into the staff canteen and sit down, and when HR shows up at nine o'clock, I will sort it out." He proceeded past the security podium and went to sit in the staff canteen. I got a phone call from the employee about 15 minutes later. When I asked him what had happened, he said, "I'd gone to sit in the staff canteen, and two security guards walked into the room and told me to leave, and when I refused to leave they physically picked me up and carried me 30 metres down the staff corridor and past the security podium and dumped me in the car park outside the Burswood." I kid you not; I could not believe it. That is what the Burswood Casino security had been told to do with this guy who had a bad knee and a return-to-work order from the Industrial Relations Commission. I must admit I was a bit shocked about that. I had never encountered that before. I told him that we would get some legal advice, and he then went home. I forget which law firm we were using at the time. It might have been what was then Gibson and Gibson. They said that we should issue a writ in the Supreme Court for—I have forgotten the term now; it was for some form of assault. Some of the lawyers here might be able to tell me.

Mr D.A.E. Scaife interjected.

Mr D.J. KELLY: It is something like that, member for Cockburn. There was probably a variety of things they could have done. They basically lodged a writ in the Supreme Court that afternoon, and Burswood Casino ended up having to pay that employee a considerable amount of money in settlement for what had been done to him. That is a pretty extreme case, but it shows what can happen to a worker who has done everything that has been asked of him but is faced with a particularly belligerent employer. This particular employee would have had nowhere to turn had he not been represented by a union. Thankfully, the owners of Burswood Casino sold it to the Packer family, and the rest is history. As members would know, the Packers have since sold the casino having been caught out for a bunch of other misdemeanours. That is a good example of some of the things that happen to people injured at work. That reinforces why we need union representation and a robust regulatory framework.

This bill will make some very good changes to the workers compensation legislation. The doubling of the cap for medical bills from 30 per cent to 60 per cent will mean that the amount that people will be able to claim for medical expenses will increase from $73 000 to $146 000. Nothing puts more pressure on people who have been injured at work and are doing the best they can, who are participating in rehabilitation and desperately want to get back to work and secure their income, than the idea that the amount of money they can claim for medical experiences is running out. The effective doubling of that amount is a positive part of this bill.

Another part of this bill that has been absolutely well received is the lengthening of the step-down period from 13 weeks to 26 weeks. A lot of people think that if they are injured at work, they will be guaranteed their existing pay for the duration of their injury. The current legislation does not provide for that. It provides for a step down in payments of 15 per cent. That causes a lot of pressure for people. Employers like it because they think it will pressure people into going back to work earlier. All the research shows that that financial pressure does not send people back to work; it is just a punitive measure in the legislation. The fact that this bill will delay the introduction of the step down until 26 weeks has been well received. Some people would like the step-down provision to be removed altogether. There are some valid reasons for that. However, that is not part of this bill.

The bill deals also with the timely management of workers compensation claims. It is very frustrating for workers to put in a workers compensation application and not hear back from their employer about whether their claim has been accepted. That is because there is currently no requirement for the employer to respond within a certain time period. This bill will require employers to respond in a timely fashion. The problem with the current legislation is that people would say that they put in their application but they have not heard from their employer, and we would contact the employer and they would say that they are still looking at it, and it might be weeks if not months before the worker would get confirmation about whether their claim has been accepted. This bill will go part of the way towards remedying that deficiency in the current legislation, and that is a positive step forward.

This bill will also prevent employers from asking questions, as part of their pre-employment screening, about whether the prospective employee has previously put in a workers compensation claim. Many prospective employees fear that their prospective employer will mark them down if they have a history of putting in workers compensation claims. Far be it from me to say that employers would look at the pile of applicants and say, "This person would obviously be willing to put in a workers compensation claim against me, so I'll put them at the bottom of the pile and choose a person who has never put in a workers compensation claim." However, clearly that does happen. This bill will mean that those sorts of pre-employment questions cannot be asked. That is absolutely a great step forward.

The member for Hillarys in her contribution touched on the fact that this bill will prevent employers from requiring employees to allow an employer representative to accompany them to a medical appointment. Most people would find that absolutely shocking. Imagine the indignity of an employer saying to an employee that someone from HR is going to attend their medical appointment with them. That is the absurd indignity that some employers are able to put injured workers through under the current legislation. It is mind boggling. It is saying that some employers distrust not only the injured worker but also the medical profession. They think that doctors hand out injury notices left, right and centre. I am pleased that this legislation will prohibit employers from insisting that an employer representative accompanies the injured worker to a medical appointment. That will be outlawed.

Another provision in this bill that has been well received is that the regulations will provide flexibility in the coverage of workers under this scheme. Currently, the scheme applies to contractors, but this bill will allow other groups of persons to be covered. As we know, there is a gig economy, and companies are always coming up with new ways to engage people to do work for them without calling them "employees" in the traditional sense. The use of contractors is very common. It is very wise that, as organisations come up with new and creative ways to engage labour, this bill will provide the flexibility through the regulations to cover new groups of what I would say are workers as workplaces change in the future.

This bill has lots that is really positive, but I suppose I will finish where I started. Governments can put in place whatever good laws and rights that we like for injured workers, but if workers do not have someone to represent them in their workplace, it is very difficult for workers to enforce their rights on their own. Union workplaces are safer workplaces. I know that we understand that on this side of the chamber. Unfortunately, during my time in the labour movement and in this house, members opposite have constantly tried to de-unionise Western Australian workplaces, and that inevitably leads to more workplace injuries and, sadly, more workplace deaths.

MS K.E. GIDDENS (Bateman) [4.21 pm]: I am pleased to rise tonight for the opportunity to give my contribution to the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023. In doing a little bit of research for my contribution, I found it interesting that Western Australia has a very long history of workers compensation. In fact, we were the second state to introduce a Workers' Compensation Act in 1912, compared with New South Wales in 1910, Victoria in 1914, the Northern Territory in 1920 and the commonwealth also in 1920. Of course, the Labor Party, the labour movement and the trade union movement, as has been noted by some of my colleagues on this side, have also a very strong interest and record for our contributions to the safety of workers. Worker safety is a basic and fundamental right—to be able to go to work, perform your job, earn a good wage under good conditions, and return home safely and uninjured to your family has to be a fundamental tenet of any workplace.

These laws will modernise Western Australia's existing legislation, but I thought it worth reflecting for a moment on how many people seek support through the workers compensation system that exists in Western Australia. In the 2020–21 financial year, 26 785 claims were lodged in the WA workers compensation scheme, which, interestingly, was down five per cent. Hopefully, some of the good work that unions are doing every day to improve worker safety is reflected in the trend. Of those claims, 25 405 were for work-related injury and disease claims, 58 were for asbestos-related disease claims, and 1 322 claims were disallowed. I pulled out my trusty calculator because it is not a sum I could do in my head, but the percentage of disallowed claims is 0.05 per cent, which is extremely low. The idea that may exist in some parts of the community that people rort the workers compensation scheme or make unfair claims is just not backed up by the data. Overwhelmingly, people absolutely try to do the right thing in their workplaces. We heard from the member for Bassendean before about the types of pressure that people might feel to return to work when they are not ready. I would argue that, at least anecdotally, people return to work sooner than they perhaps otherwise might. The total number of lost-time claims per million hours worked in Western Australia is 7.4. Only 39 per cent of claims had no lost time associated with them. In total, we are talking about one billion dollars of claims in the 2020–21 financial year. This is overwhelmingly made up of direct compensation, at over $700 million, and the rest, 32 per cent, is made up of service payments. Service payments are medical and hospital fees, allied health and workplace rehabilitation, and legal and miscellaneous fees. That is the system that currently exists in Western Australia and the type of support it provides.

This bill seeks to modernise the existing legislation, and it will do that in several ways. It will replace existing legislation with a plain language alternative. This will make it easier for employers to know what their obligations are, and it will also make it easier for employees to be able to access the services and understand their rights under the legislation.

Doubling the medical cap was part of the McGowan Labor government's 2021 election commitment, and this will see the compensation limit for medical and health expenses increase from 30 per cent to 60 per cent. In number terms, that is an increase from $73 000 to $146 000, which will be indexed annually. It will allow for support to be given to the more complex cases that might require ongoing care, surgery and follow-up surgery. Certainly, $73 000 would not go particularly far in very complex cases.

Another part of the McGowan Labor government's election commitment was extending the step-down point from 13 weeks to 26 weeks. As has been noted, this provision will help to reduce the financial burden on people going through the claim system and perhaps being placed under pressure—not only the mental, emotional and financial stress of having reduced income during a claim period, but also perhaps the stress resulting from not reaching an early claim or from returning to work sooner than they might have otherwise. That is a very important provision for the protection of workers going through the claim system.

The other provision included in the McGowan government's commitment in 2021 was prohibiting employer attendance at medical appointments. It would be a hard case to argue that there is anything reasonable about an employer's representative being in a medical examination with a worker. Of course, employers have the right to access information that supports, for example, a return-to-work plan, and to know what the return-to-work limitations and capabilities of the employee are, but it is totally unnecessary to be in the examination room whilst the worker is disclosing personal information. I am very pleased to see that provision will be removed in this new legislation.

Another provision that I am really pleased to see removed in this legislation is pre-employment screening and the right of potential employers to ask whether a worker has had previous claims. This is something that I have had to answer when going for jobs. The member for Bassendean gave an example of an experience a worker had at Burswood. I was also going to share my own example from when I worked at Burswood. Members in this place might not know that one of my former jobs was working security on the doors at Burswood Casino before it was Crown casino. No-one messed with me on the doors, just like they do not mess with me when I am in the Speaker's chair! I was injured one night when somebody tried their luck. It was a very minor injury, not serious at all. I just twinged my lower back, and it required some light physio. I think I may have missed one or two shifts—nothing significant—and, after some treatment, I returned to work in full capacity. But every time I went for a job, I had to answer that question. It should not matter whether a person has previously made a large or small workers compensation claim. Every time I ticked that box, I was left in doubt about whether that would jeopardise my employment opportunities. Blatantly, that is an extremely unfair question, and I commend the minister for ensuring that this bill provides that that cannot happen.

The cost of the changes will be very minimal; we are talking about an estimated 2.83 per cent in premiums, which is certainly affordable and nowhere near the current rate of inflation. Of course, a sustainable workers compensation system is an important part of the system going forward. I am certainly pleased that we can meet the needs of workers and provide a fair system and do those things in a financially sustainable way.

I mentioned that part of the history of the Labor Party and trade unions is fighting for the rights of workers and improving worker safety, which, as I said, is a fundamental right in a workplace. I want to go a little bit to the work of the Minister for Industrial Relations. He has very tough portfolios, and, according to some, it is an easy gig to have a go at some of the challenges in those portfolios, but he has achieved an extraordinary amount in the industrial relations space. He will leave a legacy for the McGowan government of which we on this side of the house will be very proud. One of those legacy pieces is the inclusion of industrial manslaughter provisions in the Work Health and Safety Act 2020, which passed recently. Quite clearly, there were some significant gaps in the penalties that could be applied for really serious breaches of safety that resulted in tragic consequences for workers and their families who have to deal with the aftermath. The new laws are something that I think the minister, the Premier and cabinet should be very proud of. Of course, before coming into this place, the Minister for Industrial Relations had a strong history of standing up for the rights of workers during his time as an official with the Shop, Distributive and Allied Employees Association and as state secretary of WA Labor. He has had many, many years walking the talk and understanding the kind of challenges that exist in creating safer workplaces.

Having been on the committee that handed down the report into sexual harassment in the mining industry, I know that the work that the McGowan government is doing has been strong and unprecedented in its investment and focus on this very important area to ensure that workers of all types—of any gender and of any persuasion—in any workforce are safe from sexual harassment. One of the things that the committee looked at in its report was determining that sexual harassment is a workplace safety issue.

Another piece of work that has been going on, as referenced by the member for Hillarys, is the growing awareness of the silicosis risk associated with engineered stone. This is potentially the next wave of asbestos-style disease. Workers sit with the shadow of fear that might emerge as silicosis years after they have left their workplace. Home renovation shows display a beautiful range of products, and I know that Australians are a little obsessed with the renovations and improvements they can do. There are some beautiful products out there, but those products are fundamentally risking the health, wellbeing and, ultimately, the lives of those who work with them. The work that is being done by this government in that space includes better scanning for scoliosis; indeed, we cannot respond

to what we cannot measure, and if we ask the question in the wrong way, we will not get the right answer. Under Minister Johnston, the McGowan Labor government has changed the way that people are screened for silicosis from X-rays to CT scans. The member for Riverton, Dr Jags, is looking at me; I am sure he could explain it in better detail than I have just done! The screening of workers via a CT scan will enable the signs of scoliosis to be picked up much earlier. In fact, X-rays completely miss the signs of silicosis in a person's body. That is an incredibly important provision.

With that said, I certainly thank the Minister for Industrial Relations, as part of the McGowan Labor government, for his contribution to this bill and, more broadly, to workers' rights and safety. I commend the bill to the house.

MS H.M. BEAZLEY (Victoria Park — Parliamentary Secretary) [4.35 pm]: Firstly, I sincerely congratulate and thank the Minister for Industrial Relations, Minister Bill Johnston, for continuing to strengthen and improve our state's industrial relations laws, most recently with the Workers Compensation and Injury Management Bill 2023, which I am pleased to speak about today, along with the Workers Compensation and Injury Management Amendment Bill 2023.

As everyone has mentioned, the Workers Compensation and Injury Management Bill 2023 will modernise Western Australia's workers compensation laws with a complete rewrite that uses a logical structure and plain language, making them easier to read and improving a user's understanding of the key elements of the workers compensation scheme. So much of a person's access to law is about knowledge, and increasing accessibility to law in such an incredibly essential field as workers compensation is very welcome.

The bill will provide scheme participants with the clarity and certainty they need to work out who is covered, whether insurance is required, how to claim, what compensation is available and how to resolve disputes. Under this bill, the fundamental aspects of the state's workers compensation scheme will be preserved, while also instigating important improvements, including doubling the medical and health expenses cap. The bill increases the limit for compensable medical and health expenses from 30 per cent to 60 per cent of the prescribed maximum limit. This will result in an increase in the capped amount from $73 000 to $146 000, all of which will be indexed annually.

The bill will double the step-down point from 13 to 26 weeks and provide lifetime care and assistance for catastrophic workplace injuries because it will put workers who are catastrophically injured in workplace accidents under the same catastrophic injury support scheme as those who are injured as such in motor vehicle accidents. The bill will require an insurer or self-insurer to respond to a worker's claim for compensation in a timely manner, with new obligations for insurers to make provisional payments if liability decisions are not made within prescribed time frames. Given the experience of the people I know who have had to claim workers compensation, this is an incredibly important amendment. It will mean that workers will receive financial support a lot earlier than they do under the current legislation when claims are investigated for lengthy periods. This will also incentivise faster liability decision-making by insurers.

The bill will prohibit an employer or their agent from attending a medical consultation when a worker is being physically or clinically examined by their treating medical practitioner, an issue that has been spoken about a lot today. It is an issue that gained national prominence in 2017 when Perth supermarket worker Nyrie Stringer spoke of her humiliation in having a male manager in his 60s sit in on an appointment with a company doctor that her employer insisted she attend. Her story prompted hundreds of others to share similar experiences on social media and also prompted WorkCover WA to issue a clarifying statement that employees are not obligated to have their manager present during a doctor's appointment or to have a company doctor rather than their own. This bill codifies the fundamental right to privacy and choice in law.

Finally, the bill will prevent discriminatory practices. When enacted, this bill will mean that no employer or recruitment agency can ask a potential worker whether they have made any claims for compensation. The bill will also prevent any person from disclosing information about a compensation claim previously made by a worker for the purposes of pre-employment screening. That basically means, for example, that if an employer contacts a potential employee's referees, they will not be able to ask about the employee's workers compensation history and the referee will not be able to disclose any workers compensation history to the potential employer. They will not be able to ask the potential employee, they will not be able to ask the referees and it will not be able to be given as information.

As mentioned, this bill will increase the limit from 30 to 60 per cent. This will result in the capped amount increasing from $73 000 to $146 000. I make this point: a lot of people who have either never needed to make a claim or never been part of managing a claim believe the myth that successful workers compensation claimants are paid hundreds of thousands of dollars each and every time. That is simply not the case. WorkCover WA's *Industry benchmark report: 2018/19 to 2020/21* shows that across all industries, the three-year average claim cost for workers compensation was $63 046. The highest industry sector–based average claim amount over that period sat against the electricity, gas, water and waste services industry, and was $97 961. When looking at some industry-specific reports for 2020–21 by WorkCover WA on this very issue, I took particular note of industries that have some of our largest workforces—construction and mining. I will provide a bit of a snapshot of each.

The construction industry has 100 202 employees, who contributed 198 million working hours. Construction accounted for 11 per cent of total claims lodged in 2020–21 in the WA workers compensation scheme, with 2 811 workers compensation claims lodged. Payments for claims in the construction industry in that year totalled $131 million, accounting for 13 per cent of total scheme payments, on par with how many claims were made. Traumatic joint ligament and muscle tendon injury was the most common injury, coming in at just over 50 per cent. Technicians and trades workers in the construction industry made up 57 per cent of claims—managers, just two per cent. The mining industry has 116 114 employees, who worked 250 million hours. They again made up 11 per cent of total claims lodged in WA's workers compensation scheme, with 2 686 workers compensation claims lodged. Payments for claims in the mining industry totalled $152 million, accounting for 15 per cent of total scheme payments. Again, traumatic joint ligament and muscle tendon injury was the most common injury, coming in at over 60 per cent. Machinery operators and drivers in the mining industry made up 54 per cent of claims—managers, less than one per cent.

Together, these two industries alone are providing 457 million hours of working—457 million productive hours—keeping our economy strong. It is the workers engaged in manual labour, transport, machinery operation and the like who are carrying the burden of not just our economy, but also personal injury for the sake of their job, our economy and our society. As a community, we have a collective responsibility to injured workers. These workers need appropriate compensation when injured. They are already suffering; they do not need to suffer anymore due to a lack of funds to cover health and medical costs or to put food on the table.

A subject I would like to touch on is labour hire employers. I have significant issues with the practices of many labour hire employers and how their host companies use them. When we talk about collective responsibility, I struggle with many of the practices inherent in labour hire practices. In the context of this bill, a growing body of research highlights the occupational health and safety risks associated with precarious workplace arrangements, including labour hire. Studies have shown that labour hire workers face greater health and safety risks than other workers who undertake equivalent work. Significantly, to quote from Underhill's response to the *Workplace relations framework: Productivity Commission draft report* of 2015 —

> **All studies of labour hire workers and occupational health and safety in Australia and overseas have found that labour hire employees are more likely to be injured at work, compared to direct hire workers in like occupations** …

The increased vulnerability of labour hire workers to occupational injury, accident and poor health is due to a range of interrelated factors affecting contingent workers, including contested or disjointed responsibility for health and safety management between host companies and labour hire agencies; and labour hire workers receiving poor induction and training, and/or having reduced familiarity with the rules governing OHS on each job site, compared with direct hire workers. Labour hire workers are often reluctant or unable to raise OHS issues due to their vulnerability to termination. There are also additional complexities for the implementation of effective occupational health and safety management systems due to temporary and precarious forms of employment and many others. Pleasingly, this bill will maintain the obligation on labour hire employers to cover workers who are hired to host organisations, and includes a new obligation for host organisations to cooperate with labour hire employers and assist them to comply with their injury management obligations if a labour hire worker is incapacitated for work. If a worker has an incapacity for work as a result of an injury from employment for work done for the host, the host will be required to cooperate with the labour hirer to enable it to comply with its obligation to establish and implement a return-to-work program in the pre-injury position or a suitable position. Under this bill, there will be a possibility that a host will be liable to pay compensation to a worker, as principal, if the specific circumstances set out in clause 215 apply.

This bill is a key pillar of our government's reforms to modernise the industrial relations system and follows the successful implementation of reforms for work health and safety, and industrial relations, in 2022. Modernising WA's workers compensation laws is a major undertaking, and I thank the minister, stakeholders and the Western Australian public for contributing to the legislative review, making submissions and ensuring the bill will serve the community well for decades to come. It gives me great pleasure to commend this bill to the house.

DR J. KRISHNAN (Riverton — Parliamentary Secretary) [4.46 pm]: I rise today to support the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023, which will modernise WA's workers compensation laws. First of all, I thank the Minister for Industrial Relations for bringing these bills to the house, which are very important to protect workers. For a start, using plain English and making the bills simple and clear for people to understand is very important.

I would like to share my personal experience of handling a workers compensation claim in the past. It was not here, but in India. I was a medical officer in a remote community, caring for workers and their dependants in a tea plantation. Being a medical officer, I was in charge of the welfare of the residents—the workers and their dependants. I was in charge of the entire spectrum of welfare, which meant that I was responsible for providing them with everything from potable water to child care and schools. Workers compensation also came under me. At one point, every time pending files came to my table, the person who was assisting me—the superintendent—always took

one file and kept it aside, saying, "This is something that has been pending for 15 years, sir; you don't need to worry about it." I got very curious and wanted to get to the bottom of it. What had actually happened was that a worker, who was supposed to commence work at six o'clock in the factory, had stepped outside his house at a quarter to six and, due to a personal family fight, was murdered. He was no more. His family then claimed workers compensation on the grounds that he was outside his house at a quarter to six because he intended to go to work; otherwise, he would have been asleep in bed. The organisation took offence to that, saying that as he had never reported to work, how could the family claim for workers compensation. An effect of this was that the entire family was victimised. The kids had to discontinue school because there was no earning member in the family. They ended up working when they were 15 and 16 years old, but not within the organisation because the management was against it; they had to walk a distance to secure work to put food on the table.

When I requested further information and a meeting with the insurance provider and the lawyers, they came to the conclusion that there were grounds for a claim and there should be compensation paid to the family, which they thoroughly deserved. The case was resolved. Such understanding can be complex. Members can imagine how many workers struggle to understand the complexity of the law. This reform will simplify that for workers in Western Australia and allow them to access their rights at the right time and get the benefits they deserve. The McGowan Labor government is about protecting workers, bringing about reforms to make things better for them and always standing by their side.

The financial impact on a worker is often underestimated by people dealing with their case. What is taken into consideration in workers compensation claims? Is it just the direct wages being paid? A lot can be happening beyond just a loss of wages. If a person whose back was injured at work is just paid his wages and medical bills, he then has to pay someone else to mow the lawn instead of him doing it on a regular basis. Such things are often missed and not taken into consideration. It makes complete sense for a proposal to double the medical cap from $73 000 to $146 000, which will definitely serve the purposes of an injured worker going through a workers compensation claim.

I have seen what often happens with patients on workers compensation claims. As far as the organisation, employer or insurer is concerned, it is exclusively about the physical injury or impact that is taken into consideration and given priority, completely ignoring the mental impact on the patient. One can only imagine how a young father would feel if he were unable to play with his kids because he sustained an injury at work or how a young mother would feel about herself if she was not able to stand long enough to cook her kids their favourite meal because of a work injury. These impacts are often ignored. Doubling the medical cap is completely justified so that people can access necessary funds to cope with the struggle they are going through because of the injury they sustained at work.

Extending the step-down point is a very critical move. It will be moved from 13 weeks to 26 weeks. Often because there is a time line ahead of them, people are rushed into making a decision. That can sometimes result in making the initial injury worse because they are not given enough time for complete recovery and are rushed back into getting things done before it is their time to return to work. This extension will give sufficient time for a complete recovery, which brings about better outcomes in the long run rather than rushing in a hurry and making things worse in trying to get back to work as a result of pressure from the employer or family. I have seen many instances in which things have U-turned and become worse than where they started because people were in a rush.

The next reform is for lifetime care and assistance for catastrophic workplace injuries. Again, that needs clarity. What happens when a person is travelling? Are they covered only when driving a work car or are they covered when driving their own car for a work purpose? If the intention of driving was to complete a task for work, they should be given cover. Often we see debilitating injuries and patients who suffer permanent disabilities. Many workers may not have their own personal total permanent disability insurance cover for them to survive when such things happen. It is important that the workers compensation reforms are made to give them the protection that they need in the event of a disaster happening.

The next reform will require provisional compensation payments for pending claims. What does this mean? Often when a workers compensation is raised, there is an incident report. That incident report may not be acceptable for the insurer or the assessor. When the assessor is not sure whether to accept the claim, they want to consult experts to make a decision on whether the claim is genuine or not. I am not blaming the assessor or insurer here. However, we fail to take into consideration here that the injured worker already has a compromise on his life, and now he must pay his bills because the insurance company is yet to accept the claim. Many practices, be it general, specialist or radiology, that people access with workers compensation claims often realise that there is a huge delay in incoming payments, particularly in pending claims. They are not certain whether they will be paid or not. With that in mind, they literally force the worker to pay up-front. Imagine someone having to come up with thousands of dollars for medical treatment while an assessment of their claim has been made before a decision. Imagine how difficult that is for the worker involved. This particular reform will require that provisional compensation payments be made while the claim is pending. That means that a decision for a claim outcome can be made afterwards, but the individual will still continue to be paid their wages and for medical purposes.

The next reform will be to prohibit employer attendance at medical appointments. I can understand that every employer has targets to achieve and key performance indicators to meet. But they are trying to get that done at the

expense of workers struggling with something quite challenging. What happens in those situations? The employers employ rehabilitation providers to act as representatives of the employer. I have seen them accompanying my patients. I took an approach whereby I would always make one-on-one time for my patient to discuss their concerns before the employer's representative accompanied them.

I am not sure whether every clinician would have done that, but by law this reform will prohibit the employer or the employer's representative from accompanying the patient when they go for an appointment, which means that the patient will have no disturbance or distraction; they will not be forced to stick to the recommendations of the representative. They will be able to freely discuss the treatment options, which will eventually bring about better health outcomes. The thing I like about this is that rather than the employer or the employer's representative being involved, the power will be given to the medical practitioner, who will make the decision about the right time for the employee to go back to work; it will be a clinical decision and not a financial decision.

The next reform will prevent discrimination in pre-employment screening. Often, if a particular employee has had a workers compensation claim, some employers consider it high risk to employ them again. When they are forced to reveal such information in the questionnaire that they fill in during a pre-employment medical, the clinician who is conducting the pre-employment medical may presume that the employee had an injury that lasted six months or is recurring so this person may have a problem. This reform will prevent discrimination against someone who has had a previous workers compensation claim during a pre-employment medical so that they get a fair go. A past claim is a past claim. Their current fitness is their current fitness and that is what needs to be considered—not what happened to impact their fitness in a previous claim—to prove their capability to work in the job they are seeking. This is an excellent reform that will allow people to restart their life and not have to go into their past. They will get a fresh start with whatever job for which they are trying to pass the pre-employment medical.

I refer to the cost impacts of all these reforms. PricewaterhouseCoopers estimated that insurance premiums will go up by 2.83 per cent. To me, a 2.83 per cent rise in premiums to cover all these costs seems very, very reasonable. It will give comfort to employees that their workers compensation claims will be dealt with in a timely and an efficient manner to bring about better productivity, healthier employees and a better Western Australia.

I once again thank the Minister for Industrial Relations for bringing such a bold, essential and required reform in workers compensation to Western Australia. I commend the bill to the house.

MR D.A.E. SCAIFE (Cockburn) [5.03 pm]: It is a pleasure to rise today to speak on the Workers Compensation Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023, which are being debated cognately. I, too, would like to congratulate the Minister for Industrial Relations on this bringing these bills to the chamber. The reforms in these bills have been a long time coming. They are the product of more than a decade of consultation and drafting. This was all kicked off in around 2009, which then led, under the previous Barnett government, to a review that was published in 2014 and further rounds of consultation and drafting, until we finally arrived at 2023, this year, and the bills that are presently before the chamber. I did not personally work as a workers compensation lawyer, but I worked alongside workers compensation lawyers and trade unions, and I know that the modernisation of our workers compensation legislation has been called for for a very long time. I think it is a credit to this minister that this fundamental reform, which has been so long in the making, has finally arrived here in this chamber, so I add my congratulations to that of the members who have gone before me.

I will speak on a few things that members have already touched on, but I want to do so by highlighting some stories that I came across in my career as an industrial relations lawyer. As I said, I was never a workers compensation lawyer. I never handled a workers compensation file, but I obviously had a lot of exposure to issues of health and safety in my capacity as an industrial relations lawyer and working alongside personal injury lawyers. One area in which there was particular overlap was around this question of attendance at medical appointments by the employer. Several members before me have spoken on this, but the way I want to approach this issue is to make the point that employers attempting to attend medical appointments with employees is not an insignificant risk. It happens out there in the community. It is wrong. It is wrong that an employer tries to insert themselves into that direct conversation between a medical practitioner and their patient, but it does, unfortunately, happen and it is a good thing that this bill will outlaw it.

I want to give an example that I came across. It was not in a workers compensation scenario, but a scenario involving health and safety in the workplace. I represented a young woman and union member who worked in a laboratory for a soil and sample testing company. In that world she was exposed to various fumes and chemicals. She became pregnant. That was great news. She was very excited, but, understandably, wanting to be cautious, she went to her GP and she told the GP she was pregnant and the type of work that she did. She said that she could be surrounded by solvents and fumes and various chemicals over the course of the day. She asked whether that was a health risk for her and her unborn child. Her GP said that yes, it was a health risk for the worker, so they gave her a medical certificate that said it was unsafe work for her to do, and the employer needed to find her alternative duties.

The Fair Work Act requires women who are pregnant to be given alternative duties if the duties that they are doing are found not to be safe for them during pregnancy. This client went to her employer with her medical certificate and she said, "Here's the medical certificate. I'm really keen to remain at work. Is there anything else that I can do?"

Through gritted teeth the employer eventually agreed to put her on alternative duties, but they took the view that those alternative duties were not sufficient to take up her full-time hours, so they were quite reluctant and unhappy about giving her those alternative duties and paying her the same salary. She did those duties for a number of weeks without any complaint from her or any real complaint from her employer. Then one day she turned up at work and her supervisor said to her, "All right. Come on and get in my car with me. We're going down to see the doctor." She was basically taken to her supervisor's car, put in the car, driven down to a doctor of the employer's choosing and escorted into an appointment with this doctor. The supervisor sat in the appointment and had the doctor do a separate and new assessment, of which she had no notice, of whether her workplace was a safe place for her to be working in as a pregnant woman. The twist to this story is that that doctor agreed that it was not safe for this client to be working in the job and doing the duties that she had previously been doing.

The employer, then, was in a pickle. They were clearly not happy with having to pay her for these alternative duties, but they had failed in their attempt to get an alternative opinion from a doctor. The employer then made some sort of an excuse and basically put her back on those alternative duties, but about a week or maybe even a few days later, the employer presented her with a new medical report. The new report had been undertaken by a doctor based in Brisbane who had assessed that it was safe for this worker to work in her previous duties. This doctor had never interviewed my client and had never even toured the workplace. They were based in Brisbane and it was a Perth workplace, yet the employer had gone and found this doctor on the east coast who provided a report stating that it was safe for this woman to work in her previous duties.

I was flabbergasted when this case came to me. Fortunately, the worker was a union member and went to her union. Her union took up the case for her and took it to the Fair Work Commission, but still the employer insisted that they had done nothing wrong. The employer said that because she was refusing to do her previous job, even though the employer now had medical evidence that said it was safe for her, she could be put on unpaid leave, so the employer put the worker on unpaid leave. The employer also had a particular problem in that the HR manager was a couple of units away from finishing a law degree and considered himself to be the expert on all things to do with industrial relations, which could not have been further from the truth. The worker spent a period without pay, being essentially locked out from her workplace. We had to go all the way down to the Industrial Magistrates Court of Western Australia and lodge a claim. First, we went to another doctor and got another medical certificate, which agreed with the first two medical certificates that said that her previous duties were unsafe for her. Once we had that medical certificate, the employer still would not put her back to work. We then went to the Industrial Magistrates Court to prosecute the company for breaching the Fair Work Act and the National Employment Standards.

It was an appalling case, but I will say—I used to say and I still say—that I cut my teeth as a junior lawyer defending the Construction, Forestry, Maritime, Mining and Energy Union against the Australian Building and Construction Commission and I have always been pleased with that training because it taught me how to litigate pretty hard. One of the things that the ABCC taught me is that there are access or liability provisions in the Fair Work Act and there are now as well in the Industrial Relations Act. Those provisions provide that if a person has been knowingly concerned in a contravention of the Fair Work Act by an employer, that person can be personally liable for that contravention as well, so we joined our HR manager friend as a second respondent to the claim because he was knee deep in it. I have to say that nothing quite motivates an HR manager to resolve an issue than realising that their personal circumstances are on the line. It is all well and good to stand behind the corporate veil and say that this will all land on the head of the company, but, suddenly, when the HR manager had to deal with actually thinking about the consequences of his actions, not for anyone else but for himself, finally the penny dropped. Not long after lodging that claim, to no surprise of mine, my client was returned to work to her alternative duties, which she had been successfully performing before. I am pleased to say that we also secured an undisclosed amount to set up the baby's trust fund, and that the worker went on to be a delegate for the union.

In many ways it was one of my proudest cases that I got to run, but it is also one of those cases that I wish I had not had to run because it should not be necessary to get even the union involved and it certainly should not be necessary to get lawyers involved in those sorts of disputes. But the reality is that this type of poor behaviour goes on, and the only way that we can ensure that it is nipped in the bud when it happens is to, first of all, have strong laws. That is what we are doing here with an express prohibition on employers attending medical interviews for employees. Also, we have to have strong unions that are able to take enforcement action and represent their members to stand up for their rights and make sure that the right thing is being done by them. Therefore, I want to acknowledge those provisions and say that they are provisions that I really welcome. They are provisions that, unfortunately, are needed. They are needed based on my experience of what happens in some workplaces. I accept that it is a minority of workplaces, but, nonetheless, it is out there, so I welcome this reform.

The second reform that I want to touch on is the accrual of leave entitlements while a person is on workers compensation payments. Section 130 of the Fair Work Act provides that a person can accrue annual or sick leave entitlements while they are receiving workers compensation payments but only if the accrual of those entitlements is permitted by a state workers compensation law. Therefore, the starting position under the Fair Work Act is that a person does not accrue entitlements while they are on workers compensation payments, but they are entitled to if it is permitted by the state-based workers compensation legislation.

I came across this issue while I was working alongside workers compensation lawyers. Some of my colleagues and some of our union clients came to me and asked whether WA's workers compensation act is an act under which employees are permitted to accrue leave entitlements while they are receiving workers compensation payments. I was able to answer that question surprisingly decisively. Everyone knows that lawyers—it is no secret that this is partly why we become politicians—like to give half answers and qualified answers.

Ms M.M. Quirk: What makes you say that?

Mr D.A.E. SCAIFE: That is right, member for Landsdale.

Normally, we give advice that says that it depends or there are these risks or this is likely or unlikely, but in this case when this question was brought to me, I was able to find the 2015 case of Anglican Care v New South Wales Nurses and Midwives' Association [2015] FCAFC 81. That was a decision of the full court of the Federal Court of Australia in which the full court found that the New South Wales workers compensation legislation permitted workers to accrue their leave entitlements while they were receiving workers compensation payments. Normally, that would not be determinative of the issue because it was a decision that concerned New South Wales legislation, but two things were peculiar about that decision. The first thing is that the provision in the WA act is basically identical to the provision in the New South Wales act. The second thing is that that had been acknowledged by the full court. The full court said in its decision about the New South Wales act that it considered the New South Wales provision, which was section 49 of the New South Wales Workers Compensation Act, to be identical to section 81(1) of the WA Workers' Compensation and Injury Management Act. The court said that they were in identical terms. Again, that does not necessarily determine the issue because it is a decision about the New South Wales act, not a decision about the WA workers compensation act, but it is pretty persuasive. It is highly persuasive that the full court of the Federal Court has found that basically an identical provision in the New South Wales act permitted employees to accrue annual and sick leave entitlements.

What was bizarre to me was that despite that full court decision having been handed down and despite it having been drawn to the attention of numerous employers and insurers and their lawyers, some employers in Western Australia persistently refused to accrue leave entitlements to their employees who were receiving compensation payments. I thought that was astounding because although it may not be a direct precedent, it was a highly persuasive precedent. There was no good reason to think that it would not be followed in Western Australia, but despite being aware of that precedent, employers were not applying it. The Workers Compensation and Injury Management Bill 2023 makes it clear that employees are entitled to accrue entitlements while they are receiving compensation payments in WA. I welcome that being made clear in this legislation. But it is also worth noting that it is not a change of situation. My former law firm Eureka Lawyers ran a case in New South Wales in the full Federal Court of Australia on behalf of a bloke named Gerald Touhey. The case is known as Touhey v Salini Australia Pty Ltd [2022] FCA 55.

[Member's time extended.]

Mr D.A.E. SCAIFE: In the case of Touhey v Salini, before Justice Banks-Smith of the Federal Court, my former law firm litigated this precise question on whether the Western Australian Workers' Compensation and Injury Management Act permitted employees to accrue leave entitlements while receiving workers compensation payments. The employer's position was so weak on that matter that all it did was to file a submitting notice. A submitting notice is filed in a court when an employer wants to tell the court that they are not going to actively litigate the matter but submit to any order that the court makes, usually save as to an order in relation to costs. The employer's position was so weak that it did not even litigate the matter. Despite its case being that weak, it had not been voluntarily accruing the entitlements prior to the litigation having been brought. Despite the litigation having been started, it paid the entitlements to Mr Touhey that he should have accrued but on the basis of without admission of liability. It is a curious legal strategy to do that without admission of liability and to file a submitting notice at the same time. It turns out that Salini Australia's strategy was not particularly strong because within that decision Justice Banks-Smith found that the relief sought by Mr Touhey, which were declarations that he was entitled to accrue his leave entitlements and that Salini Australia had contravened the Fair Work Act in failing to accrue those entitlements, were proper declarations to make. One reason Justice Banks-Smith said that was the case was that Salini had expressly made its payment to Mr Touhey on a without-admission-of-liability basis. Her Honour said that there was utility in making a declaration because Salini had not admitted liability in making the payments to Mr Touhey.

Federal Court precedent currently applies to the Western Australian workers compensation legislation. I do not take much credit for it. I give that credit to my colleague Dustin Rafferty who took over from me as the industrial relations lawyer at Eureka Lawyers. But I will take a tiny bit of credit because I was involved in the conversations over the years about this issue and provided advice on it. It was really pleasing to me to see the sensible position reflected in the Touhey v Salini Australia decision, but it is even more gratifying to see that this bill expressly embraces that position and puts it beyond a shadow of a doubt that an employee in Western Australia who is receiving workers compensation payments under the Workers' Compensation and Injury Management Act is entitled to accrue annual leave and sick leave while receiving those payments. I commend the minister for making that clear. I also make the point that it is not a change in the law; it just injects greater certainty into something that the courts have already adjudicated on.

The last thing I want to touch on is something that other speakers have also covered, but it focuses on improvements to the process of submitting a workers compensation claim and having it adjudicated and a decision made. As an industrial relations lawyer, I saw the incredible stress that can be put on people when they are stuck in disputation or litigation and do not have an outcome or do not know when they are going to have an outcome. It puts incredible stress on people. I saw a few cases of employees who were not on workers compensation but were subject to disciplinary proceedings that had dragged on for months on end. Although these people were being paid, they were suspended from work and had hanging over them the threat of the outcome of the disciplinary proceedings. In a lot of those cases, the relationship between the employer and employee actually broke down not because of any misconduct that the employee had engaged in, but because, frankly, they went a little bit mad from having to wait around for months and months, and in some cases up to a year, before they could get an outcome. They were trapped at home with nothing to do. They could not go to their workplace. Yes, they were suspended with pay, but they felt like they were in this state of suspended animation. It is a terrible way to treat workers. It leaves people in this state of uncertainty and anxiety and it feeds into a feeling that they are being persecuted or wronged. I want to make the point that speeding up the processing of claims, whether that be court proceedings or workers compensation claims, is always important because it not only provides access to justice—the saying goes that justice delayed is justice denied—but also relieves people of the anxiety and emotional pressure that comes from being in a long-running dispute.

The reforms in this bill are designed to make sure that people are not left in these situations of uncertainty as much as possible and that we speed up the claims process. This bill will achieve that in a few ways. It will motivate employees and employers to make quick decisions under the workers compensation claim process. One way it will do that is by requiring the employer to give notice to an employee of the ability to make a workers compensation claim. This is a great reform. I certainly came across cases in my previous life in which employers who did not want their employee to make a workers compensation claim would either hide that that was an option for them or discourage them from taking that option. They might say something like, "I will pay you $20 000 towards your medical bills and let's not put a claim in." That can lead to problems down the track. That might be all well and good to cover the initial treatment, but if somebody has a back injury that is aggravated or degenerative in some way, the full effects of that injury do not become clear until months or even years down the track. If that person has not lodged a workers compensation claim and received proper treatment for it, they might very well be locked out of receiving proper treatment and compensation to go towards their treatment and any loss of earnings.

Requiring employers to give notice to an employee within 14 days of an incident of their right to make a workers compensation claim is really important. The second requirement is on insurers and self-insurers to respond to any workers compensation claim within 14 days. That is important because it sets out an expectation about how quickly we want the system to move. We do not want people to be stuck in this state of limbo. Importantly, the bill also provides for consequences if an employer does not meet those time lines. That will be a real motivation for insurers to make a quick decision, because if they do not respond within 14 days, the consequence is that they will be deemed to have accepted liability.

The bill will also limit the ability of insurers or self-insurers to defer a decision about liability. I saw a lot of cases in which a worker's claim had been "pended"; that is, the insurer wanted to do further investigations and its decision on liability was pending. It is all well and good for an insurer to want a bit more time if it needs to undertake investigations, but those investigations should be done as expeditiously as possible. This bill will place a limit on how long a final decision on liability can be pended or deferred. I understand that the limit will be prescribed under the regulations and is likely to be within 26 days. That is another part of the legislation that will encourage employees, and employers and insurers in particular, to deal with workers compensation claims as expeditiously as possible.

Another way in which this bill will advantage both employees and employers is that the length of time for which provisional payments must be made to an injured employee will be extended from 13 weeks to 26 weeks. The payment will then be stepped down to 85 per cent of the employee's normal rate. That will not only give employers greater breathing room while they are going through the process of trying to resolve claims or rehabilitating workers to get them back to the workplace as expeditiously as possible, but also give employees the security of knowing that they will be able to receive their provisional payments for longer. I am also pleased about the reform in this bill that the 85 per cent step-down rate will be covered by the Minimum Conditions of Employment Act. This will provide a safety net to ensure that a person who is already being paid the minimum wage will continue to be paid no less than the minimum wage.

This is a great bill. It is a Labor bill. It is a bill that will further the interests of workers in a sensible way. It is another reform that the Minister for Industrial Relations has brought to this chamber, and I look forward to its speedy passage through Parliament.

MR P.C. TINLEY (Willagee) [5.33 pm]: As a local member, I spend a lot of time, particularly in sitting weeks on the compressed days of Friday and sometimes Monday, stacking as many constituents into my office as possible—some would describe it as a doctor's surgery—in an attempt to keep up with their issues and do something about them. However, there are two areas that as a local member I find far and away the most difficult and confronting. The first is child protection issues in all their forms. Child protection is such an opaque part of public administration

and departmental control that it is often very difficult as a local member to advocate on behalf of our constituents. The other is what we are dealing with here—namely, workers compensation. We often intercept these constituents at various points in the process. In many cases, we are talking about some of the most under-resourced people in our community, typically manual weekly wage earners who have injured themselves at work or believe they have injured themselves at work and do not know what to do next. The Workers' Compensation and Injury Management Act 1981, which is administered by WorkCover, is arcane in both its written form and intent. Any attempt by a guy who left school aged 15 years to understand the legalise and the complexity of language in the bill will be a big ask. We are fortunate that many of the members around us, such as the member for Cockburn, and the member for Cannington and Minister for Industrial Relations, have great experience in this area.

One of the first things I ask these people when they come into my office is whether they are a union member, because as the member for Bassendean rightly highlighted, the collective action and muscle of a union is a great compensation and salve for people going through this difficult process. Several such cases have come into my office, ironically, just in the last couple of weeks. One was a teacher at a public school. I will refer back to that in a moment. One of the key features of the act is that it is founded on a no-fault system. That allows for a meaningful adjustment and attendance to the injured worker to ensure that their compensation will be just and fair. That has been carried through to the modernisation that we are dealing with in this bill.

It is compulsory that employers have workers compensation insurance. I understand, having been an employer, that that is an expense of doing business. The premium is about 1.86 per cent of the total wages bill. I note from looking at the statistics that there has been a slight increase in the past four years. The premium has varied from 1.68 per cent to 1.82 per cent in 2022–23. In fact, in 2020–21, the premium went backwards by 0.04 per cent. It would be interesting to know whether that was COVID related. It is certainly not a great expense for a business. It was explained to us in the briefing that this bill will result in a premium increase in the order of 2.83 per cent. I think that is a fair price to pay to ensure that we modernise the opportunity for people to get workers compensation.

One of the best things about the modernisation of this bill, having read through the black print, if you like, is that it has been written in plain English. That will enable people to read and understand it in a transparent and clear way. It is very important that we use plain language in our bills whenever possible. Workers compensation coverage will obviously still be compulsory. This bill will provide the benefits that have been identified by other members, such as weekly payments for lost wages, medical and rehabilitation expenses, lump sum compensation for permanent impairment and also, of course, death benefits and payment of funeral expenses.

The main criticism of the system that I have found in my lived experience as a local member is the level of complexity. The ability to navigate an individual through the workers compensation system without the collective support of a union will always be difficult and will invariably involve expensive lawyers. Many people who come through my office have neither the resources in their own lived experience nor the economic resources to enable them to get into the system too deeply. It is often a very frustrating and significantly debilitating experience, particularly if they are up against a vexatious or difficult employer.

This bill will also address the inadequate benefits that are often paid to a worker relative to the wages that they earned during their employment. I note the increase from 30 per cent to 60 per cent in the amount that can be claimed for medical expenses, which will take that into the realm of about $146 000 and will be indexed. The people I see have ongoing and significant referred injuries. If someone does a shoulder, hip or leg, it will eventually have an impact on other parts of their body—their gait or sleeping arrangements will change, or there might be any number of neural problems as a result. We need to make sure that we have an adequate medical cap to undertake the sorts of treatments that are required and are appropriate. That, in fact, was one of this government's 2021 election commitments and it was well received.

There have been criticisms about inconsistencies in the approach to compensation, particularly around determinations and permanent impairment assessments. People with a catastrophic injury, if you like, may go to an assessor who might evaluate the same injury on different terms and with different assumptions. There is also an issue about the varying compensation amounts that will be paid. The other great criticism is about the challenges in returning to work. Employers may not always provide appropriate support and suitable duties for injured workers as they recover. That really makes it difficult for employees to return to work. I find that in those circumstances there is, over time, an increase in mental stress and a decline in people's self-confidence and desire to improve their lot.

A constituent of mine drove a truck, delivering dairy products to various outlets across the city. He injured his back on the truck lift and went through enormous challenges to prove his injury. Back injuries are some of the most difficult to assess, particularly with regard to pain, to understand the limitations of the employee. That constituent's employer was particularly good in making sure that the driver's alternative duties were suitable and fitted the nature of his injury, but it took nearly 13 months to come to a conclusion with his workers compensation. That puts as much stress on small employers as it does on employees. For some, returning to work is a good experience when they have compassionate and capable employers, but if they do not, it can be fraught with all sorts of challenges.

Other issues with the current system include delays in claim processing and inadequate support for mental health injuries. That is probably more a comment around the architecture of mental health services in Australia and other

developed countries, where access to mental health practitioners and experts is particularly difficult, and even more difficult when people have children. Compelling employers to act in good faith and apply all the tenets of the current legislation was always a challenge. The government has its work cut out for it, but I am very proud to be part of a government that has taken on this very difficult area. I note that there were 171 recommendations in the final report of the injury management review, and most of them are reflected in the modernisation of this legislation.

Another challenge worth noting is that of the government insurer, the Insurance Commission of Western Australia, which is known as the insurer of last resort. As an insurer of last resort, it has the capacity to take on non-government customers. Normally it is the insurer of government agencies, businesses and workers—some 130 000-odd public sector workers across Western Australia. ICWA is the underwriter of their claims. There was a situation in which a constituent of mine, a teacher, had hurt herself during work hours. This is a disparity that will not necessarily be covered by this bill. ICWA, as the insurer of the Department of Education, accepted the liability, the injury and all the reports, but the Department of Education, as the employer, had to interpret for its own benefit the nature of the compensation. She had in writing the Insurance Commission of Western Australia's acceptance of liability and the compensation amounts incorporated in its judgement, but the Department of Education disputed the nature and quantum of that compensation. The government as an institution and an employer therefore has a little more work to do, I think, to understand the relationship between our insurer, employing agencies and workers. That case is still on foot and my constituent is hoping for a resolution in the near future.

Another key feature is the extension of the step-down point from 13 to 26 weeks. That is particularly important in circumstances in which lifetime care and assistance are required for catastrophic workplace injuries. The member for Cockburn talked about provisional compensation payments for appended claims. It is important that we acknowledge that; it will give people some solace as they undertake their own rehabilitation when they are not in employment.

We have heard many, many stories about employers attending medical appointments and coercing behaviours around the use of medical experts. This bill attends to that situation and will prevent those employers or their agents from attending medical consultations. I think it is a fundamental right for people to have their own medical needs met privately and confidentially with their medical practitioner and no-one else. That is always going to be a balancing act, but the balance has been struck here. The bill will not prevent communication between the treating medical practitioner and the employer about return-to-work options. I think that will probably strike the right balance and, hopefully, that is what we will see in practice.

Another key issue will occur more and more as technology comes to the fore, and that is discrimination in pre-employment screening. This is not unavoidable. If someone has a physical challenge and wants to do a physical job like joining the police force or similar, their medical history is going to be part of the recruitment process.

The cost impacts of the legislation are marginal. We will see an increase in impost estimated at around 2.83 per cent, according to PricewaterhouseCoopers. I think that is a modest increase to achieve the sorts of outcomes that a progressive government wants to achieve.

I turn now to the increase in stress-related workers compensation claims. Stress, unlike physical injury, is far more difficult to diagnose and far more difficult to rehabilitate. Stress and the mental health issues that may result from stress-related injuries are issues that will have to be grappled with by future governments. We will need to understand how important treatments are—not necessarily compensation—in respect of returning to work. Right now it is not a really big issue. Total lost-time claims for 2019–20 were around 14 132; some of this info is a bit old. Of that, there were only 427 stress-related claims, which is about three per cent. That equates to about $50 million in claims. However, the average number of days lost was 105, but stress-related claims accounted for 206 days lost. As we can see, those claims might be smaller in number but are deeper in effect and they keep people out of the workforce for longer. The challenge is that the longer someone is out of the workforce, the more psychologically difficult it becomes for them to return. To be a productive human is to be one who contributes to the community. I think it is very important that that is the case.

I reserve the last few minutes of my contribution to acknowledge the minister. The minister has, by anybody's measure, had to accept a high degree of pressure and challenges across all his portfolios, being the Minister for Mines and Petroleum; Corrective Services; Industrial Relations. It is almost like, "If you've got a tough gig, give it to Bill; he'll take the heat", so much so that he had to alter his personal holiday to attend to issues. That is the way the man approaches his duties. We are very privileged to have him in the roles that he has, and we are very privileged to have him in caucus as a significant contributor and a lifetime contributor to the Labor movement. This sort of bill is exactly the type of thing that a Labor man like Bill would be seeking to implement because it is progressive, equitable and just, and it is what he stands for. Although I am using my time very carefully to not pump up his head too much, I asked his office, "What has Bill Johnston ever done for Western Australia?" In response, I got seven pages—that one is a bit blank—of Bill's greatest hits, and they are fantastic reading. Quite frankly, the member for Cannington should be very proud. He should include these sort of things in a scrapbook; I will sign them for him later. He is the second-best mines and petroleum minister we have had in the McGowan government. He is the worst Minister for Housing we have had; he was minister for four days!

Mr W.J. Johnston: Nothing went wrong when I was there!

Mr P.C. TINLEY: Yes.

I want to refer to some of the things he has done around a particularly significant issue in our community.

[Member's time extended.]

Mr P.C. TINLEY: I want to go on.

Mr W.J. Johnston: Give him another 20 minutes!

The ACTING SPEAKER (Ms A.E. Kent): You would love that, wouldn't you!

Mr P.C. TINLEY: I could turn this into a roast if members want me to!

One of the biggest issues confronting the community in Western Australia is energy—our transition to a renewable energy future. This minister and this government have taken that up front-on. There is nothing bolder than the decision to end coal power generation in Western Australia by 2030; the significant impact of that cannot be understated. If we do not get there—if we cannot replace the near 30 per cent of power generation by coal in that time frame, which is a short period—people in Western Australia will be left wanting and the south west interconnected system will be a significant loser. But if we get it right—it is the bold ambition of any government to reach those big targets—we will be the proud owners of around a 40 per cent reduction in carbon emissions right across the state, which would be a significant national contribution. But the biggest challenge is getting the infrastructure right.

The cost to connect solar prospective areas and wind prospective areas is insanely big; it will require as much as 5 000 kilometres of high voltage to get those solar prospective and wind prospective areas linked up and into the network. The cost of that is in the multiples of billions. This minister has taken things on with the planned $20 million electric vehicle highway project, which involves 98 charges across 49 locations, and the implementation of the emergency solar management rules. That might not sound too sexy, but the reality is that the rampant uptake of photovoltaic installations in Western Australia—it is more than any other jurisdiction in the world—has destabilised the system. Again, he has taken that on and ensured that we have the regulatory arrangements to bring rooftop solar into the system and to make it not as destabilising as it would be had it remained unfettered. The minister is responsible for the utility-scale Big Battery project in Kwinana, which will power more than 160 000 homes. We typically do not read about these things in *The West Australian* or mainstream media, but this minister is doing the hard work, day in, day out, to ensure that long after he his gone, he delivers for future generations of Western Australians, who would expect the sort of duty that he performs.

The ACTING SPEAKER: Is the member for Willagee finished?

Mr W.J. Johnston: I was going to draw your attention to standing order 102.

The ACTING SPEAKER: We were going there—trust me!

MS M.J. HAMMAT (Mirrabooka — Parliamentary Secretary) [5.54 pm]: I am also very delighted to rise and make a contribution on this very important piece of legislation, the Workers Compensation and Injury Management Bill 2023. I was also going to start by congratulating the minister for his work, but having heard the previous speaker give such effusive praise, I am not sure that I will be able to do so in such an articulate manner as we just witnessed.

I wanted to start by acknowledging the work of not only this minister, but also his staff and advisers, as well as the public sector workers who have worked on this bill. There is a long history to this piece of legislative reform now before the house. I acknowledge that it has been the diligence and determination of the Minister for Industrial Relations that has meant that this bill is here before us. I also acknowledge the work of Owen Whittle, the secretary of UnionsWA.

Mr W.J. Johnston: And the previous secretary.

Ms M.J. HAMMAT: I am not sure she was much chop to be honest!

Even in his role as assistant secretary, Owen Whittle played a lead and important role in these reforms, as did all the affiliated unions in Western Australia. This matter has been on their mind for many years, at least prior to the 2017 election, but, of course, for many years prior to that, and that is because workers compensation is such an important part of a suite of protections for working people. It has always been a part of the suite of issues that unions are expected to stand up for on behalf of their members. It is also worth recalling that in the days of Court government, when Graham Kierath was the responsible minister, this was one of the areas that the then Liberal–National government took a knife to. It did a slash-and-burn job on workers' entitlements in respect of workers compensation. People who have been workers for a period and who have relied on the system and people who work in the realms of supporting people going through the workers compensation system understand how important this legislative framework is in ensuring that people get a fair go at the point at which they are injured at work. It is absolutely so important for people who have suffered some kind of injury and are seeking to get back into the workforce to have a fair framework as far as possible. I want to congratulate the minister again. This bill is such an important piece of legislation.

Many of us will go through our working life without experiencing an injury at work that requires compensation. I hope that increasingly this is the case for working people everywhere. But what I have observed in my time representing working people is that when it happens, they are profoundly affected by that injury or illness. It has

consequences on their ability to go to work and earn a living—it has consequences for their economic wellbeing—but it also impacts their mental health wellbeing because for many people, work is not just an economic activity; going to work is what people do for a social outlet and it provides them with a role and a sense of status in society. Many workers suffer a great deal from not being able to go to work and that has many consequences for people's family members. Hopefully, many people will never have to experience the workers compensation system, but it is so important for those who are affected, and it is absolutely vital that we get the balance right to ensure that working people are protected and that they have a reasonable prospect of being treated fairly and with dignity if they are required to engage in the workers compensation structure.

By way of introduction, I also want members to understand that the bills before the house are part of a suite of improvements that this government is making to try to ensure that we have a fair and balanced system for employees in this state. Many of the reforms have been introduced by the Minister for Industrial Relations. This reform follows on from the reforms passed in this Parliament to the Western Australian Industrial Relations Act and the work of the former Parliament on the Work Health and Safety Bill—again, a really significant piece of legislation to ensure that workers can, hopefully, be safe at work and return home at the end of the day. This is part of a whole body of work this government has been doing, underlining our commitment to ensuring that Western Australian workplaces are fair and Western Australian workers have access to appropriate and balanced protections. I again commend the minister for his work in this area. The member for Bassendean made the point very well that prevention is better than a cure in this area in particular. Having strong work health and safety laws is absolutely critical, in the first instance, to ensure that the risk of injury to workers is minimised. Strong workers compensation legislation is the next most important thing for people who are injured and required to engage in the system.

I said at the outset that there has been quite a long history to these reforms. It is really important to note that like many legislative reforms, these have gone through some fairly extensive review and discussion. Back in 2009, WorkCover WA put in place a two-stage review of the legislation. Some work was done and a bill was passed in 2011 that made some amendments to the Workers' Compensation and Injury Management Act. The second stage was to develop a new workers compensation statute. That was identified as early as 2009—many, many years ago. In October 2013, WorkCover WA released a discussion paper outlining a series of proposals to redraft the act. That draft was put out as a way of engaging with stakeholders, seeking feedback and starting a discussion about what a rewritten act would look like. In June 2014, the final report was released, based on the consultation that had happened. That was all pulled together into the *Review of the Workers' Compensation and Injury Management Act 1981: Final report* that contained 171 recommendations for what needed to be included in the new workers compensation statute. That review identified a number of areas in which the legislative framework applying to workers compensation was in need of amendment and reform. That report was tabled in the Legislative Council in June 2014, but then the Liberal–National government did nothing, which was in keeping with its lack of interest in ensuring that workers have a fair system. It took the election of a Labor government in 2017 for this issue to receive the attention it really required and deserved.

The report was tabled in 2014, but it was only after the 2017 election that our current minister announced that the government had approved the drafting of a bill to modernise workers compensation laws, and the drafting of the bill commenced and progressed. It is a very detailed piece of legislation. I know that it has taken some time to get it together. In 2021, a consultation draft bill was released, again to ensure that people had the opportunity to provide comment on this really important piece of legislation. I believe that over 80 written submissions were received when that draft bill was put out for public consultation. It was a very comprehensive document and there has been exhaustive consultation on it with a range of stakeholders, including employers and employees. A lot of law firms work in this space and many of them also put in submissions about what would be an appropriate legislative framework.

I want to come back to the fact that this demonstrates the stark difference between what Labor governments and Liberal–National governments do when they are in power. Whilst we get on with the job of legislating in a range of ways to improve the circumstances of working people, what we have seen over and over from successive Liberal–National governments has been either inaction, as was the case under the Barnett government, or, as I mentioned earlier, the active reduction of people's entitlements, as happened under the Court and Kierath government. It takes Labor governments to stand up for working people; they are the only governments that can be relied on to deliver fairness in our workplaces. It is no surprise that this is true in the workers compensation space as well. It is great to have the opportunity to have this long-awaited bill before the house. There has been significant consultation on it. There is no doubt it will deliver a better workers compensation system for many working people, and one that is more fairly structured.

I want to talk about some of the provisions in the bill in more detail. Before I do that, I started my opening remarks by illustrating that being injured at work has a significant impact on workers. It is important for members to understand that the way the workers compensation system operates, it is not a level playing field by any stretch of the imagination. When employees are injured at work, they are often incredibly vulnerable. Permanent employees perhaps feel a little comfort in being able to access paid leave entitlements, but the vulnerability of a casual or insecure employee is greater. Employers are by and large insured for workers compensation, so at the point an

injury occurs, many employers will be required to complete some forms and notify their insurer. Many workers claims are acknowledged and paid, but when that is not the case, it is often a situation in which employees, who may or may not be represented, are seeking to get a fair deal out of a system in which employers are typically represented by insurers that are often very large multinational companies that are not particularly concerned about the interests of the employee, or about the interests of the employer either, but are often primarily concerned about their bottom line. It is important to acknowledge that not all insurers are the same, but clearly some engage in the workers compensation system in a way in which their primary focus is on minimising their liability. Often, that means taking quite an aggressive approach to how claims are dealt with.

I have heard many times that workers do not want to be in the system and, quite rightly, are very upset when they are injured. Overhanging people once they get into the workers compensation system is a lot of the public commentary around the workers comp system, typified by some of the more populist news channels, which unfortunately makes people feel like they are rorting the system. I have had a number of working people whom I have represented say to me, "I know a lot of people rort the workers comp system, but I'm genuine; I'm really injured." The fact that people have this sense that they are not going to be taken seriously when they say they are injured points to some of the real deficiencies in the system. No-one whom I have met would willingly be injured at work. Employees often find themselves going through a number of different hurdles and challenges before they get an appropriate acknowledgement of their claim or, perhaps, a settlement. As we know, the bills do not stop pilling up just because a person is injured at work. People feel an enormous amount of pressure when they find themselves in the system with a claim that has not been accepted. The pressure often stays for the duration that a person is managing an injury. I think it is worth acknowledging again that not all injuries are repaired quickly so that people can get back to work. Sometimes people have very significant injuries and can be out of the workplace for very long periods. In some instances, people are simply unable to recover sufficiently to return to their previous work at all.

It is excellent that this bill seeks to address a number of pain points. Working people pursuing workers compensation entitlements can find themselves at particular pain points as they struggle to work their way through the system. Insurers, as it generally is, have additional power at particular inflection points in the system. A really good example of this is the changes we are making to pended claims. The legislation will require that there is a response to a worker's claim for compensation within a prescribed period by the insurer. They will need to get back to the worker so that they can know with some certainty whether their claim has been accepted. If it has not been accepted, they can decide whether to pursue a review of that decision. It is often the case that insurers will pend claims. Under the current scheme, if a claim is pended, a person would not necessarily get financial support while the claim is pended, and that often puts them in financial difficulty. If a person has access to leave, it may be acceptable to them. But in a situation in which a person does not have any form of paid leave—we know that is increasingly the reality for working people—having their claim not decided contributes a significant amount of stress. Unless people are well advised by unions or lawyers, they would not necessarily know the steps they can take to get some kind of resolution that would allow their claim to be either accepted or rejected; and, in the event it is rejected, take steps to have it overturned.

[Member's time extended.]

Ms M.J. HAMMAT: That is a really important change and I congratulate the minister for introducing it. I hope that it will mean insurers just get on with the job of making a decision one way or the other about whether they will accept or reject a claim. As I said, in the event that a claim is rejected at that initial step, there are further steps working people can take to have a decision reviewed. This provision will stop people from getting stuck in a no-man's-land in which no decision is made one way or the other. I commend the minister for that change.

I also want to talk about the step-down provisions. I think a sufficient number of speakers before me have spoken about step-down provisions. Embedded in the legislation is the idea that the amount of weekly income that people receive by way of compensation payment has a step-down point embedded into it. This legislation will extend that from 13 to 26 weeks. It is an incredibly important provision that will make a real difference to people on workers compensation for longer periods. Getting any kind of reduction in one's take-home pay is not easy for working people, particularly those on low incomes, to manage. This provision will ensure that people will continue to receive their earnings for at least 26 weeks so that they can make any necessary plans. It is a really important provision of the bill. I know it is something the union movement has campaigned on for some time, so it is great to see that that provision will be introduced.

I cannot resist talking about employers attending medical appointments. When I first heard that this occurs, I found it extraordinary. I cannot imagine that any employer representative would find it all that comfortable to sit in a medical appointment with an injured worker and their doctor having what no doubt would be an incredibly personal discussion, yet it is what employers have been doing. It is often dressed up as concern for the employee. It is often human resources personnel who are required to attend, but it may be other members of an organisation as well. Typically, it is presented to the employee that their attendance comes from a place of caring for that employee. But in practice, from the stories I have heard—perhaps others have had a happier ending—employees at best feel intimidated having an employer rep attend a consultation with them and they are less likely to tell the story to their doctor in a way that accurately reflects exactly what happened. They minimise the story while the employer's

representative is sitting alongside them. It is an appalling breach of a worker's privacy. It does not allow for the full and frank discussion between a worker and their medical practitioner that one would expect. Whether it is a physical injury or something else, the reality is there may be a whole range of things a doctor might want to talk to a worker about in the context of an injury, and having an employer rep sitting alongside the worker is simply not appropriate and, quite rightly, will be banned under this legislation. Clearly, employers can still get information about what a medical practitioner has said. They can get all the information they need about managing return-to-work options. None of that will stop under this change in the law, but it does mean that employer reps will have no place in medical consultations; they should not be there. I am really pleased to see this provision incorporated into the bill.

I talked earlier about how workers are often incredibly vulnerable when they are injured at work. It is very easy to see how it might be quite hard for a worker who has been injured to say no to an employer insisting on going into a consultation with them. They are often not able to get advice in a timely fashion so that they are clear about their rights. To put the onus on the worker to stand up and say, "No, you're not coming; get out", makes it incredibly difficult for them. This bill makes it clear and I think it gets the balance absolutely right, ensuring that workers will have a right to privacy and dignity, and the ability to speak to their medical practitioner privately. This was a really important election commitment in 2021 and it is excellent to see it now incorporated into this bill.

In the time left to me, I want to talk about a couple of other things. First, I want to make a few comments about the definition of "worker" in a broader context. People who work in this area will know that it is increasingly challenging to define "employees" in laws like this one. I think legislators, unions and possibly employers as well have been challenged by the fact that the nature of work, and the nature of the employment contract, has changed substantially in recent times. The original iteration of this legislation was introduced in, I think, the 1980s. Over time what work looks like has changed significantly. Increasingly, working people are employed in different forms of temporary casual employment or what is called the gig economy in which they are typically not considered to be employees at all. The consequence of an increasing number of people in the gig economy is usually typified by Uber or Deliveroo drivers. A number of consequences arise from people in effect performing employment in a way that means they are not defined as a traditional employee. Obviously, those workers falling outside the workers compensation system is one of the challenges. I raise it because, of course, it does not mean that people performing those roles do not get injured. They do. A Deliveroo driver dodging in and out of traffic is perhaps quite likely to get injured in the course of that work. People get injured, but there is no insurance scheme. There is no employer to have taken the steps to insure them in the event of an injury and to provide them payments so that person has some income to live on while they are recovering.

In the absence of that scheme, the workers' protection falls back on the state broadly, so the medical expenses of people who are required to go to hospital will be met through Medicare. To the extent that there is any shortfall, that will fall back on the workers. Clearly, someone who is unable to work will still need to access some form of payment through sickness or unemployment benefits. Employers finding ways to engage people that is outside of the traditional employment relationship has consequences because we still need to make sure that people who are injured get the necessary protections. I know some time was spent on trying to find an appropriate way to ensure that the legislation will cover as many workers as possible, given the rapid changes that are happening in how people are employed and the challenges of doing that. I want to acknowledge some of the unions that have been doing work in this place to ensure that people engaged in this form of work have access to proper protections, and in particular the Transport Workers' Union of Australia.

I also want to take this opportunity to speak about International Workers' Memorial Day, which is recognised all around the world on 28 April. It is a solemn day that encourages people to stop and remember the many workers who have died or been injured at work. Every year, UnionsWA brings together unions, workers, government representatives and community members for a memorial service and wreath laying at Solidarity Park just across the road from this Parliament. I want to take this opportunity to encourage people to join this service if they are able to. If they are not able to, I encourage people to stop and reflect on the terrible personal toll of workplace death and injury not only here in Western Australia but also all around the world. In raising International Workers' Memorial Day, I also want to extend my thanks to Owen Whittle and his team at UnionsWA for hosting this really important annual event. It is important to reflect, as we deal with workers compensation, that its main framework is to provide support for workers who are injured, but indeed some workers die at work, and International Workers' Memorial Day is a really important way of reflecting on that as well as people who are seriously injured.

Although it is not the subject of this legislation, the minister recently legislated to introduce industrial manslaughter laws and I know that in the course of that work, a number of people who had lost family members at work were a really important part of the advocacy. I want to take this opportunity to thank them for their really powerful advocacy. It cannot have been easy to have told the story, time and again in government hearings and in the media, about what it is like to lose a beloved family member as a result of a workplace tragedy. I want to say to them on this occasion that I thank them greatly for their work and for their advocacy, and it is really excellent to see that we will have not only good workers compensation laws, but, importantly, a framework for industrial manslaughter and appropriate penalties when people die at work.

With that, I am pretty much out of time so I am going to conclude my comments and commend the bill to the house.

MS M.M. QUIRK (Landsdale) [6.24 pm]: It is very difficult to follow my colleague the member for Mirrabooka, who has a long and distinguished career in the union movement and, certainly, these issues are second nature to her. But at the end of the day, I feel I need to make a few comments and they will not be necessarily injected with the wisdom or the experience of those that some of my colleagues from the union movement have made. It is obvious even to casual observers that the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023 have been a huge undertaking, and I congratulate Minister Johnston and the McGowan government generally for the introduction of these bills and for honouring its 2021 election commitment. The consultation alone has been substantial and I understand in excess of 85 submissions were made on the draft Workers Compensation and Injury Management Bill 2023.

We have already heard that workers compensation has been the subject of review for many years, since 2009, but I think the consensus is that the current laws are technical and, most importantly, not regularly understood by those to whom the legislation applies. It is trite to note, but it is not readily achieved that our laws should be accessible and comprehensible to those to whom they are supposed to apply. Over the years, the current workers compensation system has become adversarial and in the words of the Shop, Distributive and Allied Employees Association's submission to the consultation draft bill —

> The current system is not one founded upon a meeting of equals. It is not a system where the parties have shared interests. It is not the case that the parties are working towards the same goals. The reality is that the insurers/employers are seeking an avenue by which to deny liability for the claim, and they do not seek ways in which they can accept liability.

It continues —

> Those that exacerbate the adversarial nature must be excluded, and those that are conciliatory or in some other way promote equality between the injured worker and the insurer/employer must be given priority.

I certainly endorse those observations. No doubt we will be canvassing in some detail the individual and technical aspects of the bill in the consideration in detail stage, but I want to take a slightly different approach. I want to make some observations about how dehumanising and demoralising elements of the current system are. Most of us can recall the long saga of the James Hardie company and litigators strenuously deploying tactics to ensure that plaintiffs would die of asbestos-related disease before the cases were decided. Such bad behaviour is not limited to those cases and is, to some degree, present in many of the interactions between workers compensation claimants and employers/insurers. At the very time an employee is focused on recovery and the restoration of health, they are mired in the stress and unfamiliar bureaucracy and delay of the workers compensation system. They are further demoralised by the underlying assumption by some practitioners or employers that the worker is malingering or illegitimate in their claims.

At this stage, I should commend our colleagues in the union movement for the advocacy and assistance that they give to their members in navigating this complex system. The wise counsel and assistance is reassuring to those workers and much needed. I consider that these days there is a growing acceptance in workplaces that workers need to be treated equitably and decently. It is seen as a feature of good leadership that a culture of dignity and respect should be engendered in workplaces and that is because, if for no other reason, it makes good economic sense. With an environment of almost full employment, if a worker finds himself in an unsafe workplace in which there is a lack of respect, or is the subject of bullying, harassment or financial exploitation, there may be greater opportunity these days to leave and find a job where his talents are appreciated and there is scope for growth and developing skills.

The notion of the dignity of work and the dignity that should be afforded workers is by no means new. In fact, in 1891, Pope Leo XIII outlined the notion of workers' rights and the duties of employers in his encyclical *Rerum Novarum*, which, for those non-Latin scholars, means "Of revolutionary change". That document recognised the dignity of workers to work in safety and receive fair compensation. Dignity is a human right, but it is too often not considered strongly enough in the workplace.

That is a good segue to the human rights discourse today. The Human Rights Commission outlines some relevant considerations in its 2010 publication *Workers with mental illness: A practical guide for managers*. Some of the matters canvassed there are generally applicable to workplaces. Under the heading "Creating a safe and healthy workplace for all", it notes —

> **The most effective way to attract and support competent and productive workers is to ensure a healthy and safe work environment for everyone including workers with mental illness.**
>
> …
>
> Developing long-term strategies in the organisation is most effective when coupled with direct services that assist workers who require support and reasonable adjustments in the workplace.

The guide goes on to outline some characteristics of a healthy and safe workplace. It states —

- **professional development is supported and encouraged**
- **obstacles to optimum mental health are identified and removed**
- **diversity is viewed as an organisation advantage**

- **staff turnover and sick/stress leave is low**
- **staff loyalty is high**
- **workers are productive members of a team.**

It then continues under the heading of "Commitment to a strategy for creating a healthy working environment" and states —

> A key component to the success of creating a safe and healthy work environment is commitment and awareness. This can be demonstrated throughout the organisation by:
>
> - commitment from senior managers and other senior staff to develop a healthy working environment through mission statements and policies
> - managers demonstrating their commitment by implementing the strategies
> - making all staff aware of your managerial commitment to having a healthy and safe working environment.

When discussing the development of a strategy, it states —

> …it is important to involve workers and their representatives in strategies and policies related to OHS, risk management and mental illness. Not only is consulting with workers required under OHS law, it also makes good sense in creating a safe and healthy workplace.

It then discusses the issues of identifying hazards, assessing risks and implementing controls to minimise them. It states that the workplace needs to be assessed to identify whether it is healthy and safe. If that assessment fails to occur, it could also contribute to poor mental health. I think this is very important, and I am going to talk about it shortly. It notes that stress is a major contributing factor to mental health issues in the workplace and that the risk factors are —

1. high demand (work overload)
2. low support from co-workers and supervisors
3. lack of control
4. poorly defined roles
5. poorly managed relationships and conflict
6. poor change participation
7. lack of recognition and reward
8. organisational injustice.

It also notes —

> *Bullying and harassment* in the workplace can greatly affect a person's mental health. Bullying and harassment can take the form of:
>
> - abusive behaviour or language
> - unfair or excessive criticism
> - purposely ignoring the worker's point of view
> - tactless remarks or actions which put down the person
> - malicious rumours.
>
> …
>
> 'Risk to health and safety' means risk to the emotional, mental or physical health of the person(s) in the workplace.

It then proceeds to talk about workplace trauma. As we all know, in some workplaces, there are risks of one-off or cumulative incidents that are severe and traumatic for workers and contribute to post-traumatic stress disorder or other mental illness. I will address that shortly as well. Again, managers need to assess the workplace and the risks that could cause workers to be exposed to those stressors.

It concludes by stating —

> Providing safe and healthy work conditions benefits all workers and minimises the risk of or exacerbation of mental illness in the workplace. Some examples include:
>
> - regular rest breaks
> - limits on overtime or workload
> - breaks between shifts
> - flexible work hours …

- ability to work part-time
- study leave or professional development
- effective grievance and conflict resolution procedures
- workplace change consultation provisions.

These days, workplace stress is endemic. It is commonplace for workplaces involving service delivery to have signs up for the public requesting that the bullying or harassment of staff not occur. I have always found these very perplexing because these staff are actually delivering a service and trying to assist, yet it seems that it is commonplace for those very workers to be treated badly. I like the phrase that the Shop, Distributive and Allied Employees Association campaign used: "No One Deserves A Serve".

Likewise, many employers do not have good systems to address PTSD. Unlike physical injury, it is often difficult to pinpoint a particular incident; rather, it may well be cumulative. Managers need to be trained to recognise the signs and act in a more sensitive and timely manner. The Community Development and Justice Standing Committee, of which I was chair at the time, did a fantastic report on post-traumatic stress in first responders. That report certainly emphasised the need for managers to be well aware that this could be a problem and to take remedial steps at an early stage. In the case of the police service at that stage, members who had post-traumatic stress were not identified as such within files, but were merely claimed to have stress. How could that be adequately addressed when the issue was not actually identified? That was something we found very perplexing.

Finally, I want to reflect on the format of the bill and the criticism that has been made in some of the submissions that some of the specifics should be included in the substantive bill rather than in regulation. To use the cliché, I think it gives us greater agility. When we come across new areas that might need coverage as a matter of urgency in light of new medical research or information, we need to be able to act expeditiously to ensure that affected workers have adequate and timely coverage.

While we are in the mood of boasting, Mr Acting Speaker (Mr D.A.E. Scaife)—you set the tone!—I want to say that I am very proud to have introduced a private members' bill, which was not supported by the Barnett government, for presumptive legislation for firefighter cancer. Ironically a year later, the Barnett government introduced a bill in almost identical terms, but it delayed some firefighters in being covered.

It is likely that as medical research progresses and other forms of cancer are identified, the current list of cancers that are presumed to have been acquired occupationally will increase. For example, with the recruitment of more female firefighters, we anticipate that the current list of cancers will include such things as ovarian cancer that is deemed to be acquired through their work. However, that may take some time as the cohort of female firefighters is quite small at this stage. Internationally, there is a lot of communication amongst different firefighting organisations and researchers so that we are made aware in a timely way of the atypical occurrences of these cancers.

Having these sorts of lists within regulations will be much quicker and we will be able to streamline a good response. It is in contrast, alas, to this Parliament, where the introduction and passing of substantive laws continues to proceed at glacial speed. Another example, as mentioned by the member for Hillarys, is of course the issue of silicosis. It is now widely understood that the installation of kitchen benchtops with a particular material causes disease. We need to respond to that in a timely way, and regulation will enable us to do that. We will be able to modify those regulations from time to time with reference to Safe Work Australia's list of deemed diseases. It is a great read! It is revised from time to time. The other issue that I think needs to be reflected in the new laws is that there are changes in the constitution of workplaces. We do not necessarily have the same employer–worker relationships. There are all sorts of permutations and combinations. We have to have laws that are sufficiently flexible to cover the evolving relationships between employers and workers in the various different permutations that such relationships can have.

In conclusion, I trust that these more streamline and equitable laws will alleviate the rollercoaster of emotions for claimants in the workers compensation system. I also hope that these laws will ensure a more complete, fulfilling and timely return to work and, as a corollary of that, that workplaces strive to enshrine the fundamental human rights of workers, which I have outlined today.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.

CRIMINAL INVESTIGATION AMENDMENT (VALIDATION) BILL 2023

Returned

Bill returned from the Council without amendment.

House adjourned at 6.44 pm