Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT

FIRST SESSION

2023

LEGISLATIVE COUNCIL

Thursday, 9 November 2023

Legislative Council

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

VISITORS — LUMEN CHRISTI COLLEGE

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [10.01 am]: Good morning, members, and welcome to the gallery of the Legislative Council, Lumen Christi College. You are very welcome.

Members: Hear, hear!

PATIENT ASSISTED TRAVEL SCHEME

Petition

HON MARTIN ALDRIDGE (Agricultural) [10.02 am]: I present an e-petition containing 1 009 signatures couched in the following terms.

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled. We the undersigned …
>
> call on the State Government to ensure the Patient Assisted Travel Scheme (PATS) meets the needs and expectations of regional WA residents, who are the backbone of our state and its economy, and who deserve equity in access to healthcare. We therefore call on the Legislative Council to consider measures to improve PATS for regional residents including: 1. Increasing fuel subsidies for private vehicle use to reflect the contemporary costs of operating a motor vehicle in our regions; 2. Increasing the accommodation subsidy to better reflect the high cost of accessing accommodation while seeking treatment in Perth and in other major centres; 3. Providing taxi vouchers to allow patients to get to and from medical appointments whilst away from home for treatment; 4. Recognising the impact of delays in processing approvals and reimbursements for patients, including pensioners, and implementing measures to improve processing timeframes; 5. Expanding PATs to include dental and allied health services; 6. Expanding the definition of patient escorts and carers, and providing greater assistance and eligibility for patient escorts with particular regard to patients travelling for childbirth; patients from remote Aboriginal communities; patients who are aged or disabled; and patients undergoing treatment such as cancer and dialysis.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 2790.]

PAPERS TABLED

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

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Ninetieth Report — Consideration of the 2023–24 budget estimates — Tabling

HON PETER COLLIER (North Metropolitan) [10.04 am]: I am directed to present the ninetieth report of the Standing Committee on Estimates and Financial Operations titled *Consideration of the 2023-24 budget estimates*.

[See paper 2791.]

Hon PETER COLLIER: The report that I have just tabled advises the house that the Standing Committee on Estimates and Financial Operations has considered the 2023–24 budget estimates. The committee reviewed the budget broadly, with a thorough examination of 17 agencies, and other agencies as required. In addition to all the usual matters the committee reflects on in its reports, the committee examined agency capability reviews; the decision to establish an asset maintenance fund special purpose account and provide additional funding for the climate action fund and social housing investment fund special purpose grants; confidential matters in the budget; and the timeliness of 2023–24 statements of corporate intent.

The committee also reflects on the evidence gathering process, including the quantity and quality of the information made available. The committee intends to change some of its practices and will trial some of these changes in its consideration of the 2022–23 annual reports. The report contains 11 recommendations that all relate to improving disclosures in either the budget papers or more broadly.

The committee thanks staff Andrew Hawkes, Anne Turner and Tracey Sharpe for their assistance in this process.

I commend the report to the house.

IRON ORE ROYALTIES

Notice of Motion

Hon Dr Steve Thomas (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

That this house —

(1) notes that —

(a) the 2022–23 *Government mid-year financial projections statement*, also called the midyear review, released in December 2023 has again shown that the Cook Labor government has underestimated state revenue for this financial year, especially iron ore royalties revenue;

(b) the latest figures are again predicting a multibillion dollar surplus for Western Australia; and

(c) Western Australian residents and families continue to struggle with a higher cost of living while the Cook Labor government continues to roll in and flaunt its wealth, which it owes to high international iron ore prices rather than its own financial management.

(2) calls on the Cook Labor government to urgently do more for struggling Western Australian residents and families.

MISUSE OF DRUGS AMENDMENT BILL 2021

Second Reading

Resumed from 3 June 2021.

HON SOPHIA MOERMOND (South West) [10.07 am]: I rise to speak in support of the Misuse of Drugs Amendment Bill 2021. To lead the continuation of the debate on this bill, I will remind the house of the context. Currently, police can use schedule 7 or 8 of the Misuse of Drugs Act when assessing whether a cannabis grower is to be accused of drug trafficking. Schedule 7 refers to a weight of three kilograms and schedule 8 refers to 20 plants. The police get to choose which schedule they wish to use. It does not matter the size of the plants as such. If there are 20 seedlings, they can choose to set that up as for trafficking, and three kilograms can also include the soil that is still stuck to the roots, so it is not actual plant material. Anything over those limits may be deemed a trafficable quantity by the police. Currently, if the Director of Public Prosecutions insists on asking for a drug trafficker declaration, the court has no option other than to hand down such a declaration, regardless of the circumstances. No judicial discretion exists concerning a drug trafficker declaration; rather, the court is obliged under a law passed in a previous Parliament to do so, even if it is plain to the judge that no trafficking has taken place.

A review of the Criminal Property Confiscation Act led by Hon Wayne Martin recommended that the courts be given the discretion to decline to declare a person to be a drug trafficker if satisfied on the balance of probabilities that the person has not engaged in trafficking. The motion put forward by Hon Dr Brian Walker was that the Misuse of Drugs Act be amended to reflect recommendation 9 of the Martin review. I strongly support the motion due to the fact that there is a lot of evidence to suggest that many trafficking convictions are dispensed by the courts to people who are growing but not trafficking cannabis.

As for the amounts of plants people may have been found with, we are looking at people who are growing cannabis for their own use. Recreational use can be one component, but it is often people who are treating their own cancer. A lovely lady from Mt Barker was caught with plants and processing equipment and she was definitely not trafficking. All she did was grow the plants to manage her own cancer diagnosis and she has lived way past her use-by date.

Based on the current practice of police, it appears that anything over the limits of the three kilograms with the soil attached to the roots as well as having over 20 seedlings—which may be very low weight—will be deemed a trafficking offence. Secondly, it seems that the current practice of the police is to measure the weight of the plants in such a way that increases their weight. As I said, they weigh it with the soil attached. If someone has just watered their plants, it will also include the weight of the water as well. Thirdly, judges have openly stated that due to this clause, they have convicted people of being drug traffickers when they did not believe that they were.

Patten and Anor v the State of Western Australia was a case that came before District Court Judge McCain in 2013. It led Judge McCain to openly say in court that he was being asked to make an unjust finding and that there was no justice in our current system of confiscation. Legal experts such as Malcolm McCusker, KC, and Tom Percy, KC, also tell us that those injustices occur on a regular basis. A person should not be classified as a drug trafficker and should not have their assets confiscated unless they can actually be shown to have been trafficking. Another example of that may be the seizure of assets when a drug dealer or grower lives in a house, possibly with his family, and gets busted for a certain amount of cannabis. The whole family may lose their house. That could include mum and children. By the way, that is a fairly common family arrangement.

For this reason, I support this minor amendment to the act. The Misuse of Drugs Amendment Bill 2021 would put a stop to the situation whereby in circumstances where contraband material is over a certain weight or volume, judges are forced to make the drug trafficking declaration although there is no evidence of commerciality. This would be through one simple amendment—inserting a subsection to allow a judge to decline to issue a drug trafficking declaration in situations in which they are satisfied that doing so would be unjust.

Judges no doubt do not have an easy job at all; their job is to enact justice. They need to be provided the tools to do so. If a law is unfair to either the person who has been caught with the material or the people or family who might be living in the house, then that may not be an entirely fair judgement for the judge to give. They are highly qualified people and I feel that we should be able to trust their judgement in enacting justice. The submissions to, and the conclusions of, the Martin review showed that our judges and lawyers recommend this. The whole point of the justice system is to enact justice. Many more issues within the current act need to be amended, but this is one simple option that could be easily addressed to make the law a lot fairer.

I have a specific case study as well. In 2016, Kenneth Williams was paying off the house that he had bought 21 years previously. He was growing five plants to make cannabis butter to manage side effects of medication he was taking to treat hepatitis C. It was the only thing he found that helped with his nausea and loss of appetite, among other symptoms. He also had eight small cuttings to pay back the grower who lent him the growing equipment. He admitted to police that he had grown cannabis in his shed, which led him to be convicted of cultivation of a prohibited plant with intent to sell or supply. His house payments were frozen for six years and the house was ultimately confiscated by the Director of Public Prosecutions. Mr Williams lived on the pension and had $600 a week and only $30 000 in his super. His house was his super, but he then lost it due to an outdated law. I do not think that was particularly fair. Do I believe the people who traffic drugs or sell drugs illegally should be punished under the law? Absolutely.

Those growing cannabis for their own use most commonly include cancer patients and chronic pain patients. In particular, cancer patients need to grow quite a bit to treat their cancer. I know that treating cancer with cannabis is not particularly mainstream yet, but we are seeing a lot more research coming out on that. We have a lot of anecdotal examples of people treating themselves and having some really good results. Another thing that we see is that a family in a domestic violence situation living with a grower or dealer may not have any say over whether plants are to be grown on the property or whether dealing should take place . That family requires protection as well and they certainly should not lose their house simply because someone in the household is participating in illegal activities.

HON LORNA HARPER (East Metropolitan) [10.17 am]: I rise today to speak on the Misuse of Drugs Amendment Bill 2021. As members might understand, I will not be agreeing. I listened very carefully to what Hon Sophia Moermond said. It is very disheartening to hear stories about people with cancer who have been accessing cannabis to ease their symptoms. However, I then wonder about the 20 plants. It is not the biggest amount in the world, but irrespective of what stage the plants may be at, 20 is a significant amount. Someone would need quite a bit of space and water to grow 20 plants. If they had a hydroponic system set up, they would need quite an extensive set-up. That is why the law is the way it is. It brought synthetic cannabinoids in and then it brought hydroponics in. The law changed to meet those needs.

I know that the Legalise Cannabis WA Party talks about cannabis as though it is a soft drug and cure-all. I have to say that before I was on the Select Committee into Cannabis and Hemp, I was one of those people who thought "What is the problem?" However, I then went on the select committee and learned so much more and am now firmly opposed to it, instead of thinking that cannabis is the be-all and end-all of everything. That is my personal opinion. It changed because I gained a lot more knowledge. Some of the knowledge that I gained from being on the committee amazed me.

We travelled to Queensland to go to a symposium. People were going on about the benefits of medicinal cannabis. However, I found people there who were trying to sell the vape system; it looked like a bong. It was a vape system that could be used to take medicinal cannabis. All sorts of things were being sold there. People there were rallying against laws throughout all Australia, but I did not actually learn anything new from that symposium. In fact, I was actually very disappointed. That may have been the fact that I had just come out of having COVID and I had to watch some of it from my room. I was not infectious at the time; I had tested negative several times, but I found it difficult to feel anything that came out of that symposium. The biggest news I got that weekend was that Labor won the federal election. I think that was the weekend—yes it was. We won the federal election and there were resounding victories in Western Australia. I celebrated with my colleagues Hon Jackie Jarvis and Hon Matthew Swinbourn, much to his horror at having to be stuck in a room with Hon Jackie Jarvis and me because, apparently, we were not very quiet. We were very disappointed with the symposium.

It was more interesting when we went on our trips to the south west where we met with hemp growers and the companies growing medicinal cannabis. I was very, very impressed by what I saw with the growing and cultivating of medicinal cannabis. I was very impressed with the set-up, the quality frameworks, the sterile conditions and how cannabis was grown. I have to tell members that the smell was extremely overpowering. It made my eyes water. No, we could not get high from the smell. We were masked up and gowned up. In fact, we looked like oompa-loompas

from *Charlie and the Chocolate Factory* because we were all gowned up with glasses, masks, gloves and bootees—the works. We were really going in and looking at the process. They talked about the purity of the cannabis that they were growing for medicinal use. It was brilliant. That was one of the things that changed my mind.

Another thing that changed my mind was the committee's overseas trip. It is in the report. We visited Prague. Before I went, I was told that cannabis is available in vending machines in Prague. No, it is not. What they call "hemp" is found in food like chocolate bars. In fact, we bought what looked like coconut roughs. Before we ate them, we read the ingredients list just to make sure that were not going to do something illegal. It said that the bar contained chocolate with hemp. The illusion that cannabis is available all across the world and that it is easy to get quality cannabis is really a misnomer. People in Prague were openly smoking it, but not as much as the people we saw in Frankfurt and Berlin when we visited Germany. In Berlin, we met with people high up in the government who talked about the issues they had with people growing cannabis illegally. There is a huge difference between somebody illegally growing two or three cannabis plants in their house for personal use and somebody growing three kilograms of cannabis or 20 plants et cetera. There is a difference. I understand that the member might be sad about the fact that someone could potentially lose their house et cetera, but I asked myself a question: if I had a little hydroponic thing going in my garage—by the way, I do not. If I were growing cannabis, I think that other people in the house would realise that, and I would have to weigh up the risks versus the rewards of doing that. Could I lose my family's home or could I make lots of money? The risks and the rewards are there. It is very clear for people to see what the risks and what the rewards are. If I were that person, my family would be horrified that I may or may not be gambling with their lives and their home.

Another thing that I do not think Hon Sophia Moermond really highlighted is the fact that the prosecutor can make an application for a drug trafficking declaration—generally the Director of Public Prosecutions, so it is the prosecutor. It is not the police officer. As we know, the police make the arrest, they provide their evidence and the prosecutor makes the decision as to what charges will be laid. It is unfair to say that the police are making those decisions. It may be a police prosecutor, but it is the prosecutor who decides, but I digress from what I was thinking about on our trip through to the Continent—one would think I was still in Scotland. I mean Europe.

From there we went to—it is horrible to say—Israel. It was just over a year ago that we were in Israel. The industry there was a lot more fascinating when it came to medicinal cannabis, as evidenced by the fact that a person could go to a chemist and behind the counter were all these remedies for everything. A lot of men were explaining things to us while we were there and at one of those warehouses, one gentlemen kept holding up this pink packet. I asked him what it was for and he said, "It's for women's stuff." I said, "Well, I'm a woman and I've got a lot of stuff, so you need to be more precise." I had to ask him quite a few times. I knew what he meant, but it was amusing me that he could not actually say that it was for menopausal symptoms or for women who were menstruating. I asked how it is applied and found out it was a suppository to help with women's period pain, but the man could not say that. It amused me no end, because it was me, but it said a lot about what was happening.

They also took us to their highly regulated growing areas. We had our shoes cleaned on a regular basis going in and out of different areas. We were again dressed liked oompa-loompas. People could tell it was me in the photos because I was the shortest person. We were taken around warehouses probably five times the size of this chamber that were full of cannabis plants in all stages of growth and production. We got to see up close and personal the oils coming off the cannabis plants. We got to smell them. We did not touch or taste them or do anything with them because that would have contaminated them. We learnt that Israel has a huge problem in people using illegal cannabis. I am not going to say marijuana because, as Hon Dr Brian Walker has already said in the past, marijuana is more of a name to make it sound terrible. We are talking about cannabis here. We are also talking about the misuse of drugs. Cannabis is only one drug. There are other drugs. What if we changed "cannabis" to "methamphetamine"? We would have a whole different conversation going on. People would no longer think of it as a soft and fluffy drug. People would start to think that it is very serious. I do not know the difference between ice and crack; nobody has ever explained it to me and I do not want to google it because it is not my thing. But we know there is a scourge of people who are addicted to methamphetamines—ice, crack, whatever you call it. I have met somebody who was unfortunately on crack and I was absolutely horrified as to what was happening to them. What if we then change the thought of the fluffy "it's not so bad" cannabis and start to talk about cocaine or heroin?

I come from Scotland; I lived in Edinburgh in the 1980s. Quite a few members would have either read Irvine Welsh's book *Trainspotting* or watched the film. I have to say, that was the cleaned-up version of what it was like in Edinburgh in the eighties because at that time Edinburgh was the heroin capital of Europe. I remember being in a nightclub—I will say it was a nightclub, but it was some dodgy place down the back in the old city. The bouncer knew us, because my friend's brother was a bouncer, and he came and got us out. The police and ambulance were coming because a girl had overdosed on a table in the middle of the club. That is how bad it was. She did not OD on cannabis; she overdosed on heroin. However, let us take everything Hon Dr Brian Walker is saying about cannabis and put it towards heroin or cocaine. We know cocaine usage is rife, as is shown from wastewater testing. I have not seen cocaine. I have not known of anybody who used cocaine and I have not watched anybody have anything to do with cocaine. Maybe that is because I am working class from the west coast of Scotland and we were all too poor. Cocaine was a rich person's drug—something that we did not see.

We could also say that we will change cannabis to synthetic cannabis. We all know what happened when synthetic cannabis came in in Western Australia. I believe some young people took it and unfortunately lost their lives. We have to be very careful when we talk about the misuse of drugs and cannabis. We try to pull at the heartstrings and we talk about people with cancer. I feel for those people and I understand that anecdotally it can help with nausea and pain and things like that, and that is great, but we have medicinal cannabis for that. Are there barriers? Yes, there are some and we are working through them, but medicinal cannabis is available for that. I understand that people might want to grow some plants. My opinion—it is not the official opinion—on two or three plants is, meh, you know. But 20 plants or three kilograms is something I would have to have a lot more thought about.

Listening to Hon Sophia Moermond, we are meant to believe that anybody who went through with 20 plants or three kilograms is automatically classed as a drug trafficker, but that is not true. It has to be applied for by the prosecutor. That is the way the law currently stands. It is a misrepresentation to say that they all go through. I do not know anybody who grows cannabis illegally. To my knowledge I do not know anybody who deals in crack cocaine or heroin. It is disingenuous and disheartening that people keep referring to cannabis as a soft and fluffy drug and that nobody is getting harmed or can be endangered by it in any way. We still have people on medicinal cannabis driving. The issues around medicinal cannabis and driving are discussed in a select committee report, but people high as a kite, completely stoned from smoking, are also driving. It is not the fluffy drug that people think it is. It is not the cure. It is not the end-all. We have to be very careful and think deeply and hard before we carry on with this legislation.

HON DR BRAD PETTITT (South Metropolitan) [10.34 am]: I am pleased to speak in support of the Misuse of Drugs Amendment Bill 2021. I thank Hon Dr Brian Walker, and also his colleague Hon Sophia Moermond, for bringing this on. This bill is beautiful in its simplicity. It could be the shortest amendment bill ever. It is so deeply sensible and logical that it is hard to argue against. I heard some of the commentary before. I could literally read the amendments several times in the time I have; it is quite simple. It is simply saying that the court is not required to declare a person to be a drug trafficker if the court is satisfied that it would be clearly unjust to do so. This is not a radical amendment. It is extremely straightforward and sensible, and the court must be required to give its decisions to do so.

I struggle to understand what the argument could be against such sensible and clear legislation. This amendment to the Misuse of Drugs Act 1981 would take out what I think is clearly identified as the unjust nature of the way the act currently works. This is a good, logical step in the right direction. If there were ever a simple amendment from the crossbench that should get up in this place, this should be right up there because it could be done simply and easily.

There has been broader debate—Hon Lorna Harper touched on it—around the nature of drugs and cannabis as part of that. I say in response to that that what is clear around this is that it is giving the courts the discretion to make that judgement—something that is extremely sensible. When that discretion is not given, a range of unjust consequences results. That does not help in any way.

I say "well done" to Hon Dr Brian Walker; this is a sensible bill. Obviously, the bill is so short that it would be impossible to use the hour to talk about it. Hon Lorna Harper went down the path of asking what this means for how we think about drugs, particularly cannabis. I want to reflect on that. Two of my colleagues on the crossbench have had a strong focus on cannabis. Even though my party, the Greens WA, shares those views, I have not had to focus on that because it has been competently dealt with in this place by my two colleagues. Recently the Greens national conference was held in Perth. David Shoebridge, a senator from New South Wales who has the carriage of this portfolio at a national level, came over for that. It was the first time I had had a chance to sit down and see what was happening nationally in this space. It is interesting to see what is happening because it supports very much what the Legalise Cannabis WA Party has been doing in this state, and the Greens' position as well. A big survey was done on the legalisation of cannabis nationally. The federal Legalising Cannabis Bill 2023 was introduced in the Senate in August. When that bill was proposed and advertised, interestingly almost 9 000 submissions were received about it. That shows the passion and interest in this topic, not just here in WA but across the country. Not only were there almost 9 000 submissions, but 92.3 per cent of those submissions were in favour of the legislation, which is extraordinary. That bill will certainly do something that is related to the misuse of drugs legislation amendment before us and will try to create a national framework for how cannabis is legalised and ultimately the activities regulated, and create a cannabis national agency. It would be interesting to acknowledge that it is a bit like alcohol; it is a drug that we need to stop treating as a criminal drug and just treat as something that is very much part of our society and, quite frankly, less damaging than alcohol in most cases.

How do we then make it part of our economy? Interestingly, one of the things that stuck in my head was that $28 billion would be returned to government coffers over the coming decade if such a bill were passed. It is a huge opportunity if we do this, rather than continually treating it as something criminal and basically pushing it into a black market, in which everybody is the loser.

I want to commend this bill. I think it proposes a very modest amendment, and I struggle to see what the argument against it could possibly be. In doing so, I want to acknowledge, of course, that there is a whole bunch more work

to do, which we know that the Legalise Cannabis WA Party and the Greens are working on nationally. This is an opportunity to move on. Legalising cannabis is coming. Even if we cannot persuade our colleagues in government here, we hope to see some changes at a national level that will speed up this process.

HON STEPHEN PRATT (South Metropolitan) [10.41 am]: I would like to continue from where Hon Dr Brad Pettitt left off about the body of work that is associated with this issue. It is a really serious issue. As was outlined in the submissions made to the other bill the Legalise Cannabis WA Party has been developing, there is a lot of interest. I thank you for the opportunity to speak about this topic. I am not sure that I have had the chance to speak about cannabis and its use during my tenure in this place to date. I will take the opportunity to speak about a whole range of things to do with cannabis and the intent of the Misuse of Drugs Amendment Bill 2021.

Without identifying anyone, I want to let the house know that I have a personal experience with cannabis. I have seen firsthand the damage that the use and abuse of cannabis can have on someone's life. Although that obviously has an impact on me emotionally, it does not necessarily shape how I feel about how we should legislate in this place. I do not want members to take this as a signal that I am a hardline no on any pathway towards a different approach to these things, but I have seen the damage and long-lasting impact it can have on individuals and their families.

On that note, I want to talk about initiatives the government invests in through the Mental Health Commission and programs in our schools. I am aware of programs such as the Drug Aware program. I do not know whether it is still called SDERA, but there used to be the school drug education—something; I do not know what the rest of the acronym stands for anymore. These are really important initiatives because they go to early intervention and prevention, which I think is very important when we talk about the use of cannabis.

I note that Hon Dr Brian Walker has taken every opportunity on a number of occasions to speak about cannabis, as he and Hon Sophia Moermond should in their capacity as members of the Legalise Cannabis WA Party. I will paraphrase Hon Dr Brian Walker a bit—I might nail it, but we will see. Hon Dr Brian Walker has referred to cannabis as a healthy, healing herb.

Hon Dr Brian Walker: Which can be misused.

Hon STEPHEN PRATT: I am not sure whether the last bit he provided by interjection is always used. I have read parts of *The missing budget paper: An economic case to legalise cannabis in Western Australia*, and I know that the term is used in his foreword to that document. I think that part is key: it can be abused. The level of sophistication and maturity in the community about how the drug can be used is not quite there. It is purported to be harmless in the language used by Hon Dr Brian Walker, and "a healthy, healing herb" is a great bit of marketing spin. We have discovered that it can assist when it is used for medicinal purposes in a regulated manner and when the "nasties" are taken out of it. Hey, I am not a doctor; I am just having a go at this. I think the member can interject; I am not sure.

The PRESIDENT: Honourable member, all interjections are considered unruly, particularly inviting interjections.

Hon STEPHEN PRATT: I will start speaking through the President. I have not even got to the main part of my speech yet.

I wanted to refer to *The missing budget paper: An economic case to legalise cannabis in Western Australia* document because it presents a strong economic argument. I think that has value and tells one side of the story. More is still to be done in the space of the body of work in bringing the community along and displaying that there is community support for legalising cannabis.

Although members may disagree or agree with this amendment bill, I have my own personal concerns about approaching the changes to cannabis legislation in a piecemeal approach. I am aware that the government is undertaking a large body of work in this space. One example that I know has been raised is the concern about people being charged when driving under the influence of drugs when they have a prescription for medicinal cannabis. I know that work is being done on that.

I also want to speak about the negative impacts on society that happen. It comes back to the level of sophistication in the community. Cannabis can be taken in myriad ways. It can be put into foods and consumed. It can be smoked in a range of different ways. Depending on how that is done and whether it is being combined with other drugs, that is where the harm, use and abuse can come into play. When I talk about that, I am referring to whether people are having a joint or using some sort of bong. Is that the right terminology? Someone else can let me know.

Hon Wilson Tucker: It is the scientific term.

Hon STEPHEN PRATT: It is the scientific term?

Hon Sue Ellery: Nobody wants to help you out with that. Nobody wants to reveal how much they know.

Hon STEPHEN PRATT: As I grow older, year by year, my perspective on this stuff changes. I remember that in school it was probably considered to be a cool thing to be associating with these things. Now that I am almost 40—yes, I know—and I have young kids, my perspective has changed. I start to think about how I can prevent this having an impact on my children's upbringing because the damage is done in the early formative years. That is also probably

when the prevalence of use and misuse is higher because teenagers think that they are invincible and will want to try a whole range of different things and take risks. This is when the damage can be done, and it can have an impact on the rest of their lives.

Given the significant work that is ongoing in this space, I think it is probably a bit early to determine whether this amendment bill is the best way to proceed. I will leave that aspect at that, but I want to talk about a whole range of issues associated with this amendment bill and the use of cannabis. I have already referred to the "healthy herb, healing herb" quote and the fact that it can be abused. That is the key part of the quote that needs to be highlighted. I also referred to the report titled *The missing budget paper: An economic case to legalise cannabis in Western Australia*, which highlights the economic benefits of cannabis. It contains a nice info-graphic showing the ways it can be consumed and the regularity of consumption. It paints a picture of the level of sophistication of the consumption methods, regularity of use and whether people who submitted to that dataset are honest about how often they use cannabis.

As I said, the economic argument creates a lot of interest. We will certainly not be the first jurisdiction to go down the path of legalising cannabis, if it does happen. There are advantages to looking at what has happened overseas and in other jurisdictions to see both the positive and negative impacts of cannabis use.

Hon Wilson Tucker: Do you think you could be waiting a while?

Hon STEPHEN PRATT: I am not sure. I think there is still work to be done to bring the community to a point at which it would be comfortable with that, to be honest. I should not be inviting interjections, sorry.

I spoke about the different consumption methods of cannabis. That is an interesting point. There are usually one or two ways people can introduce drugs into their system and away they go. The impact of cannabis is different. If it is put in food, it can do certain things and if people smoke it, it can do other things. In the jurisdictions where it has been legalised, gummies and things like that are being sold. I am not sure how it can get to that point, but I have concerns about whether my kids could get their hands on something like that if it were handled improperly by the person who purchased it. We recently celebrated Halloween. If someone did something silly and decided to hand out treats containing cannabis, that would be dangerous, but I am no expert. I have seen firsthand the damage that cannabis can do to people who deal with it on an ongoing basis. Despite my anecdotal evidence, there is also a large body of evidence on the significant, physical and mental health harms related to cannabis. It comes back to the "use versus abuse" discussion, and the other health impacts that we know about, such as respiratory illnesses associated with smoking generally. I am sure that would extend to cannabis use if people used it on a regular basis.

I want to refer to a couple of points that Hon Dr Brian Walker made in his second reading speech, one of which Hon Sophia Moermond also mentioned. I have concerns about the issue of self-medicating. People have found themselves appearing before the courts as a result of self-medicating cannabis. I have concerns about that because these people are obviously in a desperate situation and trying to do whatever they can to manage the ailments from which they are suffering. I also have concerns that people might be self-medicating without first seeking the appropriate medical interventions.

I am aware, as also pointed out by Hon Lorna Harper during her contribution, that we are still working on different ways to provide medicinal cannabis to people. There is still a cost impediment. I know of people who have children with epilepsy. I am not certain but I think medicinal cannabis is on the pharmaceutical benefits scheme now. I know that the cost of a monthly prescription used to be in the thousands of dollars. People had to mortgage their houses et cetera to care for their loved ones. When medicinal cannabis is needed for a child, people will do whatever it takes to make sure they are cared for. If that treatment works, they will pursue it. That cost impediment has also led to people growing their own cannabis. I am aware of stories of people who have been charged as a result. That issue needs further investigation.

The only other point made in the second reading speech that I wanted to touch on related to cases of people being labelled as drug traffickers. Despite the fact that no profit was made and no money changed hands, drug trafficker declarations were given to those people. I get the point that Hon Dr Brian Walker made, but I still do not think it is okay at the end of the day because someone could grow and distribute cannabis free of charge. They could get some other in-kind benefit from going down that path.

I want to highlight the fact that more work needs to be done in this space. Given that this legislation was introduced by members of the Legalise Cannabis WA Party, discussing these issues in the chamber today goes some way to keeping this issue front of mind. There is still this body of work and the onus is somewhat on the legalise cannabis party and on the government, if it decides to go down this path, to make sure there is community support. The missing budget paper report includes a statistic on the number of people who support decriminalising cannabis. I could not see from where that figure was sourced or from where that number came.

Further work needs to be done on the evidence of community support. I still do not know how we can necessarily combat the challenges around how people are using cannabis and ensure that it does not fall into the abuse category. We could compare it with the legalisation of alcohol, which did not stop people abusing alcohol. More work can probably be done in that space.

I have said on previous occasions that I appreciate the contributions made in this place from both members of the legalise cannabis party. We all understand that they were elected to this chamber to pursue issues relating to the legalisation of cannabis. I assume that this legislation is one attempt to head down that path. I have some concerns around whether a small amendment to a piece of legislation is the right approach or whether a larger set of amendments or changes down the track could be made. I do not know—I have had a briefing on the amendment bill—whether it could impact other pieces of legislation.

Efforts have been made by this government, especially around medicinal cannabis. There is a really positive story to tell about how this government has approached this issue. In 2014, whilst in opposition, Mark McGowan made a commitment to legalise medicinal cannabis. Three years later, we found ourselves in government and we made those changes. As soon as those changes were made, we were confronted with cost prohibition issues for people and the difficulties of sourcing medicinal cannabis in WA. A body of work was then done to make sure that we had better access. I think the Liberal opposition at the time initially opposed our moves to legalise medicinal cannabis and within months realised that it was on the wrong side and changed its view on things, so members' opinions about these things can be changed.

I started by speaking about prevention and I think this is an area of focus in which the government plays a significant role through school programs. Drug Aware is one that I have noted. I am also aware of in-community services such as the residential rehabilitation services that are funded through the Mental Health Commission. The number of beds associated with those services has grown under this government, and that plays a significant role in ensuring that people who have been impacted in a negative way or who have issues with the use and abuse of these substances can go into these programs and hopefully come out the other side as a better member of society and free of any addiction issues or reliance on cannabis or other drugs. It was 2014 when we committed to do that.

The last thing that I want to mention—I do not want it to be missed in all of this—is that the government is doing things in this space. Members will be aware that we have provided diversion options such as the cannabis intervention requirement scheme, which plays a significant role in assisting people who have found themselves in front of the court for a cannabis offence and diverting them away from prison and into a program that will educate them about whether it is the best thing for them to be associated with. I have touched on the residential rehabilitation therapeutic communities in the south west and metropolitan areas for those with issues related to alcohol and other drugs. We have opened the Midland Withdrawal and Intervention Centre and we also provide education services in schools.

A larger body of work needs to be done on this journey. Although I have had a negative personal experience with someone close to me, I am still open to learning more about this matter and seeing where the community stands on it. I think there is still a way to go. Now I will let someone else have a go.

HON WILSON TUCKER (Mining and Pastoral) [11.02 am]: I rise today to support the Misuse of Drugs Amendment Bill 2021. I appreciate that there are members in this chamber who are certainly more knowledgeable on the subject of cannabis than I am, and certainly the members of the Legalise Cannabis WA Party have, if I can use this term, more hands-on experience with the topic of cannabis than I do. We heard some comments from Hon Lorna Harper about her views on and some personal experience with cannabis, as we also heard from Hon Stephen Pratt. I am not here to argue against those personal experiences or views; I can only share my own. Members will be aware that for close to five years I lived in Seattle, Washington, where there is a thriving recreational cannabis industry. In my experience, it was a less harmful alternative than alcohol, and that view was shared by a lot of my friends. I understand that this is not the experience or view of a lot of people, but certainly a large cohort of people living in Washington would take a gummy on a Friday night—we heard about gummies—as a way to relax as opposed to drinking five or 10 beers or whatever it may be.

Hon Martin Pritchard: Did they do that instead of drinking?

Hon WILSON TUCKER: Typically, that was the case. I am sure that people in the community would probably take both, but I would not recommend it. My experience was in taking it as a standalone hard drug as a replacement for alcohol. People sleep much better and they certainly wake up feeling much more refreshed.

I understand that the Misuse of Drugs Amendment Bill 2021 is not focused on the legalisation of cannabis in WA and is not trying to set up a recreational industry for cannabis in WA—God forbid. It is trying to make some sensible updates to the threshold for a drug-trafficking offence in the Misuse of Drugs Act.

Foreshadowing the vote, which I am sure will not be successful, I would like to take this opportunity to acknowledge the cannabis party's advocacy in this space. I understand that it has been trying to bring this bill through the process for a couple of years, and hopefully it will get to a vote. We know that private members' time is rare and fleeting, so there are not many opportunities for a member to use that time to advance their cause or, indeed, a bill. I appreciate the cannabis party's commitment to getting this bill to a vote. Despite the fact that it is unlikely to be successful, I still think there is value and power in getting to a decision. It is my decision today to support the bill.

HON DAN CADDY (North Metropolitan) [11.06 am]: I thank all the other members who have spoken. We certainly learn a lot from listening to members. Hon Lorna Harper has clearly benefited from her time on the Select Committee into Cannabis and Hemp. Indeed, I learnt a lot from listening to her talk about her experiences

on that committee. I note that she said at one point that she felt like she was back in Scotland. With a motion that has come from Hon Dr Brian Walker and Hon Lorna Harper being the third speaker, I think all of us in this chamber felt a little bit like we might be in Scotland as well!

I have no firsthand experience with cannabis to draw on, but I do have, as does Hon Stephen Pratt, second-hand experience. It was a long time ago; in fact, it was in my early years of adulthood. It was an experience that saw one of my friends go from enjoying himself to being in the back of an ambulance in a matter of minutes. It has really coloured my view of cannabis for the rest of my life, which often happens. At the time, it was a pretty traumatic experience for me to see him leaving. I am not sure who travelled in the ambulance with him, but it was not me. I remember thinking at the time that I really wanted to go with him, but that is another story.

Hon Dr Brad Pettitt said that it is a short bill, and it is; it is a really short bill. However, just because the amendment is short, it does not mean that it cannot have a massive impact, and I think that is the critical thing that we need to look at. I want to look at the second reading speech of Hon Dr Brian Walker and then briefly look at the explanatory memorandum, which is short as well, given that it is a short bill. I then want to put on the record the current law in Western Australia for cannabis-related driver impairment and the testing regime. It is important during the course of this debate to at least put that on the record. People can look it up; if it is on the record in *Hansard*, it is there. I note that time is tight; time permitting, I may talk a little about the report that was published by the Select Committee into Cannabis and Hemp.

I shoot first to the explanatory memorandum of the Misuse of Drugs Amendment Bill 2021. There was one point in this that should be quite quick. Under the third heading, "Misuse of Drugs Amendment Bill 2021", it states —

> This amendment tackles any suggestion of injustice, arbitrariness, or unfairness within the Misuse of Drugs Act 1981 …

"Unfairness" is a really subjective word. Unfairness is very much a matter of opinion. As I and Hon Stephen Pratt have talked about, for people who have seen either emergency situations or lives ruined due to cannabis—I have seen lives ruined due to other drugs, but, fortunately enough for me, not due to cannabis—I think that the question of unfairness is absolutely subjective. It is an absolutely subjective term. I think it is important to state that. If we take as our starting point in looking at this bill that we are saying that these laws are unfair, regardless of where I land on this—I think it is a bit too early to determine where I will land—I cannot accept starting from the premise that these laws are unfair.

I turn very quickly to the *Hansard* of Hon Dr Brian Walker's speech in the second reading debate on the Misuse of Drugs Amendment Bill 2021. It was a good and concise speech, but I want to pick up a few points. We cannot always take everything that is uttered in this place as uncontested.

In the first line of Hon Dr Brian Walker's speech in the second reading debate, he said —

> It came as some surprise to me that the Misuse of Drugs Act 1981 had been in force for so long without a major rewrite.

I will talk about that in a minute. The member talked about the Pareto principle, which is interesting. I want to unpack that a little. I think that, although it may appear to be going down a rabbit hole, it is an important one, and I want to look at what it means in practice.

I think it is important to note that when it is stated in this place that the Misuse of Drugs Act 1981 has been in force without a major rewrite, that may well be the case, but a lot of legislation is systematically updated, if you like, through the use of amendments. A quick look at the last 20 years of this legislation that has now been in place for over 40 years shows us that there have been 12 amendment bills put to this act. That is an average of more than two for every cycle of Parliament. Sometimes—not always—incrementalism is preferable to a total rewrite. It is a fact that this law has been constantly reviewed. The Misuse of Drugs Amendment Bill 2023, obviously, is in the other place. The bill before us is the Misuse of Drugs Amendment Bill 2021. There is also the Misuse of Drugs Amendment Bill 2018, the Misuse of Drugs Amendment Bill 2011, the Misuse of Drugs Amendment Bill 2010, the Misuse of Drugs Amendment Bill 2006, the Misuse of Drugs Amendment Bill 2003, the Misuse of Drugs Amendment Bill (No. 2) 2010, the Misuse of Drugs Amendment (Search Powers) Bill 2016, the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017, and the Misuse of Drugs (Methylamphetamine) Amendment Bill 2007. Many amendment bills have been put. I cannot speak to them all. I do not know what they were all about, but, off the top of my head, I can see that at least three of them related to specific drugs, although not necessarily cannabis. There has been incremental updating of and continual looking at this bill. Although it may be true to say that there has not been—I want to get the words right—a "major rewrite" of the act, there has been a lot of focus on this legislation, and a lot of that has been in the last 20 years. As I said, when we look through that list, we see that, on average, more than two bills have been put to Parliament for each cycle of government.

I want to get to the second bit, because this is interesting. I quote from *Hansard* and Hon Dr Brian Walker's speech in the second reading. He said —

> Bearing in mind the Pareto principle that the most effect can be achieved with the least input …

That is an interesting one. To me, the Pareto principle is very much, in inverted commas, "causal law", I guess we would call it. I know this is potentially not pertinent to the bill, but it has been used as a basis for saying that something is a change and a rabbit hole worth going down. The Pareto principle is more commonly known as the 80–20 principle. It is found in nature. People say that 80 per cent of fruit comes from 20 per cent of the tree. It is found in sport, whereby it is said that 80 per cent of the score comes from 20 per cent of the players. This principle is often quoted in business, although I guess it depends on the business, whereby it is said that 80 per cent of a business comes from 20 per cent of its clients. But in every one of these cases, that does not mean that the other 80 per cent of the tree, the team or the business contacts are not important; in fact, in many cases, they are critical. We need to tend to the entire tree or we will not get the fruit. I will use AFL as an example, but it could refer to any sport. It may well be the forwards who kick all the goals, but without the backs and the midfielders, the forwards will not get the ball to kick the goals. The rest of the team is critically important.

That is also the case in business. I remember when I had my business and I got to that happy stage at which a business owner looks at their client list and sees that it is full, so they get to start cutting clients. For anyone who has grown their own business, that is a happy day. They look at the clients they are going to cut, and—absolutely, Hon Dr Brian Walker—they come from the 80 per cent that gives only 20 per cent of the income; however, it is not that simple. They do not just start cutting off the bottom. One would be unwise to do so in business. Some clients may spend little, but they may have contacts and bring in other clients who will become big important spenders in the business. Some are simply good clients to have on the website when the company is touting for other business. Some clients may be small and spend little, but require only one phone call a year. I do not think this is a good principle on which to legislate. I think we need to look more deeply at that.

I refer briefly to a North American National Safety Council report on motor vehicle safety issues. This is interesting, because we will talk about driver impairment during the debate on this bill. This is a report on speeding, which is another issue. The report states that in dry conditions, speed was a factor in only 18 per cent of all crashes. By definition, that means that 82 per cent of crashes were caused by factors other than speed. Therefore, using the logic that we are using here, we would legislate that in dry conditions, there should be no speed limits. That simply does not follow. I as well as many people who have travelled to or lived in Europe know that speed conditions change in Europe depending on weather conditions. Europe is fairly advanced with digital signs. I can tell members that even in 1991, when I was living in Belgium, on the French highways, not all but a lot of the speed signs were weather dependent. But we would never say that because speed factors in only 18 per cent of crashes, we should not have speed limits.

I may well run out of time, but I want to put on the record, as I said I would, the current situation. I want to be clear about the current situation with regard to what I loosely term "drug driving" in Western Australia. Before I start talking about the role of the police, I want to say what an outstanding job our police officers do in Western Australia, right across this state, every officer from Commissioner Blanch right down to the latest recruits and graduates. I will quickly read from the report. This is the Select Committee into Cannabis and Hemp report, *Medicinal cannabis and industrial hemp in Western Australia*. The opening line under the title "Drug driving laws", found at paragraph 8.23, states —

> In WA, it is an offence for a person to drive, or attempt to drive, a motor vehicle while a 'prescribed illicit drug' is present in the person's oral fluid or blood. The *Road Traffic (Drug Driving) Regulations 2007* declares each of the following drugs to be a 'prescribed illicit drug':
>
> - THC;
> - Methylamphetamine; and
> - … (MDMA).

TCH obviously being the one that is pertinent to what we talking about today.

Hon Dr Brian Walker: THC.

Hon DAN CADDY: THC! My apologies—and I am even reading it. I appreciate the interjection; thank you, Hon Dr Brian Walker. The report continues —

> … a person commits an offence if they drive or attempt to drive a motor vehicle while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle.

Under section 64AC of the Road Traffic Act it is an offence to drive a motor vehicle while a prescribed illicit drug is present in oral fluid or blood. The drugs that are prescribed illicit drugs, as I said, are THC, methamphetamine and MDMA. The offence does not have an element for being under the influence or being impaired, it simply relies on the presence of such substances, which I think gets to the core of what the member is talking about. The scientific evidence is clear that consumption of cannabis or cannabis-derived products containing the psychoactive compound THC, whether consumed lawfully or unlawfully, can affect a person's ability to safely drive a vehicle. It is also clear that a high proportion of recreational cannabis users are young people who are sadly already over-represented in road crashes and road trauma statistics. Community attitude surveys conducted for the Road Safety Commission

show that a fear of getting caught is a powerful influence on driver behaviour and that random roadside alcohol and drug testing is and has been very effective as a general deterrent. Any suggested reforms, as Hon Stephen Pratt said, obviously need to be carefully considered based on solid scientific evidence, the best and most recent evidence we have to hand, and done in a matter that does not compromise any road safety outcomes.

Members in this place would be familiar with alcohol testing. I would be surprised if any of us have not been random breath tested many times. Unlike alcohol testing, our current roadside testing ability is unable to determine the level of impairment due to THC, nor is it able to distinguish between THC that has been consumed for medicinal reasons or indeed as recreational use. The Road Safety Commission is monitoring developments in both cannabis-testing technologies and related drug-driving laws across Australia and overseas, but has advised that until tests are available that measure cannabis impairment accurately and can be widely and cost-effectively deployed roadside, the safest course from a road safety perspective is to retain the current system, looking specifically at roadside drug testing for THC. I keep saying TCH; this is a problem, Dr Walker. As I said, I am sure that we have all been random breath tested for alcohol.

I will share a quick story. I had an incredible experience when I was driving down York Street in Albany. Thankfully, at the time, I was in a LandCruiser, because I was pulled over by a police officer on a horse. She told me to wind down the window and informed me that this was a random breath test. She very much had to lean down. She was very accommodating and allowed the passenger in my car to take a photo of it because it was quite funny. She had lean down from her horse into the LandCruiser to test me.

Hon Jackie Jarvis: Did she show you her sheriff's badge?

Hon DAN CADDY: I do not know what she would have done, minister, if I had been driving a Ferrari, because that would have been a sight to see. I have never been so lucky to have driven a Ferrari. I will never forget that. I have been random breath tested many times, but that one from many years ago sticks in my memory.

Under section 64AC it is an offence to drive a motor vehicle while a prescribed illicit drug is present. We have been down that path. There are also other offences under the Road Traffic Act that deal with driving whilst under the influence of drugs, section 63(1)(b), and driving whilst impaired by drugs, section 64AB. The definition of drug used in those sections is —

> (a) a drug to which the *Misuse of Drugs Act 1981* applies; or
>
> (b) a Schedule 4 poison as defined in the *Medicines and Poisons Act 2014* section 3; or
>
> (c) a substance (other than alcohol) that, when consumed or used by a person, deprives the person (temporarily or permanently) of any of the person's normal mental or physical faculties;

Both of those sections have a defence available to the accused. That defence is found at section 63(7), and it is —

> In any proceedings for an offence against subsection (1)(b), it is a defence for the accused to prove —
>
> (a) that the drugs, under the influence of which the accused is alleged or appears on the evidence to be, were —
>
> (i) taken by him pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or
>
> (ii) administered to him by a medical practitioner, nurse practitioner or dentist,
>
> for therapeutic purposes; and
>
> (b) that he —

It should say "he or she" or "they" —

> was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render him incapable of having proper control of a motor vehicle.

There is also a defence available for section 64AB(8) —

> In any proceeding for an offence against this section it is a defence for the accused to prove in respect of the drug, or each drug, referred to in subsection (5) —
>
> (a) that the drug was —
>
> (i) taken pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or
>
> (ii) administered by a medical practitioner, nurse practitioner or dentist,
>
> for therapeutic purposes; and
>
> (b) that where the drug was received or obtained by the accused in a packaged form, the packaging of the drug did not include a label advising that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle …

Debate adjourned, pursuant to standing orders.

DISALLOWANCE MOTIONS

Discharge of Order

Hon Lorna Harper reported that the concerns of the Joint Standing Committee on Delegated Legislation had been addressed on the following disallowance motions, and on her motions without notice it was resolved —

That the following orders of the day be discharged from the notice paper —

1. Shire of Westonia Fencing Local Law 2023.
2. Shire of Westonia Westonia Historical Precinct Local Law 2023.
3. Shire of Westonia Shipping and/or Sea Container Local Law 2023.
4. Shire of Esperance Cemeteries Local Law 2023.
5. Shire of Murray Bush Fire Brigades Local Law 2023.
6. City of Bayswater Health Local Law 2023.

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Committee

Resumed from 8 November. The Deputy Chair of Committees (Hon Sandra Carr) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon MATTHEW SWINBOURN: At the dying moments of debate yesterday, Hon Tjorn Sibma asked a series of questions regarding actions taken by the Western Australian Electoral Commission following the Rockingham and North West Central by-elections. I can provide some general comments to him about that. I have a table to table at the end of that. I have statistics for the 2021 state general election, as well as the most recent by-elections, but it is important to note that the Rockingham process is only at its first stage of a form 33 notice being sent. I might just table the table because it would be useful for the member to have reference to that.

[See paper 2792.]

Hon MATTHEW SWINBOURN: Whilst we are doing that, I will just make some comments. The key information is that for state general elections, approximately one-third or 34 per cent of non-voters are excused by the commission. Of those, one-third provide a valid and sufficient reason or excuse or pay the infringement fine, and one-third are referred to the Fines Enforcement Registry because they have neither provided an acceptable excuse nor elected to pay the infringement. The member will see that the table I have provided breaks it down into the 2021 state general election, the North West Central 2022 by-election and the Rockingham 2023 by-election. The member will notice that after the first three figures, the table for the Rockingham by-election is blank. That is because we do not have that data because that process is still in train. There is no conclusion there, so there is no information to provide to the member.

If we compare the 2021 state general election with the North West Central figures, they are slightly higher, with the comparative figures of approximately 28 per cent excused by the commission, 46 per cent settled through the two-stage process and 26 per cent referred to the Fines Enforcement Registry. Of course, by-elections are always different from state general elections; the turnout is almost always significantly lower than that for state general elections. However, North West Central is an outlier as it recorded an extremely low voter turnout—I do not think that is a revelation to any of us—and hence had an extremely high non-voter figure. There was a higher than usual number of excuses in North West Central about being out of the electorate on the polling day, either interstate or in Perth.

So far, the Rockingham figures look like they are settling closer to the state general election. The commission provided some general information describing what it calls "automatic excuses" for certain non-voters over a particular age. It issues an automatic excuse for voters over a particular age and those who appear to be in remote areas in which attending a polling place is difficult. There are a number of those. The figure of those excused by the commission also includes excuses reported by electors directly to the commission or to staff at a polling place. Usually family members of sick, elderly or infirm electors who are unable to attend the polling place phone or email in the period prior to polling day, usually saying that they are sick, in hospital, overseas or going overseas. The commission does not advertise these "automatic excuses" lest it encourage bad civic behaviour. However, obviously with the volume that the commission deals with, there is a category of them that they automatically process. I hope that carries out or provides the level of detail of information that the member was seeking yesterday. Obviously, some additional information was provided by me yesterday about the process. There are particular references to forms 33 and 34, which I do not think I used when I was describing that. Form 33 was the apparent failure to vote form and form 34 is the failure to vote form.

Hon TJORN SIBMA: I thank the parliamentary secretary for furnishing us with the information that was just tabled. Can the parliamentary secretary clarify what the acronym FER in the final row means?

Hon Matthew Swinbourn: Fines Enforcement Registry.

Hon TJORN SIBMA: Okay. This might interest the chamber to some degree. It is about non-voting activity. At the 2021 state election, there were 217 366 non-voter infringements created, which have eventuated in fine enforcement for 72 000. Does that refer to an activity and not necessarily that moneys were received from the fines?

Hon MATTHEW SWINBOURN: Once it is referred to the Fines Enforcement Registry, it is a matter for the registry, and the Western Australian Electoral Commission no longer has any involvement. It is also worth noting that when the fines are paid, they are not paid to the commission but into consolidated revenue. It is not an activity from which the commission profits. It is actually a cost activity for the commission because it incurs the expense associated with staff time, the resources required to send the information out to the particular people and those sorts of things.

Hon TJORN SIBMA: Before we adjourned for member's statements last night, I think we began to touch on the involvement of the Solicitor-General and the advice he provided to the government in the drafting and the framing of this bill. If I recall correctly, the Solicitor-General's involvement did not relate to the policy of the bill necessarily, but potentially to the interpretation of the policy and how it might be rendered and constructed in a lawful manner. That said, I understand that the Solicitor-General, both from the briefing and from other material, played a substantial role in either drafting or contributing to a tabled document titled "Electoral Amendment (Finance and Other Matters) Bill 2023: Justification of proposed caps upon electoral expenditure". Am I correct in understanding that the Solicitor-General was asked to draft either entirely or substantially the justification upon which the government is relying?

Hon MATTHEW SWINBOURN: I am not trying to be coy here but the interaction between a lawyer and their client is always one of complexity. It would be fair to say that the Solicitor-General's advice and work informed that tabled statement. It is not fair to say that he essentially drafted it. I am advised that a similar document was tabled with respect to the 2020 bill and that had some relationship to the document. Joshua Thomson, SC, was not the Solicitor-General at that time. As I said, I am not trying to be coy, but if we said that the Solicitor-General drafted this and the Attorney General put his name to it, that would be misleading. However, I will say that the document was informed by advice received from the Solicitor-General rather than the Solicitor-General being the author of that document and the Attorney General only signing off on it. Others would have been involved in its preparation, as is always the case, but ultimately the person responsible for it is the person who signs it, and that is the Attorney General as the Minister for Electoral Affairs. I note that there is a typo in it. They have misspelt Labor Party with a "u", which is almost unforgiveable, but I am sure we will all get over that.

Hon MARTIN ALDRIDGE: While we are on these justification statements, I am aware that the parliamentary secretary tabled on Tuesday morning —

Hon Matthew Swinbourn: Afternoon.

Hon MARTIN ALDRIDGE: Sorry, on Tuesday afternoon. During formal business on Tuesday in the Legislative Council, the parliamentary secretary tabled the justification that was tabled in the Legislative Assembly, dated 20 September 2023. It appears to be the product of Hon John Quigley, Attorney General; Minister for Electoral Affairs because he has signed it. That paper is different from the justification statement that was tabled in the Assembly—tabled paper 4104—on 13 August 2020, noting that the Attorney General was not the Minister for Electoral Affairs at the time. It was another member. This is an unsigned document. Nevertheless, the purpose of this, as I understand it, is to provide some legal protection, if you like, for when this bill becomes law and is challenged, particularly with respect to expenditure caps, which is the subject of the justification statements. My understanding is that the purpose of this is to allow a court to consider the rationale behind the caps that was determined appropriate by the government and the Parliament at the time. If that is the case, and I believe that is the case, does it not diminish the value of this statement when the government has effectively tabled two justifications that are significantly different? In 2020, for example, the government tabled a justification saying that it was justified in setting the initial expenditure cap for persons other than a political party, a candidate or a group, which was then proposed section 175SL, at $2 million. If we fast-forward to 2023, the justifications statement in this regard justifies a cap of $500 000, which is a 75 per cent reduction. Is this statement, as an instrument of justification, not diminished by the fact that the same government over the course of 2020 to 2023 has effectively justified two different positions?

Hon MATTHEW SWINBOURN: I want to make one point. I think it was during the second reading debate when the member—I stand corrected if it was not the member—made a reference to the Rockingham by-election not being included in the analysis in here. I think it might have been a reference to a paragraph that talked about —

Hon Tjorn Sibma: It may have been me.

Hon MATTHEW SWINBOURN: Sorry, it may have been Hon Tjorn Sibma who referred to paragraph 41, which states "but no other by-election has been contested by both the ALP … and the Liberal Party". The member quite rightly pointed out that prior to September 2023, there had been the Rockingham by-election, but the reason that was not included in the analysis for this document was because the information and data related to that election

was not available in terms of reporting because it falls under the current regime. Although that statement is not entirely correct in the sense that a by-election has occurred, the data related to that by-election spending was not available for the analysis to be included in this document. I just wanted to make that clear.

Hon Martin Aldridge: Is it 15 to 16 weeks post–polling day that the returns have to be —

Hon MATTHEW SWINBOURN: I am not entirely sure; I am on my feet. I cannot remember the date of the by-election—I think it was in June or July. However, that is the explanation for that. I meant to respond to that in my reply, but I ran out of time.

In relation to the member's points about whether this justification provides some legal protection, I would not necessarily characterise it in those particular terms because that is not how it works. It will help to inform any court that has to deal with validity of these laws, and that would be the High Court of Australia, in terms of understanding the justification used by the government of the day to set these things at their particular rates.

In relation to what was done in 2020 in support of that bill and what is being done now, some significant water has gone under the bridge since that time. For example, there was more information at the 2021 election to take into account—the North West Central by-election and also a High Court decision earlier this year. The reference for that is Unions NSW v New South Wales [2023] HCA 4. It related to third-party campaigners. The information in that decision of the High Court was not available in 2021 because, obviously, it was not dealt with in those terms. It dealt with issues of the implied freedom of communication, political matters, the equivalent New South Wales Electoral Funding Act 2018 and capped electoral expenditure by third-party campaigners. That decision would have had some impact as well. The justification in the statement recognised that the High Court had not necessarily accepted the concept of proportionality in relation to the implied political freedom of communication; however, it is something that is taken as a bit of a guidepost as to whether things are suitable and necessarily and adequately balanced to achieve their purposes. That is not a figure; there is a band, and it will depend on the circumstances of the jurisdiction and the behaviour of parties in the past and, obviously, individual circumstances. I do not think the fact that there was a different justification statement provided in 2021–23 undermines the government's position. On the contrary, I think that strengthens the position insomuch as we are taking account of the lie of the land as it exists now rather than as it existed in 2020. From that basis, people are not saying that we are leaning on something when there have been further things happening in that regard.

Hon TJORN SIBMA: We might touch on some of the justifications, the arguments, that are relied upon in both the second reading speech of the bill and in the body of the justification provided around the establishment of spending caps. I imagine that we will return substantially to the issue at clause 145, where it appears in the bill. We will be at clause 1 for a little while yet. I note that invariably some of the clause 1 debate turns on the consultation the government has had with the parties, organisations and individuals likely to be substantially affected by the bill. It is a matter of record that no consultation has taken place between the government and any of the political parties or likely potential individual candidates, academics in the field, or any of the established third-party campaigners yet, but some of the justification for this 2023 version relies on the government saying that it is noted in the forty-seventh report of the standing committee on the 2020 version of the bill. I would not mind spending some time on that committee report to see what learnings have been taken and what findings and recommendations have been rejected, accepted or built upon. I do not intend to go through the entirety of the report, but it is a substantial document and one that the government says it has relied upon.

The parliamentary secretary might be able to answer this question for me quickly. In my second reading contribution, I canvassed the treatment of gifts under this bill. A minor amendment was made to the bill in the other place, and there was certainly some discussion around that. Recommendation 5 at page 21 of the forty-seventh report of the Standing Committee on Legislation states —

> That the Minister for Electoral Affairs provides to the Legislative Council an explanation of how the definition of 'gifts' as it relates to fundraising events should be interpreted.

Prior to that recommendation in the report, transcripts of evidence were provided by academics. We are not necessarily talking about the raffle prize issue, which we have discussed. The conversation was around the price of entry to intimate dinners with the minister. How has recommendation 5 in that report been addressed in the context of this bill? What is the definition of "gift" and how might that relate to expenditure caps and the like—or, more to the point, disclosure requirements?

Hon MATTHEW SWINBOURN: Member, I am trying not to bite off more than I can chew, so just bear with me on this. The first thing to note—the member is probably already aware—is that the definition of gift between the 2020 bill and the one we are proposing today is much broader. Obviously, we are not dealing with the same beast as we were back in 2020. How do we differentiate between a gift and a donation? The example the member gives is someone paying above market rate for a meal with a candidate, member or minister—whomever it might be. I am sure people are prepared to pay above the rate for the member's company as well as others.

Hon Tjorn Sibma: I am flattered by that suggestion.

Hon Steve Martin: Six figures.

Hon MATTHEW SWINBOURN: Six figures—that is cheap!

Jokes aside, say, for example, one is going to the local Chinese restaurant. I will name the one that is next to my office—Treasure Palace. We can get a nice banquet meal there for $45 a head, but if we charge, for example, $300 for the privilege of sitting with me and having a dinner at Treasure Palace —

Hon Samantha Rowe: Bargain!

Hon MATTHEW SWINBOURN: It is a bargain; yes. You have not had the food there.

The gift or the donation is the difference between the market value of the food and the hospitality—in that instance, they do a $45 a head banquet—and the profit we make on that thing. It is the bit that the candidate or party pockets as opposed to its outlays. For example, if Treasure Palace were to donate the meal costs to me, to support my campaign because they love the amount of custom that I give them—I am a regular customer, and the family is a regular customer—then that would constitute the gift as well because there is no out-of-pocket cost. That would have to be counted as the donation and is required to be disclosed. As I say, it extends beyond just the cash benefit to that other thing.

In assessing that, it would be very similar to the way the Australian Taxation Office might assess those sorts of things when it is working out fringe benefit tax purposes and things like that, by way of example; it is the value of the thing. If a candidate were disclosing it and the commission then inquired about it—"This is a bit rubbery because who gets a $45 a head Chinese meal these days? Has this just been lowballed for the sake of avoiding disclosure?"—that would obviously come through the auditing processes later on. Political parties, candidates and others disclosing those sorts of things would want to make sure that it was robust and up to scrutiny in that circumstance.

I do not think I have read anything that was written in front of me. I hope that is on the path. I am sure that gives rise to further questioning from the member. I think it is probably best if we iteratively develop this.

Hon TJORN SIBMA: We can probably save the issue of gifts until a little bit later, for the discussion of the body of the bill. Nevertheless, I pay regard to the Standing Committee on Legislation's comprehensive forty-seventh report and its treatment of this. A section in chapter 4 of that report deals with these matters and addresses the matter of declarations by donors. This might be something that I have missed entirely in this bill. If I have it horribly wrong, now is the time to correct me.

In the way the bill has been phrased, communicated and briefed, the onus of responsibility appears very much to rely on those spending money, whether they are a candidate or a party in receipt of a donation. Is there a corresponding requirement, for example, on the donee? This is a genuine question that has just occurred to me now, looking at this. From 1 July next year, the obligation on a recipient will be to disclose the donation within a seven-day period of receiving it, before the writs are issued. Correspondingly, will there also be a seven-day turnaround requirement on the donor to report that they have made the donation to the individual or party, if only to facilitate potential crosschecking? In his last answer, the parliamentary secretary raised the issue of auditing or assessing the bona fides of reported transactions and the treatments of gifts. I wonder how this is managed or how this is proposed to be managed. What obligations will be put on the donor to mirror the obligations that will be placed on the recipient?

Hon MATTHEW SWINBOURN: I have just been confirming that with my advisers. I think it is really important to settle this right now. Under the Western Australian system, donors have no current obligation to disclose to the Western Australian Electoral Commission that they have made a donation to what we are now calling political entities. Under the bill, we will not be changing that position. The responsibility or onus, as the member described it, will remain with the donee, the person or political entity receiving the donation, to make the disclosure if the donation in and of itself is over the threshold or goes over the threshold by aggregate over the period of the reporting year. That is all on the donee, not the donor, and we will not be changing or disrupting that.

Hon TJORN SIBMA: Just in passing, I make the observation that the express policy intent in this bill is to level the playing field and to ensure that the persons with the deepest pockets cannot buy their way to an electoral outcome. I think a phrase almost word for word like that is in the second reading speech. I would have thought that if that were absolutely the policy objective, the easiest way to do that would be to put the onus on the donor because the person who is exposed or being made transparent is the recipient. That is okay; they are a party to the transaction, but they are only 50 per cent of that transaction. I take it as read that the government does not propose in this bill to make any amendment to the reporting obligations of a donor; it is more about the donee. Has the matter been given any contemplation by the Electoral Commission, for example?

Hon MATTHEW SWINBOURN: As far as I can gather from the advice at the table, the Electoral Commission did not give consideration to what the member is talking about, which is essentially creating a new regime of requiring donors to disclose to the commission when they make a donation to a political entity. During the development of the bill, consideration was given to whether we went down the path of prohibiting donations, either entirely or by capping donations, but we have gone for the expenditure cap rather than the donation cap for the reasons explained in the second reading speech and things of that kind. As a consequence, there will be no donation cap. It is important conceptually to understand that political entities can fundraise to the maximum degree they like; they simply

cannot spend more than the proposed electoral expenditure cap during the issue of the writs. In fact, the expenditure cap can come into effect before the writs as well. What is the word people use when they drink before they go to the nightclubs?

Hon Martin Aldridge: Preload.

Hon MATTHEW SWINBOURN: Yes, preload. People cannot preload. I think we discussed this during Hon Martin Aldridge's briefing. If a member spent all their media money on ads prior to the issuing of the writs and then they flowed out, so they did not spend any money during the issuing of the writs and the closing of the polls, they could effectively avoid the cap on expenditure. We will discuss that further when we come to the clause of the bill to which that applies. If a member expends the money before the writs are issued but essentially obtains the benefit post the issuing of the writs, that will also come within the member's cap. They cannot buy $150 000 worth of corflute signs the day before the issuing of the writs—that is, spending additional money to avoid the expenditure cap.

I have taken the member a little away from the area we were talking about relating to donors. We will get into the detail of that later because there are obviously some grey areas in that clause. Conceptually, it is important to understand that the avenue we are taking is not about stopping donations and getting as much money as possible from contributors; it is about how much members can spend during the capped expenditure period.

Hon TJORN SIBMA: I think the parliamentary secretary is right to categorise the application of the expenditure limits as something of a grey area if we are talking about an accrual accounting system of when benefits are derived and expenses are due. I am not necessarily convinced by what the parliamentary secretary just said, but we will get to that relevant bit at the relevant time.

I am concentrating on the issue of donations because it is absolutely embedded in the topic we are discussing. I am glad the parliamentary secretary confirmed what I might have said at the outset—that this bill will do nothing to stop big donations. Nevertheless, I have focused on this issue and I have referred to the report because the report is cited at the end of the second reading speech as one of the documents that informed this view. Throughout the bill, the explanatory memorandum and the second reading speech, there is a desire to place the government's intended accountability and transparency regimen in a national context and compare the arrangements that are proposed to take place in Western Australia with those in Tasmania, for example. That is an example that the minister cited when setting the reimbursement rate for elections in a complementary way in Western Australia, because it is a higher rate, but it is not as high as the $6 that Tasmanians are likely to vote to give themselves. For example, the parliamentary secretary used the justification of establishing state campaign accounts because other states do it. The justification for the registration of how-to-vote cards is because Queensland and Victoria have gone down that legislative route, but, to the best of my knowledge, they have not had an election in which that has been necessitated or actioned yet.

If we are going to follow other states to new sunny, up-lit lands of transparency, under Victoria's 2002 act, as set out in the Standing Committee on Legislation's excellent forty-seventh report, there is a compulsion that donations made above the threshold be disclosed within 21 days of being made. Obviously, this is a dimension, aspect or fact in the report that was noted but not adopted. I might ask this question now because if the Western Australian Electoral Commission needs to ensure compliance with what I admit is a more stringent regulatory approach, it will necessitate some resourcing. Hypothetically—I ask the parliamentary secretary to indulge me by answering this question: would a requirement that the obligation placed on the recipient, the donee, be mirrored by an obligation placed on the donor as well require any additional resourcing or assistance to be given to the WA Electoral Commission?

Hon MATTHEW SWINBOURN: If we did what I understood correctly to be what the member is proposing, which is replicate the regime for donors to disclose, absolutely it would create more work for the Electoral Commission and the need for more resources. The reason for that is that the vast majority of political entities, particularly established professional long-term political parties, have the professional capacity—whether they have all the resources they need might be a different matter—to understand that the Electoral Act exists, their role and those sorts of things. If we flip that, donors who make contributions to political entities, candidates, members of Parliament and political parties will not have the same level of sophistication. It will be a spectrum, obviously. If we are talking about the big end of town in Western Australia, which has government relations advisers and all those sorts of things, and people who may have previously worked for political parties or government, they probably have the capacity. But if we are talking about mum-and-dad contributors who want to give the member a couple of thousand dollars for their election campaign because they say he is a good bloke, for them to interact, understand and be aware of a disclosure obligation would put the onus back on the member as the receiver of the donation to tell them that they must disclose that to the Electoral Commission. The member would then have to explain the process to them. That would increase not only the burden on the commission and the education that it would have to provide to people making donations to political parties, but also, I hypothesise, the burden on people receiving the donations to educate those who are giving the money to the member. It is probably not an interaction the member would like to have with his donors, saying, "Not only are you giving up your hard-earned coin to support me, but here is a whole administrative structure that you must comply with in order to do that." It is not something that we are proposing to do.

I think the member indicated that there is a regime in Victoria for people who donate a certain amount. I take some issue with the member saying that it does nothing to stop big donations. I would not go as far as that. The big donations—anything currently under the federal threshold—are currently not disclosed. There is no awareness of who is giving money to political parties and candidates or whether they donate more than the $16 000 commonwealth limit. One of the reasons we will not support the banning amendments relating to listing donations put forward by Hon Dr Brad Pettitt is that when people or organisations make a significant donation over $2 600 to a political entity, there is an obligation to disclose that donation within seven days or before the close of the next business day during an election period. That will be a matter of public record, public ignominy, public judgement and those sorts of things. Perhaps the member agrees that that is the better thing to do rather than putting an imposition on those donors. People will then be able to make their own judgement as they cast their vote. Do they support a particular political party or a candidate because they have taken money from an organisation—not an unlawful or criminal organisation—they do not approve of?

Hon TJORN SIBMA: I think there is fertile ground there for both agreement and some disagreement and finessing. The issue I would like to highlight now, because it will be addressed by necessity, is that even what is being proposed here—this has been admitted—will require additional resourcing requirements to be considered by government. The parliamentary secretary has dealt with the issue in the conventional way, which is to say that it is under consideration and it is cabinet-in-confidence—blah, blah, blah. That is not to diminish his contribution, because it is what government always says, regardless of who is in government. Can I just understand, though, because I think it is important to appreciate it, the FTE and the structure of the Western Australian Electoral Commission as it presently stands and whether it has a funding or disclosure team or a compliance team? I do not know how they are described. How large is that team?

Hon MATTHEW SWINBOURN: Under the current arrangements, one FTE is dedicated to what the member has just described. That person is a senior officer. She is the funding and disclosure officer and she answers to a director within the commission. Again, the commission acknowledges that that will have to be expanded, and obviously that will be dependent on the funding it receives. The current arrangement is not going to satisfy what is in the bill on its introduction.

Hon TJORN SIBMA: I thought that the FTE profile of the Electoral Commission would have been a modest one, but I am astonished that its compliance team comprises a single individual. I draw the parliamentary secretary's attention to the committee report on the review in 2020, which notes at paragraph 4.53 on page 23 that in evidence provided by Mr Louis Gargan, the manager of legislation, communications and human resources at the WAEC, he said —

> In New South Wales donors have to declare, but New South Wales has a comprehensive funding and disclosure team of over 30 people.

I think that puts in stark contrast the resourcing at the WAEC. I believe the government when it says that it is going to address this issue, but it needs to address the issue quite seriously. Mr Gargan went on to say —

> The WA Electoral Commission has two people in the funding and disclosure team.

Has there been a reduction or is that just an issue of definition? Has the team been reduced from two to one or does the two include the director?

Hon MATTHEW SWINBOURN: I am advised that, in the context of the inquiry in 2020, it was leading into the 2021 election, so there were two people in the team. Following the election, there was an internal restructure, so there is currently one person. As I understand from the advice I have received, leading into election periods—let us put aside what we are trying to achieve here—there can be a change. Obviously, activity generally increases leading into elections and the commission's role changes. We know that it goes from whatever its current workforce is to many hundreds of people. It has 7 000 people, so it does change. We obviously make the distinction between poll workers and the professionals who work within the commission on an ongoing basis.

Hon MARTIN ALDRIDGE: I might take up this issue now. I was not particularly satisfied with the parliamentary secretary's response on the issue of resources and funding, which probably comes as no surprise to him. I accept that that is generally the response from governments when they are asked about the resourcing that is required to operationalise reforms within bills, but this is not a normal bill or reform. The Electoral Act has a different standing from much of the rest of the statute book because of its application generally and the fact that the WA Electoral Commission is an independent statutory body. In contemplating the significant reforms in this bill, I find it difficult to accept the government saying that it is cabinet-in-confidence. It would give me more confidence in contemplating this bill if we had some assurance about the resourcing that will be provided. To be honest, it is very late in the piece. In fact, clause 2 provides that the commencement date is 1 July. This decision will have to occur prior to the next state budget, which will be handed down in May. Budget cut-off is sometime before that. This decision will probably have to feature in the midyear review, which, given that it is early November, I suspect is probably quite close to finalisation, if it has not been finalised already. The parliamentary secretary said in his second reading reply that he is probably not going to be able to take this issue much further. Can he confirm that this matter will be addressed and advised upon in the midyear review of the state government?

Hon MATTHEW SWINBOURN: I do not like dissatisfying the member, but, unfortunately, he will have to remain in his state of dissatisfaction. I cannot take the funding stuff any further than the comments that I provided in my reply. I was quoting the minister directly about his intentions. He personally does not have hands on the purse strings. There is a process. The member has been on the other side and he knows that there is a process in relation to that. The minister acknowledges the need for additional funding for the commission to achieve our objectives under the bill, and we will put through that process as a consequence of the hopeful passage of this legislation. I could say to the member that that could be hurried up if we got through this, but I would never suggest such a thing because of the desire to have proper scrutiny and review of the legislation by the Legislative Council. It is certainly something that the government is not shying away from: the Electoral Commission will require additional funding to meet the obligations that will arise out of this legislation. Again, I cannot take the member any further than that; I am sorry.

Hon MARTIN ALDRIDGE: I am probably pre-empting the clause 2 debate, but, unlike many bills that come into effect by proclamation, this bill has a hard-and-fast date—1 July. When will the Electoral Commission need to start increasing resources to operationalise the reforms contained in this bill? Will it be in the new year? Will it be on 1 July? Will it be three months before 1 July? When is the uplift expected to occur?

Hon MATTHEW SWINBOURN: There is an immediacy of this bill and its passage because of the impact it will have on the Electoral Commission. I made that particular point when I did not support the member's motion to refer this bill to the Standing Committee on Legislation. It would truncate the period between when the bill passes Parliament and the time at which the commission can start to do all the necessary steps that will be required to make sure that this legislation can come into effect on 1 July. There is an immediacy about the passage of this bill and it receiving royal assent so that the commission can then start doing the work that is required to be done, which, of course, will be coupled with the work to make submissions to the government about its future funding to meet the requirements under the bill.

Hon MARTIN ALDRIDGE: I guess the other way of looking at this is that the government could have made this bill a priority after the 2021 election rather than abolishing regional electorates. Then it could have had time to plan, prepare and build platforms, employ people and allocate financial resources, but that was not the priority of the McGowan government. The priority was clearly to address the deletion of regional electorates under the Electoral Act.

The Electoral Commission has a unique nature and the Electoral Commissioner is an independent statutory officer, like other officers, such as the Auditor General or people of similar ilk, who report quite regularly on their level of resourcing and funding deficiencies, if not to the Parliament. It is not uncommon for these people to have private audiences with political parties and parliamentary members. Obviously, the Electoral Commissioner is not here today, but he has been here. Would there be anything to prevent the Electoral Commissioner himself from identifying his view, as the Electoral Commissioner, on what will be the resourcing requirements in order to operationalise this bill?

Hon MATTHEW SWINBOURN: I want to correct the member on one thing. The Electoral Commissioner is not an independent statutory office holder; he is a deemed CEO of a department of state. I cannot explain to the member what that actually means in practice—the reason I am correcting the member is I was corrected by the commissioner himself when I put that to him in a private conversation—but I will say that he does enjoy operational independence during election events. When elections are called, he is truly independent of government, but, outside of that, he has the other status that I have just described.

I think the member's question was what would be stopping him from being called before Parliament to answer questions regarding funding arrangements. I am sorry if I mischaracterised the question; I was a bit distracted by the member calling him an independent statutory officer and I wanted to clarify that to get it right. Parliament has its own powers of compulsion. If it wishes, it can call the Electoral Commissioner to budget estimates hearings to answer questions on his budgets and funding arrangements. The commissioner issues an annual report every year. There are line items in the budget. The Electoral Commissioner appears at the Legislative Assembly estimates hearings. To be frank, he does not often get asked very many questions, but I am aware that he appears every year in those proceedings; I just do not think he has been called to ours in recent years. It is open for the member to canvass with the Standing Committee on Estimates and Financial Operations that he be called at the next round of hearings.

Hon TJORN SIBMA: We may have all learned something about the actual status of the Electoral Commissioner. I am interested to know, but I am not seeking a response from the parliamentary secretary, how that status corresponds with like-for-like office holders in other jurisdictions.

Nevertheless, I turn to the matter of, if not resourcing then understanding, the workflow that will eventuate from the passage of this bill. Is there a plan for implementation or a document that prioritises the tasks that the Electoral Commissioner will have to get on with, be it building up this new portal or the potential recruitment of staff? Is there an overall planning document in existence?

Hon MATTHEW SWINBOURN: The advice available to me at the table is that we do not know the answer to that particular question, but if we can make some inquiries in the luncheon break, we may be able to come back with an answer for the member. I am not promising an answer. I do not have advice to the extent of the member's question.

Hon TJORN SIBMA: I hope that some answer might be provided after the lunch adjournment, because, if anything, so much of the justification of the government's position not to refer this bill to the committee and for it to pass expeditiously is based on the apparent urgency of the task. However, at present, we are unable to ascertain for ourselves whether there is indeed any justification for the description of the urgency because we do not know what those individual tasks are. That advice would be very useful.

That was not my intended question. I still remain fixated by some of the issues canvassed in the forty-seventh report, which I have been making reference to.

I want to turn to the differences in this bill from the 2022 version concerning the proposed rapid, or accelerated, time line for disclosure. If I read this report accurately and now read the bill, over time, there seems to have been a waxing and waning in the government's enthusiasm for what it describes as real-time disclosure versus quarterly disclosure. There seems to be, at least in the lead-up to the 2020 bill—these are my words, not the Electoral Commission's, and my interpretation of what happened here—some mixed signals. Initially, there was a desire to potentially move towards a more rapid disclosure, and then there was a peeling back. I will read in the relevant sections. At paragraph 4.70 on page 27, the report states —

> The Committee asked the Commissioner and his colleagues, when they appeared before the Committee on 9 October 2020, whether an online reporting system for Western Australia had been considered for the Bill. The Commissioner told the Committee …

This is a direct quote —

>> That was part of the original election commitment and as I understand it, part of the original submission to draft and at some point cabinet advised us that that was no longer proceeding.

At paragraph 4.71, it states —

> Mr Gargan added —

>> This all started with the Labor Party's election commitments for online disclosure and that moved to quarterly reporting, but the rationale and reasoning for it, I cannot comment on. They were just instructions given to us.

Paragraph 4.72 states —

> The Committee is unaware of the Government's reasons for modifying this commitment.

I wonder whether the parliamentary secretary could shine any light on that change, because the government's move from an online almost-as-it-happens disclosure in the 2020 version was, "No, quarterly will do it", but now we are back to this brave new world of seven days, if all the systems get up and firing before 1 July next year, and then within 24 hours. I would like to understand this. There must have been some rationale, some pragmatic reason or resourcing issue that convinced the government in 2020 against its previously expressed enthusiasm. Three years on, that enthusiasm has been rediscovered and in part accelerated. Is there anything substantially different that the government is aware or capable of three years on that it was not capable of in 2020 but considered that it was capable of in 2017?

Hon MATTHEW SWINBOURN: I am not going to get into the mind of people from 2017 and 2020, but I can say that where we are now and what has changed since 2020 is that there has been change in other jurisdictions. Under this bill, we propose new disclosure time frames, and under the 2020 bill, it was quarterly. That creates a different set of imperatives when it is quarterly as opposed to seven days and in an election within the 24-hour period. The standard that we are setting for ourselves is the same standard that is being applied largely in Queensland, where it is seven business days and 24 hours and seven days before an election, and I think Victoria's rolling disclosure requirement is within 21 days. It has an online platform on which it publishes its disclosures as well. I made a similar point to Hon Martin Aldridge that in relation to justification statements and the difference, water has passed under the bridge since then. Other jurisdictions are well ahead of where we are in Western Australia with disclosures and requirements, and we have now come to the point at which we have brought before Parliament a bill that proposes seven-day disclosures ordinarily and within 24 hours—it obviously has a little more nuance than that—during an election period.

In terms of funding for the system set-up, I am advised that the state has been providing funding to the Electoral Commission in budgets every year since 2020, and the commission has been returning it to us because it has not had a statutory basis to establish an online reporting system. Yes, I can see the member's face. Because we do not have the legislative overlay for it to establish an online reporting system, and for other reasons perhaps—I do not want to go too far, because I do not want to have to correct the record—it has not been developed and the money has been returned to the state because it has not been expended. The commission has been looking at online reporting systems with a view to establishing one post the passage of the bill.

Hon TJORN SIBMA: That might be at least in part the answer to a question that is left hanging at paragraph 4.74 of this report. This paragraph is quite helpful because it outlines the fact that there were instructions between the government and the WA Electoral Commission on the substance of the 2020 bill. It refers to the fact that instructions between the government and the WAEC were amended.

Paragraph 4.74 states —

> Those instructions to WAEC were subsequently amended on 12 June 2018, 13 February 2020, 15 May 2020 and 8 June 2020 —

That seems to me that the issue of disclosure time lines was bubbling along and took some time to settle —

> The Committee was unable to ascertain when the commitment for online disclosures was replaced by proposed quarterly reporting, this being a matter of Cabinet in Confidence.

Nevertheless, the committee valiantly inquired into what might be the underlying reason. Paragraph 4.75 states —

> Asked whether WAEC had advised the Government that the creation of an online system would be administratively burdensome, and that had led to the Government's modification of its proposals, Mr Gargan said:
>
> > No; definitely not … Again, the policy matter is a matter for parliamentarians and government. We just administer the Electoral Act. We have no play in making these kinds of decisions. We are just given instructions and we carry them out best we can and implement the Electoral Act as best we can. Those matters are internal matters for parliamentarians and government.

I found the last two paragraphs particularly helpful and informative in understanding some of what happened with this bill, but I return to the information provided at paragraph 4.74 that deals with the issuing of instructions to the WAEC and the dates on which those instructions were transmitted. Is the parliamentary secretary able to advise the chamber in relation to this or any other matter in the bill when instructions were provided to the WAEC on the drafting of certain provisions here? I note that the minister has claimed ownership of about 90 per cent of the substantive provisions in the bill.

Hon MATTHEW SWINBOURN: I cannot give the member that information. The position we have maintained on drafting instructions is that "when" and "if" matters are cabinet-in-confidence. The member said 90 per cent. The government thinks it is in substance. Although the member is probably right regarding materiality as opposed to the volume of actual amendments in the bill, I would say it was probably more the other way, but a lot of that is obviously modification of language, gender neutrality and those sorts of things, and some of the commission's things. No, I cannot take the member to when those instructions or drafting instructions went backwards and forwards between the two of them.

Hon TJORN SIBMA: I might now take my turn to be slightly disappointed, because it is clearly evident here that the concept of cabinet confidentiality is not traduced by describing when an interaction has taken place between a government and an agency. What would be a breach of cabinet-in-confidence is if those documents leaked out. I think the veil of cabinet-in-confidence is drawn too firmly over these things. Let us perhaps get to the substantive point on the achievability of this rapid disclosure system. It was obviously not achievable in 2020, or executive government formed the view that what was being proposed for 2023 and what was proposed earlier was unachievable then but will now be achievable. The issue is not explained away by the apparent administrative burden that would be placed on the WAEC because the WAEC said that it was simply a matter of policy disputation. The advice that the parliamentary secretary provided was not referred to here. He said that in 2020—

I find this a bit difficult to believe but I will believe it for now—there was potentially no statutory authority or capability for the Electoral Commission to engineer and operate a system that would give effect.

Hon Matthew Swinbourn: I think I qualified myself on that, member.

Hon TJORN SIBMA: Does the parliamentary secretary mind qualifying it again? That is unclear.

Hon MATTHEW SWINBOURN: It is not that there was not a lawful basis for it to do it because it does not require that. I probably went further than that and I did then qualify myself regarding what I was saying about the legislative basis for it. Let us just go to the practical realities of an online disclosure system under the present regime of annual reporting. The current process is that once a year, those that are required to disclose generally fill out a paper PDF copy of a disclosure document and then submit the document to the commission. The commission then publishes that particular document on its website. The need or imperative for an online disclosure system under the current regime is simply not there. It would be unjustifiable when only having a yearly disclosure requirement.

When I am talking about the legislative imperative, I am talking about the fact we are moving from annual disclosures to seven-day disclosures, and to 24-hour disclosures during elections. That is the underlying legislative imperative that then creates the need to have a system that can meet the needs of that. That would be the online disclosure system so that people could put that information up through a portal and that information can then be reflected—I do not want to say instantaneously—expeditiously, rather than someone filling out a physical form, providing it to the commission and the commission uploading it to its website. We are kind of talking about a different thing. The problem that we have now is not that there is a need for an online disclosure system under the current regime. It just does not exist. However, when we move to the much more fulsome system, that would change it.

Other jurisdictions, like Victoria for example, have such a system. That is where the commission has been conducting its own investigations into how it has done that, what it looks like and what the requirements are. There was some preliminary work that the member mentioned before that I was not able to disclose to him, but I can say that the commission has been doing work around that in anticipation of that system commencing from 1 July next year.

Hon TJORN SIBMA: The only conclusion I can then draw is that the evolution of the process or the progress in thinking about what is an appropriate and achievable disclosure time line has been a matter of policy change or shades of reemphasis over the last three years. As described on behalf of the commission, there really is no administrative burden. The parties who gave evidence that the 2020 hearings took an opposite view, frankly because they would also probably be affected by it in a more substantial way. Nevertheless, there was some hesitation about the achievability of a quarterly reporting regiment that I expressed in the committee report. There were two findings: a majority finding and a minority finding. It kind of did break down a long opposition and government lines.

Hon Matthew Swinbourn: That is earth-shattering, isn't it?

Hon TJORN SIBMA: Well, not necessarily. To give some fairness to the government members that supported the facet of the bill then, which was a quarterly thing, once it was qualified, the endorsement of that achievement was very cautious. I will start with finding 9, which was the opposition majority view —

> A majority of the Committee, consisting of Hons Nick Goiran MLC, Simon O'Brien MLC and Colin de Grussa MLC, finds that the move to quarterly reporting instead of the current annual reporting requirements would create administrative difficulties for political parties, associated entities and the Western Australian Electoral Commission for no material benefit.

That is their view and that was the view that they found in committee three years ago. However, finding 10 states —

> A minority of the Committee, consisting of Hons Dr Sally Talbot MLC and Pierre Yang MLC, finds that, while some adjustment may be required, quarterly reporting is an important step in the direction of a more transparent system of disclosure.

I will just focus on finding 10. I actually thought it was reasonably well expressed. However, there was an appreciation that even the proposed regiment would have to be financed in some way to make it achievable. It acknowledged that even that increase in reporting disclosure time frames as compared with the present day was a step. I am still attempting to understand how we have now moved from a step to a leap. We need to take aside the desirability of the disclosure and consider whether it is indeed achievable, and if it is, what material benefit will accrue to the Western Australian democratic system.

For example, where are the disclosure date or time lines given consideration to between the quarterly proposition last time and the proposition we have now? Was it considered that quarterly reporting is actually not enough but that monthly might be more achievable and acceptable? Is there an advantage in compelling reporting on a seven-day basis as compared with a fortnightly or monthly basis? Were any of those milestones or time lines considered at all or was there just this leap from a quarter to something approximating immediacy? What was really the justification for that decision? How has the government satisfied itself that it is indeed even achievable?

Hon MATTHEW SWINBOURN: I think the key here is to say that obviously when the 2020 bill was done, the government of the day settled on the quarterly disclosure. It had in regard its 2017 election commitment, which I think was a commitment to bring in real-time disclosure. In and of itself, that did not present the actual time frames, although I do not know the exact content of the election commitment.

Once the government started looking at the reforms that we are now trying to get past the Parliament, it would have involved the consideration of what was appropriate and where the particular balances were at. I was not personally involved in that particular process, so I cannot give the member anymore insight into that. It was considered and the starting point would have obviously been "What did we propose in the 2020 bill?", which was quarterly, and "How did we end up here?" We looked at what other jurisdictions were doing and what we thought was best practice. To make the policy accountable, transparent and achievable, we settled on the seven-day and then 24-hour disclosure periods during the election period.

Sitting suspended from 1.00 to 2.00 pm

Hon MATTHEW SWINBOURN: Earlier, before we were called for tea and toast, I undertook to provide some additional information in response to a question about resources. Resources will be required as soon as possible to create guidance materials, undertake education and training, review and update forms, guides and manuals, update processes and procedures, undertake procurement and develop and design the electronic disclosure system. The Western Australian Electoral Commission's normal planning for elections has turned to the state election. Individual project plan managers have identified the legislation's implications on their projects and are currently scoping the impact of those potential changes. Significant work has gone into identifying the resources required, including FTE and financial resources. This is subject to a submission to the Expenditure Review Committee. The government has been briefed. There is a limit to how much the commission can do prior to the bill being passed by Parliament, but planning and preparations have been undertaken to the extent that is possible.

Hon TJORN SIBMA: This is not to burden the parliamentary secretary or to be painful, but would it be possible for the parliamentary secretary to list those issues he discussed as constituting the work profile?

Hon Matthew Swinbourn: The list?

Hon TJORN SIBMA: That was not necessarily a list of workflow items to address, but a generalised description of the things that will be undertaken, presumably, upon the passage of the bill.

Hon Matthew Swinbourn: Yes.

Hon TJORN SIBMA: Okay. I did not necessarily ask for this but implicit in the effective implementation of the provisions contained in the bill will be—I would not describe it as consultation—information sessions with those groups that are most likely to be affected by these provisions. Is there an indicative time frame for when the commission might brief registered political parties on the obligations that will flow through after the implementation of the bill?

Hon MATTHEW SWINBOURN: We do not have a time frame, but I am advised that it will definitely be post the Christmas–new year period at the earliest. Now, when I say that, of course, all of next year is post the Christmas–new year period, but I would say in the first quarter of 2024.

Hon TJORN SIBMA: The obvious thing to note—I have been on the record about a number of government bills irrespective of their origins, what they are about and which minister has carriage of them—is that when a government comes to this place and describes its bill as being substantial, transformative, reforming or whatever, that implicitly means there is significant change or change of significant materiality, if not both. I think we can all agree that the rules of the game of political engagement and campaign engagement will be changed quite comprehensively by this bill. I do not know when the drafting of the bill commenced because the government will not tell me, but it has told me that there has been no consultation with any of the—I will describe them in a sanitised way—stakeholder groups or stakeholder organisations about what this bill will mean. There has been no consultation at all and the government has no planned indicative communication on the aspects of this bill that will be of material concern to those stakeholder organisations and necessitate administrative changes at the very least until 2024 or somewhere in the first quarter of 2024 before the bill comes into effect on the first day of quarter three of 2024, which is 1 July. This is a statement necessarily more than a question. That is wholly inadequate.

The reason that I have been approaching the clause 1 debate in the way I have is that I think, in large part, aspects of this bill, particularly the expenditure cap that will be placed on political parties and third parties, will be challengeable. One of the ways that the government might have chosen to mitigate the risk of legal challenge and the expenditure that comes with defending legal challenge and the potential of a law being struck down as invalid would be to go out of its way to consult. The government has chosen not to do that. I will not reflect on the decision of this house because I know Hon Martin Pritchard will call me up; he is very good on these kinds of matters. I see him smiling and waiting. I like him but I do not like him so much as to give him the opportunity to raise a point of order. I will reflect, perhaps to the satisfaction of Hon Martin Pritchard, on the approach taken to the previous iteration of this bill, which was to refer it to the Standing Committee on Legislation. One of the obvious outcomes of the conduct of a committee investigation is that it opens up its inquiry and invites submissions from affected people. It is consultation of a kind or a communication. None of that has occurred, which I find wholly inadequate. But there is a risk in the proposed communication or dialogue that the Electoral Commission is going to have from 2024 and I do not think that will necessarily give political parties, including the Labor Party of Western Australia, adequate time to provide advice or raise issues about the implementation of this very important bill at a time when—I can speak for the Liberal Party here somewhat—we will be engaging in the process of the rudiments of electoral preparation, including the running of preselection rounds. I imagine that the WA Labor Party will undertake a similar burden.

The timing of this communication is wholly inconvenient. Could it not be brought forward to a time within the 2023 calendar year?

Hon MATTHEW SWINBOURN: This probably will not reassure the member, but the Western Australian Electoral Commission will do its best upon the passage of the bill and its commencement. The WAEC is confident that it will be in a position to do the things necessary for the provisions to formally commence on 1 July. The onus will be on the political parties. I cannot speak on their behalf, or even on behalf of my own political party, about how ready they will be, but the commission and the commissioner will be able to deliver that. I cannot give the member an undertaking to do something that has not been planned yet, but the Electoral Commissioner is here and is listening to what the member is saying. Previously, he was engaged with the debate in the Council, so the member's argument has been heard, but I cannot take it any further than that.

Hon MARTIN ALDRIDGE: I was listening to the interchange just now that has been largely focused around the engagement with registered political parties. We know that one of the weaknesses with the government's approach to the bill is that the government consulted with only one registered political party, that being the Australian Labor Party. I asked this question yesterday, and we have had the benefit of 24 hours: do we know on what date the Minister for Electoral Affairs conducted that consultation with the Australian Labor Party?

Hon MATTHEW SWINBOURN: I think the Leader of the House provided the member with a response yesterday and put forward what the member needs to do to get that information. I cannot take that line of inquiry any further than what has already been discussed about the consultation and contact with the Labor Party.

Hon MARTIN ALDRIDGE: Is the parliamentary secretary not communicating with the minister and is he unable to ascertain that from the minister? Apparently, it was a private meeting and no advisers were present. That sounds like a strange way to conduct the business of the state. It certainly does not do anything to assuage the concerns, primarily advanced by Hon Tjorn Sibma and Hon Dr Steve Thomas in the second reading debate of this bill, that this is a case of Labor designing a bill for Labor. Nevertheless, let the record reflect that the forgetful Attorney General is unable to establish on what date he communicated with the Labor Party over the construct of this bill. I want to extend my question beyond the seven registered political parties. The Labor Party shot and eradicated a few political parties that were inconvenient to it in the 2021 bill.

Hon Matthew Swinbourn: Some of them might have been inconvenient to your party as well.

Hon MARTIN ALDRIDGE: Possibly, but we were not doing the shooting, parliamentary secretary.

Hon Matthew Swinbourn: That was the Parliament. It was a bill passed by the Parliament.

Hon MARTIN ALDRIDGE: It was a bill that was supported by the government. It certainly was not supported by those on this side of the chamber. I would like to know about the government's approach to engagement beyond the seven registered political parties because obviously the commission has a regular, professional and ongoing relationship with those registered political parties in many respects. My concern is that under this bill we will bring obligations on many others, particularly when we contemplate the expenditure cap provisions on third-party campaigners. My understanding is that anyone who spends more than $500 in an election will fall into that category and will therefore have obligations placed on them. I suspect that people will be captured by these provisions who are simply not aware of this very late change to our electoral law. We do not have a lot of time until the election. The Chamber of Minerals and Energy spent $4.3 million, which is well above the $500 threshold, and was not aware of the laws of Western Australia in 2017. Given that the threshold will be $500, what is the government's approach to the general education that will have to occur around the reforms contained in this bill?

Hon MATTHEW SWINBOURN: As the member indicated, as a consequence of the reforms that occurred in 2021 with the passage of the Electoral Amendment Bill, changes were put in place for the registration of political parties and what they needed to do. Several of those political parties are now no longer registered. As a consequence, they will not be a registered political party for the purposes of the 2025 election if they have not re-registered 12 months prior to the election in March 2025, whichever day the election is. The commission is planning on writing to the existing political parties and those that were formerly registered but are now no longer registered and invite them to re-register and also provide information about these reforms at this time. That will deal with those groups the member identified that were once political parties and the existing political parties. The commission will contact them between January and February next year. As I said, if the bill is passed this year, the commission will communicate with those groups. That would be the first real opportunity for that to happen in a structured way.

It will be incumbent upon third-party campaigners that wish to engage in the political process to be aware of their obligations. Some general education activities will occur. They have not been designed and targeted. I have already acknowledged that the commission will create guidance material and undertake education and broader training, and review and update forms, guides and manuals. Its website will undoubtedly contain the obligations of people who are engaged with the political system. Those much more sophisticated organisations like the CME should be, and are, obliged to take into consideration what their obligations are when they choose to engage in the political process. The member described its failure during the 2017 election. It will be incumbent on the CME to be able to do that, but the government will make efforts to educate people. I cannot tell the member what that will look like and in what form they will be at this time. Obviously, the commissioner will be vested with much of that responsibility, and he is aware of that obligation.

Hon MARTIN ALDRIDGE: Probably the two traps in elections for these, let us call them general participants, will be around the how-to-vote card registration and the obligations that come with third-party campaigns in excess of $500. Will there be a public advertising campaign? It is one thing to have information available on the Electoral Commission's website. It would be good if we could get some reassurance that the WAEC is not planning on joining the WA.gov platform because that would be an added disaster. Hopefully, the WAEC will continue to maintain its own website and the information will be available there, but I think it is unrealistic to expect every participant to necessarily know the intricacies of the Electoral Act, particularly when sophisticated organisations that have spent millions of dollars have proven they are incapable of doing so. A range of very small, well-meaning community-level groups or even individuals could potentially find themselves breaching the law established by this bill. Is the Electoral Commissioner of a mind that at an appropriate time—we do not want to go too early or too late—it will speak to the community at large about these changes?

Hon MATTHEW SWINBOURN: I will first reflect on the commission's approach to dealing with these third-party campaigners and the circumstances in which the member described them as not being aware of their obligations,

though they have effectively become a third-party campaigner because they have reached the threshold for doing so. As indicated earlier—in fact, I think the member may have been slightly critical of the commission's approach to dealing with noncompliance—we will take an educative approach. If someone takes out a television advertising campaign, I am sure the commissioner and his staff watch the telly and will see that somebody has made a political advertisement. If they have not met the required disclosure obligations, being a third-party campaigner, I am certain they will be contacted by the commission and be told, "These are your obligations. You are currently not meeting them. You need to meet those obligations and go down a certain path." If that entity or person refuses, the approach the commissioner will take will escalate according to what the commissioner decides is appropriate in the circumstances. The commissioner has indicated to me that there will likely be TV-based advertising campaigns. We cannot say anything at this stage about what they may look like or how much they may cost et cetera as they have not been designed or funded because the bill has not been passed, but that will happen in due course. The commissioner has indicated that it is likely there will be television advertising.

Hon MARTIN ALDRIDGE: We just alluded to yesterday's exchange with the Leader of the House around consultation. In the time we had, we largely focused on registered political parties. We have established that only one was engaged by the minister, unsurprisingly. Were any other stakeholders engaged by the Minister for Electoral Affairs in the development of this bill? Obviously, it goes without saying that the Electoral Commission was engaged as a stakeholder, and indeed it may have been the instructing agency. That is a question on its own: Who was the instructing agency on this bill? Was it the commission or the minister himself?

Hon MATTHEW SWINBOURN: Technically, there is no instructing agency. The commissioner is a stakeholder in that regard, yet, for example, when we introduce a bill that falls within the responsibility of the Department of Justice, the Department of Justice is the instructing agency.

Hon Martin Aldridge: Was it the minister?

Hon MATTHEW SWINBOURN: Yes, it comes from the minister. I will take some advice on the member's first question relating to other stakeholders.

I cannot take it any further than what I think I said in my second reading speech and my reply about which stakeholders were engaged, which was obviously the WA Electoral Commission and the other electoral commissioners. I cannot recall off the top of my head what the others were but it was contained in both my second reading speech and my reply. It was not beyond that.

Hon TJORN SIBMA: Notwithstanding the modesty that attends the parliamentary secretary's previous answers about not wanting to make preparations before the bill passes, he should know that the bill is going to pass.

In general, what will be the approach to the engagement with at least registered political parties? Will the engagement be as a group or will it be on an individual party basis? I appreciate from the answers that the parliamentary secretary has provided that the guidance material has not yet been prepared. What is anticipated might be prepared, other than a direction outlining the obligations under the act? Further, I am under the impression that whatever interaction might occur between the commission and a registered political party, either singularly or in a group, it is effectively a one-way transmission setting out the obligations.

I posit a hypothetical, and I know they are dangerous. If one or more parties identify an operational problem in one of their obligations to the degree that it suggests they will not be able to comply with the rules by 1 July, what would be the government's approach? Reasonably, the commission has taken a view not to be pre-emptively punitive. Might the operation of the bill or a number of the regulations that might flow from it be amended or held over or have another implementation date? I do not want to put it this way but it is the best way I can think of putting it at the moment: this seems a little slipshod. The government is potentially driving compliance in a very narrow window of opportunity and making groundless assumptions about the capacity of individual registered political parties to conform to these obligations, particularly when at least two political parties, through submission and testimony, as recorded in the forty-seventh report, identify the problems that they would face organisationally when complying with the then-proposed quarterly disclosure.

To summarise, how will the government accommodate or respond to problems or challenges in compliance within the limited time frame that has been proposed, noting that no consultation has occurred to date and none is intended to occur before the beginning of next year?

Hon MATTHEW SWINBOURN: I think I take a little bit of an issue with the last or second-last thing the member said about how no consultation will happen.

Hon Tjorn Sibma: Has happened.

Hon MATTHEW SWINBOURN: Has happened. The member also said that, but also on the passage of the bill.

I indicated to the member previously—and the minister has said this in the other place—that the Electoral Commission will consult with political parties and entities it has regular and ongoing contact with on the introduction of the bill. The commission has a well-established and ongoing relationship with political parties. I think the Electoral Commissioner described it as "good". I am sure some political parties would have a different view, but it is

a regular and ongoing relationship. I am sure that parties are not shy in letting the commission and commissioner know when they are not happy about something or when something is not working in a particular way. They are particularly adept at communicating their concerns.

However, as has been said previously, the commissioner indicated that in the first six months of the introduction or commencement of the bill, from 1 July to 31 December, he will not undertake prosecutions in which non-compliance with the act is subject to a reasonable mistake or, if I can extend that a little bit further, when there are reasonable explanations for the noncompliance. The commissioner will not take a heavy-handed approach with participants. He will work to consult, develop, and have words with those political parties and participants up until the commencement of the scheme from 1 July, particularly on the pertinent parts. Some provisions will not take effect until the writs are issued. The commissioner, up to the end of next year, does not plan on taking a heavy-handed approach when dealing with them and their continuing compliance. The goal is to get everybody pointing in the same direction on the reforms to make sure that the system is working as intended. The member can disagree with this, but it is not meant to be a millstone around the neck of political parties. The intention here is the openness and accountability of our democratic and electoral system, and ensuring we go down that path, particularly with the disclosure requirements, which I think is the primary concern with the obligations.

Hon TJORN SIBMA: It is not the sole concern, in response to the last part of the parliamentary secretary's contribution. I make the observation that getting everybody pointing in the right direction may have been enabled by an earlier consultation process—in fact, a genuine one—which has not been the case. I underscore that again. I put to the parliamentary secretary that it is not so much my concern about potential punitive action being taken by the commission, although that is a concern; it is more the potential for the imposition of an inadequate or impracticable set of obligations. My question is: what would be the government's response to any of these elements being described as inoperable or impracticable, or a registered party finding it an insurmountable challenge to implement by the deadline set by the government? We can get to the nature of consultation, but this is not genuine consultation because the government is not interested in the views that others might have. The government's view of consultation is telling people what they will do and how they will do it by the time line. If there is a counterfactual, and a genuine problem were expressed by a registered political party or a third-party campaigner, what process of elevation would there be back to the minister to either amend the provision or defer and refine its implementation?

Hon MATTHEW SWINBOURN: The member, not in his last contribution but a previous one, talked about the dangers of putting forward hypotheticals, so I have to be careful here. The member put a number of things. I can answer only in the most general sense. The same issue can happen with any new scheme brought through Parliament about whether, on the commencement or during the implementation stage of that scheme, issues are identified that are insurmountable or inoperable in practical reality. I hear the member's points about consultation, but even on the most consulted bills, issues can still follow. The issue that would follow is that if a political party or the Electoral Commissioner has a concern, one political party would, first of all, probably make that representation to the commissioner, because that is the interface it would have with the government in the broader sense of that word. I am sure the commissioner would then brief the minister at an appropriate time on any issues there. Of course, political parties are always entitled to take their matters directly to the member, me, or the ministers themselves to raise those issues. It depends on the nature of what those issues are as to what the appropriate response from the government might be. One thing we anticipate is the potential for legal challenges to things like caps and third-party campaigns, because there is a history of those sorts of things happening in other jurisdictions. It may or may not happen—we do not know—but I think it is fair to postulate that it is possible. We made our best endeavours to ensure that the bill is constitutional and defendable on that basis. As I say, I will not be able to satisfy the member about consultation. He has made his points about that and I cannot take it any further.

Hon BEN DAWKINS: To keep on track with the consultation aspect, I argue that it does seem mind-blowing that the government—referring to the Minister for Electoral Affairs—would consult only with his own party. It seems biased to not take the views of other parties into account. That would be more akin to what we are trying to achieve with some form of consensus on the convention of changing these laws. I would say consultation is about consulting with not just one party, obviously, but all parties, no matter the size. One could potentially say that the minister should have consulted with Independents and other stakeholders affected by this legislation. What about the members of political parties and the donors? I do not know how we do that, but it also involves taxpayers and electors in general. What about candidates? All of these are stakeholders within this act. I know we are just talking about donors today. As we are talking about donations, my question will start with whether there has been any consideration about how a donor may want to donate for a particular campaign or purpose, and how the party could be held to applying that donation for the purpose for which it was donated. It may be that the parliamentary secretary will tell me that the internal affairs of parties do not fall within the jurisdiction of this legislation, but I am interested to know—I will give an anecdote afterwards—whether this could be looked at to protect the donors giving up their hard-earned to ensure that it is used for the purpose for which it was applied.

Hon MATTHEW SWINBOURN: I suspect the member is alluding to a particular circumstance that I am sure he is going to bring to my attention. The regime that we are dealing with here is about the relationship between receiving a donation and reporting a donation. It is not about managing the relationship between a donor and a donee

and the terms and conditions under which a donor may make a donation to a particular political entity. That is a matter between them. If somebody is giving a gift, it could be a conditional gift. If people want to make sure that that is executed in a way that is enforceable, they need to make sure that they get proper legal advice when they do it to ensure that it happens consistent with their wishes, as is the case in other circumstances outside the political sphere. In terms of what we are trying to achieve here, if a donation is received by a political entity, for whatever purpose or reason, it gives rise to an obligation to disclose it within the appropriate time frame if it is more than the disclosure limit.

Hon BEN DAWKINS: As the parliamentary secretary has suggested, I am alluding to the situation with the parties that are registered and the parties that are incorporated. If the parties that are eligible to receive donations were incorporated, the members would have a right under the Associations Incorporation Act to access the financial accounts of that incorporated association and follow through on where the donation was used, in effect. That is how I am bringing it back to the matter of incorporation, but in terms of the basics, let us talk about consultation for a moment. I heard the parliamentary secretary refer to the seven currently registered parties.

Hon Matthew Swinbourn: That wasn't me, member.

Hon BEN DAWKINS: Sorry. I have done my homework, parliamentary secretary, so we can try to do this as quickly as possible. The last time I asked, there were seven registered political parties. I am trying to get this right for *Hansard*. They were the Animal Justice Party, the Australian Christian Party, the Legalise Cannabis WA Party, the Liberal Party of Western Australia, the Greens WA, the Nationals WA and WA Labor. I am just checking that those are the currently registered parties.

Hon MATTHEW SWINBOURN: I think the member might be referring to a parliamentary question that he asked the Minister for Electoral Affairs, which I answered on his behalf some time ago. That is what I referred to during the debate today. Hon Martin Aldridge referred to the seven political parties. I did not make any mention of that. I just make it clear that I was not trying to take issue with a previous parliamentary answer. To the best of our knowledge, the parties that the member has read out are the seven currently registered political parties. I am not aware of any recent registrations of political parties. It would have to be advertised and go through the entire process, so it is not something that is likely to happen quietly.

Hon BEN DAWKINS: Looking at a previous question so that we are up to date, is it still the case that the parties incorporated under the Associations Incorporation Act are the Western Australian division of the Liberal Party of Australia, the Australian Christian Party of Western Australia, the Greens WA and the National Party of Western Australia? I am checking only because Hon Dr Brian Walker has assured me that the Legalise Cannabis WA Party is also incorporated, which means that all the parties in this chamber are incorporated, apart from WA Labor.

Hon MATTHEW SWINBOURN: I cannot confirm the incorporation of political parties. I suspect that the question the member asked was not of the Minister for Electoral Affairs but of the Minister for Commerce, who has responsibility for incorporated associations. We would not have answered that question. If we did answer that question—I cannot recall whether we did—it would have been based on advice that we received from the Minister for Commerce. The Electoral Commission does not keep information about which political parties are or are not incorporated. It is not a matter, as the member knows, that is required under the current act. It is certainly not a matter that we are proposing to include through our amendments. The Western Australian Electoral Commission does not record data about incorporation. It is a matter for individual political parties as entities.

Hon BEN DAWKINS: I thank the parliamentary secretary for that thorough answer. I am trying to keep this very much on track with the consultation issue. Given that all the other parties are incorporated and already comply with the tier 1 and 2 financial reporting requirements under the Associations Incorporation Act and provide financial statements to their members and can be audited—all the things that come with incorporation—if the government had asked them, they may have raised an objection to the additional reporting and compliance requirements that will be introduced through this legislation, because they are already doing a lot of that work and this will double it. The only party that was consulted, the WA Labor Party, was potentially okay with reporting and compliance because it has done none in the past.

Hon Kate Doust: You have no idea what you're talking about, do you?

Hon BEN DAWKINS: I know exactly what I am talking about. Maybe it was a flaw in the consultation process that the only party the government consulted with was one that does not currently have to do any reporting. Would the parliamentary secretary accept that as a flaw in the consultation process?

Hon MATTHEW SWINBOURN: I do not have any response to the member. I am dealing with the bill before the chamber. He is talking about things that largely sit outside that and his personal views about, and grievances with, the Labor Party. I will answer questions that relate to the bill before the chamber, but the incorporation of political parties is not a matter that is related to the bill currently before the chamber. I know that the member has amendments on the supplementary notice paper that would give effect to that, but they are not our proposals; they are his. I do not have anything further to add.

Hon BEN DAWKINS: Getting back to donors, I see that they are key stakeholders in this. I remind the parliamentary secretary that back in the 1980s, two of his party's long-time members and servants in the other house donated their own money to the Labor Party for a particular purpose, which was "Labor House". I am talking about Dave and Phil Smith. The money was kept in a fund and the interest from that fund was applied to the federal election campaign for Forrest, and then it was simply acquired by Labor head office. If it had been incorporated, there would have been protection for those members to access —

Point of Order

Hon Dr SALLY TALBOT: I recognise, as you do, deputy chair, that the clause 1 debate is extremely broad. Nevertheless, there are some boundaries on what is permitted as far as relevance goes. I am finding it very hard to connect what the member is saying to anything that would be remotely acceptable in the clause 1 debate.

The DEPUTY CHAIR (Hon Stephen Pratt): I remind the member to keep his questions relevant to the bill that we are discussing at the moment.

Committee Resumed

Hon BEN DAWKINS: Sure; that is understandable. I was simply referring to the fact that donors should have rights under the law to see where their donation goes. They would have that right with the incorporated parties of the Liberals, the Nationals and so on, but they would not have that right with the Labor Party. That might have come up if the government had consulted more widely with donors who have had disputes with parties in the past.

In any case, I notice that the primary purpose for becoming an eligible registered political party under this act will be that a party advances candidates for election, as well as preselecting them; that is in the definition. That goes to the party's constitution. The Electoral Commissioner will determine whether a party is an eligible political party by looking at its constitution and seeing whether it is involved in the advancement and preselection of candidates and advancement for election. My question is: will the political party have to provide a copy of its constitution as part of that process?

Hon Kate Doust: I probably should not do this, but I feel compelled, perhaps while the parliamentary secretary is getting some advice. I have listened to the member's comments.

The DEPUTY CHAIR: Sorry, member. Is this a point of order?

Hon Kate Doust: No, it is just a comment.

The DEPUTY CHAIR: Hon Kate Doust.

Hon KATE DOUST: Thank you. I felt compelled.

I listened to what the member had to say about how he thought that donors should have a right to know where their money goes. I probably speak for members of the Nationals WA and the Liberal Party as well when I say that the whole thing about donations and ethical donations is that once somebody has donated money to a candidate or directly to a political party, that is the end of it. The donor has no bearing on how that money will be utilised in a campaign. It is up to the party or the candidate how they expend it, and there cannot be any strings attached to those dollars. The member is saying that there should be strings attached—that the donor should be able to determine the actual expenditure or get feedback about how it is spent. I do not know if it is like a blind trust, but once that donation is made, "Thank you very much", the candidate or their campaign team or party office makes those decisions. We cannot have ongoing connection, ownership or feedback. That is where we start to go down the pathway of corruption or expecting a decision to be made to the benefit of that donor because they have provided support.

I do not understand why the member would even get to his feet. I thank my party for the fact that it expelled him. I seriously worry about where we would be and what problems he would have caused us as a member.

Hon Ben Dawkins: Are you finished yet? Ask a question.

Hon KATE DOUST: Sorry, parliamentary secretary; I just could not help myself.

Hon MATTHEW SWINBOURN: The member's question directly to me was whether an application for registration of a political party will have to be accompanied with a copy of the constitution. The answer to that is yes. I refer the member to section 62E(4)(e) of the current act, which states —

> The application is to be made to the Electoral Commissioner in an approved form and is to —
>
> …
>
> (e) be accompanied by a copy of the party's constitution;

The answer to the member's question is yes.

Hon BEN DAWKINS: I thank Kate Doust for reintroducing —

Hon Matthew Swinbourn: Hon Kate Doust.

Hon BEN DAWKINS: I thank Hon Kate Doust for reintroducing and elaborating on my points. Hon Kate Doust does not —

Hon Kate Doust interjected.

Hon BEN DAWKINS: I am not sure whether Hon Kate Doust remembers any of her legal training, but I was not referring to manipulating any particular outcome; I was talking about whether it could be applied to a particular campaign. As Hon Kate Doust has brought it up again, as she would know, in the case of Dave and Phil Smith, it was applied to the federal election campaign committee for Forrest. Their donation was some of their own money that came from the sale of "Labor House", which was then acquired by the party unilaterally. Funnily enough, Hon Kate Doust, that is how Mr John Mondy —

Point of Order

Hon MARTIN PRITCHARD: I am struggling to determine the relevance of this to what is before us today.

The DEPUTY CHAIR (Hon Steve Martin): I think, given the last two contributions, I will allow a little bit of leniency. Honourable member, clause 1 is a broad debate, but it needs to be relevant.

Committee Resumed

Hon BEN DAWKINS: We are talking about donors and Hon Kate Doust said something about me encouraging corruption. I was referring to situations in which donors have had their money misappropriated, whereby they have been promised it would be used for a particular thing. That is what happened in the case of Dave and Phil Smith, and we have evidence of that from the state conference.

Several members interjected.

Hon BEN DAWKINS: Not the state conference—state executive. I have the notes from that. That misappropriation was probably the reason John Mondy resigned as president of the Bunbury branch.

I ask a question about the funding. I see public funding. We are publicly funding organisations that do things like I just referred to—effectively, steal money from members and donors. Surely, once we start publicly funding organisations, we require —

Point of Order

Hon SANDRA CARR: Again, I am also struggling to see relevance. What I appear to be hearing is a taxpayer-funded hissy fit from someone who is a bit unhappy about where he has found himself due to his own actions. I do not know that this is the purpose of this committee stage of the bill. I think this is the fourth time that someone has raised relevance now.

The DEPUTY CHAIR (Hon Steve Martin): There is no point of order. I believe that the honourable member was eventually getting to a question on funding, but I would encourage the honourable member to do that quickly.

Committee Resumed

Hon BEN DAWKINS: Thank you, chair. My question refers to the funding on the last election for these registered political parties. Can we please receive the figures for the funding that was required? I understand that it requires a party to get roughly four per cent of the vote and I understand that it is a certain number of dollars for each vote. What was the funding paid out at the last election? I understand that amount will almost double on the passing of this bill.

Hon MATTHEW SWINBOURN: That information is publicly available on the commission's website. It is not a private matter between political parties and the commission. I do not have it to hand. If the member is unable to access the website, I can probably seek to have a copy of the information on the website printed out for the member and tabled, but it is really up to him. He can simply access that information himself from the commission's website.

Hon MARTIN ALDRIDGE: I want to pick up on an issue identified by the parliamentary secretary in response to Hon Ben Dawkins when he drew our attention to section 62E(4)(e), which states —

> The application is to be made to the Electoral Commissioner in an approved form and is to —
>
> …
>
> (e) be accompanied by a copy of the party's constitution;

Will it be the case that if a party does not provide a copy of its constitution, its application will be invalid?

Hon MATTHEW SWINBOURN: I am not going to answer the member's question directly, because he has asked me to draw a legal conclusion about the consequence of not providing it. This is a term in the existing act. We are not talking about anything in the bill here; section 62E(4)(e) will not be disrupted by what we are doing here. The only amendment to current section 62E is to subsection (4)(c), which will be replaced. That is to set out the name and address of the secretary of the political party and another person who is to be a registered officer of the political party, which is to take into account that the reform will require political parties to provide two contact people. There is nothing substantive in that regard that relates to the actual registration of the party.

Section 62E(4) is drafted in mandatory terms, so presumably those provisions must be met before the commission will go down that particular path. Whether that would invalidate an existing political party would be a matter for a court to determine.

Hon MARTIN ALDRIDGE: I accept that point. Perhaps a better way of framing it, particularly given the esteemed Electoral Commissioner is amongst us, is that if the commissioner were to receive an application that did not contain a copy of the party's constitution, could the commissioner accept and, indeed, process that application?

Hon MATTHEW SWINBOURN: That is a hypothetical question. I am advised by the commissioner that if the Electoral Commission were to receive an application that did not include a copy of the constitution, the practice would be to go back and ask the party to provide the necessary constitution. One would imagine that in those circumstances, a political party would provide the constitution. I do not think "constitution" is a defined term under this act—I stand to be corrected—but I suspect it would have its common meaning. As Hon Ben Dawkins will point out many, many times both now and in the future, as it is not a requirement for a party to be incorporated, the form of the constitution is not prescribed. A constitution could be a very simple document in and of itself.

Hon MARTIN ALDRIDGE: I will just finish on this point. The only reason I am asking these questions is because we will have to make a decision at some point about related amendments. The parliamentary secretary, Hon Tjorn Sibma and I will have to do that. This is not necessarily my issue or one that I have pursued, but we will all have to have an interest in it at some point. It would appear from reading this provision that it requires a constitution to be provided. Whatever is meant by "constitution" is, I guess, a matter of interpretation. It appears that the obligation exists only on application; there does not seem to be an enduring requirement for a party to have a constitution. At least with respect to section 62E, it is just in relation to an application for registration, unless another provision outlines that a party will be disqualified from being a registered political party if it no longer possesses a constitution, but I am not aware of such a provision. I will ask my last question on this, and I think we will take it up later. Parties have just been through some form of re-registration process that arose from the 2021 act. Was that re-registration process considered under this provision or was it a transitional provision of the 2021 act? I guess the key point of my question is: when existing parties had to reaffirm their party status under the 2021 act, did they have to provide a constitution in doing so?

Hon MATTHEW SWINBOURN: We do not have a clear answer at the table, so I will take that one on notice. As the member has indicated, this issue is perhaps one that will come up down the line rather than being an immediate one. There will be a clear answer to the member's question—it will be either yes it was or no it was not—but I want to get clear advice.

Hon BEN DAWKINS: Sticking with the qualification for funding, it effectively is —

> … 500 members …and … a constitution that specifies as one of its objects or activities the promotion of the election to the Parliament of the State of a candidate or candidates endorsed by it;

Hon Matthew Swinbourn: What section are you looking at?

Hon BEN DAWKINS: This is the definition of "eligible political party".

Hon Matthew Swinbourn: Is that the current definition of "eligible political party"?

Hon BEN DAWKINS: Yes.

Hon Matthew Swinbourn: Are you referring to section 62C(1)—the definition section in part IIIA?

Hon BEN DAWKINS: Yes, that is it.

Hon Matthew Swinbourn: Sorry, what was your question?

Hon BEN DAWKINS: Is there any form of constitution that would be unacceptable under this definition? Is any means by which a candidate could be endorsed anticipated by the commissioner in approving a political party, or is the means of endorsement completely unlimited?

Hon MATTHEW SWINBOURN: The member's concern is obviously the difference between incorporated political parties and unincorporated political parties —

Hon Ben Dawkins: No.

Hon MATTHEW SWINBOURN: Let me finish. That is where the member is ultimately coming from, and the requirement that incorporation should exist. Obviously, if a political party is incorporated under the Associations Incorporation Act, some requirements under that act would be enforced. However, if a political party is an unincorporated association, there would be no legal arrangements around what its constitution must look like. If the Electoral Commission received a constitution that was incomprehensible in terms of how it was written and presented, arguably, on the face of it, that could not form a document that was a constitution. The ordinary meaning of that term will apply. If someone has written with a crayon on a piece of paper, that will probably not be a constitution.

However, putting those issues aside, whether an organisation is incorporated or unincorporated, as the member pointed out in the definition, it must have —

> … a constitution that specifies as one of its objects or activities the promotion of the election to the Parliament of the State of a candidate or candidates endorsed by it;

If the constitution that is proffered does not include that objective or activity, it will not be sufficient for the commission to register it as a political party because it will not have satisfied that particular requirement, regardless of whether it is incorporated or unincorporated.

Hon BEN DAWKINS: This may be a question for the commissioner —

Hon Matthew Swinbourn interjected.

Hon BEN DAWKINS: — through the chair to the parliamentary secretary. I am just suggesting that it may be within the knowledge of the commissioner, more so than the parliamentary secretary. We are publicly funding this process in the next election, probably to the tune of $7 million for the Labor Party. On behalf of taxpayers, members of parties and voters, has it been considered whether this could be an area in which some basic principles of democracy could be inserted, such as the candidate being endorsed by a vote of members? The words "the candidates democratically endorsed by it" could be included. That would exclude the mere preselection of people without a member vote and would more or less mandate a plebiscite of members.

Hon Kate Doust interjected.

The DEPUTY CHAIR: Members!

Hon BEN DAWKINS: That would mandate a plebiscite of members; I think we have been talking about how the Electoral Amendment (Finance and Other Matters) Bill 2023 is designed to promote transparency and democracy in the system. I know my good friends in the Liberal Party and the Nationals WA have plebiscites of members.

Several members interjected.

Hon BEN DAWKINS: Yes, they are my good friends; everyone is my friend!

A plebiscite of members —

Hon Darren West interjected.

Hon BEN DAWKINS: I am very grateful to the Labor Party, do not worry. I am just trying to finish my job.

A plebiscite of members is known to be the democratic way of endorsing a candidate. This is maybe a little philosophical for the Western Australian Electoral Commission, but would this not be the place to implement some form of internal governance for how people are endorsed as candidates?

Hon MATTHEW SWINBOURN: The Electoral Commission does not set these policies; the government sets the policy and the framework. The Electoral Commissioner made a series of recommendations about amending the act in relation to its administration and particularly in relation to the role it plays, but when it comes to the policy of this bill and of previous legislation, it is the government of the day, not the Electoral Commission, that sets the policy and proffers the legislation for the approval of Parliament.

In respect of what the member is talking about, that was not a matter that occupied the government's time or interest, so we have not looked at that. The Electoral Act largely does not regulate the internal conduct of political parties; how they wish to do that is a matter for political parties. If the member does not like the way a political party operates, he should not join that party; it is entirely his choice whether he joins or does not join. If he does not like the way a party endorses its candidates, he should not be part of that political party. That is the exercise of individual choice. The Electoral Act is not concerned with that and this bill is not concerned with that.

I know the member is very concerned with it, but can we please focus on the bill before us and its contents? Otherwise we will be here for a lot longer than anyone wants to be.

Hon BEN DAWKINS: Obviously, people are concerned about this. We could talk about branch stacking or something like that. There could be a conduit under this clause to look at action against branch stacking. I am not suggesting anyone does that, but it has obviously been a big issue in Victoria.

Point of Order

Hon MATTHEW SWINBOURN: There have been several points of relevance. This member is now talking about branch stacking, which has no relevance to the bill before us at all. I ask that he be brought back to the contents of the bill.

The DEPUTY CHAIR (Hon Steve Martin): The parliamentary secretary has raised a point of order about relevance. I again direct the member back to the contents of the bill. The clause one debate is a very broad debate, but you need to make it relevant to the bill before us.

Committee Resumed

Hon BEN DAWKINS: Talking about doubling the funding to political parties, my question is: what is the nature of that arrangement? Is a contract signed? I know there are reimbursements, but how do we define that? Does the Electoral Commission give a grant to a political party to deliver certain things based on reporting and reimbursements? What is the nature of that funding arrangement?

Hon MATTHEW SWINBOURN: Under the current regime for electoral funding, I believe a political party gets, off the top of my head, $2.26 per vote, with the threshold being that they must receive at least four per cent of the primary vote in the division or region in which they are standing. When they are eligible for public funding they must make an application to the Electoral Commission to receive that funding, although political parties or candidates are not obliged to receive that public funding. They must then proffer to the commission evidence of the expenditure they have incurred through the election campaign. It is currently $2.26 per vote. We propose to increase that to $4.40, which will only create a maximum amount based on the number of votes that a candidate or political party receives. Within that, they can receive reimbursement from the Electoral Commission for their electoral expenses, up to the cap.

Hon BEN DAWKINS: I notice there are a lot of offences and prosecution items in this bill, and probably also in the current act. How is a political party held to its obligations under the legislation? Does it sign a contract that it will be in breach of if it does not comply with the reporting requirements? What is the nature of that contractual relationship? What do they sign?

Hon Matthew Swinbourn: Member, it's statutory, by way of interjection. There's no contract between the political party and the Electoral Commission. The statute creates entitlements and obligations and that's the scheme. I don't have anything more to add.

Hon TJORN SIBMA: I would like to briefly address the thematic and philosophical objectives of the bill as expressed in the second reading speech. A lot of them make claims about the nature of the conduct of elections in Western Australia. This is just to establish the factual basis upon which the government has determined to write the kinds of provisions it has included in this bill, and the details of those provisions.

Firstly, there is what I have called the Snow White "Mirror, mirror" reference. In the first paragraph of the second reading speech, the purpose of the bill is expressed to be —

> … to ensure that Western Australia has the fairest and the most transparent electoral system in Australia.

Hon Matthew Swinbourn: I actually like your Snow White reference!

Hon TJORN SIBMA: I thank the parliamentary secretary; I try my best. I do spend an inordinate amount of time reading children's books, which is just a reflection of where I am at my stage of life. I will not get into the Roald Dahl catalogue of unamended literature; that is a conversation for another day!

Hon Ben Dawkins: Relevance!

Hon TJORN SIBMA: Thank you, it is relevant. To be endorsed by the government in such a manner is an honour I did not think would be conferred upon me, but nevertheless it has!

It is fair to say that this is a rhetorical flourish of some kind, but it nevertheless expresses a view about the standard or practice of transparency in Western Australia under the present constraints of the act, as compared with other democratic jurisdictions in Australia. Would the parliamentary secretary mind indulging me to the degree of categorising where our disclosure thresholds and time lines of reporting correspond with the arrangements in other jurisdictions? Does the parliamentary secretary have a table that provides a view of where we presently are? That would be of some assistance.

Hon MATTHEW SWINBOURN: I do have a table, would you believe! I will speak to it before tabling it, so I can give the member an understanding of it. As the member knows, the current regime in WA provides for a threshold for disclosure of $2 600. Most political parties effectively avoid that obligation because of the federal loophole; the federal limit is $16 300. The disclosure limit in New South Wales is $1 000; in Victoria it is $1 170; in Queensland it is $1 000; and in South Australia it is, oddly, $6 299. I do not think Tasmania has yet passed its legislation, so there are no disclosure thresholds in Tasmania. In the Australian Capital Territory, it is $1 000 and in the Northern Territory it is $1 500.

In terms of disclosure time frames, as Hon Tjorn Sibma is aware, in Western Australia the annual return is due on 30 November each year and that is the only requirement. In New South Wales, the disclosure time frame is 21 days in a pre-election period, otherwise it is every six months. In Victoria, it is 21 days and there is no difference whether or not it is in an election period. In Queensland, which is the regime we have most closely followed, it is seven business days and in an election period it is 24 hours in the seven days before the election. We have extended ours to the issuing of the writs, but in Queensland it is seven days before the election. In South Australia, it is half-yearly, but gifts of $25 000 have to be disclosed within seven days or in the seven-day period from February in an election year until 30 days after polling day. Again, there is no regime in Tasmania. In the Australian Capital

Territory, it is monthly with an annual return requirement and seven days, 37 days before the polling day and 30 days after the election is declared. In the Northern Territory, it is annually and it is due within 30 days of the end of the financial year and there is more frequent reporting during an election. The note at the bottom states —

> **Various for election period including 6 month report, 2 quarterly reports, report prior to the writ, report prior to election day, and a post-election report

That seems incredibly and unnecessarily complicated. At the federal level, an annual return is due on 20 October. This table that I will table includes a heap of other useful information, and we are happy for that to be included. It might be referenced further today. I table the document.

[See paper 2793.]

Hon TJORN SIBMA: I thank the parliamentary secretary for tabling that useful comparative document; perhaps we will refer to it in the course of future debate on this bill. It is a focus of mine to test what I describe as the more flowery gratuitous claims about one's purity compared with that of the other states. As long as we are beating Victoria in all things, that is the only thing that matters to me. I want to establish at a more substantial level that, notwithstanding the current differences, there is not necessarily a factual or evidentiary basis to assume that in some way or some dimension, Western Australia's disclosure is less fair or necessarily less transparent than is the case in other Australian jurisdictions. I do not think that case has been made, but that is just an observation that I make in passing.

I am, however, interested to somewhat explore, and invite some substantiation from the government on, the argumentation around the introduction of capped expenditure in terms of the limits and the period under which the limits will operate. The second reading speech expresses an aspiration or desire —

> Those who campaign in elections should have a reasonable opportunity to communicate with electors; however, this should not be to such an extent that it has the effect of drowning out the communication of others.

In the course of the 2021 state election or, indeed, the recent by-elections in North West Central and Rockingham, has it been evidenced that one particular campaigner communicated with electors to the degree that their material or conduct in communicating drowned out the communications of other candidates?

Hon MATTHEW SWINBOURN: The justification statement uses the term "an egregious amount" and there was reference to the amount that was spent by Peter Lyndon-James at the 2021 election in his bid to get elected to the East Metropolitan Region. Did that drown out the voices of other East Metropolitan Region candidates? I do not think that it was meant in terms of the egregious spending drowning out all the candidates in the East Metropolitan Region. I certainly saw his face on rubbish bins in and around where I live and work. However, I do not think that was the point in describing it as egregious. I think that was a relative description relating to the amounts that have been spent by other candidates in Legislative Council elections over the course of the analysis that was done. It is not fair to say that we can pinpoint a particular instance in which one group had such an amount that others accused it of drowning it out. I add that this is a subjective assessment. This is not something that we would say, but others might have argued that the Labor Party's $6 million-plus spending in that election was significantly greater than the Liberal Party's spending, which was about $1.5 million or $2.5 million behind that, and the Nationals WA spending, which was even further behind. Others might claim that about the Labor Party. I am not aware of people saying that. Certainly, there were a lot of complaints about how many times people saw the faces of certain candidates and the Premier around the place—I am being a bit flippant there, of course. The more obvious example is not a Western Australian–alone election or by-election. The example is the 2019 federal election and the 2022 federal election during which a particular candidate and political party had disproportionate access to resources and used them in a way that was significantly different from what other people were able to do. They dominated print media, television media, radio media and internet advertising in a way that nobody has ever seen and experienced. That was in the 2019 election and it was even more so in the 2022 federal election. Although we do not have an experience in Western Australian elections, we have seen it within the Australian context. Of course, we are not talking here about a particular candidate, but a third-party campaigner. We certainly saw that in the 2017 election, which the member did not ask about, with the amount spent by the Chamber of Minerals and Energy. The point has already been made that that was almost more than the major political parties spent individually on the statewide, 59-candidate election.

Hon TJORN SIBMA: Nevertheless, it is clear that no example can be identified in the context of a state election in which the communication endeavours of a campaigner have precluded or drowned out the communications of other candidates. That is a different argument necessarily from the volume or intensity at which a third party or a candidate goes about their campaigning efforts. Granted, there is a distinction here. But the justification—the first claim that was made—was that we have to stop this from happening. I can understand the principle, to some degree, but my point is: show me the evidence where, in a state election, one candidate's expenditure has consumed the majority, or almost the entirety, of the bandwidth of the communication available to other candidates. That has not been established. The candidature of Mr Lyndon-James is another matter. That leads me to my next question, because I think the examples are quite sparse, with all due respect to the parliamentary secretary. What I am

attempting to establish is the risk profile, or the likelihood or threshold of risk, if this is a risk at all, really, that the government, through these provisions is attempting to mitigate. A claim has been made relating to the last one. We have determined that the drowning out of communication of others has not been established. The claim was made —

> It is self-evident that in a healthy democracy, no-one, by virtue of their greater access to incredibly deep pockets, should be able to buy an election outcome.

That sentence is quite vague and general. I suspect the reference might be to the Chamber of Minerals and Energy campaign a couple of elections ago, but I want it to be clear: can the parliamentary secretary provide me with an example at the last state election or by-election or beyond that when an election outcome at a state general election had been purchased?

Hon MATTHEW SWINBOURN: I cannot provide the member with an example of that. The words the member is referring to in the second reading speech are essentially setting the philosophical and rational basis we want to go. It was not a claim that it has happened. The point of what we are trying to do here is not simply to respond to what has happened in a Western Australian election but what we think is a realistic prospect of happening at future elections. We are putting in place a scheme that will help to address any of the kinds of examples that the member gave so that they do not occur in a Western Australian election. However, I think it is naive to presume that that could not happen within our electoral context. There are people with access to resources that are substantially disproportionate to any other members of the community and they could, if they so choose, flood and control the market and reduce the level of communication of other candidates. It is not purely speculative. It has happened in federal elections with the United Australia Party and Clive Palmer spending significantly more money than others. The member might say that Clive Palmer did not buy the election because he did not get the result he wanted by not taking control of the government. However, it is corrosive to democracy in and of itself. Even if he did not achieve the outcomes he wanted, it is corrosive because a single person and his political party were so dominant that they could drown out those other voices. I do not think the member and I will agree on this point. We have a different philosophical perspective about these things. Certainly from the government's perspective, our view is that there should be limitations. We have set it at a level that we think is both defendable and constitutional. Other reasonable minds might disagree about how to deal with that, and I am sure that the member does.

Hon TJORN SIBMA: We might not be as far apart philosophically on the concept. I think it is a matter of taste as much as anything else. I am attempting to ascertain whether there is an evidentiary basis, not for having that opinion, necessarily, but for going beyond that opinion, perspective or inclination and operationalising it in a provision by amending the statute. That is my issue, and it remains the case that I do not think that that has been proven. As to the potential for a motivated deep-pocketed, nefarious individual —

Hon Matthew Swinbourn: They may not be nefarious, to be fair.

Hon TJORN SIBMA: Okay, a motivated person with a political difference. I think this is where it becomes problematic. Nevertheless, has the government received advice from the Electoral Commission or some other authority, agency or independent institution that has given it pause to think about the potential for election campaigns to become even more accelerated or disproportionate or subject to deep-pocketed campaigns that would deliver outcomes that are unusual in the regular course of elections? My question is: is this just an opinion or does some advice undergird the provisions the government is attempting to introduce?

Hon MATTHEW SWINBOURN: I was trying to find a reference to these things in the forty-seventh report of the Standing Committee on Legislation in 2020 because it dealt with that. In my second reading reply, I quoted a statement from Antony Green in that report. I think that there certainly is an academic debate about the issue we are trying to tackle. It is not a boutique concept to Western Australia and the Western Australian Labor Party that we want to do these things. There have been parliamentary inquiries into these matters in other jurisdictions. A federal parliamentary inquiry into electoral spending and funding recognised some of the particular points alluded to here. There is definitely a body of academic work on this by people who enter this kind of debate. Obviously, an example is the United States and how money influences its elections. It is eye-watering to understand what that is about. Chapter six of the committee's report refers to caps on electoral expenditure. It states —

> 6.3 ABC election analyst Antony Green was reported as stating that caps should be introduced for political parties and third-party campaigners.

Unlike other people, I do not think he is the start and finish of all things that relate to elections, but he is an example of someone connected with elections, election funding and those sorts of things expressing a view of that kind. I think we also made reference to Professor Phillimore, who gave evidence to the committee in that regard. There is a body of work out there that supports either donation caps or electoral caps, and which way they go and where they are set is often the debate that happens rather than it being about them being good or bad things in and of themselves.

Hon TJORN SIBMA: I might take the position of politely disagreeing with the parliamentary secretary, because I do not think this is a body of work. I think he is referring to and relying upon a body of opinion.

Hon Matthew Swinbourn: A body of academic work in that regard.

Hon TJORN SIBMA: It does not matter that they call themselves academics or they work in an academic context. What has not been proven by, for example, Antony Green, is that there is this egregious level of expenditure that leads to perverse electoral outcomes. To apply the principle of charity, I think that everybody, particularly those of no partisan affiliation, finds all political communication off-putting, or more than slightly off-putting. I find a lot of it off-putting, and I am an engaged practitioner in the production and distribution of it. It is a necessary evil to some degree. But that is not necessarily a fact being established. Where this might be problematic is that if there is ever a legal challenge, it would have to be justified that the caps have been introduced and set for reasons that rely on facts or a presumption of a set of phenomena to go against. The suitability, acceptability and reasonableness of the burden being placed on an implied constitutional right to freedom of political communication would then have to be demonstrated. That is why I am going a little bit, in a painful way, over the evidentiary basis. What we have here is an assertion of opinion. That is not to say that the opinion is invalid or a case cannot be made for a reasonable person holding that opinion, but what cannot be made, and what has not been made yet, possibly because we are not in the bits of the bill that really go into the detail, is whether there is a substantially proven risk that the government wishes to mitigate. As has been discussed previously, the purpose of the bill is not to deal with the level of donations or to improve or expand donation disclosures, but to set certain disclosures and limits on expenditure. Then, turning on the facts or reasons behind the decision, and this refers somewhat to the justifications that have been tabled in the last two years, can I please inquire into the manner in which the amounts, the capped limits, have been determined? The determination seems to effectively rest, and I do not mean to be pejorative here, on a desktop assessment of other expenditures. Have they been the only factors taken into consideration in setting the Western Australian limits to apply, other than maybe taking a view of where other jurisdictions set their limits? Perhaps to assist the parliamentary secretary in answering the question, I will ask him this: have any of the cost drivers of political communication been factored into determining these limits? It does not seem as if they have been.

Hon MATTHEW SWINBOURN: I will not be able to add much more about the process than is already contained in the justification document, which, to be frank, is quite thorough in its analysis and explanation of how the amounts were arrived at. As I say, I do not think I can meaningfully take this beyond what is in that justification statement. I am also reluctant to postulate, speculate or hypothesise about them because the justification has been given very, very careful consideration in its drafting, notwithstanding its spelling error.

Hon Martin Aldridge: There are two.

Hon MATTHEW SWINBOURN: Did the member find one as well?

Hon Martin Aldridge: Brendon Grylls' name is spelt wrong.

Hon MATTHEW SWINBOURN: There we go.

Notwithstanding that, the substance, rather than the form, might have been given very, very careful consideration. Again, I am not trying to avoid Hon Tjorn Sibma's inquiry, but greater legal minds than mine, as we have established, have interacted with where we got to on this. Am I saying that the Attorney General's legal mind is greater than mine? Yes, I will admit that.

The member talked about cost drivers being factored in. The work that was done here took into account spending for the 2021 election. We are some years away from that now and there have been significant indicators, but the total cap is significantly higher than any political party, for example, has spent on any election before. Within that uppermost limit cap available there is obviously room for growth for fundraising and spending. If a party gets to spend $10 million at the next election, it would have done very, very well for itself, given that in the 2021 election, the black swan event that it was, the Labor Party was able to spend just over $6 million, which was more than anyone had ever spent at a state election. There is indexation of the amounts, so they will not be static, they are not stuck at that amount, and indexation is based on consumer price index, as imperfect as it is. One of the concerns here, for example, and the member's concern, is about the cost of elections in terms of the product that we have to buy. We might get the same amount of political communication, but it could be incredibly more expensive. If and when that happened it started to impact on the uppermost limit, we would start to fall into the realm of the unconstitutionality of the cap, because it might not take account of that. Governments of the day will have to take into consideration whether there would be a statutory amendment to the base amount or to have it pushed up further. Hopefully, we have locked in with CPI increases that we will keep ahead of where we need to be to ensure that there is sufficient room for people to engage in fair and robust political communication.

Hon BEN DAWKINS: I refer briefly to a question I asked the Leader of the House this week, which is relevant because it is about providing funding. I do not have the figures, I have not looked them up yet, but the amount was maybe $3.5 million last election and it will be $7 million in this coming election under the new regime, in this case to the Labor Party. Earlier this week, Hon Sue Ellery said something to me about a grant scheme. I know this is not a grant scheme, but it is a funding scheme. She said —

> To enter into a grant agreement, the Department of Communities —

In this case —

> is required to contract with a legal entity …

Among the reasons Hon Sue Ellery provided, she said that —

> It is important —

in this case —

> that grant recipients have established financial reporting and governance structures and capacity to administer grant funds.

I am drawing an analogy between funding a political party to participate in an election and providing a grant, in this case, the women's interests grant. We can use the Labor Party because it is unincorporated. Which legal entity is the department or the Electoral Commission engaging with? The parliamentary secretary said that there is no contract. That is fine. There are offences and there are also reporting obligations. In the case of the WA Labor Party, which legal entity is responsible for complying with the reporting obligations?

Hon MATTHEW SWINBOURN: The member used the words "legal entity", whatever that means in the circumstances. The current act provides for the money to be reimbursed to the candidate or the registered political party. The registered political party is recognised by the Electoral Commission. If that registered political party has candidates in the election and they have received and met the requirement, they will be approached because the Electoral Commission understands who they are and they will be reimbursed. I would not call it funding or grants; it is a reimbursement scheme. That is in the act. That is where it comes from. Common-law principles and those sorts of things do not come into it. It is a statutory scheme. The interactions with the commission are within the four walls of the legislation.

Hon BEN DAWKINS: The numerous reporting requirements in the legislation fall on registered political parties, if they are incorporated; that is obvious. For example, the Nationals WA must comply with that. To use the words of Hon Sue Ellery, if there is no legal entity in the case of an unincorporated association, who is it? There must be an individual who is on the hook to provide those reporting requirements.

Hon MATTHEW SWINBOURN: Currently, it is and will continue to be the person responsible for the political party, which is defined in the act. I refer the member to section 175B, "Agent of political party, appointment of", of the act, which states —

> (1) A political party shall appoint a person as its agent.
>
> (2) If an appointment under subsection (1) ceases to be in force the political party shall make another appointment under that subsection.

The commission deals with that agent that has been appointed by the registered political party.

The DEPUTY CHAIR (Hon Dr Brian Walker): I give the call to Hon Ben Dawkins. I caution the member that I suspect there may be a bit of straying from the topic of clause 1. I would specifically like to hear a more definitive approach to the wide range of clause 1.

Hon BEN DAWKINS: Thank you, deputy chair.

I have not seen that section of the act. I thank the parliamentary secretary. There are a number of clauses on offences, as the parliamentary secretary knows—a whole section. Will the responsible person that he referred to also be prosecuted if there was no legal entity or incorporated body for that party?

Hon MATTHEW SWINBOURN: The member should go to each of the individual offences to see who is subject. As he should understand as a certificated practitioner—I believe he is still certificated —

Hon Ben Dawkins: No.

Hon MATTHEW SWINBOURN: Okay. As a person on the roll of practitioners, the member should know that offences will be quite specific to the person involved. Each individual offence, depending on the nature of the offending, will be what informs the prosecuting authorities of who is responsible.

Hon BEN DAWKINS: I am using the ballpark figure of $7 million that WA Labor will receive for the next election under this bill. In terms of who that is paid to when there is no legal entity or incorporated body, from my recollection of the WA Labor constitution, all WA Labor assets are held in the name of the state secretary. Is that the case? Is it a concern for the Electoral Commission that $7 million, as per my example, will be put into the name of one individual rather than an organisation?

Hon Matthew Swinbourn: I am not going to answer that question.

The DEPUTY CHAIR: Honourable member, the parliamentary secretary has informed me that he is not going to answer that question. I can quite see the principle. I think you are straying too far from clause 1. Do you have another question?

Hon BEN DAWKINS: Okay. I have a very general question but within clause 1, I would have thought.

Hon Matthew Swinbourn: Just so you understand, I am not obligated to answer any of your questions. It is not a court; I am not obligated. I will be as helpful as I can but I will stick to the bill before the house.

Hon BEN DAWKINS: Thank you, deputy chair.

Hon Matthew Swinbourn: I am not the deputy chair; I am the parliamentary secretary.

Hon BEN DAWKINS: I thanked the deputy chair. I am going through the chair.

I was interested to know, in relation to the women's interests grant that Hon Sue Ellery referred to, the reason for providing funding to an incorporated association. She said —

> It is important that grant recipients have established financial reporting and governance structures and the capacity to administer grant funds.

Has that consideration not been considered by the minister in this instance with regards to those public funds?

Hon Matthew Swinbourn: I do not have anything more to add to what I have already said.

Hon TJORN SIBMA: As I work my way through some of the philosophy to establish facts, I also wish to inquire very briefly before we get to certain obligations that are committed to in the second reading speech. The government makes a very clear commitment that the Western Australian Electoral Commission will establish a secure electronic portal in which political entities can upload relevant information about political contributions, including affiliate fees, compulsory levies and gifts. It goes on to say that it will be easy to use, ensuring it is not onerous for candidates and parties to comply, which is welcome news. At what stage is the design phase of this portal? Can the parliamentary secretary possibly take us through the steps that the government will go through and the time frames it will have to comply with to have this portal operational by 1 July next year?

Hon MATTHEW SWINBOURN: To date, the commission has been engaged in what I would like to call "scoping work" to understand what it needs to do, what is out there and what is available. It has been speaking to the Victorians, who already have a system in place, determining whether that will or will not work with our systems. I do not know whether we are in a finalised position of knowing whether that will or will not be the case. If it is not the case, the commission will have to engage designers and developers of the system, which will result in the normal procurement practices. Noting the urgency of the matter, once the platform has been designed, however it comes to that particular point, it will then go through a period of what I think the web people call Bader testing. Maybe I am wrong. If Hon Wilson Tucker were here, he could tell me. In any event, it has been described as a user acceptance period during which it will engage with stakeholders on whether it is working. That process will be done before 1 July so that the system is ready to run on and from 1 July 2024.

Hon TJORN SIBMA: Watch this space! It is a hypothetical question, but it is not an unrealistic proposition to ask: in the event that we do not have an operational portal by 1 July, what would be the fallback provisions for the declarations that parties and others will be required to make? Without being cheeky or gratuitous, I will make an observation about any IT system that any government has proposed to introduce. When I had the shadow portfolio of environment, I had been following the rollout of Environment Online. I am still waiting and I no longer hold that portfolio. This is a simpler proposition. Nevertheless, there is some attendant risk because of the timeliness of this bill. It is not a matter of which hour or day it is passed; it has been brought on for debate in November. If it does not work or cannot be made to work by 1 July, the regulations will be in place to compel participants to comply with the reporting strictures. How will they report if not through a centralised portal?

Hon MATTHEW SWINBOURN: I acknowledge that the matter the member has raised is a genuine one.

Hon Tjorn Sibma: Along with all the other matters I have raised, I hope you will concede, parliamentary secretary!

Hon MATTHEW SWINBOURN: I would not be so generous, but, in this particular instance, I think it is one that is reasonable to pursue. The advice that I have had is that if the online portal is not up and running at that point, there will be a semi-manual system—probably not dissimilar to what happens now with people submitting a form via email or facsimile, if that still happens, and the commission uploading the information to its website. However, what is important to remember is that if noncompliance is a consequence of the commission's failure to have the system up and running—please forgive me for using such words, commissioner—there will not be any action against individuals who are earnestly trying to interact with the commission under this particular scheme. It is on the commissioner's initiative that people would be prosecuted. I think it would be a very brave commissioner who commenced a prosecution on the basis that the system that needed to be in place for people to comply with the law was not working properly.

I hope that provides assurance to political parties and other participants.

Hon TJORN SIBMA: The parliamentary secretary might not be able to answer this question —

Hon Matthew Swinbourn: It wouldn't be the first one today!

Hon TJORN SIBMA: No—as valiant and honest as the parliamentary secretary has been. Might it be proposed that some user charges will be issued to interact with this system? I hate putting ideas like this into the heads of government, but it is not unheard of for other reporting portals. Can we discount that or perhaps not discount that at this stage?

Hon MATTHEW SWINBOURN: I think we can discount that, because there would need to be a fee-making regulation power for the commission to do that. There is no provision for the commission to charge user fees for access to the system. Given that it will be part of a regulatory compliance scheme, it would also be highly unusual to charge people to access it.

Hon TJORN SIBMA: I wish some other departments took a similar view.

Hon Matthew Swinbourn: I don't speak for them.

Hon TJORN SIBMA: No, the parliamentary secretary does not, but maybe he should or be invited to at some later stage of this term.

Can I talk a little bit about third-party campaigners and their treatment? It has been mentioned in passing that expenditure of $500 or greater for electoral purposes will be required to be registered with the commission. I find a number of the figures in this bill to be arbitrary. I understand the argument that some of them can be rationalised, but this is one that I find difficult to understand. Why was it set at this level and whom might we capture in a way that serves no real transparency purpose? Hypothetically, to reflect on incorporated associations and the like that Hon Ben Dawkins enjoys speaking to, a number of local football clubs are incorporated associations. A footy club might have among its playing group a candidate at an election and the footy club might want to get behind its candidate, so it does a whip-round and raises more than $500 to help Joe Bloggs with his candidacy. Would it be categorised as a third-party campaigner if it spent the money?

Hon MATTHEW SWINBOURN: In relation to the member's later example of the footy club, if the footy club fundraised $5 000 for this candidate and then the club, as, say, the northern suburbs giants, supported its favourite upper house candidate moving to a lower house seat of his choosing by expending that money on advertisements for the candidate, it would be a third-party campaigner and that would apply. If, however, it put on a fundraiser for the candidate and donated the money to them or their political party, it would just be a donor and the candidate would be obliged to disclose that as a donation. If I have characterised that right, it would probably relieve some of the pressure.

In relation to the first issue that the member raised, which was how we arrived at $500, we had regard to what happens in other jurisdictions. Both New South Wales and Queensland require third-party campaigners to be registered with their respective electoral commissions, and the provision under the bill has been modelled on the provisions in those jurisdictions. In New South Wales, third-party campaigners that incur expenditure of more than $2 000 must register, and in Queensland, if they incur more than $6 000, they must register. We have picked $500 to reflect that at the last three state general elections, returns by third-party campaigners have reported expenditure as low as $200. That is how we got that figure. We did not go as high as other jurisdictions for a threshold. The member referred to evidence. We had evidence that there were third-party campaigners spending as little as $200, so we have really hit it at that level. To be frank, if an entity, or an individual, inserts itself into an election process by actively doing its own campaigning, it is very different from a local person who has donated money to a candidate or a political party. I think that is why it is justifiably treated differently. That is not only in terms of their sophistication, but also, overwhelmingly, people do not go and say, "You know what? I'm going to run an ad for Hon Tjorn Sibma and tell people to vote for him in the seat of whatever, because he's a good bloke and he will do a great job holding the government to account in the Assembly." I am not going to —

Hon Tjorn Sibma: No, don't!

Hon MATTHEW SWINBOURN: It is unusual for that to happen. It can happen and there are people who do it, but they do it deliberately; it is not something they accidentally fall into.

Hon TJORN SIBMA: I turn very briefly to state campaign accounts, before we get to that point. I thought that in passing, in the debate in clause 1, we might address the undergirding philosophy. I understand that state campaign accounts are in operation in a number of jurisdictions, including New South Wales, Victoria, Queensland, South Australia, the Northern Territory and federally. I ask about not so much the origin of the concept, because the concept seems to be well established, but the flexibility of those accounts and the capacity for there to be a central state account. I mention my own party just as an example. A party creates a state campaign account. The party is running in 59 lower house seats. It has 59 campaign teams with 59 campaign managers, treasurers and the like. Will the obligation be for all expenditure across all those 59 campaigns to be made solely from that centralised account, or will it be permissible under the regime being proposed for a party to have a state campaign account with a set of subsidiary linked accounts, to provide flexibility in the conduct of transactions?

I want to talk about flexibility for a while. Maybe it is addressed in other jurisdictions. I want to get a sense of the kind of expenditure that we are attempting to channel through that solitary campaign mechanism. I can understand, for example, a view that it will assist in reporting obligations if a party doing its statewide media or advertising booking must pay for those through only its campaign account, but it is also reasonable to suggest that that will not be the only expenditure incurred by a party throughout an entire state election campaign. Some of the issues and amounts can be quite trivial. For example, a party is running a campaign between different towns in the Pilbara. It needs to set up an election booth. The drill bit fails, and a member of the party has to buy cable ties or whatever.

They are buying those minor items, almost peripheral items, for a campaign purpose—that is, to put up the signage. Would the person need to make that transaction through a centralised campaign account, or would it be acceptable for them to make an outlay themselves individually and then seek reimbursement through the party's central campaign account?

I am concerned about the things that we do not consider. With all due respect, and this is not to be condescending, like all bills, this bill is pitched at a very high level and is written by people who are acting on instructions to implement the policy of the government. We can disagree with the policy, but this is what drafters do. What we do not have here is the practitioner input—the person who, on polling day, goes around and buys sausage rolls, pastries and coffees and delivers them to the campaign workers. That is a campaign expense to keep the volunteers hydrated and nourished. When I go around my booths on election day and I am buying —

Hon Matthew Swinbourn: Can I interject?

Hon TJORN SIBMA: Yes, please. I will sit down. Are you standing up?

Hon MATTHEW SWINBOURN: You sat down, so someone has to stand. This was going to be by way of interjection; now it seems much more formal.

When the member talks about sausage rolls and things like that, they are not electoral expenditure. They might be the cost of looking after volunteers, but electoral expenditure is defined under proposed section 175AA. It includes —

> (a) broadcasting an advertisement;
>
> (b) publishing an advertisement in a journal;
>
> (c) displaying an advertisement at a theatre or other place of entertainment;
>
> (d) producing an advertisement that is broadcast, published or displayed as referred to in paragraph (a), (b) or (c);
>
> (e) producing any material (other than an advertisement relating to the election mentioned in paragraph (a), (b) or (c)) that is required under section 187 to include the name and address of the person authorising the material;
>
> (f) producing and distributing electoral matter that is addressed to particular persons or organisations;
>
> (g) paying an advertising agent's or a consultant's fees in relation to the provision of material or services relating to a political purpose;
>
> (h) carrying out an opinion poll, or other research, for a political purpose.

Proposed section 175AA(2) states —

> (2) For the purposes of this Part, electoral expenditure in relation to an election is incurred during the capped expenditure period if it is incurred on goods and services that are to be provided during the capped expenditure period, whether or not it is incurred during the capped expenditure period.

The examples that the member gave were not flippant examples.

Hon Tjorn Sibma: No, there are people on the ground who are volunteers who will have to comply with the act.

Hon MATTHEW SWINBOURN: Yes, but the legislation is quite specific on what electoral expenditure is. Yes, that is a genuine concern of the member, because that is a cost incurred. But the drill bit, for example, would not be a cost incurred. The drill bit is something that someone would normally buy out of their own pocket and would keep after the election. Again, I am not taking it as a flippant thing, because it was a genuine question, but the member was making a broader point.

Hon Tjorn Sibma: Could I use this example, which I think is consistent, by interjection.

The DEPUTY CHAIR: Hon Tjorn Sibma.

Hon TJORN SIBMA: I will stand up; it makes it more formal. Under the definition of electoral expenditure, obviously, then, the production of corflutes absolutely —

Hon Matthew Swinbourn: Have to be authorised.

Hon TJORN SIBMA: They have to be authorised; okay. We know, even at local government elections, there is a lot of scurrilous, scallywag behaviour —

Hon Jackie Jarvis: Maybe on your side!

Hon TJORN SIBMA: No, I would not know about that. It has happened to me; it has happened to others. They get defaced or whatever. We have to replace them.

Several members interjected.

Hon TJORN SIBMA: I have seen Liberal members' bus seats thrown down; it happens across the board on occasion. But a campaign that occurs —

Hon Dan Caddy: You can't trust the Nats!

Hon TJORN SIBMA: I do not know about your blokes either, to be honest! These things happen in the course of a campaign. They are unfortunate, but they happen; we know that. My question then is about the interrelationship or the capacity to hold multiple accounts linked to a centralised account. If, for example, there was a candidate in the seat of Balcatta running against the local member —

Hon Matthew Swinbourn: An excellent member.

Hon TJORN SIBMA: Yes, a good bloke, but the challenger candidate on the night lost 100 corflutes or whatever. That is probably a significant expense, particularly for an independent candidate. In the context of a local campaign linked to a registered party, would that campaign team be able to pay for the replacement of those items through their own account or a linked account, or can expenditure only be made through a singular state campaign account?

Hon MATTHEW SWINBOURN: It is important to understand what electoral expenditure actually is. Hon Tjorn Sibma gave a good example about corflutes. I almost led myself down a garden path at the table by saying, "What if somebody bought some stuff from Coles?" The advice was, "What would you buy from Coles that would fit within the definition of electoral expenditure?" When we think about the kinds of things that relate to electoral expenditure, there is nothing really that one could buy from Coles. We cannot buy broadcast media or advertising from Coles. I suppose someone could buy paper from Coles out of their own pocket, so that might be it, but that would be small fry in the big scheme of things. I think Hon Tjorn Sibma's question is, essentially: if someone incurs an expense and pays for that out of their own money, will it be okay to then seek reimbursement for that out of the state campaign account and will that still satisfy the requirements? There would be accountability for it because a receipt would have been furnished for the reimbursement and, ultimately, the money would come out of the state campaign account, but I do not know the answer to that on my feet.

Hon Tjorn Sibma: Maybe we can discuss it again when we get to the clause.

Hon MATTHEW SWINBOURN: Yes, it might be better to explore that in a bit more detail. The other thing to remember is that it is not a single state campaign account. Candidates, members of Parliament and political entities will have to have state campaign accounts.

Hon TJORN SIBMA: The parliamentary secretary might be able to answer this question when we get to the relevant part. Will it be permissible for a registered party to have a number of state campaign accounts through which electoral expenditure occurs or must it all take place through a single account? I am not sure how WA Labor handles its financial management during the course of a campaign so I will not make any assessment of that, but I can foresee an opportunity to provide flexibility, particularly to regionally based campaigners who might suffer, for argument's sake, from what happened yesterday—that is, a communications failure on the Optus network—or a range of other things. They might attempt to transact through a single account and that potentially could be unachievable or problematic. Might there be subsidiary state campaign accounts linked to an umbrella account or will every transaction have to occur through a single account with a single account holder?

Hon MATTHEW SWINBOURN: Hon Tjorn Sibma used the example of the Liberal Party. The Liberal Party, as a political entity, will have a state campaign account that must be registered with the Electoral Commission. A candidate for the Liberal Party could also have a state campaign account. When we use the term "state campaign account", we tend to think of a singular thing. If a candidate has a state campaign account, it must be registered with the Electoral Commission if they intend to incur electoral expenses. In terms of the possibility within the Liberal Party, with its 59 campaign committees and 59 treasurers and those sorts of things, the Liberal Party will have its state campaign account for running its statewide campaign and then individual campaign committees are likely to have individual state campaign accounts and will take money out of those accounts for their candidate or sitting member. That way, there will be accountability. The flexibility that the member talked about will come into it through that. I do not know whether there is a financial product of a financial institution that could connect those accounts, but those accounts will need to be properly registered with and disclosed to the commission. The commission will be able to tell people as soon as they register whether their account satisfies its requirements in that regard, because financial institutions offer a range of products. I hope that gives the member the understanding that it will not be like the politburo and everybody must go through that one thing.

Hon TJORN SIBMA: I want to go back to the issue of third-party campaigners who incur expenses of $500 or more being required to register with the Electoral Commission. Can the parliamentary secretary explain the process of registration to me? Will someone have to register before incurring $500 of electoral costs or after the fact? Will there be some sort of guidance on how a party might register?

Hon MATTHEW SWINBOURN: The issue here is that it will not be a positive obligation to register; it will be an offence not to, if I can put it that way. Essentially, if someone plans to spend $500, they should register before they incur that expense. In discussing it with the Electoral Commissioner, the agency's motivation is compliance.

For example, if somebody inadvertently spends $500 and then realises that they need to be registered and they subsequently register, it is highly unlikely that there will be any kind of negative action for them because it is an issue of compliance. Obviously, how temporal it is between expending the money and going through the registration process will be relevant.

Hon TJORN SIBMA: Later in the bill I would like to address the rationale for setting the electoral expenditure reimbursement rate at $4.40, because that seems to have been picked out of the middle of the pack. I can wait until we get there.

Committee interrupted, pursuant to standing orders.

[Continued on page 6105.]

QUESTIONS WITHOUT NOTICE

KEYSTART

1390. Hon Dr STEVE THOMAS to the minister representing the Minister for Housing:

I refer to the minister's refusal to provide a simple answer to my question without notice 1375 asked yesterday, 8 November, on the Keystart shared home ownership scheme following the latest official interest rate rise.

(1) Will Keystart loans now have an interest rate of 7.85 per cent, being the official rate of 4.35 per cent plus the fixed margin of 350 basis points; and when will this apply?

(2) If no to (1), what will Keystart interest rates be in exact numerical percentage terms, and when will this apply?

(3) What increase, in dollar terms in monthly repayments, will there be on a $500 000 Keystart loan when the new rate is applied?

Hon JACKIE JARVIS replied:

I thank the member for some notice of this question. The following response has been provided by the Minister for Housing.

(1)–(3) Keystart is a public limited company with a single shareholder, the Housing Authority. Keystart is incorporated under the Corporations Act and is regulated by the Australian Securities and Investments Commission. Keystart will announce any changes to interest rates once it has completed all the tasks required in line with its interest rate setting policy and legal and regulatory obligations. I refer the honourable member to the response provided to question without notice 1375.

GRIFFIN COAL — CONSULTANTS

1391. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Attorney General:

I refer to my questions without notice 1273 and 1301 of 18 and 19 October 2023 on the partnering arrangement between the State Solicitor's Office and Ashurst for the provision of legal advice relating to the foreign-owned and insolvent Griffin Coal.

(1) In the retaining of Ashurst by the SSO to advise on the insolvent Griffin Coal, who or whom wrote the legal brief?

(2) When was the legal brief signed off, and who were the signatories to the brief?

(3) What are the terms of the retainer between SSO and Ashurst, and is there a cap or limit on potential billings by Ashurst?

(4) As at November 2023, how many Ashurst employees or operatives are engaged in or contributing to the partnering arrangement for the provision of legal services for Griffin Coal?

(5) What is the frequency of the billings and invoice structure and the process that Ashurst applies to the partnership arrangement relating to Griffin Coal?

Hon JACKIE JARVIS replied:

On behalf of the parliamentary secretary representing the Attorney General, I thank the member for some notice of the question. The following response has been provided by the Attorney General.

(1) The State Solicitor's Office.

(2) On 2 December 2022.

(3) As the member was previously advised, the State Solicitor's Office and Ashurst are providing legal services under a partnering arrangement. The value and duration of the Ashurst agreement is dependent on the legal services required and the allocation of legal services between the State Solicitor's Office and Ashurst, as determined by the State Solicitor's Office.

(4) Eighteen solicitors from Ashurst have worked on various issues relating to this matter.

(5) Bills are issued at the end of each month in which Ashurst undertakes work on this matter,.

SHARK BAY PRAWN FISHERY

1392. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Fisheries:

I refer to the management arrangements that apply to the harvesting of prawns within the Shark Bay managed fishery.

(1) What communication was undertaken with the Marine Stewardship Council, which has certified the Shark Bay prawn fishery as sustainable based on spatial and temporal closures, before implementing the headrope reduction?

(2) Why is third party accreditation by MSC of any value when the Department of Primary Industries and Regional Development has reduced the effective size of the fishery by 50 per cent?

(3) Does DPIRD have the resources to properly manage an MSC-certified fishery in accordance with the objects of the Fish Resources Management Act?

(4) How is a reduction of 50 per cent warranted when survey results have indicated that western king prawn numbers in 2023 are equivalent to some of the highest numbers seen in the fishery?

Hon PIERRE YANG replied:

On behalf of the parliamentary secretary representing the Minister for Fisheries, I thank the honourable member for some notice of the question. The following answer has been provided by the Minister for Fisheries.

(1) The implementation of the 50 per cent headrope reduction was taken in accordance with the Shark Bay prawn harvest strategy, which is a requirement of MSC certification. There is no requirement to consult with MSC prior to management decisions being taken.

(2) The government's response to addressing sustainability concerns are independent of the MSC accreditation process. The MSC certification process is a quality standard that acknowledges high standards of sustainability management.

(3) Yes.

(4) The catch of western king prawns in 2023 is expected to be well below average, with some improvement in prawn recruitment following management measures introduced at the beginning of the year. The 50 per cent headrope reduction is required to effectively manage the power of the fleet and associated impacts on the stock without the need for ongoing restrictive spatial and temporal management controls.

ATTORNEY GENERAL — LEGISLATIVE WORKLOAD

1393. Hon TJORN SIBMA to the parliamentary secretary representing the Attorney General:

I refer to the Parliamentary Counsel's Office's workload.

(1) How many bills are presently being drafted by the PCO?

(2) Can the Attorney General provide an indication of the number of bills being drafted on behalf of each portfolio minister?

(3) Of the above list, how many bills does the government intend to introduce in —

(a) the remaining sitting weeks of 2023;

(b) the sittings of February to June 2024; and

(c) the spring sittings, August to November, of 2024?

Hon JACKIE JARVIS replied:

On behalf of the parliamentary secretary representing the Attorney General, I thank the honourable member for some notice of the question. The following response has been provided by the Attorney General.

(1)–(3) An answer cannot be provided within the time available today. A response will be provided on the next day of sitting.

POLICE — HOMICIDE SQUAD

1394. Hon PETER COLLIER to the minister representing the Minister for Police:

(1) On 1 January 2023, what was the allocated FTE for the homicide squad?

(2) On 1 January 2023, what was the actual number of officers employed within the homicide squad?

(3) What is the current allocated FTE for the homicide squad?

(4) What is the actual number of officers currently employed within the homicide squad?

(5) How many officers have been seconded from other units to the homicide squad in 2023?

Hon STEPHEN DAWSON replied:

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

(1)–(5) The Western Australia Police Force advises that due to operational sensitivities, staffing information below the district or divisional level is not released.

LANDGATE OFFICES — SALE

1395. Hon NEIL THOMSON to the Minister for Finance:

I note the responses to questions without notice 278, asked on 21 March 2023, and 1332, asked on 1 December 2022, relating to the sale of the Landgate building in Midland; and I refer to pages 89 and 135 of Landgate's *Annual report 2022–23*, tabled on Tuesday.

(1) Can the minister explain why an additional $2.88 million was required for rent of the Landgate building in 2023, when the state had already agreed to fire sale terms?

(2) Which agreement negotiation, as described in the annual report, requires this additional payment?

(3) Is the $2.88 million required for rent in 2023 the only additional payment required to be made to the purchaser following negotiations?

(4) Will the minister table the state's full liability following the sale of the Landgate building for the life of the negotiated agreement?

Hon SUE ELLERY replied:

I thank the member for some notice of the question.

(1)–(4) The value proposition for the 1 Midland Square transaction under the market-led proposals process remains unchanged, avoiding costs of $12 million in net present terms over the life of the lease. Approval of the 1 Midland Square project included funding required for Landgate's temporary leased accommodation while the building is being refurbished. There has been no lease renegotiation or change to lease costs since the government's approval in November 2021. The Department of Finance understands that the lease agreement referred to in the Landgate annual report is the memorandum of understanding between Finance and Landgate. As part of standard leasing procedures, Finance enters into a lease agreement with the landlord and, subsequently, an MOU with the occupying agency, which in this case is Landgate. Lease liabilities for all minister for works leases that Finance manages, including 1 Midland Square, are included in Finance's annual report.

CORONAVIRUS — NURSES — EMPLOYMENT CONTRACTS

1396. Hon BEN DAWKINS to the Leader of the House representing the Minister for Health:

I refer to nurses returning to the workforce post COVID-19.

(1) Have any nurses returning to work with WA Health been asked to sign a contract with a clause gagging them from mentioning adverse events that may have been caused by the COVID-19 vaccine?

(2) If yes to (1), how many contracts with clauses to this effect have been issued and for which hospitals?

Hon SUE ELLERY replied:

(1) Employment contracts issued by health support services on behalf of health service providers are standardised employment contracts. There is no clause within the standardised employment contract gagging nurses from mentioning adverse events that may have been caused by the COVID vaccine.

(2) Not applicable.

PLANNING — URBAN TREE CANOPY

1397. Hon Dr BRAD PETTITT to the minister representing the Minister for Planning:

I refer to the City of Nedlands Trees on Private Land—Scheme Amendment 12 and Draft Local Planning Policy, which was supported by the council at the 28 March 2023 ordinary council meeting and subsequently referred to the Western Australian Planning Commission for review and recommendation.

(1) What is the status of this important scheme amendment and when is a decision by the WAPC expected?

(2) Will the minister support this scheme amendment; and, if not, why not?

(3) Noting that approximately 80 per cent of Perth's remaining tree canopy sits on private land, will the minister look to introduce similar measures into the schemes of all metropolitan local governments to support the protection of urban tree canopy?

Hon JACKIE JARVIS replied:

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

(1)–(3) The department has advised that the referenced scheme amendment is still under consideration and, as such, it would be inappropriate for the minister to comment on the matter.

CANNABIS — EXERCISE

1398. Hon Dr BRIAN WALKER to the parliamentary secretary representing the Minister for Sport and Recreation:

I refer the minister to a recent paper published by neurologists from Colorado and published in the journal *Cannabis and cannabinoid research*, which suggests that cannabis use, up to and including acute cannabis use, may be associated with more positive exercise engagement and outcomes.

(1) Is the minister aware of this research, particularly the conclusions drawn, which suggest that participants in the study experienced fewer negative effects as a result of exercise, better measured outcomes and a greater sense of enjoyment, alongside lower pain levels?

(2) If the minister is committed to better exercise and sporting outcomes for all Western Australians, how might this research influence departmental policy going forward?

Hon SAMANTHA ROWE replied:

I thank the honourable member for some notice of the question. I provide the following answer on behalf of the Minister for Sport and Recreation.

(1)–(2) It is important that Western Australia is aligned to the national and international legislation and policy regarding the use of drugs in sport. The Sport Integrity Australia Act 2020, the Sport Integrity Australia Regulations 2020 and the Australian National Anti-Doping scheme provide the national legislative framework under which states and territories must act.

The minister is committed to better exercise and sporting outcomes for all West Australians, as evidenced by the $20 million increase per year to the community sporting and recreation facilities fund and the doubling of KidSport vouchers to $300.

FIRE AND EMERGENCY SERVICES — TECHNICIANS

1399. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to the ongoing shortage of mechanical technicians within the Department of Fire and Emergency Services.

(1) For each of the following dates, how many mechanical technicians were on duty and available —

(a) Friday, 3 November 2023;

(b) Saturday, 4 November 2023; and

(c) Sunday, 5 November 2023?

(2) For each of the dates identified in (1), on how many occasions was a request for a mechanical technician made?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The Department of Fire and Emergency Services advises that the question requires collating a significant amount of information and additional time is necessary. An answer will be provided to the honourable member by Tuesday, 14 November at the earliest.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

1400. Hon NICK GOIRAN to the minister representing the Minister for Child Protection:

I refer to the answer to my question without notice 1286 on 18 October 2023.

(1) Has the child recorded in the placement type “missing” been found?

(2) For how many days have they been or were they missing?

(3) How many children who are in the care of the CEO have their whereabouts currently recorded as missing?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. The following response has been provided by the Minister for Child Protection. As at 9 November 2023, the Department of Communities advises —

(1) Yes.

(2) For 24 days.

(3) Two children.

PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — LEGAL LIABILITY — BUDGET

1401. Hon STEVE MARTIN to the Minister for Agriculture and Food:

I refer to legal matters involving the Department of Primary Industries and Regional Development.

(1) Is a contingent liability contained in the DPIRD budget for legal costs associated with litigation undertaken by the state?

(2) If yes to (1), what is the total amount put aside for this liability?

(3) Will the minister please provide a list of the litigation covered by this liability?

Hon JACKIE JARVIS replied:

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

(1) No.

(2) Not applicable.

(3) Not applicable.

SYNERGY — SOLAR REWARDS

1402. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Energy:

President, I am popular today.

Hon Stephen Dawson: You're popular every day.

Hon Dr STEVE THOMAS: The President probably is popular every day, as opposed to some other members like me!

I refer to Synergy's fully subscribed 19 000 household Solar Rewards trial incorporating a $50 rebate on their next Synergy bill and an additional $50 credit in a year's time.

(1) When a household participating in the Solar Rewards trial has their solar generation remotely turned off, is the household refunded by Synergy for the cost of the power they utilise during the shut-off period?

(2) If yes to (1), what is the projected total cost of the Solar Rewards trial, including the two $50 payments to participating households?

(3) What percentage of the trial are metropolitan households?

(4) What percentage of the trial are regional households?

Hon JACKIE JARVIS replied:

On behalf of the parliamentary secretary representing the Minister for Energy, I thank the honourable member for some notice of the question. The following response has been provided by the Minister for Energy.

Synergy's Solar Rewards product will be the first opportunity for customers to receive a financial incentive for the orchestration of their distributed energy resources assets. This is a world-leading approach to managing the uptake of rooftop solar and ensures the stability of the south west interconnected system. Solar Rewards gives Synergy the option to temporarily turn off participating households' rooftop solar when electricity demand is low and, instead, provide no-cost energy to the home straight from the grid. Participants receive a financial incentive and bill credits in exchange for giving Synergy permission to switch off their rooftop solar PV system up to 15 times during the contract period from 1 October 2023 to 30 November 2024. Solar Rewards will assist in managing the stability of the SWIS during a low-load event, when the supply of electricity generated by rooftop solar is high but demand is low. This typically occurs in the middle of the day in spring and autumn.

(1) There are currently 2 665 customers signed up to Solar Rewards. Following the service commencement date, a $50 sign-up credit was applied to participating customers' Synergy account. Following the conclusion of the contract on 30 November 2024, a final credit of $50 will be applied to participating customers' Synergy account.

When a Solar Rewards event occurs, participants will continue to have access to electricity from the grid and will receive a credit to cover the cost of electricity consumed during the period of the Solar Rewards event, which is applied on a quarterly basis.

(2) Incentive payments for Solar Reward customers of approximately $450 000 are forecast over the course of the contract period.

President, the answer to question (3) and (4) is in tabular form. I seek leave to have the response incorporated into *Hansard*.

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

(3)–(4)

Total Solar Rewards Customers	2665	
Supply Address Service Region	Number of Customers	Percentage by Region
Perth Metro	2394	89.8%
Regional	271	10.2%
Supply Address Service Region	Number of Customers	Percentage by Region
Perth Metro	2394	89.8%
Country North	74	2.8%
Country South	197	7.4%

FIREARMS — STOLEN

1403. Hon COLIN de GRUSSA to the minister representing the Minister for Police:

I refer to the minister's plan to amend Western Australia's firearm laws and his claim that "Over the past five years, on average one firearm has been stolen in WA every day."

(1) For each of the calendar years 2018 to 2022 inclusive and 2023 to date, how many registered firearms were recorded stolen?

(2) Of those in (1), how many were stolen from each of the following licensee types —

(a) dealers/gunsmiths;

(b) the Western Australia Police Force;

(c) the Australian Defence Force;

(d) collectors; and

(e) in transit?

(3) For each of the calendar years 2018 to 2022 inclusive and 2023 to date, how many firearm theft charges were prosecuted in WA Courts?

(4) Of those in (3), how many convictions were recorded?

Hon STEPHEN DAWSON replied:

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

The Western Australia Police Force advises that due to the detail required in the answer, it has not been possible to finalise a response today within the required time frame. An answer will be provided to the honourable member on Tuesday, 14 November.

POLICY TASKFORCES

1404. Hon TJORN SIBMA to the Leader of the House representing the Premier:

I refer to the recently announced housing supply unit.

(1) How many other policy taskforces have been established under the McGowan and Cook administrations?

(2) What is the cost of these taskforces?

(3) When can Western Australians expect to see this government take action on other issues affecting them, such as reducing the cost of living, fixing the broken health system and keeping repeat violent offenders behind bars?

Hon SUE ELLERY replied:

I thank the member for some notice of the question.

(1)–(2) The housing supply unit is part of the Department of Treasury. It is not a taskforce. I note that peak bodies and representatives of the housing sector in WA have welcomed the establishment of the housing supply unit, with the CEO of the Real Estate Institute of Western Australia saying —

> "A specific unit actively monitoring factors like market data, population growth and the economy will help develop responsive and proactive policy …
>
> "The Government has clearly recognised the effect housing supply is having on the market. It has already announced several initiatives to boost supply and we commend this additional action."

(3) This Labor government's support for Western Australians is incomparable to the neglect shown by the Liberals and Nationals WA. Under this Labor government, thousands of dollars of cost-of-living support, including four household electricity credits, have been provided to households, funding for WA's health system has increased by over 30 per cent and over 3 000 additional nurses and 1 400 additional doctors have been employed. In addition, over 400 additional police officers have been employed and the number of reported criminal offences has decreased by 12 per cent in 2022 compared with 2016.

When the Liberals and Nationals were last in government, they oversaw record increases to household fees and charges, a decrease in the number of nurses and frontline health workers in our hospitals and record levels of crime.

CORRECTIVE SERVICES — ON-COUNTRY RESIDENTIAL FACILITY

1405. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Regional Development:

I refer the minister to question without notice 562 asked on Thursday, 18 May 2023.

(1) Is the Marlamanu on-country diversionary facility operational?

(2) If no to (1), why not and when will it become operational?

(3) What is the capacity of the participants at the facility?

(4) Have the specific periods of operation for the facility been finalised; and, if not, why not?

Hon PIERRE YANG replied:

I answer on behalf of the parliamentary secretary representing the Minister for Regional Development. I thank the honourable member for some notice of the question. The following answer has been provided by the Minister for Regional Development.

(1)–(2) No. A draft operational plan has been developed by the proponent and is under consideration by the government. The construction and commencement of operations remains subject to funding approval.

(3)–(4) Specific capacity and specific operating periods will be finalised on confirmation of the funding allocation. It would be premature to specify these details in advance of a decision on funding.

WESTERN AUSTRALIAN PLANNING COMMISSION — STATE DESIGN REVIEW PANEL

1406. Hon NEIL THOMSON to the minister representing the Minister for Planning:

I refer to the *Western Australian Planning Commission: Annual report 2022–23*.

(1) How many times did the State Design Review Panel meet in 2022–23?

(2) How many development proposals were considered in 2022–23?

(3) How many recommendations in (2) were provided to —

(a) the WAPC; and

(b) the joint development assessment panels?

(4) Why did the chair of the State Design Review Panel attend only one meeting?

(5) Why have a number of members of the SDRP not attended a single meeting?

Hon JACKIE JARVIS replied:

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

The minister advises that an answer is unable to be provided within the time allocated, and a response will be provided during the next sitting day, Tuesday, 14 November.

FIREARMS ACT — REFORMS

1407. Hon BEN DAWKINS to the minister representing the Minister for Police:

I refer to the proposed firearm reforms and the power for police to revoke a firearms licence if the holder has "dangerous views and opinions".

(1) Will the minister provide a list of defined "dangerous views and opinions"?

(2) If no to (1), will the Commissioner of Police of the day subjectively decide what is a dangerous view or opinion?

(3) If no to (2), how will "dangerous views and opinions" be defined?

Hon STEPHEN DAWSON replied:

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

(1)–(3) The Western Australia Police Force advises that the term "dangerous views and opinions" does not appear in the consultation paper and nor is it used by the agency in regard to the reforms to the Firearms Act. However, the terms "views and opinions" will be used in the fit-and-proper test for a person's suitability to hold a firearms licence and will be assessed with regard to public safety.

FAIR WORK LEGISLATION AMENDMENT (CLOSING LOOPHOLES) BILL 2023 — LOBBYING

1408. Hon Dr BRAD PETTITT to the Leader of the House representing the Premier:

I refer to a letter sent by the Premier on Friday, 20 October 2023 to Prime Minister Anthony Albanese to, according to my notes —

> … highlight concerns raised by the Western Australian resources industry in relation to the provisions of the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 (the Bill), and in particular the reforms relating to labour hire, contract and casual workers.

In the period prior to the letter being sent, was the Premier lobbied on the bill by —

(a) any representatives from resources companies or peak industry associations, and what were their names;

(b) any representatives from consultancy or lobbyist firms, and what were their names; and

(c) which other ministers or staff attended these meetings?

Hon SUE ELLERY replied:

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

(a)–(c) The Premier's letter highlighted concerns raised by the Chamber of Commerce and Industry WA, the Chamber of Minerals and Energy of Western Australia and a number of major Western Australian resource companies in their public submissions to the Senate's Education and Employment Legislation Committee. Although the Premier meets with representatives from businesses and organisations across all sectors of the community on a daily basis, no meetings relating to the commonwealth's proposed bill have taken place.

CANNABIS — ORGAN DONATION

1409. Hon Dr BRIAN WALKER to the Leader of the House representing the Minister for Health:

I refer the minister to the Human Tissue and Transplant Regulations in Western Australia and to any associated guidelines of which the Department of Health is aware.

(1) Are there any regulations or guidelines that would prohibit a cannabis user from serving as an organ donor or being eligible to receive a transplant purely on the grounds of their cannabis use?

(2) If yes, will the minister please provide a list of such regulations and the reason behind their individual adoption?

Hon SUE ELLERY replied:

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

(1) No.

(2) Not applicable.

FIRE AND EMERGENCY SERVICES — EMERGENCY CALL CENTRE

1410. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to the Department of Fire and Emergency Services communications centre.

(1) How many 000 lines does DFES have active?

(2) In the event of a system failure or malfunction, how is the 000 system maintained, and how many backup lines are available?

(3) For October 2023, can the minister please identify the dates and times when the main 000 lines were not available and backup lines were required?

(4) What specific measures is the state government undertaking to ensure the communications centre has sufficient phone lines to respond during emergencies?

Hon STEPHEN DAWSON replied:

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

(1)–(4) The Department of Fire and Emergency Services advises that the DFES emergency call centre has eight 000 lines. In the event of a system failure, DFES has eight additional redundancy lines that are available

at an alternative facility. DFES also has eight mobile phones that are available should either facility be impacted. DFES continually monitors 000 call volume data. Based on that data, DFES does not require any additional lines. At no time in October 2023 were the 000 lines unavailable and therefore a backup was not required.

VIOLENT SEX OFFENDERS — PAROLE

1411. Hon NICK GOIRAN to the minister representing the Minister for Police:

I refer to the minister's answer on 12 October 2023 to my question without notice 1223 that endeavoured to provide an explanation to the prima facie inaccurate answers given in August and September regarding return to prison warrants. On what date between 31 August 2023 and 12 September 2023 did the Western Australia Police Force first learn that the offender whose return to prison warrant had been outstanding for more than 2 100 days was in custody in NSW?

Hon STEPHEN DAWSON replied:

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

The Western Australia Police Force advises that the agency received confirmation that the offender was in custody in New South Wales on 19 September 2023.

FOREST MANAGEMENT PLAN 2024–2033 — SIGN-OFF

1412. Hon STEVE MARTIN to the parliamentary secretary representing the Minister for Environment:

I refer to the forest management plan and note that there are only about 50 days until the end of the term of the current FMP.

(1) Has the minister received the report on appeals against EPA report 1745 from the Appeals Convenor; and, if not, when does he expect to receive it?

(2) Does the minister expect to have the FMP signed off and gazetted prior to 31 December 2023?

(3) Does the minister have a contingency plan in place if the FMP is not signed off prior to 31 December?

(4) If yes to (3), can the minister outline the contingency plan?

Hon DARREN WEST replied:

I thank the member for some notice of the question. On behalf of the Minister for Environment, I provide the following answer.

(1) The appeals committee is expected to report to the Minister for Environment by the end of November 2023.

(2)–(3) Yes.

(4) The Conservation and Land Management Act 1984 provides that a management plan that would otherwise expire shall, unless it is revoked, remain in force until a new plan is approved. The *Forest management plan 2014–2023* will remain in effect until such time as it is revoked and *Forest management plan 2024–2033* is approved by the Minister for Environment and published in the *Government Gazette*.

COLLIE HOSPITAL — ANTIVENOM

1413. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Health:

I refer to the WA Country Health Service's Snakebite Management Guideline, current from 25 July 2023. I ask the following questions as at 7 November 2023.

(1) Has Collie Hospital had its standard stockholding of one vial of antivenom for brown snake and one vial of antivenom for tiger snake available for use each day over the last two months?

(2) If no to (1), on what dates have the antivenom stocks not been available, and which antivenom was not in stock?

(3) Have any snakebite victims, with Collie being their nearest direct hospital, been redirected to Bunbury Hospital at South West Health Campus due to the unavailability of snake antivenom at Collie hospital in the last two months?

(4) If yes to (3), on what dates were the victims redirected and to where?

Hon SUE ELLERY replied:

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

(1) Yes.

(2) Not applicable.

(3) No.

(4) Not applicable.

SHEEP INDUSTRY

1414. Hon COLIN de GRUSSA to the Minister for Agriculture and Food:

I refer to my question without notice 1072 regarding the meat processing capacity constraints and market conditions that currently prevail within the Western Australian sheep industry.

(1) What industry groups has the minister met with specific to this issue since 19 September 2023?

(2) Can the minister outline the analysis that has been undertaken by the Department of Primary Industries and Regional Development to ascertain the scale, potential economic impacts, animal welfare implications and mental health concerns that have arisen as a result of this issue?

(3) What strategies have been put in place to address these issues?

Hon JACKIE JARVIS replied:

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

(1) I meet with industry participants regularly. Since 19 September 2023, I have been briefed by industry representatives and advocacy groups at a round table on dry season response arranged at my request by the Department of Primary Industries and Regional Development. I have also met with the Western Australian Meat Industry Authority and Minerva Foods. In addition, I have had discussions with red meat producers and processors at a number of events since 19 September 2023, including: the Perth Royal Show presidents dinner; the Pastoralists and Graziers Association of WA conference; the Kimberley Pilbara Cattlemen's Association conference in Broome; and at industry events in Mt Magnet, Kalgoorlie and Esperance. Most recently, I spoke with The Livestock Collective at the Farmer on your Plate event on Saturday, 4 November 2023.

(2) The Western Australian Meat Industry Authority and senior staff from DPIRD are in contact with meat processors in Western Australia to monitor overall capacity for processing of sheep in WA and to identify issues that might limit ongoing capability or expansion. DPIRD continues to utilise its industry networks and intelligence to monitor the situation.

(3) A dry season response team has been established by DPIRD that is monitoring and providing support to the WA livestock sector. This includes provision of technical information on how to manage sheep in the current season. Information from the round table has been integrated into the dry season response.

ARMADALE RAIL LINE — CLOSURE

1415. Hon TJORN SIBMA to the minister representing the Minister for Transport:

I refer to yesterday's question regarding the minister's correspondence with People with Disabilities (WA). Can the minister please table the written response that was provided to PWD (WA) on 20 October?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. I note that the printed answer has the wrong date on it but I am sure that the answer is correct. On behalf of the minister representing the Minister for Transport, I table the correspondence.

[See paper 2794.]

FIREARMS ACT — REFORMS

1416. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer to the proposed reforms to the firearms laws.

(1) What is the estimated cost of the required IT system to cope with the increased administrative burden that will be placed on the Western Australia Police Force to track compliance?

(2) What is the estimated compensation that will need to be paid to firearms owners who will be required to surrender their firearms under the proposals?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. On behalf of the minister representing the Minister for Police, the following information has been provided by the Minister for Police.

(1)–(2) A response is not able to be provided to the honourable member as funding issues related to the Firearms Act 1973 reform are subject to cabinet confidentiality.

FIREARMS ACT — CONSULTATION

Question without Notice 1343 — Answer

HON JACKIE JARVIS (South West — Minister for Agriculture and Food) [5.03 pm]: On behalf of the Minister for Emergency Services, I wish to table a response to Hon Louise Kingston's question without notice 1343 asked on 7 November 2023.

[See paper 2795.]

DISTINGUISHED VISITORS — COOK ISLANDS PARLIAMENT

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [5.04 pm]: Before we return to orders of the day, on behalf of all members, I would like to say kia orana and extend a warm welcome to the Legislative Council to two visitors from the Cook Islands Parliament. Ms Tai Manavaroa, Deputy Clerk, and Ms Sarah Takairangi, Chamber Clerk, have spent the week at our Parliament as part of an attachment supported by the Pacific Parliamentary Partnerships Fund. The Parliament of Western Australia has a longstanding and warm relationship with the Cook Islands Parliament, spanning over 25 years. During this time, we have engaged in capacity-building and knowledge-sharing across the two Parliaments. In recognition of this relationship, Ms Manavaroa has joined us today at the Clerk's table to observe question time. Welcome to you both.

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Committee

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

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

The DEPUTY CHAIR (Hon Dr Brian Walker): We are still asking the question whether clause 1 do stand as printed.

Hon TJORN SIBMA: Deputy chair, we are still asking that question, I assure you.

Before the interruption, I highlighted some preliminary questions about the establishment of a higher reimbursement rate for electoral expenditure. I said that we would potentially get to the setting of the limit in the appropriate place, but some extensive justification for increasing the rate is in the second reading speech. I note that it has not changed in 17 years, and the Minister for Electoral Affairs conceded that all political parties and candidates will have to comply with the new administration system, which is likely to be expensive. The increase is justified because it is stated that the existing rate of $2.26 is not sufficient to assist people to comply. Remarks were also made about the essential elements in a vibrant democracy, and it was noted that candidates will have to spend money to communicate their intentions and those intentions should not be solely funded by private means. The intent here is to avoid an undue reliance on private funding, and a justification is provided for a partial public funding of candidates; it is a system that we have at the moment.

The curiosity, though—it is something I think is probably superfluous to the bill, but I want to know how it actually corresponds with the policy intent—is the following provision —

> Existing political parties and elected non-party members will have 28 days from the commencement of this legislation —

I presume that we will get to that at clause 2 —

> to opt in to receive the higher reimbursement rate.

If there is such a good argument for increasing the rate, why would there be a need to opt in to it, especially if one of the justifications for increasing the rate is that we all must comply with these new dimensions? Can the parliamentary secretary helped me reconcile the need to include this kind of clause? Indeed, is the inclusion of this clause in the bill absolutely germane and critical to delivering on the policy of the bill?

Hon MATTHEW SWINBOURN: Not all political parties will want to take up the opportunity. It is conceivable that some political parties or participants do not agree with the public funding of political parties in their entirety. Some might not agree that the amount between the $2.26 to the $4.40 is appropriate. From that basis, they have choice to opt in to receive it or not. The Minister for Electoral Affairs made comments in the other place about the motivations for including them. I do not have anything further to add to his comments, but in terms of what it does and a rationale for it, that is certainly the case.

Hon TJORN SIBMA: There seems to be no consistent, mature justification for this inclusion. Regarding the hypothesis that some parties or candidates might not want to avail themselves of it, I do not know how that opinion might be formed, noting there has been absolutely no consultation with anyone. That notwithstanding, what is the

purpose in setting a 28-day deadline, noting that at least insofar as individual candidates are concerned, many might not have made up their minds whether they will run at the election? I read this to mean 28 days from 1 July. Would that be a fair assessment?

Hon MATTHEW SWINBOURN: The 28 days to opt in is not a catch-all for everyone. On commencement of the bill on 1 July 2024, existing political parties will have 28 days to opt in. It has been established that there are currently seven registered political parties, so it will be those seven registered political parties. It is also possible that by 1 July next year there may be additional registered political parties, and they too would need to opt in after that time. After that, if a party becomes registered after the commencement of the scheme, they would then have to opt in 28 days from their registration date to receive the additional funding. New political parties have 28 days from the time of registration to opt in, which comes under proposed section 175LC, and non-party candidates in an election will have until the close of nominations, and that is in proposed section 175LCA.

Hon TJORN SIBMA: I turn to the unnecessary design of this. Was the Solicitor-General asked to provide a legal perspective on whether inclusion of this opt-in or opt-out provision was lawful?

Hon MATTHEW SWINBOURN: As the member can appreciate, we do not disclose the nature of advice that has been given to us by the Solicitor-General. We have done it in the justification statement. In that regard, we have provided context, but more generally we will not provide specific reference to whether the Solicitor-General has given us advice.

Hon TJORN SIBMA: I take the parliamentary secretary at his word, but I assume that the origins of this are some political calculation best known in the recesses of the mind of the Minister for Electoral Affairs. He recounted to me a story—I do not know whether he elaborated upon this in the other place. He drew my attention to a cartoon in *The West Australian* of 31 October 2003 depicting an attempt to do a deal on public funding, and it had three little piggies at the trough with the faces of the then respective leaders of the major parties, being Hon Geoff Gallop, Hon Colin Barnett and Max Trenorden, as well as two other little piggies from One Nation and the Greens, and they were all sucking. I think he wanted to avoid that kind of accusation again but I believe this is some sort of juvenile undergraduate trickery; if you come out and oppose this bill, and your party apparatus then opts in, you are hypocrites. I think the minister, as much as I find him entertaining, is actually better than this and should be held to a higher standard. I will not take up more of our time on this matter in this clause.

Very quickly, before we get off clause 1—I think we can get off clause 1 by members' statements tonight; what an achievement!—I want to understand the philosophical or evidentiary basis upon which the parliamentary secretary believes it is necessary for us to register in this jurisdiction how-to-vote cards. Reference is made to the global phenomena of increasing misinformation and disinformation. Has any misinformation or disinformation been evident in the construct of how-to-vote cards issued at the last state election, for example?

Hon MATTHEW SWINBOURN: We do not have any specific examples from the Western Australian election. I think we were informed from activities that had happened on the east coast. I cannot get into any more detail than that because I am not familiar with it. I do not think it is in relation to misleading people; it can be the other material that is included with the how-to-vote card or making a statement about how people propose to preference and then proceeding to produce material that goes completely against that particular thing. As I say, to be straightforward with the member, it is mostly informed from activities that have happened outside the Western Australian jurisdiction.

Hon NEIL THOMSON: I just want to touch on the inclusivity provisions within clause 1. There were some questions and I note I was detained with some urgent parliamentary business relating to planning a little earlier. I know some responses were given about who advised; I believe that has already been done on the inclusivity provisions. Could I get an elaboration on the advice that was given and whether any consideration was given to persons in remote Western Australia in the general sense?

Hon MATTHEW SWINBOURN: Not specifically, member. Obviously, some provisions of the act already deal with making provisions for people with remoteness in terms of mobile voting, postal voting and those sorts of things. It was not a case of who to exclude; it was building it up. Obviously, we started with the most disadvantaged people in our society, which includes Aboriginal people who live in remote areas.

Hon NEIL THOMSON: Yes, that matter has been raised here. We noted the increased enrolment that occurred recently when we compared the enrolments in March and October. I suppose the question is whether there is capacity to provide any analysis of the disadvantage that occurs in regional Western Australia. I note a calculation that I have done and presented, obviously, to Electoral Boundaries WA.

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

ISRAEL–HAMAS CONFLICT

Statement

HON KLARA ANDRIC (South Metropolitan) [5.21 pm]: I rise tonight to speak on an issue that is very close to my heart. I stand before you as a migrant and as a member of Parliament whose homeland was destroyed by the

devastating impacts of war. It is precisely the destruction of my homeland and its people who drove me to this place where I stand today. Seeing the devastation and the conflict and the impact it has on civilians was made clear to me at a very young age. The war that unfolded across former Yugoslavia remains etched in my memory to this day. As I stated in my inaugural speech —

> In some parts of the world, including the Balkans, where I come from, politics does not always serve its true and intended purpose. Indeed, sometimes it is politics that causes destruction and the devastation of its people.

I am at a complete loss as to how to describe what is happening in the Middle East. The images unfolding before our eyes leave me feeling paralysed. The horrifying footage fills my heart with a profound sense of distress, pain and grief. Let me begin this statement by saying that my heart breaks for every innocent casualty on both sides of this war. I mourn the innocent Israelis killed on 7 October and condemn the killing and kidnapping of innocent civilians by Hamas. At the same time, my heart breaks seeing the killing of innocent men, women and children in Palestine, which I also condemn. The death toll in Palestine is over 10 000. Over 4 000 of these lives lost are innocent children. These victims are not just numbers. Every single person who lost their life had a name, a face, a story, dreams of a better future and families who loved them dearly. The horrific frequency of children being killed is now so extensive that parents are writing the names of children on their little bodies in the hope that they can be identified after an air strike.

To put this simply, no parent, no person, no-one should ever have to do this. Israel must take every step to protect innocent lives. Innocent Palestinian civilians should not be forced to pay the price for Hamas's crimes. That means that Israel must adhere to both international law and the rules of war, as noncompliance will lead to ongoing civilian deaths. Upholding international law is essential to protect the innocent people of Palestine. Article 77 of the fourth Geneva Convention states —

> 1. Children shall be the object of special respect and shall be protected against any form of indecent assault.

The United Nations Security Council deems the killing and maiming of children as a grave violation against children in times of war.

The humanitarian situation in Gaza is dire and human suffering is widespread. The killing of innocent women, children and babies must stop! In the name of all lives, I ask and I plead that humanity be restored. Members, it is incumbent upon us to stand together in the name of humanity and call for an immediate humanitarian solution to end the suffering and despair that is unfolding before our eyes.

AKECH MAKUR CHUOT

Statement

HON AYOR MAKUR CHUOT (North Metropolitan) [5.26 pm]: I would like to acknowledge and say thank you to Hon Klara Andric for her contribution on that very important situation that is happening in our community at the moment.

This is something that is very new for me and that I have never done before, but I would like to take a moment to share the journey of my younger sister, Akech Makur Chuot, who was a football player in the Australian Football League. On 26 October this year, Akech announced her retirement from footy, which has really shocked many people in our community. It does not mean that I am too old, but she is my younger sister. She is still very young; she should not have retired!

Her passion for sport began at the age of 11 when she started playing soccer in Balga when we first arrived in Australia. I remember Akech spending many hours practising and making sure that she got any opportunity to kick a soccer ball. One of them was her joining the men's teams in Balga. Akech played soccer and was chosen to represent the state school girls team in China that year. As her older sister, I have been privileged to watch her grow to be an amazing star in the community and to witness firsthand the dedication and hard work she put into soccer.

Despite her remarkable talent in soccer when she was growing up, Akech had limited opportunities in soccer. However, she did not let that hold her back. Instead, she made the bold decision to switch to AFL, which was something new. I remember that we did not have AFL when we were in the Kakuma refugee camp; we grew up with soccer and basketball, so AFL was very new. The reason she did that was that she wanted to find better opportunities for herself.

In 2017, she made history by being drafted by the Fremantle Dockers, becoming the first African women's AFL player. Unfortunately, she was delisted at the end of the season and faced two seasons without a spot in the competition, but that did not really discourage her. She remained determined to continue her football journey.

In 2018, Akech relocated to Melbourne and joined the Carlton Football Club, which was a really heartbreaking decision for her, because my mother is very attached to my sister, and it was sad to let her go. We had to support her, because that is what she loved doing. Her hard work and dedication paid off when she was listed in the inaugural

Richmond Football Club AFL Women's team in 2020, where she settled into her career and played 17 games for the club. She then joined Hawthorn Football Club in 2022, where she also played 17 games. Despite facing numerous challenges, including being delisted three times and playing for three different AFL clubs, Akech has shown incredible resilience and determination. She has become an ambassador for Cadbury, BHP, Telstra and Australia for United Nations High Commissioner for Refugees, using her platform to raise awareness for important causes and make a positive impact on her community.

As Akech's older sister I have seen firsthand the challenges she has faced, and not just in terms of cultural differences and expectations. Where we come from, women are not allowed to kick a ball. Akech had so many meetings with aunties when she started her career. There was also a lack of opportunities available to girls and young women from migrant backgrounds and it is much harder for people who come from disadvantaged backgrounds. Akech's journey has been a testament to her strength and determination to overcome these obstacles and succeed in a sport that she loves. I am incredibly proud of my sister for paving the way for young black women and girls in AFL in Australia. She has shown that anything is possible with hard work, dedication and resilience. I am a bit emotional, because I am the sister who has had to pick up the phone when my sister has had a bad day. One of the things I say to my sister is, "Remember, you're going to that workplace", or whatever particular place. I say, "Those people are going for the same reason—white or black. They want to make a living for themselves. Don't look for those racists. Focus on what you do." That is what I have been doing with my sister.

Although there is still much work to be done in Australia to promote diversity and equality, even for white women, young women are still struggling to make ends meet in football. How will getting paid $60 000 benefit a player if they break their leg one day? We talk about equality in Australia, but we still do not have that. I hope that we keep fighting. My sister started from a very low pay to get to her current position. We are getting better, but we can do much better so that our women do not have to retire so young. My sister is retiring and white young people are retiring from sport clubs in Australia because they have to work two or three jobs to put food on the table for their families. Remember, the game requires a lot of commitment, because athletes have to be committed in order to achieve what they can achieve. Imagine having other jobs on the side. They are not able to make a career. As a member of Parliament, I am a big fan of seeing change in women's sport, in particular in the AFL. It is a new game, but we can do better.

My sister's achievement has served as an inspiration to all of us. Akech, well done. I am so proud of you. I know you are watching; I am really proud of you. Just know that it is not easy being the first. As a member of Parliament of South Sudanese heritage, I see myself as an information hub. Sometimes, people come to me so that I can tell them what is happening in the government, how we can help the community and face challenges. I did not face that challenge here, because I am very privileged to be part of a very progressive government that supports me. Thank you so much for giving women of colour the assurance that it is okay to be different. I have read your letter to your young self, which is so powerful. It has not been easy for you as a young person, particularly being a woman of South Sudanese heritage playing sport, and the challenge of trying to fit into the system is a bit difficult when you are new to the country. It has not been easy for you, but you have done it for my kids and many other kids in the community, so thank you.

BATTLE OF CRETE MEMORIAL

Statement

HON DAN CADDY (North Metropolitan) [5.35 pm]: Last weekend, despite being at a conference for most of the weekend, I managed to slip out to an incredibly important event in Kings Park. On Saturday morning we had the sod turning for the Battle of Crete Memorial, which is to be erected in the Saw Avenue precinct. Also in attendance were Patrick Gorman, MHR, and Hon Paul Papalia, CSC, in his capacity as Minister for Veterans Issues. The star of the show, without doubt, was Mr Arthur Leggett, OAM—WA's own living legend, who I have spoken about many times in this chamber and who is the last Western Australian survivor of the Battle of Crete, so many years ago.

This is an important step in the critical path for the construction of this memorial. The designer—Smith Sculptors—which is world-renowned for its memorials, such as the memorial in Geraldton for HMAS *Sydney* and another one further up the coast, the name of which escapes me at the moment—has created a memorial that aptly pays tribute to the Australian and Greek combatants of that battle, as well as the local Cretan population.

It has been a long journey for the hardworking committee members of the Battle of Crete Memorial committee, and I would like to name those members. I hope I do not miss anyone; apologies if I do. The committee is made up of Major Mike McDonald (Ret.); former Governor Dr Ken Michael, AC; Dr John Yiannakis, OAM; Mr John Dombrose; Commander Phil Orchard, AM (Ret.); Mrs Catherine Papanastasiou; and Mr Manoli Yeroyianakis. It has been an incredible effort by all of them.

It has taken nearly eight years to get to this stage. During the last 18 months I have been quite involved with the committee as it jumped the final hurdles to get everything approved. Indeed, this committee was first referred to in Parliament, in the other place, on 30 June 2016 by the former member for Perth.

I am pleased to say that the turning of the sod means it is now full steam ahead for the construction of this memorial. All plans have been approved and everyone is on board for what will be a spectacular addition to the Saw Avenue precinct. But it is also important to reflect that this is a critically important link for the Greek community in Western Australia. Indeed, just the weekend before, I was at Kings Park for the Ohi Day commemorations with my good friend Simon Millman, MLA. We were talking to the Greek Consul and other senior members of the Greek community about this memorial and the fact that now everything is happening and all the plans and designs have been approved and we are ready to go. The importance of this memorial to those senior members of the Greek community cannot be overstated.

I look forward to viewing the new memorial—hopefully, early in the new year—and reporting back to the chamber on its completion. Thank you.

ISRAEL–HAMAS CONFLICT

Statement

HON LORNA HARPER (East Metropolitan) [5.38 pm]: I rise tonight in solidarity with my sister Hon Klara Andric after the powerful, personal and very emotional speech she gave. I would like to read from another powerful, personal and emotional speech given by Senator Fatima Payman in the Senate a few weeks ago. It states —

> The killing of innocent civilians in Israel should be condemned and we condemn it. The killing of innocent civilians in Palestine should also be condemned and we must condemn it.
>
> The international community loudly and proudly condemned Russia's occupation of Ukraine when it started attacking Ukraine in 2014 yet today the world watches as the state of Israel deprives the entire population— men, women and children—of the basic necessities of life: food, water, electricity, gas and medicines. We must condemn it.
>
> Israeli missiles strike residential dwellings, civilians, multistorey apartments, health facilities as well as places of worship, indiscriminately killing men, women and children. We must condemn it. Human Rights Watch confirms that Israel is using white phosphorous in Gaza. That violates the international humanitarian law prohibition. We must condemn it.
>
> The price tag of Israel's right to defend itself cannot be the destruction of Palestine. Israel's right to defend its civilians cannot equate to the annihilation of Palestinian civilians.

Alongside many world leaders and experts, Fatima then went on to call for an immediate ceasefire to come into effect. She continued to state —

> Food, water, medicine and humanitarian aid need to be allowed to get through and reach the victims. Mediation and talks need to start, as obviously violence has not solved anything for the past 75 years, and a just and long-lasting solution needs to be sorted out.

Fatima spoke about that a few weeks ago. As Hon Klara Andric has said, the situation has got worse, not better. There have now been over 10 000 Palestinians killed with 40 per cent being children. We now have the United Nations Human Rights Chief saying that the UN has suffered the highest loss of life in its history in one operation. The death toll of humanitarian workers from a single military operation has been the highest in the organisation's history. Not only are the men, women and children of Palestine suffering and being decimated, but the people who are meant to help them are also being attacked and decimated. We have all seen hospitals and refugee camps on the news.

Again, I stand with my sister Hon Klara Andric. Violence on both sides should be condemned. We do not support it at all. What we do support is a pause. Let us sit and take a breath and hopefully get some more humanitarian aid to the people of Palestine. Let us sit and have some people have a discussion so that we can, hopefully, end this horrible conflict.

Another thing that I would quickly like to say is that I am so proud to be standing here with so many women of character, strength, emotion and power. Hon Ayor Makur Chuot talked about her sister and what is happening and how she has come from a refugee camp to where she and her sister are today. That is a testament to her, as well as Hon Klara Andric, coming from her background. As women, we need to keep standing up and saying what we believe in. We believe that we should talk more and fight less. Thank you.

HOUSING REFORM

Statement

HON DR BRAD PETTITT (South Metropolitan) [5.43 pm]: Before I start, I want to acknowledge the members' statements that were made before mine tonight. They have been extremely powerful and I am thankful for them. I just want to make a brief statement in response to the recent announcements around housing. I have been contemplating today how to respond to them. First of all, I am really pleased that the minister and the Leader of the House have talked about needing to pull new levers around how we do housing reform. I welcome that and

that has been really encouraging, and I want to acknowledge that. Pleasingly, I think there is now acknowledgement that building our way out of the housing crisis is not going to get us there quickly enough. The numbers around that are really stark. Although building new houses is really important, there is a really serious crisis right now.

It was good to see the government pull two levers in the last couple of days. Yesterday, the government announced its rent relief program for eligible tenants who are at risk of eviction, which, at the heart of it, is a really good thing to do. At the heart of my speech today is a concern that I want to highlight to Parliament and everyone. We need to make structural changes and not just throw money at a short-term problem without fixing the structural issue. Importantly, the rent relief program will try to deal with a structural issue that sits before us, but these programs are in danger of being bandaid solutions to the structural problem if we do not deal with the long-term issues. To put this in context, this country has long had a national rental affordability scheme, but it is coming to an end. Weirdly, there has been no conversation about rebooting that scheme, whether that be with a state affordability scheme for rentals or as part of a national one.

We need long-term approaches to this issue. What was announced yesterday, which, again, I welcome, will only pay someone's rent for three months to help them get over a hurdle. It will not fix the fundamental problem, which is that the private rental market is, frankly, unaffordable for many people. That structural unaffordability will continue for many years ahead. In fact, all the numbers coming out suggest that it will get worse before it gets better because the rental shortfall is growing between 4 000 and 5 000 dwellings a year. It is estimated that we will have a shortfall of between 20 000 and 25 000 dwellings by 2026 or 2027. Although the intervention that provides three months' rent relief is important to deal with an immediate crisis, it will not deal with the fundamental problem.

A similar thing can be said about the Airbnb reforms that were announced today. Again, they are really welcome. I know that everyone in this place regularly puts up with me talking about the importance of going from the short term to the long-term market. Seeing the minister pull that lever is important, but after contemplating today's announcement, I do not think that a one-off $10 000 payment to Airbnb property owners is the way to solve this issue. In fact, *The West Australian* highlighted the Leader of the House acknowledging that it was likely to only incentivise the return of 270 houses to the long-term market. That is fewer than 300 houses when, as I said before, we are looking at a crisis of a shortfall of around 20 000 houses. Interestingly, there are between 20 000 and 25 000 short-term accommodation dwellings available on the market.

Rather than the approach of a one-off $10 000 payment for one year, which will certainly benefit Airbnb property owners, surely it would be smarter to have a series of both carrots and sticks. A very big carrot is being given to Airbnb accommodation owners because they will get $10 000 each. But where are the sticks that say that if a person keeps their property on the Airbnb platform, they will pay a higher rate of rates or tax or some other kind of disincentive to encourage them to put their houses back on the long-term market for more than just one year? This crisis is not a one-year crisis; it will be a multiple-year crisis. My concern about the $10 000 payment is that it will apply to only 270 or 300 houses and, ultimately, most people will not want to take their homes across to the rental market for just one year. If they transition from the short term to the long term, they will want to do that over multiple years. In fact, some of the commentary has been very much about that. It would seem like a smarter use of taxpayer money rather than funding short-stay property owners who, frankly, are doing very well out of Airbnb, Stayz or whatever other short-term platform they are using. We need a proper mechanism that will result in those properties returning to the rental market long term.

Those are two examples over two days. I do not want to talk down what the government has announced. I am pleased to see the government pull those levers. But I appeal for proper, long-term sustainable solutions that will fix our housing crisis. Throwing short-term bits of money at these issues will have a small and direct impact, but not one that will be sustainable in the longer term and ultimately fix the fundamental structural problems. Rents will continue to be extremely high for many years into the future because our construction industry simply cannot build at the rate required to change that. We need levers that will drag short-term accommodation to the long-term market for a sustained period, well beyond 12 months. Those things are obviously fundamental but they are not happening.

There are plenty of other levers. We need to keep looking at smart levers. I hope the government will look at the issue of houses remaining vacant. We have talked about the extremely high number of vacant homes. If we are to believe what came out of the most recent census, there are more than one million vacant homes across the country and more than 100 000 across WA. People who own those vacant homes could be incentivised through carrots, which is what the government talked about today, and by providing financial disincentives when they leave their homes vacant. We need to pull many levers in a way that will fix this problem in the longer term.

Just to wrap up, it is good to see the government pulling levers, but it needs to ensure that those levers are long-term and sustainable and fundamentally fix the problem.

WESTERN AUSTRALIAN MARINE AMENDMENT BILL 2023

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.51 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Western Australian Marine Amendment Bill 2023. There are approximately 102 250 registered recreational vessels in Western Australia. Department of Transport–appointed marine inspectors intercept approximately 15 000 recreational vessels each year to conduct marine safety–related compliance checks. Through these compliance activities, the frequency of encountering persons operating a vessel while under the influence to the extent that they are incapable of exercising proper control over the vessel is reasonably low. Even so, statistics show that in Western Australia from July 2017 to July 2023, there were approximately 257 reports of injury and 46 fatalities on the state's waterways. Although it is not possible to say for certain, given the current lack of alcohol and drug testing on the water, evidence suggests that it is highly likely that alcohol and drugs may have played a role in many of these cases.

Research conducted by Surf Life Saving Australia between 2012 and 2022 shows that alcohol and drugs were causal factors in 21 per cent of drowning deaths in Western Australia. Data from Royal Life Saving WA found that of the 98 boating and watercraft fatalities that occurred in Western Australia between 2002 and 2019, 12.33 per cent had an alcohol content above the legal driving limit, 6.85 per cent of these had a blood alcohol content of .15 or above and 10.96 per cent of the 98 fatalities had illicit drugs in their system. In 25.51 per cent of cases, toxicology results were unknown, most likely because no samples were taken.

Excess consumption of alcohol or the use of illicit substances in a marine environment can be particularly hazardous. Factors such as fatigue that affect an individual's ability to safely control a vessel may be exacerbated due to environmental factors such as glare, temperature and lack of a stable surface. People who are under the influence of alcohol or drugs are less able to take effective lifesaving actions in the event of an emergency. The links between excess alcohol consumption, use of illicit drugs and unsafe driving of motor vehicles have been well established.

Blood alcohol limits for drivers have been in place on Australian roads for over 50 years. Other jurisdictions have since adopted these provisions to apply to marine contexts. Western Australia is the only state in Australia not to set blood alcohol limits for skippers. Over the years, there have been several highly publicised incidents of serious injury or death involving the operation of vessels by people who were later found to have been under the influence of alcohol or drugs. There has been growing public sentiment to support the government taking a stronger stance on excess use of alcohol and illicit substances by skippers.

In Western Australia, the principal legislation that governs the safe operation of vessels on state waterways is the Western Australian Marine Act 1982. The current rules applying to unsafe navigation involving skippers under the influence of alcohol and drugs have been in place and essentially unchanged for 40 years. Section 59 of the WA Marine Act relating to unsafe alcohol-impaired or drug-impaired navigation contains the only offences in the act that deal specifically with the unsafe operation of a vessel or the use of alcohol or drugs. These provisions, although adequate for the time they were written, are not reflective of approaches adopted by more modern legislation, such as road safety provisions contained in the Road Traffic Act 1974. The differences between the road and maritime laws are often a source of confusion and consternation among the community.

The significant discrepancies between the two pieces of legislation mean that similar circumstances may lead to disparate outcomes in court that do not align with community expectations for the administration of justice. Section 59(2) of the WA Marine Act contains the current offence that applies specifically to alcohol-impaired and drug-impaired navigation. This prohibits persons from navigating a vessel while under the influence of alcohol or drugs to such an extent as to be incapable of having proper control of the vessel. Although prosecutions under this section have been successful, the provision is infrequently used. In part, this is due to the absence of statutory powers to permit alcohol or drug testing outside cases involving serious injury or death. It is sometimes difficult to prove the charge based only on a visual sobriety test and on visual evidence alone. Even if a sample is taken, the construction of the provisions means that a prosecution would not benefit from evidentiary presumptions that apply under road laws. Should a person be convicted of a section 59(2) offence, the maximum penalty available is currently a $1 000 fine. This is manifestly inadequate by today's standards, given the objective seriousness of the offence. By contrast, the equivalent offence under section 63 of the Road Traffic Act imposes a minimum penalty of $1 750 for a first offence. A person who drives while intoxicated and crashes into another vehicle killing another person or causing them grievous bodily harm could face up to 20 years' imprisonment.

The lack of appropriate penalties, coupled with the difficulty of enforcing the WA Marine Act offences, often means that serious marine incidents are prosecuted under other legislation, such as Criminal Code offences like culpable driving of a conveyance or manslaughter. These offences do not apply many of the evidentiary presumptions and rules around the level of intoxication that are available under road laws, nor do they overtly capture many factors relating to vessel operations, specifically the duties and responsibilities of the vessel master, otherwise known as the skipper. Taken collectively, these factors erode the effectiveness of the current legislation in providing general deterrence and limit the specific deterrence for individuals who repeatedly engage in these types of behaviour.

The intent of this bill is to amend the WA Marine Act to modernise the offence provisions for unsafe navigation and create new offences for alcohol and drug-impaired navigation. The bill will establish an alcohol and drug testing regime to allow Department of Transport maritime inspectors and police officers to undertake tests for alcohol and illicit substances, the results of which may be used in court proceedings for the new offences. The bill will introduce new offences for reckless, dangerous and careless navigation, including specific offences for incidents in which unsafe navigation has resulted in the death, grievous bodily harm or injury of a person. The penalties for these offences will be the same as those that apply on the roads. This will mean significantly higher penalties for vessel incidents resulting in injury or death, and, for the first time, imprisonment for serious unsafe navigation offences.

The new legislation will also introduce offences applying to people who navigate vessels in excess of prescribed limits for alcohol or drugs. For the first time in Western Australia, a .05 blood alcohol content limit will apply to people who are navigating a recreational or commercial vessel, which is the same as most drivers on the road. The consistent approach sends a uniform message that irresponsible alcohol consumption and the use of drugs are not tolerated on Western Australian roads and waterways. Similar to road laws, escalating penalties will apply to people who exceed the limit by a greater amount. Repeat offenders will face significantly higher penalties, up to and including permanent disqualification of a marine qualification and, potentially, even imprisonment for more serious offences. The new laws will enable the enforcement of blood alcohol content limits for both vessel operators and masters. The limits and other offences in this bill will apply to both the vessel master or the skipper and to any person operating the vessel whom the skipper supervises. This is consistent with how the law is applied across maritime law and with marine alcohol and drug laws in other Australian jurisdictions.

Finally, the bill will introduce new provisions that will deal with the disqualification of persons from holding marine qualifications, like a recreational skipper's ticket. This will again be based on the system that applies to drivers' licences under road law. Some new navigational offences will impose mandatory periods of disqualification. People who operate vessels or supervise others to operate vessels that require a skipper's ticket will commit an offence if they are disqualified. The new legislation will apply to recreational and commercial vessels.

Any disqualification imposed under this bill will only affect marine qualifications issued under the WAMA. For commercial marine qualifications issued under the commonwealth Marine Safety (Domestic Commercial Vessel) National Law Act 2012, the Department of Transport will notify the commonwealth's Australian Maritime Safety Authority of any instances in which a commercial vessel master has been convicted of an offence under these new laws. It will ultimately be at the discretion of the Australian Maritime Safety Authority to take action on the suspension or cancellation of those commercial qualifications.

As I said earlier, the bill will establish a marine alcohol and drug testing regime. This will be to support and enable the enforcement of the new offences. The testing regime will be modelled on the scheme that applies on our roads, with certain modifications as necessary to take into account the difficulties of enforcing a testing regime in a marine environment. Alcohol and drug testing operations on the water present many challenges that do not arise on road-based operations. The marine environment has a lower density of traffic, operations will need to take place over a wider area, and testing may take additional time. Weather and environmental conditions will also have a greater influence, as intercepting or boarding a vessel in adverse sea conditions can raise safety concerns. To accommodate the operational complexities of on-water testing, the bill will empower officers to make requirements and give directions to facilitate the marine testing regime. Depending on the time, place and circumstances, an enforcement officer may need to move the vessel to a safe location to safely conduct an alcohol or drug test. This may mean directing the vessel to a nearby jetty or mooring, directing that another person assume control over the vessel, or boarding the vessel. Penalties for failure to comply with these requirements that prevent testing from being conducted will attract higher maximum penalties, similar to the approach taken in road law. This will serve as a further disincentive to people attempting to evade testing.

Another key distinction between the marine testing regime and road law will be the operational approach underpinning the scheme. The Department of Transport will assume primary responsibility for enforcement of the marine testing regime, with support from the Western Australia Police Force. This bill will give the Department of Transport and police officers the necessary authority to effectively and appropriately respond to individuals whom they believe are incapable of safely navigating a vessel while performing their normal maritime safety compliance duties, or provide officers with the necessary powers to test after an incident. It is not the intention of the government to use these powers to undertake random breath test–style testing on our waterways.

The bill will make consequential amendments to other acts. These amendments are necessary to ensure that new offences and penalties introduced by this bill are treated consistently with their corresponding road law counterparts.

This bill represents the WA government's commitment to improving maritime safety on the state's waterways. The new offences in this bill will serve as a more effective deterrent to unsafe or dangerous behaviour on our waters, particularly in cases involving the excessive use of alcohol or the consumption of illicit substances. The bill will also ensure that offenders who regularly engage in this type of activity face consequences that align more closely with community expectations.

The marine testing regime will greatly expand the enforcement powers of Department of Transport officers and the WA Police Force. This will serve as a further deterrent against these types of behaviours and provide officers with the tools they need to respond more effectively in situations when public safety may be at risk because of those behaviours. Taken as a whole, the new laws will continue to reinforce the clear message that the WA government and the community do not tolerate unsafe behaviour involving alcohol and drugs.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to a bilateral or multilateral intergovernmental agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 2796.]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.05 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

KIMBERLEY FLOODS — TEMPORARY ACCOMMODATION

1656. Hon Martin Aldridge to the minister representing the Minister for Community Services:

I refer to the Kimberley Floods recovery, and I ask:

(a) how many people currently remain displaced from their communities and in temporary accommodation;

(b) what is the location and accommodation type that displaced persons are currently being accommodated; and

(c) for each month since January 2023, what is the monthly cost associated with temporarily accommodating displaced persons?

Hon Jackie Jarvis replied:

The Department of Communities (Communities) advises:

(a) As of 3 November 2023, 87 people.

(b) Humanihuts have been provided at the Tarunda Caravan Park and the Bungardi Aboriginal Community in Fitzroy Crossing. The Derby Hostel is in Derby. Customised temporary accommodation units are being established in Bungardi, Darlngunaya, Burawa, Loanbun, Karnparrmi, Muludja and Fitzroy Crossing.

(c) From January to June inclusive $2,878,742 was spent on emergency commercial accommodation costs; from March to October inclusive, $10, 989, 893 has been spent on Humanihuts and the Derby Hostel; and as at 30 September $4.8 million has been spent on the customised temporary accommodation units.