Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2020

LEGISLATIVE ASSEMBLY

Wednesday, 12 August 2020

Legislative Assembly

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THE SPEAKER (Mr P.B. Watson) took the chair at 1.00 pm, acknowledged country and read prayers.

MALVERN SPRINGS VILLAGE CENTRE

Petition

MS J.J. SHAW (Swan Hills) [1.01 pm]: I have a petition with 70 signatures that conforms with the standing orders of the Legislative Assembly on the following basis —

> To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia assembled: We, the undersigned, say that the proposed amendment to *Malvern Springs Plan No.6 — lot 9295 Elmridge Parkway, Ellenbrook* will not deliver the Village Centre promised to our community. We support the City of Swan's recommendation that the WA Planning Commission refuse the application. The residents of Malvern Springs want this site retained for its originally intended community purpose, and not redeveloped for dense housing. We ask that the WAPC supports our community's desire to protect the heart of Malvern Springs.

I also append to this petition 962 nonconforming responses on substantially the same terms—that is over 1 000 responses—including 927 online responses. I would like to thank Karen Mowat and Naomi Jenkin for their efforts in putting together this petition for us.

[See petition 184.]

PAPERS TABLED

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

ELECTORAL AMENDMENT BILL 2020

Remaining Stages — Standing Orders Suspension — Notice of Motion

Mr D.A. Templeman (Leader of the House) gave notice that at the next sitting of the house he would move —

> That so much of the standing orders be suspended as is necessary to enable the Electoral Amendment Bill 2020 to proceed through all remaining stages without delay between the stages.

EDUCATION AND HEALTH STANDING COMMITTEE

Membership Change — Notice of Motion

Mr D.A. Templeman (Leader of the House) gave notice that at the next sitting of the house he would move —

> That the member for Moore be discharged from the Education and Health Standing Committee and the member for Geraldton be appointed in his place.

MENTAL HEALTH PLAN

Statement by Minister for Mental Health

MR R.H. COOK (Kwinana — Minister for Health) [1.04 pm]: I rise to provide an update on the McGowan government's achievements in the mental health, alcohol and other drug sector. In March, I released the "WA State Priorities: Mental Health, Alcohol and Other Drugs 2020–2024", which outlined the immediate priorities to reform and improve the sector over the next four years. It reaffirms our commitment to the 10-year mental health plan and to rebalancing the system. Since then, there has been significant progress. The Mental Health Commission has established a new governance structure to enable better integration and collaboration across the sector and public hospital system. This includes the Mental Health Executive Committee and the Community Mental Health, Alcohol and Other Drug Council. A new position was established—Western Australia's first Chief Medical Officer, Mental Health—to play a key role in leading clinical treatment in the state.

In June we released "A Safe Place: A Western Australian Strategy to Provide Safe and Stable Accommodation, and Support to People Experiencing Mental Health, Alcohol and Other Drug Issues 2020–2025". The first phase includes a $25 million, 20-bed adult community care unit to provide high-level support and rehabilitation services in the metropolitan area, and a $25 million, 16-bed youth service. The Premier and I opened the 10-bed Bunbury community mental health step-up, step-down service. Construction has started on similar services in Geraldton and Kalgoorlie. We have appointed providers to establish Safe Haven Cafes in East Perth and Kununurra. In July, I launched a new emergency telehealth service to support children and young people, and July also marked the successful first year of operation of our regional 24/7 telehealth service. It has helped more than 1 000 people.

As part of our COVID-19 response, I launched the Drug and Alcohol Clinical Advisory Service, which provides rapid access for clinicians to an addiction specialist, and launched public education campaigns to support Western Australians to improve their mental health and reduce harmful alcohol use. The McGowan government has allocated $20 million for an additional 20 beds to create a specialist mental health hub at Fremantle Hospital; nearly $10 million to develop and implement an important region-by-region approach to Aboriginal suicide prevention; and $4.8 million to provide more suicide prevention support to all Western Australians as part of the WA Recovery Plan. The McGowan government will focus its efforts in 29 key areas over the next four years to shift to a more effective, sustainable and consumer-focused system.

POLICE — GRADUATIONS

Statement by Minister for Police

MRS M.H. ROBERTS (Midland — Minister for Police) [1.06 pm]: Police graduation ceremonies are magnificent public occasions that celebrate the achievements and potential of our newest police officers. This year, these graduation ceremonies have been necessarily disrupted by the restrictions imposed as a result of the COVID-19 pandemic. The lifting of some of these restrictions has meant that the passage of trainee police from recruits to sworn officers has been marked by a proper ceremony. On 10 July, we celebrated a super graduation ceremony, with the largest number of squads graduating on the same day. This graduation ceremony celebrated the achievements of four squads: gold, blue, silver and green—117 new police officers in all. The 82 men and 35 women of these squads had already received their Certificates of Operational Status so they could fulfil roles on the front line. Our newest officers come from many different backgrounds and range in age from 19 to 50. Thirteen are of Aboriginal heritage and 21 from culturally and linguistically diverse backgrounds. There are university graduates, former truck drivers, graphic designers, teachers and tradies. They have all survived and prospered in the academy's demanding 28-week course and have already begun to serve our state, with gold and blue teams allocated to metropolitan and regional stations, while silver and green teams have been assisting the COVID-19 self-quarantine assurance team with track and trace duties.

These occasions are important in the police year and they also provide opportunities to recognise extraordinary service and courage. On this occasion, two bravery awards were presented, along with Certificates of Service to two long-serving officers and six Certificates of Outstanding Performance. I am sure that the house will join with me in thanking all these officers, both the 117 newest police and those whose service has been recognised. The dedication and commitment of our police during the COVID-19 pandemic reinforces to all Western Australians just how well served we are by the women and men in uniform and those who support them.

"EMERGENCY PREPAREDNESS REPORT 2019"

Statement by Minister for Emergency Services

MR F.M. LOGAN (Cockburn — Minister for Emergency Services) [1.09 pm]: I would like to take this opportunity to inform the house of the "Emergency Preparedness Report 2019" published by the State Emergency Management Committee, which was tabled in this house earlier today. The report offers a broad view of Western Australia's capacity to deal with large-scale emergencies and historically has been published in November of its reporting year. However, unlike previous reports, the "Emergency Preparedness Report 2019" now focuses not only beyond the risks and capabilities that WA has, but also on the complexities that could arise during emergencies. This new approach is designed to be more graphical and interactive in the hope of increasing the understanding of emergencies and their scale within the community. The report highlights a continuing commitment across the emergency management sector, with agencies and local governments actively seeking to work together to improve emergency management capability. COVID-19 has shown us, as a state and as a nation, the wide-reaching impacts that emergencies can have. This report illustrates the great work being done and the priorities for future activities to prepare us for the various emergencies that can occur across WA.

ECONOMICS AND INDUSTRY STANDING COMMITTEE

Eighth Report — "Taking Charge: Western Australia's Transition to a Distributed Energy Future"— Government Response — Statement by Minister for Energy

MR W.J. JOHNSTON (Cannington — Minister for Energy) [1.10 pm]: I rise to table the McGowan government's response to the eighth report of the Economics and Industry Standing Committee titled "Taking Charge: Western Australia's Transition to a Distributed Energy Future", which was tabled in the Legislative Assembly on 20 February 2020. As I said in my initial response to the report on 19 May 2020, I welcome the committee's 21 recommendations and note that they are consistent with the work being done under the McGowan government's energy transformation strategy. In fact, members will see that the government supports almost all of the recommendations, and the majority of them are already being implemented under the government's energy reform agenda. It is reassuring to see that the committee's findings endorse the government's vision for distributed renewable energy becoming a key part of the power system and the means by which we get there. Of particular relevance to the committee's recommendations is the government's "Distributed Energy Resources Roadmap".

The road map will guide changes to policies, regulations, technical requirements and consumer protections to support the integration of customer DER over the long term. The road map was published on 4 April 2020 and I encourage members to read it. Energy Policy WA is currently implementing the road map and I am confident that this important work will enable households and businesses to continue to take up distributed renewable energy sources at a rapid rate.

I now table the response.

[See paper 3555.]

NATIONAL DISABILITY INSURANCE SCHEME (WORKER SCREENING) BILL 2020

Introduction and First Reading

Bill introduced, on motion by **Mr R.R. Whitby (Parliamentary Secretary)**, and read a first time.

Explanatory memorandum presented by the parliamentary secretary.

Second Reading

MR R.R. WHITBY (Baldivis — Parliamentary Secretary) [1.12 pm]: I move —

That the bill be now read a second time.

This government is committed to implementing the National Disability Insurance Scheme in Western Australia to produce major benefits for people with disability, their families and the broader community. The National Disability Insurance Scheme (Worker Screening) Bill 2020 provides for screening and ongoing monitoring by reference to national criminal records and other relevant information of certain disability workers in Western Australia. The objective of nationally consistent NDIS worker screening and this bill is to protect and prevent people with disability from experiencing harm or poor quality or unsafe supports or services delivered under the NDIS by deterring certain individuals from seeking work in the sector, excluding certain people from working for registered NDIS providers in certain roles, and reducing the potential for NDIS providers to employ certain workers if those workers pose an unacceptable risk of harm to people with disability.

The bill implements Western Australia's obligations under the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme, which sets out the national policy for NDIS worker screening. Western Australia entered the IGA in June 2019, joining all other states and territories. The bill incorporates relevant definitions from the National Disability Insurance Scheme Act 2013 and the National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018 of the commonwealth to achieve the IGA's policy intentions. The IGA, the NDIS rules and the related documents have been in the public arena for some time. I understand workers, employers, people with disability and their carers and families are keen for NDIS worker screening to commence. The IGA provides the responsibilities of the commonwealth, states and territories in relation to worker screening and the key elements for nationally consistent screening, which are being implemented by discrete legislation in each state and territory. The commonwealth's responsibilities include establishing and administering the national clearance database. This will record the outcomes of NDIS worker screening checks and enable employers to verify workers and check their clearance status. The commonwealth's responsibilities under the framework will be implemented by the NDIS Quality and Safeguards Commission, an independent commonwealth agency established for this purpose. The responsibilities of the states and territories include implementing legislation to establish NDIS worker screening consistent with the IGA, establishing and operating NDIS worker screening units, facilitating effective information sharing between NDIS worker screening units and the commission, and checking all nationally cleared workers against state criminal history records for ongoing monitoring.

This bill is not mirror legislation. The IGA aims for national consistency in worker screening, rather than exact uniformity between jurisdictions. It provides states and territories with significant discretion in implementing certain elements of the national policy, including, for example, in relation to penalties, enforcement, the issue of physical cards and the ability for workers to commence work in advance of their applications being determined. In these issues of discretion, the bill is drafted to achieve consistency with Western Australia's Working with Children (Criminal Record Checking) Act 2004, as appropriate. The bill implements a worker screening scheme broadly similar, but not identical to, that of the working with children legislation. Differences between the schemes contained in the bill and in the working with children legislation are generally due to the requirements for national consistency, particularly those of the IGA.

Some jurisdictions have proposed legislation that combines NDIS worker screening with other vulnerable person screening requirements. In Western Australia, a standalone bill is proposed. The working with children check and NDIS check are, fundamentally, two schemes that have key differences, which result in the need for both checks. There are, for example, differences in the vulnerability of the cohorts, additional offences to be considered by the NDIS check such as fraud and deception offences, differences in offence classifications, and the NDIS check is subject to national ongoing monitoring. There are also some provisions in the bill, and in other jurisdictions' legislation, which diverge from the agreed parameters as set out in the IGA or in subsequent national policies. In

these few issues, the bill is either consistent with the majority of other states and territories or the government considers that the protection of people with disability warrants minor departure from the IGA. Notwithstanding the few minor differences, each state's and territory's legislation to implement nationally consistent worker screening will mean that the results of worker screening will be portable across Australia and across NDIS employers. NDIS clearance holders in Western Australia will pay a single application fee that will entitle them to work throughout Australia, without being required to meet additional criteria or pay additional fees. Outcomes from worker screening in another state or territory will also determine whether applications can be made, or certain measures taken, in Western Australia. Jurisdictions intend to commence NDIS worker screening from 1 February 2021 to allow for a coordinated national launch and to simplify the messaging to and regulatory obligations on NDIS providers nationally.

I turn now to some key features of the bill. Applications for clearance: People who engage or intend to engage in NDIS work, and who either do so in WA or who reside in WA, may apply for an NDIS clearance. As required by the NDIS act and the rules, persons employed by or otherwise engaged by registered NDIS providers, including contractors and subcontractors who are in risk-assessed roles, will require a clearance. Risk-assessed roles include key personnel such as those holding executive and senior management positions and roles for whom the normal duties include the direct delivery of specified supports or services to, or are likely to require more than incidental contact with, a person with disability. Self-employed people and volunteers used by registered National Disability Insurance Scheme providers and their subcontractors in risk-assessed roles will similarly be required to apply.

To achieve an appropriate balance between enabling individual choice and control and sufficient quality and safeguarding for people with disability, self-managing NDIS participants may choose to receive NDIS supports and services from workers engaged by unregistered providers who may not have a clearance or who may be subject to an exclusion. Self-managing NDIS participants may request that workers engaged by unregistered providers who provide them with supports and services have a clearance. Workers of unregistered providers may apply for an NDIS clearance if they are delivering or are planning to deliver NDIS supports and services and the application is endorsed by their employer, but there is no requirement for them to apply. They will not be committing an offence if they remain in NDIS work without having made an application. Similarly, people employed, engaged or registered by NDIS providers in non-risk assessed roles—for example, those who have only incidental contact with an NDIS participant—will not be required to have a clearance. The Department of Communities will be the department principally assisting the Minister for Disability Services in the administration of the act and the CEO of communities will have the responsibility for undertaking NDIS worker screening. People who perform functions delegated by the CEO under the act will also require a clearance.

Criminal history and identity checks: Applicants for a clearance will complete an approved form, which will require the self-disclosure of information such as international criminal history, child protection orders and any relevant workplace misconduct findings. On receiving an application for a clearance, the CEO or her delegate must conduct a criminal record check, which will contain any convictions, including spent convictions, non-conviction charges and current pending charges, including for offences committed or allegedly committed as a child. The CEO will also make a request for any relevant information held by the NDIS commission about the applicant. Certain bodies can also provide relevant findings to the CEO. Clearances will remain in force for up to five years, subject to ongoing monitoring by NDIS worker screening units. Clearance holders will be subject to ongoing monitoring for relevant criminal history, NDIS commission records, or any other information considered relevant by the NDIS worker screening unit, which may lead to reassessment and possible cancellation of an NDIS clearance before it expires.

Clause 6 of the bill captures offences in other jurisdictions of a kind to offences in Western Australia and offences prior to the bill's commencement. Class 1 and class 2 offences against Western Australian legislation are listed in schedules 1 and 2 of the bill respectively. The listed offences have been drafted in acknowledgement of the nationally agreed position on offence categorisation for the purposes of NDIS worker screening. The offences and the definitions of "disqualified" and "presumptively disqualified" persons contained in the bill are for application in the CEO's decision-making framework. Schedules 1 and 2 specify conditions in relation to some offences—for example, so that an offence is only classified as class 1 if the victim is a child or vulnerable person as defined in the bill. A young adolescent relationship carve out is also included so that certain offences are not to be classified as class 1 if certain age-related requirements are met. Additional offences and additional conditions for the offences listed in the schedules may be prescribed in the regulations. This will accommodate the potential creation of new relevant offences in Western Australia or other jurisdictions, as occurred for example with the recent passage through this house of the landmark Family Violence Legislation Reform Act 2020. Offences which are not captured under the bill as class 1 or 2 are class 3 offences.

Automatic exclusions, interim bars and suspensions: If the applicant or clearance holder has a criminal record showing a conviction for a class 1 offence committed as an adult, the CEO must issue an automatic exclusion, as these persons are disqualified from NDIS work. Disqualified persons are permanently excluded from NDIS work and will not be entitled to reapply. Exclusions must also be issued if the CEO conducts a risk assessment of the applicant or clearance holder and determines that there is an unacceptable risk that the person may cause harm to people with disability in the course of carrying out NDIS work. The CEO must impose an interim bar

on applicants and a suspension on clearance holders who are or become disqualified or presumptively disqualified while a risk assessment is undertaken. The CEO may impose an interim bar or suspension on any other ground she determines appropriate.

Risk assessments by the CEO: In certain circumstances, a risk assessment of the applicant or clearance holder will be triggered, this being conducted by the CEO. The purpose of the risk assessment is to determine whether there is an unacceptable risk that the applicant or clearance holder may cause harm to people with disability in the course of carrying out NDIS work. Harm includes but is not limited to any detrimental effect on a person's physical, sexual, psychological, emotional or financial wellbeing. Once a risk assessment is triggered, any lawfully obtained information may be considered, as long as it is relevant to risk. Information gathering under the bill is not confined to criminal record information; indeed, information outside criminal record information such as information from registration and regulatory authorities prescribed in the regulations can trigger a risk assessment and during that assessment an interim bar or suspension may be imposed. The CEO may request and consider information from any person or body in conducting a risk assessment.

The bill sets out certain principles relevant to the risk assessment. Importantly, these include, for example, that the risk of harm need not be likely in order to be unacceptable. An unacceptable risk may arise from a pattern of behaviour or a single event, from conduct that is intended or unintended, and whether or not harm has been shown to have resulted from any past or alleged conduct. An unacceptable risk may arise from events that are not recent and need not be based on any assessment as to whether any conduct is likely to reoccur. Matters that are irrelevant to the risk assessment are also set out in the bill.

The aim of this bill is to ensure the safety and wellbeing of people with disability and their right to live free from abuse, violence, neglect and exploitation. It is the paramount consideration that is intended to inform all functions set out in this bill, and particularly the assessment of the potential risk of harm that people with disability may be exposed to from those who work with them. The approach to risk assessment provided for in division 2 of this bill is a precautionary one, so that doubts about risk must always be resolved in favour of protecting people with disability from harm. When the information considered in the risk assessment gives rise to significant concern that cannot be resolved one way or the other—for example, where allegations of offending or misconduct are unable to be proven to any given standard—the unacceptable risk test to be applied to decision-making under this bill embodies that precautionary approach. In conducting the risk assessment, the presumption will be that the applicant or clearance holder is disqualified in certain circumstances as set out in clause 8. The presumption in the CEO's risk assessment of these persons is that they should be excluded from NDIS work unless the CEO is satisfied that because of the exceptional circumstances of the case, the person does not pose an unacceptable risk of harm to people with disability in the course of carrying out NDIS work. In other circumstances where a risk assessment is conducted, there is no presumption of exclusion and the precautionary principle applies.

Other key features: The bill contains information-sharing provisions to ensure that risk assessments of applicants and clearance holders undertaken in Western Australia and in other jurisdictions are informed by all relevant information. Particular provisions have been included for the gathering and sharing of information from the Commissioner of Police, the Director of Public Prosecutions and the CEO administering the Sentence Administration Act 2003. Information sharing between Western Australia's NDIS and working with children screening units is also provided for. These arrangements are expected to provide efficiencies for government and assist the making of appropriate and timely decisions for the protection of these vulnerable cohorts. The bill also provides that entities and employers who may be affected by decisions taken under the bill can be informed of those decisions.

The bill includes provisions for investigation and enforcement so that authorised officers may investigate suspected offences against this and other penalty provisions in the bill. It provides natural justice and robust procedural fairness for applicants and clearance holders by providing for the chief executive officer to take submissions from applicants and clearance holders in advance of decisions to refuse or cancel a clearance; an internal review; and an external review of those decisions by the State Administrative Tribunal.

Transitional arrangements will be provided for in the regulations to ensure the orderly phasing in of National Disability Insurance Scheme workers under the new screening requirements in the bill while continuing and strengthening the current safeguards that apply to disability service provision. Upon the commencement of the bill and subject to those transitional arrangements, staff and other personnel of providers registered with the NDIS Commission who engage in NDIS work in risk-assessed roles without having applied for a clearance or who are subject to exclusion will commit an offence for which the penalty is $60 000 and imprisonment for five years.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April 2019 in response to community concern about widespread reports of violence against and the neglect, abuse and exploitation of people with disability. Effective screening of people who work with people with disability, such as is provided for in this bill, is one mechanism to address such concerns.

I commend the bill to the house.

Debate adjourned, on motion by **Mr Z.R.F. Kirkup**.

BUSINESS OF THE HOUSE — PRIVATE MEMBERS' BUSINESS

Standing Orders Suspension — Motion

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [1.31 pm]: I seek leave to move a motion in an amended form.

Leave granted.

Mr D.A. TEMPLEMAN: I move —

> That so much of standing orders be suspended as is necessary to enable private members' business to have priority from 4.00 pm to 5.00 pm on Wednesday, 12 August 2020.

In briefly speaking to this motion, the opposition has approached the government seeking to reduce its private members' business time, which is normally set aside for three hours, to one hour. Obviously, there is a very important bill before the house that the government is seeking to debate and pass by the end of this evening. The time provided by this motion is appreciated. It will allow us to have a fulsome debate on the bill that is on the agenda for today, the debate on which will commence shortly. I ask members to support the amended motion.

MR Z.R.F. KIRKUP (Dawesville) [1.32 pm]: On behalf of the opposition, we appreciate that the amended motion has been moved to change private members' business to between 4.00 pm and 5.00 pm and for government business to take place between 5.00 pm and 6.00 pm. I am advised that Mr Acting Speaking will provide us with a dinner break from 6.00 pm to 7.00 pm. We anticipate that the Iron Ore Processing (Mineralogy Pty Ltd) Agreement Amendment Bill 2020 will take some time to get through, so, of course, in good faith, the opposition wants to work with the government to provide as much time as possible for the debate and necessary scrutiny of this urgent legislation that has been brought to this place with otherwise little notice. I will continue to work in good faith with the Leader of the House to ensure the expeditious passage of important legislation.

Question put and passed.

BUSINESS OF THE HOUSE — DINNER SUSPENSION

Statement by Acting Speaker

THE ACTING SPEAKER (Mr S.J. Price) [1.33 pm]: Before we move on, I advise that there will be a dinner break this evening between 6.00 pm and 7.00 pm.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

Remaining Stages — Standing Orders Suspension — Motion

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [1.33 pm]: I move —

> That so much of standing orders be suspended as is necessary to enable the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020 to proceed through all remaining stages without delay between the stages.

As has been highlighted previously and in discussions with the opposition, this motion will allow this important bill to proceed through all stages without delay.

MR Z.R.F. KIRKUP (Dawesville) [1.34 pm]: I appreciate that the government seeks to suspend standing orders to ensure that all stages of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020 can be dealt with today, without delay between those stages. I understand that the government has outlined, through the Attorney General, its reasons for doing so. It is an extraordinary bill and this Parliament is faced with unprecedented circumstances. My only caution is that we have been given notice that the Leader of the House is expecting the Electoral Amendment Bill 2020 to be passed without delay between the stages by tomorrow. We also have the COVID-19 Response and Economic Recovery Omnibus Bill 2020 listed for debate and I believe the government wants that passed by tomorrow. It is an extraordinary circumstance that all the bills that the opposition has to deal with this week are bills that have to pass without delay between the stages. That was already the case, notwithstanding the Mineralogy bill that was brought before this place at 5.00 pm yesterday. I sometimes do not know why this place exists and why processes are in place to deal with the important scrutiny of legislation and provide the delays that are necessary so that we have the time to properly scrutinise that legislation. Notwithstanding all that, we support this motion so that the bill can be brought on and looked at properly. On my count, some 52 bills have to pass through this Parliament and there are now only 30 sitting days left in the fortieth session of this place. With that in mind, and notwithstanding that I doubt that we will get the omnibus bill and the Electoral Amendment Bill passed tomorrow—we will see—the opposition supports this motion.

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [1.36 pm] — in reply: We live in extraordinary times and therefore extraordinary measures are required. This is an important bill. I appreciate the support of the opposition on this motion. Obviously, other important bills are also listed, but this is the priority bill and it is very important for the state of Western Australia.

Question put and passed.

Second Reading

Resumed from 11 August.

MRS L.M. HARVEY (Scarborough — Leader of the Opposition) [1.36 pm]: I rise on behalf of the opposition in support of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. However, the opposition is not going to roll over and not scrutinise this legislation, because it is unprecedented to amend a state agreement. It has not occurred in this fashion in the Parliament of Western Australia or in any Parliament of Australia or perhaps even the commonwealth. We are being asked to take an extraordinary step on the say-so and advice of this government and we need to understand the potential ramifications for sovereign risk et cetera that there may be in the future. We need to understand whether we are setting a precedent for the amendment of other state agreements and the waiver of personal rights and the rights of individuals by taking this step in Parliament—the step that the Premier has asked us to take.

The Premier said that this is urgent legislation that needs to be passed immediately. We were notified of this legislation only at five o'clock last night. The Premier spoke to me and the Leader of the Nationals WA, Hon Mia Davies, in the corner of the chamber. A lot of people wearing suits were racing around the corridors of Parliament. We had a sense that something was up but we had no idea what that might be—no idea at all. We were given no prior advice that something as unforeseen as this bill would be coming to Parliament. The Leader of the Nationals WA and I were not given the benefit of a confidential briefing. We evidently do not have that level of trust with the Premier on matters such as this, which could affect the future of Western Australians should a $30 billion lawsuit brought by an individual be successful. We were not given that level of trust, yet the Premier has asked for our cooperation to declare this bill urgent. As I said, we received it at five o'clock last night and we were expected to get through the consultation process with potentially injured parties. We are supposed to understand the ramifications. Ordinarily, with legislation like this, we would get independent legal advice to inform our decisions and help us understand the ramifications of what we are doing in Parliament when we pass legislation like this, but we have had no time to do that. The longstanding tradition in this place is that state agreements are passed through this place on the understanding of the trust placed in the government and the Premier of the day that the negotiations have been done in good faith with all parties to the agreement. I do not know whether that is the case necessarily with this amending legislation to a state agreement; however, generally state agreements are negotiated in good faith by the two parties and the conditions of the agreement are agreed to and then brought to Parliament to be ratified. On that basis, I do not believe any opposition in the history of the Western Australian Parliament has opposed a state agreement, and that is the position that we are taking today. We are taking the position that the Premier and the officers and lawyers in the State Solicitor's Office have done their due diligence and that the step that we are taking is, in fact, the correct step in the interests of the state.

We are taking the Premier at his word that $30 billion of taxpayers' funds are at stake. Currently, net debt in this state is $36 billion. No opposition would stand in the way of a government protecting its taxpayers from net debt increasing to $66 billion on the back of litigation by any individual. That is why we are supporting this legislation. The Premier says that $30 billion of taxpayers' money is at stake. That is $12 000 for every Western Australian. I note that Clive Palmer said on radio this morning that that is a complete falsehood, that is not the case and that is not the value of the claim. We are taking the government at its word in good faith that it has done its due diligence and that $30 billion is the amount that is at stake should we not pass this unprecedented legislation to take away the rights of the proponents to this state agreement to receive damages that may occur as a result of a decision of government.

To let members know how seriously we have taken this issue, we convened a special meeting of our party room at 11.30 am today. We spoke to the leader of government business and asked whether we could delay the start of Parliament by an hour. The only reason that we had to have our party room meeting at 11.30 am is that our members are members of committees and they had committee hearings scheduled and needed to be present for their other parliamentary responsibilities. We scheduled our party room meeting for 11.30 am and I am pleased to say that every member of our party was involved in that meeting because they know how important this issue is. Our party room made the decision to support this legislation in good faith on the say-so of its urgency and the risk to the taxpayers of Western Australia should we not support it. In addition, our party room members—my members—offered up two precious hours of debate for private members' business to help expedite the passage of this legislation through this place. That is two hours of very limited time that the opposition has left in this parliamentary year to bring issues of importance to the attention of the state government. We were going to raise issues of importance to small businesses during private members' business, but we shall do that at another time, because we understand that the government says that this legislation absolutely must pass through Parliament today in one sitting, notwithstanding that it will come into effect on the day that it was read in, which was yesterday, regardless of when it receives royal assent. It has to get through today. On the basis of this urgency outlined by the Premier, we are going to sit here until the debate is finished. There are many clauses in the legislation; in fact, the legislation comprises 64 pages and 32 clauses and we will go through it clause by clause so that we understand exactly what we are doing on the say-so of the Premier.

The big question that we always ask is: when actions are taken by the government that could be construed to be overreach, what is the government hiding? One of the really curious things about this issue is that my understanding

is that this matter had been lying dormant and had not been pushed along by either the appellant or the state government since 25 May 2014, when Michael McHugh, the arbitrator, made some decisions on the proposal that was put up by Mr Palmer to the state government for the development of one of his resources.

Before I get into that, I want to go back to where this all started. I quote from a Paul Murray article on 1 August 2020 titled "Why did McGowan poke the bear in Clive Palmer's border fight?" Mr Murray says —

> When the Gallop Government formalised Mineralogy's State Agreement Act in 2002, it legitimised Palmer in WA and effectively created much of his fortune.
>
> Palmer had been pestering successive WA governments for more than a decade to get his Pilbara interests off the ground.
>
> When Gallop's State development minister Clive Brown introduced the Bill in February 2002, he noted that Mineralogy acquired its Fortescue tenements in 1986—during the reign of the Burke Labor government—but the agreement was only set in motion under the Court Liberal government.
>
> "Negotiation of the Mineralogy agreement was first approved in 1994 and was essentially completed in 1998," Brown said, not explaining why it wasn't enacted before Labor won power in 2001.
>
> "At that time, the minister of the day advised Mineralogy that approval would be sought from Cabinet for parliamentary drafting and for the agreement to be executed once he was satisfied that commercial negotiations in regard to at least one project were successfully completed and the project proponents had made substantial progress in obtaining the various government approvals.

The minister of the day was Colin Barnett and he had some very interesting things to say when the 2002 state agreement act was debated in Parliament, and I will go through some of the comments by the former Premier. In 2002 when this legislation was being debated, the Liberal opposition, consistent with the conventions in this place, did not oppose the state agreement. As occurred back then, and as we will do now, members raised some serious issues with the original agreement. I quote from *Hansard* of Tuesday, 11 June 2002 when Mr Barnett said —

> At that time I drew attention to the full title of the Bill, which is about implementing an agreement between the State and Mineralogy Pty Ltd. However, I questioned all the other parties to this agreement.

This is important. I understand that this was one of the first occasions when this Parliament passed legislation to enact a state agreement between the state and a collection of shelf companies. I will go into detail. I continue the quote from *Hansard* —

> Austeel is the name of the project, but the agreement also involves Balmoral Iron Pty Ltd, Bellswater Pty Ltd, Brunei Steel Pty Ltd, International Minerals Pty Ltd and Korean Steel Pty Ltd. That is a most impressive set of names. However, they all essentially seem to be associated with the one address. That is clear in the schedule, which states the address as Mineralogy House, Level 8, 135 Wickham Terrace. I have never been to Wickham Terrace in Queensland, —

Said Mr Barnett; neither have I —

> but it seems that a remarkable number of major international mineral houses are located at Level 8, 135 Wickham Terrace. I asked about the status of those companies. I did not do so in a flippant way. I imagine they are there for various marketing, agreement or subsidiary arrangements that Mineralogy Pty Ltd may wish to enter into. The point I made then and restate now is that I do not believe that the State of Western Australia should enter into and ratify through the Parliament agreements that are essentially with shelf companies.

That is what Hon Colin Barnett said in 2002, when the original state agreement was struck. At that time, Mr Barnett was at pains to put his position on the record, and I quote from further along in that debate. He said —

> However, I want to place on the record that, while Mr Palmer had a range of shelf companies that were continually variable, I did not recommend the signing of this agreement. During my time as minister I considered it to be premature. Time will tell whether this is so today. It is significant that the former Government did not sign this agreement, and I assure members, as a member of Parliament, that I would not have brought an agreement that included a whole host of shelf companies into this Parliament to be ratified. If Mr Palmer, or Mineralogy, wish to have subsidiary arrangements, or to hive off part of the project, there are mechanisms that he can legally use to do that. That is his corporate business, which he can do with co-proponents, investors or people supplying equipment and technology, or to whom he may be marketing iron ore or its derivative products. It is not for the State, nor this Parliament in particular, to give status, through legislation, to shelf companies.

That is what Hon Colin Barnett said when this state agreement was brought to this place by Hon Geoff Gallop and, indeed, was passed in this Parliament by a number of members who are still here—a state agreement act with a collection of shelf companies. It was a red flag at the time and, indeed, there have been problems as a result of that original contract.

I note that on 12 September 2002, Hon Ken Travers made reference in the other place to sovereign risk. He said —

> There is no doubt that we have been successful in attracting developments to Western Australia with a number of those developments under state agreements. One of the reasons for that success is that this State is seen to have a low sovereign risk. Sovereign risk is a broader term than the term "insurrection" or "civil war". It is also about companies having confidence that if they negotiate and reach agreement with a Government, a new Government will not begin the negotiations all over again. If the agreement were absolutely horrendous, that would happen.

Further on, he said —

> The company involved in this agreement is an Australian company. Mr Clive Palmer has been trying to put these projects together and he has managed to bring together the support of a range of international companies, which are outlined in my second reading speech. The professional officers in the department believe that all the prerequisites are in place for the state agreement Acts to be supported. We hope —

These are the words of Hon Ken Travers —

> that Mr Palmer is successful in this proposal. We believe he will be but circumstances always change. However, a team has been brought together to get the first proposal up and running. We need to support people like Mr Palmer who are prepared to have a go.

Those were the words of Ken Travers in 2002.

We know that there have been issues associated with this project, and some of those issues were raised by the Premier when he was Leader of the Opposition. In fact, an accusation was made about one of these projects—that somehow there had been some corrupt action by the then government and the Leader of the National Party at the time to try to excuse Mineralogy from a $45.5 million environmental bond. In fact, that ended up not being the case. The bond was to be demanded under the Mining Act, rather than the Environmental Protection Act, but that did not stop the opposition of the day throwing a fair bit of mud around in respect of that project.

We then come to the issue that is, indeed, the genesis of this amending legislation. I refer to a document that I found, I believe, through the Queensland Parliament. It is a ministerial advisory note to the then Minister for State Development, Hon Colin Barnett, titled "Project Proposal Submission for Balmoral South Iron Ore Project"—BSIOP, as people call it. The recommended action was —

> That you sign the attached letters to Mineralogy and International Minerals advising that you cannot accept the proposal as valid under the State Agreement, as it proposes actions already approved under the Sino Iron Pellet Project.
>
> Separately, the Department will write to Mineralogy and International Minerals to identify areas within the proposal that lack clarity, information and commitments.

Under "Issues", the document states —

- The proposals are invalid as they propose to dredge a shipping channel and berths, and construct a trestle jetty and berths at Cape Preston; infrastructure that has been approved under the Sino Iron Pellet Project.
- Review and comment by other government stakeholders has not been sought due to the proposals being invalid. However, the Department has identified that the proposals lack detail, clarity and commitments, including but not limited to:
    - the scope of the project —

The phasing of the project, and a range of other issues.

That was approved by Hon Colin Barnett. At that time, the advice that he received was that the project proposal was invalid.

That resulted in several appeals by Mineralogy, but I refer to a decision of 20 May 2014, in which Michael McHugh arbitrated an appeal over the government's view that the proposal was invalid. He declared that the August 2012 submission was a proposal submitted pursuant to clause 6 of the state agreement, with which the minister was required to deal under clause 7(1) of the agreement. He ordered the state of Western Australia to pay the arbitrator's costs and expenses.

There is a very detailed summary of how Mr McHugh arrived at his decision, and I note that it states under paragraph 68, "Costs" —

> The Applicants, having succeeded in the arbitration, would normally be entitled to a general order for costs. However, despite the State seeking costs if it were successful, the Applicants eschewed any claim for costs other than that the State should be ordered to pay the Arbitrator's costs. I will therefore make an order that the State pay the costs of the Arbitrator including expenses.

Paragraph 70 states —

> The Applicants foreshadowed a potential claim for damages by reason the Minister's breach in failing to deal with the August 2012 submission under clause 7(1). However, the Applicants tendered no evidence in support of such a claim for damages, and it is not appropriate for me to make any Order in respect of it.

So back in 2014, even though the applicant had flagged that there may be an application for damages, as far as I am aware, nothing happened with this situation until around 2018. In 2019 things started to heat up and now we find ourselves in the position of having to bring in legislation that will effectively set aside the ability for the proponent of the state agreement—Mineralogy Pty Ltd—to exercise its rights; basically, it will have no rights in respect of arbitration and awards. The state will have no liability connected with any disputed matters that may arise. There will be no appeal or review in respect of disputed matters. One of the concerning sections of this legislation is under the provisions of clause 13. We will interrogate it during the consideration in detail stage, and I will flag that our colleagues in the Legislative Council may seek to have it struck out. It includes exemptions to the Freedom of Information Act. Clause 13 is titled "Documents". It reads —

> (1) The *Freedom of Information Act 1992* Parts 2 and 4 do not apply to a document connected with a disputed matter.
>
> (2) An application under the *Freedom of Information Act 1992* section 11 for access to a document connected with a disputed matter is extinguished if either or both of the following apply —

Debate interrupted, pursuant to standing orders.

[Continued on page 4793.]

QUESTIONS WITHOUT NOTICE

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

522. Mrs L.M. HARVEY to Premier:

I refer to the serious matter before the house; namely, the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. Will the Premier accept an opposition proposal to establish a short, sharp and bipartisan Legislative Council select committee to review the state's course of action in the best interests of accountability and oversight, without compromising the state's position?

Mr M. McGOWAN replied:

The answer to that is: absolutely not. We will not agree to any such measure whatsoever. I heard the Leader of the Opposition at the start of her contribution to the second reading debate. The first words she said were that the opposition would support the legislation. So I thought, "That is pretty clear. I can leave now and get myself ready for question time. I cannot imagine that she would now change position like this and say such a thing." The legislation has been drafted on the advice of the Solicitor-General and the State Solicitor of Western Australia, combined with the well-respected national law firm Clayton Utz. They have come up with this as the way to deal with a diabolical and threatening situation to the state's finances and to the financial future of Western Australia. That is how it has been drafted and that is why it has been drafted. This matter has now been on foot going back at least six years. It is reaching —

Mr D.C. Nalder interjected.

Mr M. McGOWAN: You need to listen. It will reach a potential conclusion later this year in which one person, an arbitrator, could potentially rule against Western Australia to the tune of $30 billion, or $30 thousand million. It would be sent from Western Australian families to one selfish and greedy billionaire in Queensland because he did not get the right—because of Colin Barnett's decision, which I support—to sell a project to a Chinese company. He wants to sue the state.

Mr D.C. Nalder interjected.

Mr M. McGOWAN: Sorry, can you repeat that?

The SPEAKER: Member for Bateman, I call you to order for the second time; I warned you yesterday.

Mr M. McGOWAN: Can you repeat that?

Mr D.C. Nalder: I am not allowed to.

Mr M. McGOWAN: There you go, Mr Speaker. Honestly, it is incredible that the opposition would do this. The decisions were made by Colin Barnett in 2012 and 2014. They were the correct decisions. He made the correct decisions about Mr Palmer's project. He made the right decisions but, ever since, Mr Palmer has pursued arbitration and it started to come to a head in July this year when we knew a decision was coming towards the end of the year or early next year and we knew it was a massive risk to the people of Western Australia. The idea that the opposition would seek to delay this solution for some sort of political pointscoring or some sort of payback for Mr Palmer's support for the Liberal Party is frankly disgusting.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

523. Mrs L.M. HARVEY to the Premier:

I have a supplementary question. I note that a short joint select committee inquiry and support for the legislation are not mutually exclusive topics. However, can the Premier explain why it is necessary to exclude disputed matters relating to the arbitration of Mr Palmer and Mineralogy from the Freedom of Information Act?

Mr M. McGOWAN replied:

As I am advised—as the Leader of the Opposition advised people—it is not unusual for matters to be excluded from the FOI act. It was passed in 1992 and it has a range of exclusions. The reason we are doing this is to prevent Mr Palmer from having another course of action against Western Australia. Mr Palmer is the most litigious man in Australia and he uses his money to sue everyone all the time. That is what he spends his time doing. He sits in his office and uses the $1 million a day he gets from Western Australia from the state agreement with the Chinese company to pursue legal action against people all over the country. He is attempting in the High Court to bring down the hard borders and there will be more to come on that very shortly. He is now also threatening to take these laws to the High Court so he can secure $30 billion from Western Australian taxpayers. The reality is and the reason that the Leader of the Opposition asked this question—I thought about it while she was sitting there—is that she cannot control her upper house colleagues. She has Nick Goiran and Michael Mischin —

Point of Order

Mr Z.R.F. KIRKUP: Mr Speaker, I draw your attention to the relevancy of the answer.

Several members interjected.

The SPEAKER: Members, I will hear this in silence, please.

Mr Z.R.F. KIRKUP: The supplementary question was in relation to the FOI act and I ask the Premier to get back to that.

The SPEAKER: No, it is all part of the original question.

Questions without Notice Resumed

Mr M. McGOWAN: It is because the Leader of the Opposition cannot control Nick Goiran and Michael Mischin.

Mrs L.M. Harvey: Is it?

Mr M. McGOWAN: Yes, it is, because it is clear you cannot control them. The Leader of the Opposition cannot exercise her authority in the Liberal Party room. Hence, she now has this issue.

Mrs L.M. Harvey: What are you afraid of?

Mr M. McGOWAN: What am I afraid of? I will tell you what I am afraid of. I am afraid that Western Australia will be bankrupted by Clive Palmer. That is what I am afraid of and the Leader of the Opposition appears to be on Clive Palmer's side!

Several members interjected.

The SPEAKER: Minister, take a deep breath.

CORONAVIRUS — INTERSTATE BORDER RESTRICTIONS — HIGH COURT CHALLENGE

524. Ms S.E. WINTON to the Attorney General:

Can the Attorney General update the house on the status of Clive Palmer's High Court challenge to Western Australia's hard border?

Mr J.R. QUIGLEY replied:

I thank the member for Wanneroo for her question and yes, I can. The state of Western Australia has received an offer of settlement from Clive Palmer—an offer to withdraw the High Court action. In the terms of the offer, he exposes himself to be the liar and fraudster that he is. I will read out the letter of offer —

1. As the State is aware, Mineralogy is currently pursuing a High Court challenge against the state's border closers. One of Mineralogy concerns is ensuring all its team and representatives are able to attend any hearing of the arbitration. Mineralogy's High Court case has caused considerable stress in the community when it became apparent last week that it may be successful.
2. In good faith, and despite the fact that the Applicants' decision maker will not be able to attend in Perth in person, the Applicants have agreed that the mediation takes place in Perth and that Wayne Martin AC QC act as mediator.
3. If the matter does not settle at mediation, Mr Palmer must be able to attend the arbitration hearing in person. Likewise, Peter Dunning QC must also be able to attend in person.

4. As the state cannot guarantee those parties entry to Western Australia, the only option is for Mineralogy to be successful in its High Court challenge and for the arbitration hearings to be held in Perth or, alternatively, for the parties to agree the arbitration hearings can be held outside Western Australia.

5. If the State can agree for the arbitration hearing —

Listen to this bit!

> being held in Canberra, Mineralogy could be agreeable to withdraw its High Court challenge on that basis with each party to pay their own costs.

6. I can explore this option if the State thinks it has merit. I will be discussing matters in detail with the relevant parties at 3 pm (AWST) on Monday, 3 August 2020 and it would be helpful if you could provide some feedback by then.

Yours faithfully,

Thomas Browning

In-House Counsel

Mineralogy Pty Ltd

International Minerals Pty Ltd

I table the offer put forward by Clive Palmer and Mineralogy and International Minerals.

[See paper 3556.]

Mrs L.M. Harvey: Nine days ago!

Mr J.R. QUIGLEY: You can count! That is good. You can count, and Parliament is back. This is my first opportunity to table this document. What is this document saying? It is saying, "I don't care about the state border closure. What I care about is getting my arbitrator and the legal team and the experts into Perth to plunder Western Australia for $30 billion in an arbitration. I will agree to withdraw my High Court challenge and to leave the border closed if you, Western Australia, agree to shift the venue over to a jurisdiction in the eastern states of Mr Palmer's choosing." What a liar he has exposed himself to be! He has been publishing these ads, which include statements such as —

> Like all Australians my major concern is for the health of our community. I have a strong commitment to Western Australia and the men and women who have built this state.

He does not have any commitment. He has a visceral hatred for Western Australia. That is self-evident. He goes on —

> Not only is the Western Australian government's action unconstitutional, it is against the best interests of Western Australian families.

He does not care about the interests of Western Australian families. We know that the hard border introduced by the McGowan Labor government has kept Western Australia virus free for nearly three months—over three months, in fact. His only interest is getting across that border with his legal team and experts and arbitrator to plunder $30 billion from Western Australian taxpayers. How do you like this bit?

The SPEAKER: Attorney General, this is question time. It is not a speech.

Mr J.R. QUIGLEY: I know it is question time. Thank you for reminding me of that, Mr Speaker, but this is very, very important. He calls upon the Western Australian government to maintain the hot spots but take down the border. To top it all he has an ad in the newspaper that says —

> … Premier Mark McGowan continue to deny … Western Australians jobs and prosperity by refusing to open their state's borders …

He wants the borders open so that he can come and plunder $30 billion from this state and rob all our families of prosperity, rob all their jobs, shut the state down and send it bankrupt.

The SPEAKER: Attorney General!

Mr J.R. QUIGLEY: He says that Western Australia needs travel now so that he can travel over with his experts, with his counsel, with Mr Dunning, QC, to plunder this state for $30 billion. It is not going to happen! I table the offer that has been sent to us. I think I have tabled it already.

The SPEAKER: The paper is tabled. Thank you, Attorney General.

CORONAVIRUS — QUARANTINE ARRANGEMENTS

525. Mr Z.R.F. KIRKUP to the Premier:

I refer to the four publicly known breaches of hotel quarantine and the fact that it obviously takes only one breach to cause an outbreak. I also refer to the Premier's comments yesterday in the house that no offer of Australian Defence Force personnel has been made by the Prime Minister. Why is the Premier waiting for the Prime Minister to offer ADF personnel instead of picking up the phone to protect Western Australians from COVID-19?

Mr M. McGOWAN replied:

That is a very bizarre question. As I explained yesterday, when I saw the Prime Minister speaking about ADF personnel being available on the *7.30* report with Leigh Sales some weeks ago, I ensured that the next morning we made contact to seek that assistance. Up until then, we had had not a great deal of assistance from the Australian Defence Force. A few personnel were involved in the state health emergency centre, but there was not a great deal of assistance. We sought assistance on various occasions; it was not forthcoming. As soon as I heard the Prime Minister say that, we took advantage of the opportunity. Around 50 ADF personnel—reservists—are now assisting in our hotel quarantine arrangements and, obviously, sharing the burden. Members should bear in mind that around at least 250 people are employed or contracted by the state undertaking that role as well, although we are sharing the cost with the commonwealth. The quarantine arrangements are now a joint state–commonwealth responsibility.

CORONAVIRUS — QUARANTINE ARRANGEMENTS

526. Mr Z.R.F. KIRKUP to the Premier:

I have a supplementary question. Yesterday, the Premier said that there had been no offer by the Prime Minister of ADF personnel. We found out from *The Australian* today that that exact offer was made on 27 March. What is the situation? Has there been an offer that the government has not taken up, or has the Premier failed to call the Prime Minister and ask for ADF personnel being more involved in our hotel quarantine practices to protect Western Australians from COVID-19?

Mr M. McGOWAN replied:

I just explained what happened. I know nothing about any 27 March offer. I will have that looked at. We sought ADF assistance in relation to cruise ships and we did not get it.

Several members interjected.

The SPEAKER: Members! Your leader is on his feet!

Mr M. McGOWAN: We sought ADF assistance on a number of occasions and we did not get it. The cruise ships were very difficult to manage. They caused me and the Minister for Health multiple sleepless nights worrying about that. We sought assistance; we sought help. We sought locations in which to put the passengers at defence bases and we were rejected. We sought assistance from the ADF about where to put the ships and we were rejected. We sought ADF help and it was not forthcoming. That caused me a lot of grief. We had to, obviously, manage a very difficult situation with the *Artania* in particular. Fortunately, it transpired that we eventually got assistance with getting an aircraft out here. As I recall, Senator Mathias Cormann was very helpful. A German aircraft came out and we were able to fly most of the passengers back to Germany. At various crucial points with those cruise ships, it was very, very tough and we were not given the assistance that we were asking for.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

527. Ms A. SANDERSON to the Premier:

I refer to the legislation introduced into this house and second read yesterday by the Attorney General that seeks to deal with the damages claim submitted by Clive Palmer, Mineralogy, and International Minerals. Can the Premier outline to the house why the Parliament needs to debate and pass this legislation urgently and what the consequences will be for Western Australians should this legislation not pass the Parliament?

Mr M. McGOWAN replied:

I thank the member for the question. The Attorney General has outlined the reason we are taking this decisive action to protect Western Australians. We would like to see these laws pass through this house today and the upper house tomorrow. The Attorney General has explained that the issue goes back to 2012 and 2014, with decisions made by former Premier Colin Barnett. Mr Barnett made the right decisions. We support the course of action that he took. Mr Palmer's proposals were flawed and without appropriate detail. Mr Palmer had plans to sell the project to various Chinese entities, but that was not the principal decision. The principal decision made by Mr Barnett, as I understand it, was that the proposals themselves were flawed. Mr Palmer was not happy with Mr Barnett's decisions. He then, under the state agreement, sought arbitration. This has never been done before in the history of state agreements. Mr Palmer has broken new ground by doing this. Ordinarily, these matters are worked through between the minister and the proponent—not via an arbitration process. Never before have damages been sought under the arbitration process. We have around 70 state agreements in Western Australia and this has never happened before. The position taken by Mr Palmer is that he is seeking a payment of around $30 billion from Western Australian taxpayers, plus further unspecified damages for breaches he claims. It could be well in excess of $30 billion.

That would be $12 000 dollars out of the pocket of every single man, woman and child in this state. We have no choice but to take the course of action we are taking to protect Western Australians. Imagine the arbitrator making a ruling against our state in the amount of $30 billion? Everyone in this chamber would be saying, "Why didn't

you take action? Why didn't you legislate when you had the chance to?" That is what we are doing and we cannot afford to delay. Mr Palmer employs legions of lawyers. Who knows what he will do? We need to pass these laws now. We are not going to risk selling out Western Australia to someone like Clive Palmer. The Parliament and all political parties need to work together on this matter. The bill is unprecedented, but so are the circumstances and so is Mr Palmer's behaviour in this matter. I have spoken to the mining industry. I saw this morning that Mr Paul Everingham from the Chamber of Minerals and Energy of Western Australia has endorsed our action. I am thankful for that step by Mr Paul Everingham.

I did not become Premier to be soft. You have to do difficult things. You have to be prepared to take difficult steps. You have to do things that solve problems on behalf of the 2.6 million Western Australians who depend upon the state government. That is what we are doing. We are going to defend this state in the interests of the people and the children and future generations of Western Australians. We will not give in to one man who is seeking to take $30 billion from the citizens of this state—to take it out of their pockets—and if he is successful, force us to take dramatic steps like closing hospitals and schools, sacking masses of people, increasing levies and taxes across the state, and seeking bailouts from the commonwealth. That is the sort of thing that would be required if Mr Palmer were successful. What makes this immeasurably worse is what the Attorney General just revealed a moment ago—the letter from Mineralogy signed by Mr Palmer's in-house lawyer. I want to quote clause 5 of this letter, which was sent on 2 August, less than a couple of weeks ago, so all members fully understand what this is about —

> If the State can agree for the arbitration hearing being held in Canberra, Mineralogy could be agreeable to withdraw its High Court challenge on that basis with each party to pay their own costs.

Mr Palmer is saying that he would stop his High Court action on the border if we were prepared to move his arbitration against the state to Canberra. In other words, Mr Palmer's High Court border challenge is a disgusting sham; it is a disgusting subterfuge. The only reason he wanted to bring the border down was so that he could take this state for $30 billion. That is the only reason he pursued that action. We have seen all those mealy-mouthed advertisements in which he claims it was some matter of personal freedom or something for him. No, it was not. We have the proof. He just wanted to bring the border down and risk the lives of Western Australians so he could get money out of us. That is all it was about.

I say to the state opposition: Support us. Let us get legislation through both houses today and tomorrow. Let us defend Western Australians. Do not support Clive Palmer.

TOURISM — ACCOMMODATION — OVERSEAS BOOKING PLATFORMS

528. Mr D.T. REDMAN to the Minister for Tourism:

I refer to reports of tourism accommodation providers in the south west being gouged by overseas online booking platforms during busy times.

(1) Is the minister aware of overseas booking platforms increasing prices without the knowledge of accommodation providers?

(2) Will the minister undertake to meet with representatives of online booking platforms in an effort to curb this un-Australian behaviour?

Mr P. PAPALIA replied:

I thank the member for the question.

(1)–(2) No, I am not aware of gouging or claims of gouging; however, I am aware that right around Western Australia, in just about every region of Western Australia with the exception of East Kimberley, an extraordinary boom in tourism is going on. Despite the naysayers and claims by many people opposite and outside this place that Western Australians would not travel to the regions, that we could not engender an interest in Western Australians to spend on travel within their own state and explore those magnificent destinations and attractions that have brought more people to Western Australia in the last two years from outside the state than ever before in history, that has been proven to be a complete fallacy. There is a great boom going on. Western Australians are moving into the regions. They are pursuing the opportunity to discover and explore like never before and encounter some regions, in many cases, that they have never seen before. That is a good thing.

I understand that there is a need for additional people to work, particularly in the hospitality sector, in the regions. We are working to attract Western Australians to the regions from the city. We will not be driving them there or making their beds or cleaning their shoes or looking after whatever their mum might have done for them in the past, but we will encourage people to seek opportunities in the regions to assist, because there was an incredible demand in the hospitality sector in particular. However, I am not aware of online booking agencies gouging. In the event that something of that nature occurs, I urge everyone who experiences that to report it to Tourism Western Australia, the agency, and it might be able to see what can be done.

TOURISM — ACCOMMODATION — OVERSEAS BOOKING PLATFORMS

529. Mr D.T. REDMAN to the Minister for Tourism:

I have a supplementary question. Now that the minister is aware of the issue and the pending significant reputational damage that is occurring for many accommodation providers, given that many people believe that they are overpriced and setting prices outside their authority, will the minister undertake to meet with online platforms in an endeavour to change that behaviour?

Mr P. PAPALIA replied:

I probably will not. I urge anyone who feels that there is an issue and wants to draw it to our attention, to bring it to the attention of Tourism WA, and it will advise me. We will probably seek assistance from the Australian Competition and Consumer Commission, the appropriate authority at a federal level on these matters, and it may be able to pursue this matter.

However, I will say that I am not aware of extraordinary gouging in any way with respect to costs. There are costs associated with staying in accommodation in the regions. What is at play at the moment in many respects, I think, may be just the free market in which there is supply and demand. There is great demand. I have heard many anecdotal reports from operators of customers applauding the fact that they are providing a service, an opportunity to experience encounters, attractions and destinations, and saying that Western Australians are actively seeking to go there to help their fellow Western Australians. Western Australians, particularly from the metropolitan area, are actively choosing to travel to places that they may not have gone to before with the intent of not only having a wonderful holiday, a wonderful break and a great experience, but also supporting their fellow citizens during this troublesome time. I commend them for that. What did the member want to say?

Mr D.T. Redman: I was going to make the point that in Margaret River there is a facility normally booked for $200 a night for a room that is on there for $5 000 a night.

Mr P. PAPALIA: If that is the case, I do not imagine they will be getting too many takers. People are not stupid. I urge everyone who is listening that if they want to make a booking to ring the hotel. Go to the site and if there is a particular discrepancy, like a $200-a-night offering being put on the market for $5 000, unless they really want to pay $5 000, I urge them to ring the hotel and find out the actual price.

CORONAVIRUS — INTERSTATE BORDER RESTRICTIONS — HIGH COURT CHALLENGE

530. Mr D.R. MICHAEL to the Attorney General:

I refer to Prime Minister Scott Morrison's promise to have the commonwealth withdraw from the High Court challenge to Western Australia's border and to, instead, offer support for WA. Can the Attorney General update the house on the status of the commonwealth's intervention in these proceedings?

Mr J.R. QUIGLEY replied:

I want to give a bit of background to the commonwealth's both confused and disgraceful intervention in these proceedings. Firstly, once Mr Palmer launched the proceedings, the motivation for which is now laid bare to the chamber—that is, just to come over the border and plunder Western Australia for $30 billion—the commonwealth intervened through the Attorney-General. At that time, he said, publicly, that he was intervening to assist the court with the law. Shortly before the hearing was to convene on 13 July, our witness, Professor Loguke—the best epidemiologist in Australia—became unavailable because she had to go and help in Victoria. We had to make an application to adjourn the hearing for a fortnight so that the Solicitor-General could confer with that witness. We wrote to the federal Attorney-General, Mr Porter, and his response was that the commonwealth would take a neutral position on the adjournment application by WA. When we went to court the next morning, Mr Porter went the other way, supported Clive Palmer and opposed the adjournment so that we could not get to speak to the professor who was going to support Western Australia. Fortunately, the judge overruled both Mr Palmer and Mr Porter and gave us the two-week adjournment.

The SPEAKER: Attorney General, your phone is on the table and once the information gets tabled, you will lose your phone for the rest of the day.

Mr J.R. QUIGLEY: I will bear that in mind.

It is important I get the truth out there. Mr Porter was then still maintaining that he was only intervening on behalf of the commonwealth to assist the court. In the hearing, he put in a 25-page attack on Western Australia's defence of Clive Palmer's action and I table that in the chamber today.

[See paper 3557.]

Mr J.R. QUIGLEY: It is a 25-page attack by the Attorney-General of the commonwealth upon Western Australia. No wonder his own constituents on Facebook went off and started calling him the Benedict Arnold of Western Australia. On the Saturday, I published a notice of intervention that clearly stated that the Attorney-General intervened in support of the plaintiffs, which are Clive Palmer and Mineralogy, so he was in there, full force, supporting Clive Palmer and Mineralogy on what the Premier has described as what appears to be a payoff by the Liberal Party to Clive Palmer

for the $60 million or $80 million payoff—that is one alternative; I will give members the other one—during the last federal election campaign. Mr Porter must be asked questions. If he does not know what Clive Palmer's true motivations were, which were nothing to do with the border, Clive Palmer has played him for a dope and sucked him into some High Court proceedings to support Clive Palmer coming across the border to plunder Mr Porter's home state of Western Australia of $30 billion.

But there is a way for Christian Porter to redeem himself, and it is the only way to redeem himself at this stage of the High Court proceedings, and that is to file a notice of intervention in support of Western Australia, to maintain the hard border, to stop Clive Palmer coming back across the border to plunder the state of Western Australia for funds. I implore and make an open request in this Parliament. Where Christian Porter sits as an Attorney General to forthwith file a notice of intervention that would state, "The Attorney General intervenes in support of the first and second defendants," that is the state of Western Australia and our State Emergency Coordinator, Mr Christopher John Dawson.

That is the state of proceedings and we are waiting for the federal court to make its ruling on the High Court's remittance. It is not too late. The Federal Court expects to deliver its decision on 24 August. There is now ample time for Christian Porter, the federal Attorney-General, to file a notice of intervention in support of Western Australia and its hard border. May it please you, Mr Speaker.

STATE FINAL DEMAND

531. Mr D.C. NALDER to the Treasurer:

Given the Treasurer's government has announced $5.5 billion dollars in budget announcements and given it has been almost a month and a half since the end of the financial year, I ask whether the Treasurer could provide his expected financial impact this year and whether he could outline to the house the state final demand for the 2019–20 financial year, the key economic measure for the domestic economy?

Mr B.S. WYATT replied:

The *Annual Report on State Finances* is required under the Financial Management Act to be tabled in the Parliament by the end of September and it will be. It will outline the end result of the 2019–20 year. The budget, of course, is on 8 October and will outline what we expect the 2020–21 year to be and, very shortly, the state final demand figures for the June quarter will become available. I want to make a couple of points about that. When I provided an update to the Parliament just before we rose for the winter recess, I outlined what the Treasury expected the economic impacts of the coronavirus to be on the state's economy. At this point, I am hoping it will not be as severe as I outlined to the Parliament six or seven weeks ago, but, of course, that is subject to no further outbreak of the coronavirus or Mr Palmer being successful in his border challenge. But there are two very important documents coming out at the end of September and early October that the opposition can no doubt peruse.

STATE FINAL DEMAND

532. Mr D.C. NALDER to the Treasurer:

I have a supplementary question. Given the special legislation to defer the budget, why can the Treasurer not be more transparent in the process on the way through around the state's finances and can he confirm that he does not expect the state final demand to contract again this financial year?

Mr B.S. WYATT replied:

There was no special legislation to defer the budget. The budget deferral was a decision of the executive government, but we then sought appropriation legislation to ensure that we could continue to pay salaries et cetera for the 2020–21 year. The second part of the member's question was can I confirm —

Mr D.C. Nalder: Why can't we be a bit more transparent on the finances?

Mr B.S. WYATT: I have been pretty transparent at every point. Six or seven weeks ago, I provided an update to the Parliament on the finances and economic expectations for 2019–20 and 2020–21. Those figures for the 2019–20 year, as I said a minute ago, will be tabled next month, as they have always been done. The Financial Management Act requires us to have it completed by the end of September. Within a week and a half of that, there will be a state budget, which will provide all the usual information that a state budget provides. I think the member's final question was can I confirm that there will be no contraction of state final demand in the current year. I cannot confirm that, but, no doubt, the annual report for 2020–21 will be able to shed some light on the outcomes.

RAILCARS — BELLEVUE FACILITY

533. MR S.J. PRICE to the Minister for Transport:

I refer to the McGowan Labor government's $5.5 billion recovery plan that includes a significant investment in bringing local manufacturing back to WA.

Can the minister advise the house how this government's investment in a new diesel maintenance facility at Bellevue will create more local job and training opportunities for Western Australians and can the minister outline to the house how this government's commitment to local manufacturing compares with that of the Liberal opposition?

Ms R. SAFFIOTI replied:

I thank the member for Forrestfield for that question and for his commitment to local manufacturing.

The creation of jobs has been and continues to be the number one priority for the McGowan Labor government. It was a priority before the pandemic and it is, of course, now part of our economic recovery. Last week, the Premier and I announced a $94 million suite of initiatives to boost manufacturing in WA. As part of our focus on local manufacturing, we are building our new railcars here in WA. As part of not only the manufacturing and assembly of the new C-series trains, we have also committed to a new diesel maintenance facility. This maintenance facility will basically create more training and opportunities for young Western Australians throughout WA.

We want to leverage the many private sector opportunities. As we know, the rail industry in WA is so significant in not only our commuter section, but also our mining and resources area. We want to bring to WA more of those maintenance jobs, more of those jobs being undertaken here in WA, the maintenance work and also the manufacturing work here in WA. So, of course, this is again another major focus, and, of course, as everyone knows, local manufacturing has been our priority.

I was surprised, as I sometimes am when I flick through my social media at night, to see the Leader of the Opposition's new focus on local jobs. The Leader of the Opposition is now focusing on local jobs. I was surprised by the new focus on local jobs, because I just compare and contrast the new focus with her commentary on some of the decisions that we made. I will go first to the Matagarup Bridge. Remember the Matagarup Bridge? We brought the fabrication work for that bridge back to WA. What did we hear from the opposition? Criticism and negativity. In fact, the opposition went walking on the bridge and criticised WA workers. The Leader of the Opposition basically said that Western Australians delivered a compromised piece of infrastructure.

When we announced the railcar manufacturing contract in Western Australia, what did the Leader of the Opposition say? She said that it was a failed manufacturing industry that was just a waste of Western Australians' money, and that we should not be reviving industries from a bygone era. Does the Leader of the Opposition still stand by those comments? The Leader of the Opposition is not going to stand by those comments because, as we have seen even as late as today, the Leader of the Opposition is all over the place on so many issues.

Today, we are demonstrating on local manufacturing. We saw her speaking on the borders for months saying, "Bring the borders down; bring the borders down"; now she says, "I never said that." Of course, even as late as today, the Leader of the Opposition stood up and said, "We support the legislation but we have to send it to a committee." The Leader of the Opposition either supports the legislation or she does not; she either supports Clive Palmer or she does not. We have seen from the Liberal Party WA a relationship with Clive Palmer, and we have seen a relationship trying to undermine Western Australia's economy and trying to undermine Western Australia's health.

WORKER ACCOMMODATION — REGIONS

534. Mr V.A. CATANIA to the Premier:

I refer to the critical shortage of skilled and unskilled workers in regional WA, which has been further exacerbated by the shortage of regional accommodation for workers. Will the state government commit to developing a short-term solution to provide worker accommodation in regional locations of high demand, including Exmouth, Coral Bay, Denham, being Shark Bay, and Kalbarri?

Mr M. McGOWAN replied:

As Mr Speaker knows, we have gone to enormous efforts to keep businesses prosperous and going well through regional Western Australia over the COVID periods. We have gone through enormous efforts.

Mr D.C. Nalder interjected.

The SPEAKER: Member for Bateman!

Mr M. McGOWAN: The shadow Treasurer—I mean, honestly, he is so irrelevant.

Mr D.C. Nalder interjected.

The SPEAKER: Member for Bateman, I call you to order for the third time. I have given you a lot of latitude. That is it.

Mr M. McGOWAN: If I try to say anything, he interrupts. No wonder he has been demoted.

Mr Speaker, we have gone to enormous efforts to ensure that our tourism industry is strong. I must say, all the reports I have got back over the recent months from the locations the member is referring to are that tourism has been going extraordinarily well, in Exmouth, Kalbarri, Denham, Shark Bay—all those locations. Indeed, I was in Broome the other day; it is going extraordinarily well. I think that a lot of Western Australians are holidaying at home who perhaps have not holidayed at home, potentially, in decades. A strange and unusual reaction to COVID has been many Western Australians holidaying at home. At one level, it is great for regional tourism businesses that this has occurred. I understand that they have had difficulties securing labour, and that is why we have instituted huge training initiatives, and we have instituted or we are instituting a major campaign to get Western Australians

to holiday in regional WA. I cannot magic out of thin air new houses—I do not think anyone in government can—but, what we have done, of course, is the major program to get more housing built. That has been a huge success—a massive take-up of new house building, and I expect, over time, that will help to resolve the issue. But, overnight, creating a new house is not easy.

I would encourage the private sector, if there are opportunities for moving transportable accommodation or using caravan park sites or using those sorts of locations, including local government, which actually controls those areas, to do so, and that may well assist in dealing with the issues of accommodation.

WORKER ACCOMMODATION — REGIONS

535. Mr V.A. CATANIA to the Premier:

I have a supplementary question. Given regional accommodation is either unavailable or unaffordable for unskilled workers, resulting in some sleeping in their cars, would the Premier consider a short-term funding package for small businesses to allow them to contribute to accommodation costs for their employees?

Mr M. McGOWAN replied:

I expect many businesses are coming up with innovative arrangements as we speak. I think that is the advice I have had—that there have been new campgrounds opened in some towns to allow people to take caravans, or whatever form of accommodation they might wish, to secure work. I have heard in some communities, people are, if you like, making rooms available for boarders to go and stay. When I was young, boarding was quite a common practice for people who went to a country town to work. In fact, some of my friends at school used to have boarders staying in their homes; that was quite a common practice. Those sorts of things in these sorts of circumstances, I think, are things that people and communities and businesses should look at as opportunities.

In terms of the government funding a package, we can have a look at something in light of that. Obviously, the parameters around that would be difficult in how we would make it work and how we would make it not subject to being exploited, and, if we did it, then, obviously, everyone would want it—every business in Shark Bay would want it; every business in Exmouth would want it. What if some businesses get it and not others? There are a lot of difficulties, just on the fly, with the sort of thing that the member is suggesting, but, clearly, entrepreneurial and innovative activity can provide opportunities for people to provide accommodation for workers going to those communities that the member mentioned.

CORONAVIRUS — WA RECOVERY PLAN — REGIONAL LAND BOOSTER PACKAGE

536. Mr D.T. PUNCH to the Treasurer:

I refer to the McGowan Labor government's $5.5 billion recovery plan that includes a significant investment in supporting jobs and businesses in our housing construction industry. Can the Treasurer update the house on how this government's regional land booster package is helping create a pipeline of work for businesses, workers and suppliers in regional WA?

Mr B.S. WYATT replied:

I thank the member for Bunbury for that very good question. If I can, just by way of an aside, before I get into the detail of that question, just note that the question was put by the Leader of the Opposition to the Premier about why the Freedom of Information Act is excluded. It is not unusual when we are dealing with particularly litigious third parties. As the member for Riverton knows, the same clause is in the Bell Group companies legislation that sought to complete the longstanding litigation regarding Bell, so it is not an unusual clause when dealing with particularly litigious third parties.

If I can, there has been a huge amount of effort to ensure that our construction sector is supported during this period of impact of the coronavirus, and members have seen—it has been much talked about around the community—the support that the state and the commonwealth government are providing to people who want to build a new home. One of the issues raised with me, as Minister for Lands, and has been for some time as I move around regional WA, is the price of industrial, commercial and residential land in regional Western Australia. We have to understand that in many of these locations, really, the only land available is held by the government through Development WA. Taking that on, we announced a few weeks ago a $116 million regional land booster to create jobs in the region, and, importantly, to create a pipeline of work supported by the housing construction building bonus that the state government has provided.

I am very pleased indeed to say that this policy is already delivering results—in fact, much stronger results than I anticipated. In the first three weeks of the initiative, Development WA saw a fourfold increase in regional sale inquiries compared with the same period last year and already 40 lots across regional WA have been sold across residential and industrial space. What has been particularly pleasing is that we are seeing renewed interest in project areas where there have been no sales or inquiries for several years. That includes the first sale of industrial land in Kambalda in 13 years. Indeed, Development WA sold its first industrial land in Broome and Karratha in six years. The member for Kimberley will be delighted to know that in her electorate, land was sold to Broome's

Blue Haze, a metal fabrications and manufacturing firm, which employs four locals and is investing $500 000 in improvements. In the member for Pilbara's local town of Port Hedland, a lot was sold to a developer who is now leasing a new facility to Monadelphous Group mining services with 15 full-time employees.

Indeed, the Pilbara has seen a large residential demand for the regional land booster. In the first week alone, land buyers placed offers on 18 lots in Karratha's Madigan estate at Baynton West. People buying a residential property there are saving $24 000. We are now releasing another 15 lots in Karratha to meet those demands. I figured that these policies would be successful, but the demand has been much stronger than I ever could have hoped, supported by a construction grant by the state and commonwealth governments and the fact that we as a state want fly in, fly out workers to relocate permanently to regional Western Australia. We are seeing and creating, through these efforts, a pipeline of work that will hopefully keep those people working and building and moving into new homes for the next couple of years.

CORONAVIRUS — HOTEL QUARANTINE BREACH

537. Mr P.A. KATSAMBANIS to the Premier:

I refer to the comments made by Michael Dyer, the president of the Security Agents Institute of Western Australia, on Channel Seven news last night about the hotel quarantine breach, and I quote —

> If you cannot speak English, you should not be working in the security industry at all. It's just too dangerous.

Can the Premier confirm that the private security guard responsible for that hotel quarantine breach did not have an appropriate level of English language proficiency; and, if so, why was he allowed to work in such a critically important role given the risks?

Mr M. McGOWAN replied:

The advice I have from the director general of Health about this matter is that the security guard concerned had the appropriate qualifications—in fact, he was very well qualified was the advice given to me by the director general of Health—that his English proficiency was appropriate for the role he undertook and that he had passed the relevant test. We have no advice and no evidence that he had any difficulties with English.

CORONAVIRUS — HOTEL QUARANTINE BREACH

538. Mr P.A. KATSAMBANIS to the Premier:

I have a supplementary question. Given that any failure of security guards to meet the appropriate level of English language proficiency may contribute to breaches in hotel quarantine, is this not a perfect example of why we need a risk assessment and audit of our COVID-19 protocols and processes as has been proposed by the opposition?

Mr M. McGOWAN replied:

As I said to the member—he never listens to the answers—we have examined this case. He had the appropriate qualifications. I am advised that he had the appropriate level of English. I do not know what his cultural background is, but I am advised that he had the appropriate qualifications. In fact, I was advised that he was almost over-qualified for the role he undertook. He had done the relevant courses and he had the appropriate level of English. That is what I said. The member for Hillarys continues to politicise these matters—that is what he does.

Mr P.A. Katsambanis interjected.

Mr M. McGOWAN: I am sorry—what did you say?

Mr P.A. Katsambanis: Answer my question.

Mr M. McGOWAN: The member for Hillarys interjected half beneath his breath and when I asked him what he said, he refused to repeat it.

Mr P.A. Katsambanis: Answer my questions.

Mr M. McGOWAN: I have answered the questions. We are not going to support the opposition's politicisation of these issues. It has already tried to do this when it said to bring down the hard border. The member for Hillarys has said it multiple times.

Mr P.A. Katsambanis: No, I haven't.

Mr M. McGOWAN: No, but your leader has.

Mr A. Krsticevic interjected.

The SPEAKER: Member for Carine!

Mr M. McGOWAN: The shadow minister for the cost of living is back! He has been promoted. He is obviously a high-flyer of the Liberal Party, which says a lot. We are not going to support —

Mr A. Krsticevic interjected.

The SPEAKER: Member for Carine, it was quiet before you got here.

Mr M. McGOWAN: — the opposition's politicisation of matters related to COVID-19. I urge the Liberal Party to stop.

The SPEAKER: That is the end of question time.

MINISTER FOR POLICE — PORTFOLIOS — STAFF
MINISTER FOR WATER — PORTFOLIOS — STAFF

Questions on Notice 6136 and 6148 — Answer Advice

MS M.J. DAVIES (Central Wheatbelt — Leader of the Nationals WA) [2.55 pm]: I rise under standing order 82 to ask the Minister for Police when I can expect an answer to question on notice 6136, asked on 19 May, and to ask the Minister for Water when I can expect an answer to question on notice 6148, which was also asked on 19 May 2020.

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [2.55 pm]: On behalf of the Minister for Police, who is not in the chamber at the moment, I am sure that she will follow up the outstanding question and get back to the member as soon as possible.

MR D.J. KELLY (Bassendean — Minister for Water) [2.56 pm]: With respect to the question in relation to water, I am not aware of the progress of that question but I will find out and get back to the member.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

Second Reading

Resumed from an earlier stage of the sitting.

MRS L.M. HARVEY (Scarborough — Leader of the Opposition) [2.56 pm]: I rise to continue my remarks about this amending legislation. I put on the record once again that the position of the Liberal Party room was a consensus position to not oppose this legislation. I would like to get on the record that we do not support the actions of Clive Palmer, which is why we are not opposing this legislation.

During question time, I asked the Premier whether he would support a short sharp committee inquiry. It is ridiculous to say that the suggestion of a committee inquiry or that contentious legislation go to a committee to potentially strengthen it is in any way, shape or form showing that the legislation is not supported. That is ridiculous. The amending legislation in front of us is backdated to have effect from 11 August. It was read in just after 5.00 pm yesterday so that Mr Palmer and his lawyers could not get wind of it and could not lodge a writ in court. It needed to be read in yesterday after that opportunity had lapsed. The legislation is backdated to be effective from yesterday, 11 August 2020, at around about 5.00 pm. Should the upper house choose to send it to a committee to potentially strengthen it and ward off a potential High Court challenge, it could be done and dusted by 15 September. It could be debated in the Legislative Council and be dealt with by 17 September. The appeal will be heard in November 2020. If the legislation is done and dusted and dealt with by 17 September, there is no reason for the government to not agree to a committee inquiry. That is up to the government and our colleagues in the Legislative Council. In considering incredibly contentious legislation, which is what we are now considering, as the Premier and the Attorney General have said, it may well be in the best interests of the state to avoid a $30 billion damages claim.

Mr P. Papalia: It just might!

Mrs L.M. HARVEY: The government is saying that this is the right avenue —

Mr J.R. Quigley: You're supporting it.

Mrs L.M. HARVEY: Yes, we are not opposing this legislation. We are taking the government on trust and in good faith that this is the right course of action. However, a committee inquiry could well tighten up any potential issues in the legislation and strengthen it to ensure that the taxpayers of Western Australia are indeed best protected by this legislative instrument. It would not push out the consideration of the legislation in the Legislative Council. It could well be dealt with by September. The appeal date is set for November. The idea that having a committee of Parliament consider legislation is in any way, shape or form showing a lack of support for the legislation is complete nonsense. That is our job. It is our job in this place to consider legislation and make sure that it does not have unintended consequences. Indeed, if the Parliament that passed the original state agreement with Mr Palmer's shelf companies had spent a little more time considering what it was doing in 2002, we may not have found ourselves in the position that we are in today in 2020—having to amend the legislation and remove the arbitration rights within the contract, which are similar to the rights and arbitration process within all state agreements. We have to remove them because the job was not done properly in 2002.

Now, in 2020, we are in exactly the same position because we have not been given time to consider this legislation. It was read in at five o'clock yesterday afternoon and we are considering it now, less than 24 hours later. It will be passed by the end of the sitting this evening. The government wants it to spend a day in the Legislative Council tomorrow. It is precisely that rushed agenda that allows flawed legislation to go through, with unintended

consequences. That is what happened in 2002 when the legislation was not considered properly. Now the government is asking us to get through this legislation to amend a state agreement, which has never been contemplated before, in the shortest time possible. I hope there are no unintended consequences, because in agreeing to pass this legislation and taking the government on trust and in good faith, we do not want to be responsible for unintended consequences.

To get back to the freedom of information exemptions, we will ask the Attorney General during the consideration in detail stage whether the exemption to access documents under the Freedom of Information Act is confined only to the proponents of the state agreement or whether the Freedom of Information Act exemption will exempt every other entity from seeking documents through the freedom of information process. For example, will the Freedom of Information Act exemption exempt every media outlet? Will it exempt the opposition? Will it exempt some of the other parties in the Legislative Council from lodging a freedom of information request for information about this state agreement and the government's handling of the state agreement, the appeal and its relationship with Mr Palmer? Will it exempt every other entity from having access to the freedom of information process or just the proponents of the state agreement? It seems to me that this is shutting down the opportunity for people to understand exactly what happened between 2014 and 2018 that has led to members of Parliament finding ourselves with this extraordinary legislation in front of us.

I want to put on the record, before I sit down once again, that it is ridiculous to say that the Liberal Party is in any way, shape or form supportive of Clive Palmer and this action. It is quite simply not the case. I have ruled out doing a preference deal with Clive Palmer. Indeed, I have not been supportive of the High Court challenge either. It is an absolute nonsense to construe from my question about whether a committee of the Legislative Council could potentially do a short, sharp inquiry that I am somehow best friends with Clive Palmer. It is not the case. I just wanted to put on the record that that is simply not the case. I do not approve of these actions and I would be absolutely mortified if Clive Palmer, notwithstanding this legislation, was successful in suing my grandchildren for $12 000 each as a result of his litigation. I would be mortified. The opposition will not stand in the way of this amending legislation because the government has told us that it is the solution to the problem. I hope it is the solution to the problem.

As we have said, we do not oppose this legislation. We will certainly interrogate it expeditiously. We do not want to rush legislation through this place and again find ourselves in these circumstances in another 18 years. The 2002 state agreement was flawed and that is why we are where we are. We do not want this amending legislation to also be flawed and to find further unintended consequences down the track. That is why the opposition will do its job in interrogating this legislation. We will ask questions so that we can understand the ramifications of taking away the arbitration rights that were enshrined in the state agreement in 2002. We do not support Clive Palmer. We do not support this court action. We are working collaboratively with the government to ensure that there is a good outcome for the people of Western Australia.

I thank you, Madam Deputy Speaker, for indulging my comments.

MS M.J. DAVIES (Central Wheatbelt — Leader of the Nationals WA) [3.07 pm]: I welcome the opportunity to offer the position of the Nationals WA on this extraordinary piece of legislation. I do not think I have used that word or "unprecedented" as many times as I have in the last six months! Today, less than 24 hours after we were advised by the Premier of this action, we find ourselves debating the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020, which will have significant ramifications for the state's finances and our relationship with state agreement holders into the future. It is a very significant situation to find ourselves in.

From the outset, I state that the Nationals have had no opportunity to test with our own legal counsel the facts presented by the Attorney General yesterday or the State Solicitor and his cohort of colleagues last night. There simply has not been time. For the benefit of posterity and the record in this house, we should be clear that the first that we were made aware of the government's intention to pursue this matter was an urgent call to the chamber at 4.50 pm yesterday, followed by a conversation with the Premier behind the Chair in the chamber, which was interrupted by the Attorney General commencing his second reading speech. There was very limited opportunity for us to scrutinise the legislation. We were then offered a briefing by the State Solicitor and his associates, including external counsel who have been involved in the creation of this bill. That took place at seven o'clock last night.

Our party room also met at 11.30 this morning to consider the matter. I do not want to belabour the point, but all members take pride in the role that they have been elected to do and the work that members do in the chamber is important. It is far from a perfect environment and we do not always get the opportunity to scrutinise or debate matters in a fulsome way. It has been particularly difficult for all members during the COVID-19 period, and we are now dealing with this bill, in addition to the other legislation that was provided to us at very short notice prior to coming back after the winter recess.

I note that in my colleagues' contributions to the COVID-19-related legislation yesterday they made the observation that the Premier and the government have received many accolades for their handling of the pandemic and the state of emergency that we now operate under. I, too, commend those who have worked tirelessly to ensure that our state remains safe from the ravages wrought by this disease across the nation and the world. But I would also like

to point out that we, in opposition, have played our role. We have worked collegiately with government and we have accepted bills and amendments to legislation as we walk onto the chamber floor to debate them. We have accepted that we need to allow the government to make decisions, and we have been supportive in this place to enable that to happen. I do not think that can be disputed.

I am not sure that the same courtesy has always been returned. Yesterday in question time we earned the Premier's ire when we sought to raise the important issue of the workforce shortages that are impacting upon regional Western Australia. Those concerns were dismissed out of hand, and it is disheartening to think that, despite our best efforts to enable the government to pursue its legislative agenda, some of these matters are not being taken seriously, or at least are being dealt with flippantly.

I understand that this legislation is not COVID-19 related; it is something quite different, and has been in the pipeline for a little longer, but we find ourselves once again being asked to take a leap of faith. With no time to interrogate the bill, to seek our own legal advice, or to test the strategy that the government has chosen to pursue, we cannot be confident that this is the best course of action. We are being asked to take a leap of faith. We will do our best to comfort ourselves that this is, in fact, the case today, as we work through the bill, but it is not an ideal situation. For the sake of posterity—because these things are looked back upon—we should note the circumstances under which we are debating this legislation and the way in which the opposition has been brought to contribute and participate in this debate.

From the outset I state that I find the claim that has been made by Mr Palmer to be extraordinary. I share the horror and concern that has been expressed by my constituents and by the community at large that anyone would seek this quantum of money from the state. I think it would be fair to characterise the behaviour of Mr Palmer in this matter, and others that we are aware of, as extraordinary. The government has therefore put forward the argument that because of the extraordinary nature of Mr Palmer's claim and behaviour, the remedy to this problem can also be justifiably extraordinary. I want to be very clear about what that means and what we are being asked to do as part of this legislation. I am sure the Attorney General will clarify what is normal, what has been done before, and what is, as we have said before, unprecedented.

I think it is important to put that on the record. If we sift through the legalese and the layers of complexity, it means—and this is a very short summary—firstly, that we are removing the ability of Mr Palmer, Mineralogy and International Minerals to seek to pursue any claims through the court system, which is essentially a fundamental right of every Australian citizen. Secondly, we are amending a state agreement act, which is the enabling legislation for the state agreement contracts struck between the government and the proponent. We—the government and this Parliament—are doing this unilaterally. The Attorney General may say, with conviction—and he did yesterday—that the bill does not give rise to sovereign risk and that the bill does not create risk for other current state agreement parties or future investors; but saying that that is so does not make it so. This will send a shockwave through and raise concerns within the industry and business, and quite rightly so.

This government in particular has made a point of avoiding conflict with the mining sector or contemplating any changes or reviews of state agreement, except in the case of Mr Palmer, so this is unusual. It raises the question: if the government of the day does not agree with an outcome or an action, might it also be subject to a change to an act of Parliament to which it is a party? I speak with some experience on this matter; the Nationals WA bore the full brunt of a campaign against our proposal before the last election to amend legacy state agreements. We saw and remember very clearly the concerns that were raised by industry about any notion or proposal to change a state agreement without any consultation with the proponent with whom it was struck.

The third matter in the legislation that could cause concern and raise eyebrows is that we are creating a general regulation-making power and giving the Governor the ability to make orders to deal with various circumstances, including any matters that may not be adequately or appropriately dealt with by the bill. We are essentially allowing the government to write and enact its own rules without the requirement of revisiting Parliament, in layman's terms. That, to me, raises some serious concerns, because that will hand a blank cheque to the government of the day. Although this is a serious matter on which it is likely that many lawyers will be working, and there may well be unforeseen circumstances that have not been tested—we have heard that Clayton Utz has consulted with the State Solicitor's Office—this legislation is, nonetheless, something that this Parliament would not ordinarily ever contemplate or consider.

I also understand that the government has contemplated our free trade agreements and whether we or the commonwealth government may be in breach of them. That, again, is of serious concern. This is not just a Western Australian issue; it could potentially become a national and international issue. I think these are all things that the government has at least turned its mind to, and it is important to raise the question of how important this is in the context of the broader business environment.

We are removing the right for any documentation relating to the matter to be sought under freedom of information, specifically in relation to this particular state agreement and case, and we are focusing on this state agreement with Clive Palmer, Mineralogy and International Minerals alone. The Attorney General might like to clarify this, because

I presume other solutions were contemplated that might have encompassed other state agreements that could fall foul of the same action that Mr Palmer and his businesses are bringing against the state. The Attorney General could also clarify why this particular course of action has been taken, and whether it will provide us with the best opportunity to ensure we are not up for a $30 billion bill for generations to come.

I turn to the reason for the original action being initiated. It is my understanding, after last night's briefing, that it rest on the fact that in May 2014 the former High Court judge Mr Michael McHugh, AC, QC, found in favour of Mineralogy and International Minerals, who had submitted a proposal to the government of the day to amend the state agreement and had had their proposal rejected. The Attorney General noted in his second reading speech that the reason for Mr McHugh's finding was that, although the proposal was defective, it was nonetheless a proposal that should have been considered by the minister in accordance with the terms of the state agreement. The Premier today reiterated that he also believes that the Premier and minister responsible at the time, Hon Colin Barnett, was right in the action that he took and that he was acting on the State Solicitor's advice.

It is worth taking some time to discuss the convention for amending state agreements, because there is a convention. Yesterday the Attorney General went to great lengths to explain the process that is undertaken for any of our state agreements to be altered. In the simplest terms, it is expected that if a state agreement is to be varied, the government or the proponent is to submit a draft to the other party for consideration, and the two parties are to work together to reach a mutual agreement on the variation.

This is a convention and process that anticipates good manners. Mr Palmer is anything but conventional, and I will leave it to the public to decide whether he has good manners! He is highly litigious. He has publicly stated that he regularly pursues matters to court and enjoys it. The process in dispute—the proposal to amend the state agreement—is not prescribed in legislation or regulation, as I understand it. It comes about as a result of a convention, and Mr Palmer is testing the state agreement and the contract to the letter of the law. He believes he has cause to seek damages from the state. The government obviously believes there is a real chance that his case will be successful; otherwise, we would not be considering such extraordinary legislation. Thus, we find ourselves here today.

We in this Parliament have a duty to protect the Western Australian public and their hard-earned tax dollars. We have a responsibility to ensure that our state is not bankrupt and subject to higher taxes and charges for generations to come. We also have a duty to ensure that the state government does not find itself in this situation again, no matter who is sitting on the treasury bench. It might be argued that Mr Palmer is unique and that no-one else would choose to do business as he does. My understanding from comments made by industry and by the Chamber of Minerals and Energy is that they understand why the government is taking this course of action, but we cannot assume that no-one else would pursue an action like Mr Palmer. That is relying on good faith. With a $30 billion bill hanging over our heads and the heads of Western Australian taxpayers, there are clearly not enough belts and braces in our legislation and state agreement acts to prevent this from happening again.

The Nationals WA has long argued for a review of all state agreements. Although our focus has historically been on the legacy state agreements, which have been very well canvassed in this place and in the public forum both prior to and since the last election, with the advent of this development there is a strong case to broaden the scope to review them all. The government has chosen to focus its remedy for the issue we are debating today on just the Mineralogy agreement but there are 50-odd live state agreements and I think about 70 exist in the history of Western Australia. They all have different structures and clauses. The adviser with expertise in this area who provided us with a briefing last night made the point that there are inconsistencies and changes were made to the way the agreements were struck over time. We would expect that, considering that they have been struck since the 1960s and practices in management, contractual law and Parliament have changed in that time.

Our concern has always been that these agreements lack transparency. They are ultimately struck behind closed doors. As members of Parliament, we have no opportunity to scrutinise the detail. The Parliament has no right to be updated on these documents that govern the management and exploitation of the resources that belong to all Western Australians. We are essentially in the dark. We are in the dark until we are called upon to support extraordinary legislation that will remove the right of an Australian citizen to seek remedy through a court. Regardless of what we think of Mr Palmer, that is exactly what we are talking about today. I want it to be very clear that this sits very uncomfortably, because regardless of the theatre, passion and people's views around Mr Palmer, we are talking about an Australian citizen being denied access to the courts. There is a reason we are doing it: an unusually enormous amount of money that could potentially bankrupt the state, so I think the response is appropriate considering what we are being asked to do. But we are straying into an area that is quite unusual in preventing an Australian citizen from seeking remedy through the courts.

I do not want the state government to be served with a $30 billion bill. I do not want every Western Australian to be burdened with a $30 billion bill. That is what this state government tells us will happen if we do not support this legislation post-haste. It is an extraordinary and unprecedented approach and I am deeply uncomfortable with some of the things that we are being asked to do in such a short period. However, the government has access to resources and advice, and has had the time to consider this. As we have with the COVID-19 pandemic legislation, we will give the government the benefit of the doubt and provide the support it seeks to progress this bill. In doing

so, we urge the government to consider the concerns we raise about the remaining state agreements and the potential for this to happen again. A review of state agreements by a bipartisan parliamentary committee to ensure we have the belts and braces required to protect the people of Western Australia is surely a prudent and sensible approach. Our resources sector is the engine room of the state's economy. The minerals these companies extract belong to the people of Western Australia and there should be more transparency in the legislation that governs these agreements.

In closing, I urge Mr Palmer to reconsider his approach. The world is facing the most uncertain times and we are all working to keep our communities safe. It is incumbent on leaders of government, industry, business and community to work together to pull us through. Who knows what the Australian economy will look like in six months, 12 months or five years? Will this action and government's response make it a better and more prosperous place?

[Member's time extended.]

Ms M.J. DAVIES: I say to Mr Palmer and everyone involved that we all make choices and have options. Without wanting to sound like rainbows and fairies, at this point our world needs less conflict, not more. The Nationals would very much like to see all our leaders, whether they be from business, industry or government, work together for a common cause. The Nationals WA therefore supports this legislation, bearing in mind the concerns we have raised and the unprecedented nature of some of the clauses. As the Leader of the Opposition pointed out, no opposition would prevent a government from protecting its constituents from doubling the debt in this state. We will not stand in the government's way. We trust that government members have chosen the correct and appropriate course of action. The Nationals WA supports the course of action that the government has taken, with the reservations that we have raised. We look forward to interrogating the bill in this place and again in the Legislative Council, noting that serious concerns about some of the clauses will be raised in the Legislative Council.

We have unreservedly supported the Western Australian government's hard border policy. I know that was reiterated by my parliamentary colleagues yesterday. We wrote to and communicated with our federal colleagues at the earliest possibility that we did not support the action being taken by Mr Palmer or the federal government's intervention on the case. We understand the concerns of the Western Australian community. I have travelled almost the length and breadth of the state in the last six weeks as the leader of the party. I got consistent feedback from every person I spoke to in Western Australia that they want the hard border to stay. It comes with some pain and we understand that. Very important industries have raised their concerns with us about the hard border, particularly in the north of the state, but it has broad support across the state. Members of the Nationals have been very up-front about our support for that position and have made that known to our federal colleagues.

We look forward to the Attorney General's response to some of the concerns and issues we have raised, including being very clear and transparent about which issues have been endorsed before in this place and which of them are new, and how they might play out in a broader sense as we try to make sure we respond appropriately and do not open the door for further court actions with an industry that is so very important for all Western Australians and Australia.

MR W.R. MARMION (Nedlands — Deputy Leader of the Opposition) [3.27 pm]: I thank the advisers for giving us a briefing yesterday. The Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020 is an unprecedented piece of legislation. I think I said something similar to that about previous COVID-19 legislation. This is not COVID-19 legislation, but as non-COVID-19 legislation, it is certainly unprecedented. We have had to rush it through and we have had to take in good faith the information we have been provided by the advisers, which I do. We have also had to take in good faith the information provided by the government as we rush the bill through, which I will discuss in a minute. We are in a quandary. On one hand, the Premier said we are the weakest opposition ever. He absolutely slammed us, saying we are weak. Yet, here we are supporting this legislation all the way through. We are in a dilemma. If we come out and make abrasive comments about some of the technicalities of this legislation, then are we weak because we are critical of the legislation, or do we support it, which is also considered weak? We are in a lose–lose situation. Whatever we do, the Premier calls us a really weak opposition; yet, when it comes to the crunch and he wants us to support legislation, we get a fantastic briefing and all the advice.

Some of the words used in the second reading speech could have been put a little bit differently with the commentary around the former Premier. The Premier said today that he supported what Premier Barnett did, but the word "support" does not appear in the second reading speech. The wording has been cherrypicked. Unfortunately, I have to say that the second reading speech has a little bit of politics in it, and that is terrible. Some might say it has a lot of politics; I am being very generous in saying that it has a little bit of politics and I will let everyone decide what that means. I can say that I am in Parliament to look after Western Australians, and I do not expect second reading speeches to be political. That is to start off.

The dilemma that we have now is that arbitration is underway. Because the arbitration is underway the government has information about defending its position. We in opposition want to know what all the information is, but we cannot have that information. I understand that. I absolutely understand that we cannot have all the information; otherwise, if this bill does not go through and we have received all the information, the government's position in the arbitration will have been disclosed to the other side. That is the dilemma we have. How do we support a bill if we do not have all the information and do not have time to consult? In my position as the shadow Minister for Mines and Petroleum I managed to get hold of the chief executive of the Chamber of Minerals and Energy. It was

very nice of him to ring me up at about 7.30 at night. He had been in a meeting so I do not think he was aware of it until 6.30 last night. I appreciate that he rang me at about 7.30. His advice to me was that the Chamber of Minerals and Energy, which is the preeminent body looking after mining, oil and gas, supports the government with this legislation. It gave me some encouragement that the industry itself supported it. I will not divulge who he had spoken to, but he had spoken to some major mining companies and they had advised him that they did not have a problem with this unique piece of legislation. As far as I am aware, never before has a state agreement been amended without one party agreeing to it. I think it is fair to say that. I was the Minister for State Development for a very brief period.

One of the reasons I am in Western Australia is that my father worked for a company called Laporte. One of the very early state agreement acts in Western Australia was the Laporte Industrial Factory Agreement Act 1961. Believe it or not, but during my engineering course at University of Western Australia I did a project that went right through that act and I presented a paper on the Laporte Industrial Factory Agreement Act in 1976 at UWA so I understand how they work. They were a lot thinner in those days than they are today. The reason for state agreement acts is to give some certainty to companies that some uncertainties will be fixed. Indeed, as I recall, the Laporte Industrial Factory Agreement Act guaranteed accommodation, so houses were built, and the electricity and water prices were set. The interesting thing about that act, which is not related to this, of course, is that the effluent from the development was looked after by the Public Works Department and was a bit of a problem. The problem with the Laporte process was that the effluent was processed in the sandhills of Binningup. The idea was that it would leach into the ocean and be neutralised, but that did not work.

That aside, I do not have any background on how the state agreement act for Mineralogy was put together so I have to take the second reading speech on good faith. I have got hold of the act, but I have not had time to read it. I have to take it on good faith that on page 56, under the heading "Arbitration", it states that if there is a dispute, it will be solved through arbitration. I have read it a number of times to see whether there is a loophole. I am only an engineer, and I cannot find one. The one thing that is interesting about this clause in the contract, which then became the state agreement, is that it states that the arbitration will be settled under the provisions of the Commercial Arbitration Act 1985. I think that is significant, but I do not know because I am not a lawyer in that area. My understanding from the second reading speech is that the Commercial Arbitration Act 1985 was amended and is now called the Commercial Arbitration Act 2012. From what I have read, there are no appeal or review mechanisms in the 2012 act. When the contract was put together, it was possibly envisaged that arbitration would be available and that there were provisions for appealing and reviewing decisions. One could argue that if there is a deficiency in the current contract, it may not have been there at that time. I am not sure whether that is relevant or not, but the Attorney General might like to comment on that.

Another reason this is urgent is the quantum—$30 billion is enormous! We talked about the Bell Group dispute for decades and it was over one billion dollars. Here we have $30 billion; it is almost unheard of. Indeed, it is about a project that does not exist. I went to the CITIC Pacific site on two or three occasions during construction. It is interesting that the state agreement act is with Mineralogy. However, the way I understand it is that it has licensed off part of the site that has iron ore to CITIC Pacific to mine. Obviously, we are not privy to the agreement between CITIC Pacific and Mineralogy. One could argue that perhaps we should be—but I do not know that we are—if a state agreement act has been put together when there are other contractual arrangements.

I have met with members of the board of CITIC Pacific in China on two occasions and, unfortunately, it is fair to say that they were not happy campers. When I first heard about the CITIC Pacific project when I became a member of Parliament, someone said that it was a secondary project—a $2 billion project by CITIC Pacific. When I went onsite I could tell straightaway that it was not a $2 billion project. It was way more than a $2 billion project. I think it ended up being closer to $12 billion. CITIC Pacific, a Chinese company, has put $12 billion of infrastructure on a piece of land it has licensed to mine the iron ore from and Clive Palmer and Mineralogy own the lease under the state agreement act. A problem that CITIC Pacific has had is that it wanted to expand its area for its tailings because it did not have enough land. Indeed, if it was able to negotiate more land, either from the state or Mineralogy, if it were to give up some of its land, it would have to get environmental approvals. However, the environmental approvals have to be put through by Mineralogy. CITIC Pacific is one party removed from being able to do anything. Mineralogy has not been a friend to CITIC Pacific despite the fact that CITIC Pacific's operation provides Mineralogy with a stream of millions and millions of dollars. It is very disappointing. As a Western Australian, I find it unethical. Mineralogy is making a lot of money out of a fantastic dream agreement and, in my view, has not supported CITIC Pacific, which is delivering it all that money. That is a bit of the background, but it is relevant. I have never met Clive Palmer, but by his actions he does not set himself up to be a person of what I would call high morals. That is not a very good start. I will get on to the bill in a little bit. Another thing about the CITIC Pacific project is that when CITIC Pacific invested what I think was about $2 billion into the project, it found that the material was a lot harder than the magnetite was in China, so the processing plant that it put together needed to be re-engineered. In fact, we can assume that it would have cost a fair bit of money—we will not find out how much—to produce the magnetite at the CITIC Pacific site. It is a vertically integrated process. There are already smelters in China. Magnetite is a very good quality iron ore for use in smelters. It has probably worked out quite well

because the price of iron ore is very high at the moment. However, it is highly unlikely after what has happened with the CITIC Pacific project, which is in dispute today, that the Chinese would consider it to be viable to invest in another magnetite project. That is the background.

Against that background, the state government faces a dilemma on what I call a technicality. If this dilemma came under the Mining Act, we probably would not be in this situation. Nevertheless, we are in this situation. Former High Court judge Mr Michael McHugh, QC, declared that the Balmoral South iron ore project was a defective proposal. That says it all. It was a defective proposal and Premier Barnett had every ground on which to not approve it. However, despite that, former High Court Judge McHugh said that it was, nonetheless, a proposal that had to be considered by the minister in accordance with the agreement. I understand that the minister had to go through the process of saying, "I don't approve" or "I approve it under these conditions", which eventually I believe happened. But that is all water under the bridge now. The problem now is that we cannot see the arbitration documentation to find out what quantum is being presented. But if it is $30 billion, as a Western Australian, I do not like that. Does anyone want to pay $30 billion to Clive Palmer? I certainly do not. I did not become a member of Parliament to throw away $30 billion. I also did not come to Parliament to mess up a state agreement act. However, the circumstances are that someone is trying to screw $30 billion from the taxpayers of Western Australia. I think we have every right to say that we do not like that conduct. For that reason and in good faith, despite the fact we do not have all the information, we will not oppose this bill. It is my understanding that that is what will happen in the other house.

However, some aspects of the bill that have been mentioned by the Leader of the Opposition and the Leader of the Nationals WA might come under a bit more scrutiny. It will be interesting to get some feedback on two clauses in particular. The bill covers two aspects. One is the dispute at the moment and any actions around covering up the dispute, or however they describe that. There is an issue about freedom of information. I understand from the briefing that the reason the FOI provisions are in the bill is so that Clive Palmer, Mineralogy and all the parties cannot use FOI to continue further disputes and to frustrate the government and Western Australians by further action. That is the reason for the FOI provisions in the bill. As the opposition, we are concerned about that. The Premier's view is that we are the weakest opposition in the history of Western Australia, but the Premier is making the opposition weaker by not allowing it to use FOI to check the agreement and all the things that led up to it between 2014 and 2020. Are there issues under FOI?

[Member's time extended.]

Mr W.R. MARMION: The government may have reason now, because of the arbitration, to not give the opposition some information, but that should not be muted forever. We are a strong opposition. We are not a weak opposition; far from it. We want to use FOI when we can to find out what is going on. It is the role of the opposition to hold the government to account. It will be interesting to see whether the FOI provisions could be adjusted within a time frame, so that maybe in six months' time, if the opposition wants FOI documents in relation to this issue, it can get them. That is some food for thought.

The bill is divided into two sections. I believe this is the fourteenth draft, so we cannot say it has been a rushed project. I am not a lawyer, but it looks as though it does a pretty good job to cover off every possibility it can to make sure that we will not have to pay damages for any dispute. I understand it covers this dispute, any further disputes and any further proposals that might come forward. It definitely cuts out two proposals that have been put forward, but it will cover any future proposals. The primary aim of the bill does not change the actual contract. It adds extra clauses to the state agreement to make sure that if there is a dispute, damages cannot be awarded. I am not a lawyer, but there are lawyers in the house who may comment on that when they contribute to the second reading debate. The bill will not amend the contract, but it will change the intent of the contract, which has been implied, regarding damages. We are told that this has never happened before. Never in the history of Western Australia has a company with a state agreement—Mineralogy—used its state agreement, created a dispute, not negotiated with the state and gone straight to arbitration with a claim for damages. The primary aim of the bill, which has 30 clauses and is reasonably thick, is to make sure that the state cannot be held to account. I think that is a wise thing to do.

The other part of the process that has been done well is that the State Solicitor's Office—the Attorney General was possibly involved—had Clayton Utz spend a couple of weeks picking holes in the legislation to see how strong it was. In the briefing we were not told whether any clauses were changed, but we were told that the legislation is as watertight as Clayton Utz could get it, considering the international obligations for the Commonwealth of Australia and the Constitution of Australia, and the fact that commonwealth acts override state acts. We were told that Clayton Utz did the best it could.

In summary, as our leader said, the Liberal Party will not oppose the bill. We have listened in good faith to the Attorney General and the Premier. They have told us that this legislation is absolutely necessary and is the best option for Western Australia to mitigate an enormous damages claim. I cannot believe that someone could come up with a damages claim of $30 billion for a project that never existed. It was only ever a plan for a project, and that is it. In good faith, the opposition will not oppose the legislation. We look forward to hearing the Attorney General's comments on why the FOI provisions in particular are necessary and why this is the best option going forward. With those few words, I will sit down.

MR P.A. KATSAMBANIS (Hillarys) [3.49 pm]: I take my responsibilities and duties as a member of Parliament extraordinarily seriously. One of my primary duties is to look after the best interests of my constituents, the residents of the district of Hillarys and all residents of Western Australia. Yesterday, the government came into this place and introduced for the first time a bill that it claims will protect the public of Western Australia from a potential arbitration claim of up to $30 billion. Our government claims that the passage of this legislation is the best way of protecting the public of Western Australia from that potential $30 billion liability. Essentially, the government has further asked the Parliament, and by extension the people of Western Australia, to take it on trust and on faith that this claim is on foot, that it is a potentially serious claim that may actually be realised and this is the best way of proceeding to mitigate the state's risk.

I am prepared to take the government at its word on the basis that I have had fewer than 24 hours to scrutinise a piece of legislation that the government tells us that it wants through this house, through the other chamber and at the Governor's house for signing by the end of the day tomorrow, 48 hours after it was introduced. That does not allow me or members of the opposition or members of the Western Australian public a lot of time to scrutinise the government's claims. We are further hamstrung by the fact that the government may be party to the arbitration proceedings, but those proceedings are private. Therefore, we do not know exactly what the claims or counterclaims are. We do not know what the defences are. We know what the government has chosen to tell us, which is that there is an arbitration on foot in relation to Balmoral South iron ore project between the parties to a state agreement. It is essentially a contract with the state government and Mineralogy Proprietary Limited and various other companies that has been given further weight by an act of this Parliament that was passed in 2002 when the Gallop Labor government was in power.

The government has said that an arbitration is on foot; there is a claim of potentially up to $30 billion; and we are concerned that if that claim is successful, the taxpayers of Western Australia will be up for this enormous sum, so alarm bells have to ring for everybody. This is what we are being asked to protect against.

Mr J.R. Quigley: Are you going to?

Mr P.A. KATSAMBANIS: The Attorney General has already been told that, but I will repeat that the opposition has indicated that we will not stand in the way of this legislation.

Mr J.R. Quigley: Are you going to support it?

Mr P.A. KATSAMBANIS: We will not stand in the way of this legislation and if the Attorney General lets me finish, I will articulate that.

The mechanism the government is using is unprecedented. The provisions in this bill have rarely if ever been used in any Westminster Parliament. A series of provisions removes legal entitlements that have come to be accepted as part of the customary law of our state, of our nation and of western democracies. We are asked to approve a bill that will remove the operation of a rule of law insofar as it relates to the Balmoral South iron ore project proposed by Mineralogy Pty Ltd, which is a company that is primarily controlled by an individual called Clive Palmer, whom I have never met. I do not know the man, but, as I said publicly today and it has been reported in the media, from my observations of his actions, especially in the last little while, I do not think Mr Palmer wakes up in the morning thinking about the best interests of the Western Australian public as his primary concern or objective.

We are being asked to approve such provisions that in many ways can be described as draconian and have been described as draconian by commentators since this bill was introduced yesterday. It is draconian to pass a provision such as clause 9 that abolishes "any contractual or other legal effect under the agreement or otherwise" with respect to the Balmoral South proposals, of which there are two on foot.

Clause 10(1) states —

> Any relevant arbitration that is in progress, or otherwise not completed, immediately before commencement is terminated.

There are a lot of proceedings. Further, clause 11(4) terminates all sorts of proceedings. It states —

> Any proceedings brought, made or begun against the State, to the extent that they are of the type described in subsection (3), are terminated if either or both of the following apply —

The language being used here is unbelievable. Clause 12(2) states —

> The rules known as the rules of natural justice (including any duty of procedural fairness) do not apply to, or in relation to, any conduct of the State that is, or is connected with, a disputed matter.

I do not think that anyone elected to this place would have ever thought that they would be contemplating this sort of provision in a piece of legislation in the Parliament of Western Australia. It is extraordinary and unprecedented. Is it within the purview of the Parliament of Western Australia to pass this law? Yes, it is. I see the Attorney General nodding. The Parliament is sovereign—it can do it—but it overturns the rules of natural justice and procedural fairness, which have come to be accepted as part of the law of our land, so we do not do this lightly at all.

In an ideal world, I personally would like the opportunity to scrutinise this bill. Recent examples of the state government of Western Australia introducing legislation to deal with the Bell resources provisions —

Mr J.R. Quigley: Which you voted for! You voted for those provisions.

Mr P.A. KATSAMBANIS: I do not think it was put to the vote and the Attorney General can go back and read my speech in the debate. The Attorney General made some very strong commentary. If he would like, I will quote it back to him, but I do not think he would like it. He put his colours on the mast back then and has changed his tack now. We should all do that because of the seriousness and gravity of the problem that we are addressing.

Mr J.R. Quigley: It was different.

Mr P.A. KATSAMBANIS: It is always different. Do you know what the big difference is? I will tell you what the big difference is: you were sitting on this side then and you are sitting on that side now, and that is the big difference. Don't you come in here and go all high and mighty on us —

Mr J.R. Quigley: It's unconstitutional!

Mr P.A. KATSAMBANIS: We will see whether these are your reasons. I wish you success. When we were debating the Bell legislation, I was a member in the other place. I said, "I wish that legislation success", but I expressed strong concern that it would not succeed in the High Court, and it is the same here. In the media today, the Premier said that he cannot guarantee that this legislation is bulletproof, but it is a great attempt. That is what we are told, and we are told to take that at face value. I say to the Premier that I am prepared to take this legislation at face value, because we do not have the opportunity to properly scrutinise it, but there are risks involved in what we are doing, and they are serious risks. I will articulate them, do not worry. If the Leader of the House wants to speak on this bill, he can come and take the stand and speak on it. There are risks with this bill, and I will continue with those after the appropriate consideration of other business.

Debate interrupted, pursuant to standing orders.

[Continued on page 4811.]

CORONAVIRUS — PUBLIC AND INDEPENDENT EXPERT INQUIRY

Motion

MR Z.R.F. KIRKUP (Dawesville) [4.01 pm]: I move —

> That this house urges the government to commit to immediately establish a public and independent expert review to investigate, assess and report back to this house on Western Australia's preparedness to prevent and respond to a COVID-19 outbreak in Western Australia and in particular inquire into —
>
> (a) the effectiveness of hotel quarantine processes and security protocols;
>
> (b) the exemption arrangements and associated restrictions, and track and tracing for travellers and essential workers coming into WA;
>
> (c) the effectiveness of protocols and safeguards to protect aged care facilities, remote communities and other vulnerable Western Australians;
>
> (d) the capacity for an effective rapid response to a COVID-19 outbreak, similar to that which has occurred in Victoria;
>
> (e) a comprehensive review of the hospital system and its capacity to manage an increased flow of COVID-19 patients; and
>
> (f) any other matters that the inquiry sees fit to look into.

I note the fact that the Minister for Health has informed me that he will be slightly late. I appreciate him letting me know in advance, and I understand the reason he is otherwise delayed into this place.

On 7 August, I wrote to the Minister for Health as part of a bipartisan support on behalf of the Liberal Party of the state government's health response to COVID-19. In previous public statements and correspondence, we have recognised the important work that the Department of Health has continued to do to help protect Western Australians from what we expect will be an inevitable coronavirus outbreak in Western Australia. In support of that bipartisanism and in that bipartisan spirit, the Liberal Party has moved this motion here today to ask the government to immediately establish an independent expert rapid review to inquire into, assess and report on our state's preparedness to respond in the event of a COVID-19 outbreak. Importantly, we would also like to assess the threat level that Western Australia is faced with, noting our borders and the current arrangements with travellers and associated exemptions.

Because of the nature of the varied responses across the Federation, there have been very different outcomes to the responses of state governments and subsequent COVID-19 outbreaks. We need look only as far as the contrast between the Liberal Berejiklian government in New South Wales and the Labor Andrews government in Victoria to see what has happened with their coronavirus outbreaks, the impact those outbreaks have had and the devastation that has been left in the wake of the outbreak that has now taken hold in Victoria. If we compare the two states,

particularly New South Wales, it certainly appears that, in contrast with Victoria, for the first 10 days, for example, the threshold of unknown community transmission was met. Victoria was out of control and, at the same time, it seems that New South Wales was, hopefully, holding the line. But from those two states—obviously, New South Wales is the more populous—significant lessons could be learnt to help better inform our readiness here in Western Australia. Such a contrast should not be ignored. Those two states border one another. They have significant travel into their airports. They have significantly diverse communities. They had similar responses implemented in different ways with hotel quarantine, and there have been different public health responses. As we learnt from the Minister for Health in his contribution last night to the debate on the Public Health Amendment (COVID-19 Response) Bill, different bureaucratic responses have been implemented in New South Wales compared with those in Victoria, for example, with the Department of Health and Human Services Chief Health Officer and where he sits versus the Chief Health Officer here, or, indeed, the New South Wales Chief Health Officer. I believe that there are lessons to be learnt, and it is important that that is done in a sober manner, with eyes wide open to any lessons that we can glean from those two jurisdictions and others that have successfully suppressed COVID-19, and, indeed, when an outbreak has occurred, how we have responded accordingly.

I think that we have had time on our side here in Western Australia with COVID-19. Our isolation has been an important part of our success when it comes to any potential outbreak. More importantly, Western Australians have done an amazing job in following the health advice almost unquestionably to ensure that they take measures to protect themselves and those around them. The difference, of course, is very stark in Victoria, where in some circumstances I have seen people who simply refuse to wear a mask in melees with the Victorian police. Evidently, in Victoria, an outbreak would not have occurred if there had not been people who were ignoring the lockdown in Melbourne and the associated restrictions put in place on people who otherwise should have been isolating except for certain exemptions. Had those restrictions been adhered to, in all likelihood we would not be facing the situation that we now have in Victoria, which is out of control in all respects. If we compare that with New South Wales and Western Australia, we have done a very good job, particularly in Western Australia. I think it is worth noting that at every point, the decisions made by the government have been supported by the Liberal Party. When it comes to things like our hard border, it was, indeed, the Liberal Party who called for it first.

Mr D.A. Templeman interjected.

The DEPUTY SPEAKER: Minister!

Mr Z.R.F. KIRKUP: At the time, the Minister for Health said that there was a little thing called the Constitution, and suggested that because of articles within the Constitution, we could not implement a hard border. Of course, the Premier said a number of times in answer to questions from the Leader of the Opposition, the Leader of the National Party and members of the opposition more broadly that he would not want to see a hard border put in place because of the restrictions that it might place on individuals in their freedom of movement through the Federation. Then, we saw that the Labor government took up the suggestion from the Liberal Party and, indeed, implemented a hard border. It was, of course, the Liberal and National Parties that were the first to call for a hard border in Western Australia. That is an irrefutable fact, and the Minister for Emergency Services is welcome to go back in history through *Hansard*, and review it, because, indeed, I can tell him now that it was absolutely the suggestion of members of this side of the house and the total ignorance of the government to implement what we thought was a very important measure.

Moreover, because of the time that we have bought ourselves here in Western Australia, it is important that we do not become complacent. I remain concerned, and I am sure that all members in this place share a similar concern, that there is a high level of complacency now in Western Australia when it comes to our preparedness for any coronavirus outbreak that may occur. We know that at the moment, because of the restrictions, many people in Western Australia feel a false sense of security about COVID-19. We need only to go to the streets, bars and restaurants or any places with large gatherings over the weekend when there is good weather and we see people everywhere, I think in total ignorance of the two-metre rule and the necessary social distancing measures. Thankfully, in Western Australia we are not living in such density as they have in New South Wales and Victoria and the capital cities there. Undoubtedly, Perth is not as dense. We are much more spread out. The concern I have is that because we have bought ourselves this time in WA, if there was a COVID-19 outbreak because of one of the 52 people who cross our borders each and every day without quarantine restrictions, there could be a significant risk posed to Western Australians.

If any of those individuals tested positive to COVID-19, Western Australia would take off like a hay shed on a hot day! It would potentially put us at a greater risk than what has occurred in Victoria. On 10 June, Victoria recorded four new active cases. On one day in Victoria, on 10 August, there were 322 active cases. The Victorian government has had to try to respond to that significant increase as best it can.

Lessons could be learnt from Victoria's response. Lessons could also be learnt from how well New South Wales has managed to respond to its COVID-19 crisis. More recently, the city of Auckland has been placed on phase 3 restrictions because of an outbreak, from an unknown community source, involving four individuals. New Zealand had gone 102 days without any community transmission of COVID-19, and all of a sudden, out of nowhere,

seemingly, four individuals have it. The city of Auckland is now in total lockdown. If it can happen in New Zealand, it can happen in Western Australia. I suspect the risk is greater in Western Australia because of the number of people who are travelling in and out of our state each and every day.

Through questions on notice asked in the other place by the opposition, we have established that some 6 661 individuals, since we last asked a question on notice, have travelled into Western Australia without a quarantine exemption. As part of his response, the minister cited that most of those people were essential workers such as members of flight crews. I am aware, through friendships of mine, of flight crew members who come into Western Australia. They are flight crew members who go up and down the east coast for one of the major carriers. They fly between Queensland, Victoria and New South Wales, and then they fly over to Perth. They stay in a Western Australian hotel without any quarantine restrictions whatsoever. They walk around the streets. They might be here for two or three days at a time as part of their break. They represent a significant risk.

I appreciate that necessary arrangements need to be put in place. Yesterday, the Minister for Health spoke about a gentleman who was self-isolating in a serviced apartment in the eastern suburbs of Perth. We found that that gentleman could have visitors to his serviced apartment; he just could not leave his serviced apartment. That situation in itself is a risk. I realise he was a seafarer. As part of commonwealth arrangements, it was required that he find his way to Western Australia to ensure that merchant shipping could continue. We are not suggesting for a moment that the arrangements in place to ensure our country can run to the best of its ability should stop, but very real risks are being placed on the Western Australian population, which I think has been led down this path by this state's isolation and by how well we have done in initially responding to COVID-19. There is now a sense of complacency, which I am very concerned about.

It is imperative that an independent committee be established to determine the level of risk posed by our international and interstate borders. We need to try to best understand how we can mitigate against those risks. We need to assess preparations in Western Australia for our capacity to perform surge testing and rapidly ramp up contact tracing and implement, perhaps, isolated suburb-by-suburb lockdowns, regional lockdowns and facility-based lockdowns, if there is an outbreak. Obviously, it is important that what is happening in Victoria does not happen here. We need to be assured that there are very little risks to the Western Australian public. If this independent committee found that there were no issues here, that there is nothing to see and that the Western Australian government has prepared as best as it possibly can to respond to a foreseen outbreak of COVID-19, that is a good outcome, because it provides assurances to the people of Western Australia. If in fact an independent committee found otherwise, a public report to this place would ensure that we were all informed about where further investment and attention should be applied. I do not see why that is such an indigestible issue for this government. This is not a committee inquiry full of politicians that the government may suggest is a partisan or political attack.

Mr F.M. Logan: Yes, it is.

Mr Z.R.F. KIRKUP: It is not at all, member for Cockburn. In the correspondence that I provided —

Mr F.M. Logan interjected.

Mr Z.R.F. KIRKUP: If the member for Cockburn wants to politicise the health and welfare of all Western Australians, he can do that. We are not trying to do that. We are trying to protect the health and welfare of Western Australians. That is absolutely what our motion here this afternoon seeks to achieve.

To the extent that we are not trying to politicise this, we suggested in our correspondence to the Minister for Health that the independent expert committee could be overseen by a former Labor Minister for Health in Hon Jim McGinty, AM, or Hon Dr Kim Hames. In both circumstances, we would have supported that. I cannot understand how the Labor state government would be averse to a former Labor minister being in charge of an independent expert review committee to ensure that we are best placed to respond to the COVID-19 pandemic.

In addition to the composition of the committee, we suggested that perhaps Dr Miller, or representatives from the Western Australian branch of the Australian Medical Association, could be a part of that. This is a measure that the AMA absolutely supports to ensure that we are thoroughly conducting a root and branch review of our state's preparedness to respond to an outbreak. Other expert organisations that could be on it are research institutes such as the Telethon Kids Institute or Harry Perkins. The Royal Australian College of General Practitioners could also be on it. Any manner of independent experts, or co-opted experts from within the Department of Health, could be on it to ensure that this committee would be thoroughly guided in looking into certain areas of concern.

When we look at what has occurred in Victoria, there are areas of concern that warrant attention. As of today, Victoria has recorded 15 646 cases of COVID-19. Its second wave has substantially eclipsed its first outbreak earlier this year. In the two months between June and August, there was a significant increase in the number of cases. There are now 7 877 active cases in Victoria. There are 43 Victorians in intensive care units and 25 on ventilated beds. There are 662 Victorians in hospital who have tested positive to COVID-19. Unfortunately, 267 people have died. Before this occurred, Victoria was considered to be on top of COVID-19. It had been suppressed to such an extent that Daniel Andrews, the Premier of Victoria, was lauded. In fact I think *The West Australian* called Daniel Andrews the eastern states' version of the Western Australian Premier! There was such support for Daniel Andrews because

the community considered that he had done such a good job in suppressing COVID-19. That could not be said now. What we are seeing in Victoria is a horrendous set of circumstances that we need to ensure we learn from, prepare for and respond to. That is not suggesting that the Parliament is best placed to do that. Independent experts should make those inquiries, conduct such an investigation and make such assessments so that they can frankly and fearlessly recommend to the Parliament areas for improvement.

We know from the COVID-19 situation in other countries that there is unlikely to be very little transmission or very little chance of an outbreak for an extended period. An outbreak of COVID-19 in Western Australia is inevitable at some point. That is a significant concern, and one that we should all be prepared for. We have a very low number of cases in Western Australia at the moment, thankfully, but we have a low number of people being tested. Testing in Western Australia continues to be at a very low rate. Per 100 000 people, at the moment in Western Australia the number of people who have been tested sits at 10.7 per cent. In comparison, 28 per cent of Victorians have been tested. In New South Wales that number is 21 per cent, in South Australia it is 17 per cent, in Tasmania it is 14 per cent, and in Queensland it is 13 per cent. Western Australia is below the Northern Territory, at 11.6 per cent of cases per 100 000 people. Western Australia is significantly down the ranks when it comes to testing regimes. That is a concern. Is our testing regime ready to respond in the event of a COVID-19 outbreak? Will there be shortages that we saw when COVID-19 first impacted Western Australia and there were international supply constraints? Are we best placed to respond to that? That is a significant issue.

Looking at what has happened in Victoria causes some of us to think about how Western Australia might best respond. Between 1 June and 11 August, which is considered to be the time frame more recently, up until today's date, when there has been a second wave in Victoria, there were a number of outbreak sites that would cause us some concern if we had a similar set of circumstances in Western Australia.

In Victoria, they were behind in testing, tracing and isolating when the initial outbreak occurred. They were too far behind and there was a range of issues; it got away from them, which is why we have seen such a significant second wave. Facilities were hotspots for those outbreaks. We do not know whether the vulnerable communities in Western Australia are prepared. At the moment in Victoria, there is an argument between governments about whether aged-care facilities are the federal government's responsibility. The federal government has suggested that the licensing arrangements be issued by the federal government. I do not doubt that for a second.

Mr R.H. Cook interjected.

Mr Z.R.F. KIRKUP: Sure. Remind me, minister: do they operate in the state of Victoria? Does the state of Victoria have any control over individuals? When someone walks onto aged-care facility land, are they walking onto land that is akin to federal government land? Absolutely not.

Several members interjected.

Mr Z.R.F. KIRKUP: In that case, there are no public health regulations in Western Australia that apply to aged-care facilities.

Several members interjected.

Mr Z.R.F. KIRKUP: That is not true. There are absolutely.

Mr F.M. Logan interjected.

Mr Z.R.F. KIRKUP: I am surprised that the minister would know how it works moreover.

Mr F.M. Logan interjected.

Mr Z.R.F. KIRKUP: Considering that the minister was the person who signed off on the state of emergency in Western Australia, I am very concerned that he might not know how it works.

Mr F.M. Logan interjected.

The ACTING SPEAKER: Minister for Emergency Services!

Mr Z.R.F. KIRKUP: I will be shocked because the minister will be able to make a contribution! They tend to ignore him from time to time.

Mr F.M. Logan: You're such a small-minded man.

Mr Z.R.F. KIRKUP: Acting Speaker!

Mrs A.K. Hayden: You're pathetic.

Mr F.M. Logan: You're stupid.

The ACTING SPEAKER: You are doing it to each other.

Point of Order

Mrs A.K. HAYDEN: I believe the minister should withdraw that comment. He called the member "stupid". His behaviour is totally out of line.

Several members interjected.

The ACTING SPEAKER (Ms J.M. Freeman): Points of order will be heard in silence. Member for Darling Range and Minister for Emergency Services —

Mr F.M. Logan interjected.

The ACTING SPEAKER: I call you twice, minister, and I call you once, member. You are called. For the note, I will say it again: you are called twice, minister. That is for Hansard to note. You do not keep arguing across the chamber.

Debate Resumed

Mr Z.R.F. KIRKUP: When I look at the outbreak categories in Victoria, I note that there is a huge concern, and I think that lessons could be learnt for Western Australia from what has happened in that jurisdiction. I note that our Deputy Chief Health Officer was dispatched there, and I think that was a very good move. When the minister spoke about it, the opposition supported it, because lessons could be learnt from that at a departmental level. What we are asking for in this case is an independent expert review committee. I do not understand for the life of me how that is such an unpalatable concept for the government.

Mr W.J. Johnston: Sit down and we'll tell you.

Mr Z.R.F. KIRKUP: I look forward to the minister's contribution at some point.

The outbreak categories in Victoria should be a concern to all of us. In the second wave outbreak in Victoria, 137 aged-care or residential-care facilities have been subject to 2 453 cases of COVID-19. Of course, unfortunately, we have seen a higher than average fatality rate from the outbreaks in those facilities. Sixty-nine schools, 53 hospitals and healthcare facilities, 21 childcare facilities, nine facilities for those who are disabled, eight food premises, five correctional facilities, one laboratory and 369 associated others, which include student accommodation, social settings, family homes and the like, were subject to outbreaks. For the category of workplaces, warehouses and food distribution areas are a significant concern. Forty-three warehouses, nine food distribution workplaces, 14 retail workplaces, five food premises, 14 abattoir locations, 11 supermarkets and 23 others, which include TAFEs, gyms and the like, were subject to outbreaks. They are very different locations from one another. There is no uniformity in that, except that obviously when a large number of people socialise and live closely together, such as in aged-care facilities, a spike occurs. A significantly broad number of categories of workplaces have been subject to this second wave, including schools, aged-care facilities, food premises and abattoirs. There is no uniformity in this. As we know, the virus is indiscriminate. It has affected nearly every type of location we can think of in Victoria.

Our concern is: how well prepared are our aged-care and residential-care facilities in Western Australia? I do not know. How well prepared are our schools? We do not know.

Mr T.J. Healy interjected.

Mr Z.R.F. KIRKUP: We do not, member; we do not know at all.

Mr T.J. Healy: The minister will tell you.

Mr Z.R.F. KIRKUP: I look forward to that, member for Southern River.

We do not know how well prepared our correctional facilities, food distribution warehouses, abattoirs and other warehouses might be in order to implement their COVID-safe response plans. We must remember that some time has passed since the government required every food business that operated in Western Australia to have a COVID-safe plan. How many of those plans are still relevant? How many of those are still actively inquired into by the Department of Health? When was the last time that Department of Health inspectors, including rangers at the time, checked on those businesses to make sure that they had their COVID-safe plans together? My concern is that if there has been no oversight work to ensure that there is fitness in the community to respond to this, as is our collective responsibility, this virus could get ahead of us, akin to what has occurred in Victoria.

My other concern is with our hospital system. I am well aware that a number of ventilators have been purchased by the government to respond to any respiratory issues that may occur in someone who is COVID-19 positive. I think that surging has been very important. It was an important decision by the government and I assume that they are largely warehoused in the event that they need to be rolled out. I also appreciate the ICU rooms that have been recently procured. I think that 10 were rolled out in the regions. That was also a very good move.

Mr R.H. Cook: Negative pressure.

Mr Z.R.F. KIRKUP: Sorry—negative pressure rooms. Peel Health Campus has one negative pressure room and people have to walk through the entire emergency department to get to it, which poses a significant risk to all the clinicians. These are very good moves, but we do not know whether there is a need for more investment across our health system. I am hopeful that our infrastructure will be able to respond if there is an outbreak similar to what has happened in Victoria. In Victoria, 600 people with COVID-19 are now in hospital, let alone those who are in ICU and on ventilators.

Our concern obviously stems from the fact that there is a high level of complacency in Western Australia. I do not think any of us could doubt that. Indeed, we saw it in this chamber yesterday. At times, social distancing is not

a high priority for members; it is not quickly thought of. When COVID-19 first hit, it was top of mind for all of us. Although the flu rate is below the seasonal threshold, it is still trickling along. Obviously, flu is spreading in the community because people are socialising again. I appreciate that we do not want Western Australia to go into what the Prime Minister called sawtooth lockdowns, whereby restrictions are eased and then we have to clamp down and return very quickly to what I imagine would be phase 1 or phase 2. That is exactly what has happened in Auckland and, unfortunately, that is exactly what has happened in Victoria. That causes significant consternation amongst the people in those jurisdictions who not only are fearful about what has occurred, but also have a sense of frustration, which has been borne out in Victoria where an anti-authoritarian streak has now taken hold. People are ignoring the advice of the government about simple things such as mask wearing. Today the New South Wales Premier had to implore people to wear a mask. She has said, "Don't ask; wear a mask". That is the line. Governments have said to people that they have to take protective measures to protect themselves from a COVID-19 outbreak. People in New South Wales are wearing masks and, thankfully, they are holding the line on the rate of infection. I think they are probably on a knife's edge at the moment, from what I have seen, but they are holding the line as best they can. We do not want to be like Victoria. We do not want to be seen to be behind the curve of infection. We want to stay ahead of this outbreak as much as we can. Key to that is ensuring that we have a thorough level of preparedness and a thorough review of our state's response in the event of a COVID-19 outbreak.

I appreciate that the government has suggested this afternoon and in response to questions asked during question time yesterday and to media queries by my local newspapers that there is no point in wasting resources on an exercise like this. Indeed, yesterday the Premier went so far as to suggest that somehow this would politicise the COVID-19 outbreak. Nothing could be further from the truth. We want to make sure that the people of Western Australia are protected as best as possible, and that the state of Western Australia is as prepared as possible to respond to a second wave or any isolated outbreaks. I think that is an important task, and it would be without risk to the government. For the government to say that it is investigating something and has found a couple of issues, or no issues at all, would be a good thing for the government. A constant review process needs to take place, but it is not something that can be done by the people who have been charged with responsibility for responding if an outbreak were to occur. It is imperative that there is an independent expert medical review of our state's level of preparation for a COVID-19 response. That is supported by the opposition, broadly supported by the community and broadly supported by the medical fraternity. It should also be supported by the government, and it is unfortunate to hear the language that is already coming out to suggest that somehow the opposition, because we care about the people of Western Australia, is trying to politicise this issue. Nothing could be further from the truth.

The Western Australian Liberal Party was the first to call for strong borders, and the government said that that was unnecessary. The Western Australian Liberal Party was the first to call for regional borders in the Perth and Peel regions, and the government said that that was unnecessary. The Western Australian Liberal Party is the first to call for an independent expert review, but unfortunately it seems once again that the government thinks that that is unnecessary. I hope the government's decision does not come back to bite it, because I fear that if there is an outbreak, the people of Western Australia will expect that there should have been a review of our state's preparation. I implore the government to change its mind and come with us to ensure that the people of Western Australia are best prepared to respond to a future COVID-19 outbreak, when one occurs.

MR R.H. COOK (Kwinana — Minister for Health) [4.30 pm]: As the member foreshadowed, we have signalled our intention in relation to this motion because we had to do so by response in local media. It is extraordinary; the period of time between a letter landing in one's inbox and a tweet or press release from the member for Dawesville to the local media is remarkably narrow! So, yes, we have indicated that we will not support this motion.

It has been particularly good to see the range of positions the member has had on this issue; he has had more positions on it than Clay Golledge! I suppose the member's strategy is that, at some point in time, he will have to be right. If he takes every single position on this debate, at some point in time he will be able to say, "There, I told you so! We were right all along." The problem is that we do not know who the member for Dawesville is. He has had so many positions on this issue. He claimed today that the hard borders were actually his idea! In fact, he is known in the community for his soft stance on borders and his willingness to risk the public health of Western Australians as part of his political rhetoric to back up the Prime Minister, who also called for softer borders. He is in lock-step with Clive Palmer and the federal government. He has been scampering along behind their coattails all the way, to back their position.

Let us have a look at some history. On ABC news on 19 May, a journalist asked the Leader of the Opposition —

> So if you were Premier, —

Perish the thought —

> would you reopen the interstate border now?

The Leader of the Opposition said —

> I would.

On the same day the Leader of the Opposition said —

> There doesn't appear to be a valid reason to keep the interstate borders closed.

On 16 June she doubled down to say, as part of her critique —

> It's politically expedient to maintain the hard borders.

On the same day she said —

> There's clearly no evidence that it is actually medically required at this point.

I am not quite sure why the member for Dawesville is advancing some sort of theory about lax border controls, because if the Liberal Party were in government, we would have no border control at all. If the Liberal Party were in government, regardless of whether we had exemptions, non-exemptions, hotel quarantining, home quarantining or people being turned away—which we often do—this question would be academic, because it would have already let them in. It would already have simply thrown open the floodgates and allowed everyone from other states to come into Western Australia. That is the opposition's official position, and it is a position that the Leader of the Opposition has assertively put forward in media opportunity after media opportunity.

On 3 June, the Leader of the Opposition said about hard borders —

> We have been calling for three weeks now for the Premier to soften his stance with respect of hard borders … the hard border rhetoric is a myth.

I am not quite sure where the member for Dawesville stands on this issue. In fact, I do not think there is a person in Western Australia who knows where his entire party stands on this issue. What we do know is that if the opposition were in government, its critique of strong borders would be completely academic because it does not believe in strong borders and it does not believe in border control. It believes simply in marching in lock-step with Clive Palmer and Christian Porter to tear down our borders and imperil the public health of Western Australians. From that perspective, I am not quite sure why the member would come in here dripping with such sincerity about the alleged 52 people per day who are coming in.

Of course, there are no absolutes in this debate. As the member observed, we have to manage public health risk while continuing to protect our economy and making sure we are part of a national regime led by the national cabinet, and the Premier has done an outstanding job. It has been widely recognised in polls and in public commentary that he has the balance right. We are part of the national cabinet, we are part of team Australia, but we are protecting the interests of Western Australia through our hard border measures—measures that, if the opposition were in government, would be torn down.

Perhaps we should get an independent committee to come in and have a look at how things would be if the opposition were in government. That way, the WA public would have some accountability and see exactly what is going on with regard to the public health risk to Western Australians. The biggest risk to the public health of Western Australians is the Liberal Party and Clive Palmer, and we will not stand for that. We will hold fast and continue doing the hard work necessary to ensure that we keep our borders safe.

Our number one focus is to protect Western Australians and to implement the WA recovery plan—bringing people back into the workforce in a COVID-safe way. Building another layer of bureaucracy is completely unnecessary, unhelpful and irresponsible. We are in the middle of this pandemic, not the end, and that is why we need all guns blazing on the public health risk in order to make sure we have the appropriate level of preparedness, vigilance and capacity to respond, as the member for Dawesville says he wants us to have. Now is not the time to pull troops off the front line to sit in committees of review and distract resources away from that task. We have seen the situation in New Zealand; it is an important opportunity to remind ourselves that we are not through this and that we have a long way to go. We have to remain vigilant, and now is not the time to ask senior public servants to take their attention away from preparing for and responding to any local threat. We need to support our authorities to get on with the job at hand.

A type of language and rhetoric is starting to sneak into the public debate via the Liberal Party of Western Australia, and it is to continually second-guess the people who are keeping us safe, have kept us safe, and continue to advise the state McGowan government in a way that has allowed us the outstanding success that we have had. I remind members that, as a result of everything we have done, today we have one active case of COVID-19 in Western Australia, and we know that this person is currently in hotel quarantine and had travelled from interstate. There are no international cases in our quarantine hotels. Why? Because of our rigorous processes of quarantining and protection and making sure that we have testing regimes in place.

International arrivals are tested on days 2 and 12. Those tests have picked up every case of coronavirus arriving in our state and prevented it from spreading. In Western Australia, we have had no community spread of the disease for 122 days. New Zealand is heralding the fact that it had 102 days before a case of community-based spread of the disease was found. We are already at 122 days.

Mr D.T. Redman: The issue is right here now; I understand that. We are standing ready for there to be a COVID issue and we have ourselves prepped for it. When we project six months, 12 months, two years or five years, either we will stay standing ready—the status we have now—or we will have some sort of outbreak that we have to respond to. There is no good time for an inquiry into the process, yet an inquiry is arguably very relevant to have a level of accountability for the government's response to a very unique circumstance. So, fast-forward for me. When is a good time to have an inquiry? It is pretty hard to predict that it will be likely under these circumstances.

Mr R.H. COOK: I will ask the Minister for Emergency Services to respond to that specific issue.

We are working assiduously on our outbreak plans, preparation and preparedness. As the member for Warren–Blackwood observed, there will be some outbreak at some point and it is important we are ready for that. As I foreshadowed to the member for Dawesville in my contribution last night on the Public Health Amendment (COVID-19 Response) Bill, we will provide all members of Parliament with briefings on our outbreak preparedness in the coming few weeks, as we have provided briefings all the way through to members of Parliament at large, to the member for Dawesville as the opposition's health representative, and to the member for Central Wheatbelt and Hon Martin Aldridge as representatives of the Nationals WA. We have taken every opportunity to make sure people are aware of the work that is ongoing. Let me look at some of the work that has been undertaken.

The Department of Health, as the hazard management agency, has undertaken a range of activities to make sure we are ready, including the rapid recruitment and mobilisation of staff; global sourcing and procurement of personal protection equipment, including securing additional warehouses to hold stock and ensure that we are ready to rapidly deploy equipment should the need arise; the development of a ventilated bed capacity framework, which outlines steps for a surge in ventilated beds from a baseline of 111 public ventilated beds to a potential total of 647 ventilated beds should they be required; the development of a general bed capacity framework, which outlines steps for a surge in general beds from a baseline of 3 627 open beds to over 8 600 general beds if required; and the development of outbreak and surge plans to manage any potential outbreak in metropolitan and regional Western Australia, as well as in remote Aboriginal communities and in particular settings. The member for Dawesville talked about aged-care settings. We are working continuously with the aged-care sector. I have had meetings with people from the aged-care sector and we will meet with them again shortly.

If I may segue, the criticism the Andrews government has received from the commonwealth government is extraordinary. The commonwealth funds, regulates and essentially runs the aged-care sector, but it points at the Andrews government and says, "You have to explain what's gone wrong here" when it is fundamentally the responsibility of the commonwealth government to look after aged care. It was caught asleep at the wheel and should have done much more.

Throughout July 2020, the state health incident control centre has progressed the following initiatives to continue to improve hotel quarantine processes: continued weekly meetings with hotel and security management at each hotel to discuss emerging issues and compliance with processes and protocols; ongoing refresher personal protective equipment training for hotel staff and security guards; ongoing audits of hotels conducted by public health infection, prevention and control nurses; development of plans to manage passengers in hotel quarantine in support of the recent issuance of the "Quarantine (Closing the Border) Amendment Directions (No 3)" that restrict entry into Western Australia by persons from Victoria and New South Wales. The SHICC is also currently participating in the national review of hotel quarantine, led by Adjunct Professor Sarah-Jane Halton, AO, PSM. The review will assist in identifying management gaps and opportunities to improve the management of quarantine in hotels in Western Australia.

Considering the COVID-19 outbreak in Victorian residential aged-care facilities, the Department of Health continues to work extensively and collaboratively with the aged-care sector and the commonwealth to ensure that all providers are as prepared as possible. The Department of Health has developed guidelines around the interface between hospital, community and residential care facilities; facilitated engagement and shared information across the primary health and aged-care sectors in a Western Australian health context, including stakeholder forums and key information provision; communicated to the aged-care sector regarding available resources and care supports, including promoting access to the public health information line, Healthdirect and the Metropolitan Palliative Care Consultancy Service; and enhanced the residential care line to support care of older persons in a WA residential care facility with secondary triage by a geriatrician. Specific outbreak plans and information packs for residential aged-care facilities have been developed and the Department of Health is in regular contact with WA aged-care providers to provide support as needed.

That is just a snapshot of the work that is being undertaken at the moment, work which we want to continue to undertake and which we will happily inform all members of Parliament about when we have the opportunity. Now is not the time to pull our teams from the front line. Now is the time to remain vigilant and to make sure we continue to put our foot on the pedal. The member for Dawesville observed that there is creeping complacency in the Western Australian community, potentially around physical distancing and another measures. As leaders in the community, we have to continue to remind them of the importance of continuing to observe those measures. One thing we must do is continue to work together to make sure the Western Australian community understands that we are moving forward together. Let us not criticise this. Let us not politicise this. Let us not have what has gone

on in Victoria happen in Western Australia. The work of the Victorian opposition has been deplorable. It has attacked the Premier and the Minister for Health. It has attacked people relentlessly rather than getting behind them and their efforts. The Victorian opposition is trying to gain rank political advantage by the critique of the work that is going on, which is a sign of where this can go if we, as political leaders in Western Australia, do not continue to stick together. Let us not go down that path. Let us not have happen what we have seen from Josh Frydenberg and Linda Reynolds. Let us not have the situation in which Josh Frydenberg, one of the senior figures of national cabinet, takes the opportunity to attack the Andrews government for a fundamental failure of the commonwealth government—its failure to properly plan and regulate the aged-care sector. The financial regulation of the aged-care sector by the commonwealth has directly led to the situation in which we now have outbreaks. It has led to a situation in which —

Mr Z.R.F. Kirkup interjected.

Mr R.H. COOK: I am just about to justify it, member for Dawesville, so sit there and learn! If the sector continues to be run down —

Mr I.C. Blayney interjected.

Mr R.H. COOK: What is your problem back there, member for Geraldton?

Mr I.C. Blayney: What about the security people the Andrews government put on the doors of the hotels?

Mr R.H. COOK: That is not aged care, member for Geraldton.

Mr I.C. Blayney interjected.

Mr R.H. COOK: The member for Geraldton may not have been here for the debate last night. I invite him to read *Hansard* where he will see a long and informed discussion about this between me, the member for Dawesville and the member for Moore. We are not talking about hotel quarantine at the moment. We are talking about the fact that the commonwealth government fundamentally attacked the Daniel Andrews government for its own failures. If the commonwealth government continues to financially strangulate the aged-care sector for long enough and continues to devalue the aged-care sector, undermining the qualifications and capacity of the sector's staffing, it is not surprising that when staff are put in peril by being exposed to COVID-19-positive patients, they say "I'm being paid three-fifths of f-all to be employed here. I'm going to abandon my post." I do not blame those staff members for the fact that a lot of those aged-care facilities did not have the capacity to respond when they needed to because they are working on a knife's edge. They are working on a financial funding knife's edge. It is not surprising for such a fragile sector to be the first sector to crack when it came under pressure as a result of the pandemic.

We will not invite another set of people to come in and look at this. We have great people in the Public Health Emergency Operations Centre working with the Chief Health Officer. They are some of the best minds and practitioners in the state and the country. They are about keeping us safe. How about we just back them? How about we just say what a fantastic job we have done in WA because of Dr Andy Robertson, Dr Paul Armstrong, Professor Tarun Weeramanthri and all the others, and the great work they have done in leading this public health response? Let us not politicise this in the way we have seen the commonwealth Minister for Defence do, who attacked the Andrews government on some sort of spurious notion that the commonwealth offered help.

The commonwealth was missing in action at the beginning of this pandemic. When we were faced with the *Artania* and the *Magnifica*, where was Peter Dutton? Nowhere! Where was the commonwealth responsibility for defending our shores? Nowhere! When we went to Peter Dutton and said that we wanted assistance with the *Artania* and the *Magnifica*, he said that border control is the responsibility of the state government. If one person on that ship had applied for refugee status, he would have had the entire naval armada on the ship! Because it was just a cruise ship full of sick people who were about to infect the people of Western Australia, he was missing in action. Let us stop this politicisation, this banter and this ongoing critique. Let us get behind the people who have kept us safe and go forward.

We know where this debate is going. We saw it today from the member for Hillarys, who came in and made a dog-whistling comment about people for whom English is a second language. We know where this debate is going and we are not going to let members opposite take it there. We are going to continue to do a good job, to protect Western Australians and to bring them back to the workplace through our hard borders and through standing up for the people of Western Australia. We will not be supporting the motion.

MR F.M. LOGAN (Cockburn — Minister for Emergency Services) [4.52 pm]: Does the member for Dawesville support what the government has done so far?

Mr Z.R.F. Kirkup: We've been very clear about that.

Mr F.M. LOGAN: Does he support what we have done so far? Yes or no? Does the member support what the government and the State Disaster Council have done so far?

Mr Z.R.F. Kirkup: You can refer to exactly what I said a second ago.

The ACTING SPEAKER: Make your submissions, Minister for Emergency Services.

Mr F.M. LOGAN: I hope the member does, and I hope all members of the Liberal Party and the Nationals WA support what has happened so far. It is not just the Minister for Health and the Premier. A massive team of people is behind what is happening here in Western Australia and keeping us safe. The member for Dawesville's argument is that if we have an inquiry now, we may well be able to pick up some lessons learnt, keep our eyes wide open about what has happened in the eastern states, and use that should there be an outbreak in Western Australia. Does the member not believe that we have done just that already in the first wave that hit Western Australia? Does the member not believe that we have dealt with it properly? We should look at, for example, remote Aboriginal communities, the immediate setting up of Rottnest Island, the hotel quarantines, the intrastate borders, the interstate borders and the way in which we handled the *Artania* and *Vasco da Gama* ships. Those ships were terrible. They were full of COVID-19 patients, and we handled them carefully and properly. We got people better and sent them back home. We should look at what happened in Halls Creek. There was an outbreak in Halls Creek and we dealt with it. The member should look at what happened with the *Al Kuwait* livestock carrier. We dealt with it. It is not as if we have not had outbreaks in Western Australia on a continuous basis. We have had outbreaks, and from each one we have learnt.

The way that the whole COVID crisis has been handled in Western Australia has come about because we have the State Disaster Council. I have spoken about this before in Parliament. The State Disaster Council is chaired by the Premier and includes the Ministers for Emergency Services, Health, Police, Local Government, Transport and others, but it also includes a lot of specialists, such as the director general of the Department of Health and, of course, the Chief Medical Officer. That council takes the information that is provided to us by specialists in their own areas in the public and private sectors—particularly in health, because this is a health pandemic—and makes decisions as a result of that information. That is where the final decisions are made—at the State Disaster Council. Beneath that is the State Emergency Management Committee, which is chaired by the State Emergency Coordinator, who is the Commissioner of Police. On that committee we have virtually all the heads of government departments, private sector representatives, commonwealth representatives, state utility representatives and representatives of national utilities such as Telstra and others. It is a very large group that works very well. All of them are specialists in their areas and they provide advice to the State Disaster Council. It is not as though we do not have a series of coordinating groups that provide advice and evaluate everything as it happens. If, for example, we have outbreaks such as those when the cruise ships were arriving here, those organisations deal with them and provide advice to the State Disaster Council. It is not simply coming out of the Minister for Health's head, the Minister for Emergency Services' head or the Premier's head; we are being advised by specialists. That is how emergencies work. A health pandemic is one of the 28 hazards that are dealt with by the State Emergency Management Committee. The health pandemic plan was in place. As the lead minister on this, the Minister for Health put that plan in place. The pandemic plan that we use in WA is very similar to every other pandemic plan in Australia because there is coordination. It is very similar to pandemic plans across the world because countries talk to each other about emergency hazards and how to go about dealing with them. If other countries around the world had followed what we have done, which is to stick to the plan and deal with the pandemic, and had not allowed political interference, they may not be in the situation that they are in. The problem we have around the world is that many countries have not stuck to the emergency pandemic plan that they had agreed to. That is internationally recognised. The problem they have is that there has been political interference. People have said, "I don't believe it. This is nonsense and we're going to do something else." That is half the problem with the pandemic that is affecting the entire globe.

The member for Dawesville raised the issue of whether things are being reviewed and evaluated. In particular, he raised the issue of education being evaluated should another pandemic break out. Last week, the State Emergency Management Committee met to discuss the current outbreak plans for WA, including the remote Aboriginal community outbreak response plan; the residential aged-care facility outbreak response plan; the prison outbreak response plan; the hospital outbreak response plan; the school and childcare service outbreak response plan, which includes childcare centres and boarding schools; the mining offshore facilities outbreak response plan; the commercial vessels outbreak response plan; and the congregate living outbreak response plan. In answer to the member's question about whether these plans are being reviewed and updated, the answer is, as of last week, yes. It is being done by the state emergency coordinating group.

The member's other argument about what occurred on the borders indicates that the Libs were the first political party —

Mr Z.R.F. Kirkup: The opposition.

Mr F.M. LOGAN: I would say that it was the Liberal Party—because I am not sure that the Nationals WA did—that was the first party to call for the closure of borders. I have the 18 March *Hansard* here and the Leader of the Opposition said —

> If members go back and check the *Hansard*, they will see that I did not call for travel to stop or borders to be closed.

I do not know where the member got that from.

Debate adjourned, pursuant to standing orders.

ATTORNEY GENERAL — PERFORMANCE

Council's Resolution — Notification

Message from the Council received and read notifying —

That this house —

(a) notes the false and misleading claims of the Attorney General on 28 May 2020;

(b) notes his repeated failure to provide full, frank and reliable information to the Parliament;

(c) expresses its concern about the suitability of the member for Butler to continue as Western Australia's first law officer; and

(d) acquaints the Legislative Assembly accordingly.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

Second Reading

Resumed from an earlier stage of the sitting.

MR P.A. KATSAMBANIS (Hillarys) [5.01 pm]: I continue my speech on this extraordinary bill in very unprecedented circumstances. Before I was interrupted by private members' business, I had been outlining that the methodology the government has used in this bill raises a number of risks and that we need to consider those risks. They are not insurmountable but they are important and need to be considered. The first is the legal risk and, in particular, the constitutional risk. What position would the state of Western Australia be in if this legislation or some parts of it were to be ruled unconstitutional? Given the nature of the person with whom the government is dealing as a counterparty to the state agreement, we know that litigation is highly likely. The Premier has also said that there are no guarantees with this legislation. I agree with him. There are no guarantees. We are all trying to do the best by Western Australians, but in order to do the best by Western Australians, we must properly scrutinise and examine the legislation to see whether it would have the best chance possible of overcoming a High Court challenge. Right now, I cannot look my constituents in the eye and say that I am confident about that. I have had less than 24 hours in which to consider this bill. Members of the opposition—the Liberal Party and Nationals WA—and, in fact, government backbenchers, some of whom are well-versed in legal and constitutional issues, have had less than 24 hours to consider this bill. We are not privy to the legal advice that the government received. There could be a mechanism through which the government could provide that advice in confidence. We would welcome any advice that the government provides. We are comforted by the fact that the government sought legal advice externally from Clayton Utz because that will add to the knowledge the government has available to it. But the Premier said that that it is not guaranteed, so more scrutiny rather than less would have been helpful. There still remains the constitutional risk. If the constitutional risk comes to bear and this legislation, or key parts of it, does not survive a constitutional challenge, what happens next? What position will the people of Western Australia be in under this claim at arbitration for potentially up to $30 billion? That also needs to be scrutinised. That risk cannot just be swept away, unfortunately. We wish it could, but it cannot, especially when we are dealing with the removal of the operation of rules of natural justice and procedural fairness. Although we are overturning the operation of the rule of law for only one corporation and targeting an individual, we still need to consider the risk that the legislation could be read down. Rushing the bill through this place in 24 hours and through the other place in 24 hours is not a great way to go. The government is asking us to take it at face value—to trust it—but that is all we can do at this stage. We have to hope it has got it right.

There are other risks. There is the financial risk, or what some people describe as sovereign risk. At one level, sovereign risk is extraordinarily important. Western Australia and Australia have prospered because this state is an extremely stable and attractive environment in which international investors can invest to extract its bountiful natural resources. Australia is an attractive destination, particularly because it is a nation that does not pay lip-service to the rule of law. WA does not pay lip-service to the rule of law; it implements it. When people invest in WA, they must make an agreement with the government. They know that they can trust the government irrespective of its political colour and as it changes, and they can trust the political and judicial system. The government looks us in the eye and says, "We have spoken to the international business community. We have spoken to the Chamber of Minerals and Energy. We have spoken to major mining and exploration companies. They and sophisticated investors understand that there are 50 or so state agreements in operation at the moment and we are not taking any action against them. We are taking action against only one. We are essentially taking action against one rogue actor. Sophisticated international investors understand that." We hope that that is the case because this state and this nation depends on continued investment in the natural resources of Western Australia for the prosperity of each and every Western Australian.

We have been through this before. We have been through the mining tax fiasco. We went through the government's gold tax fiasco. The public of Western Australia know about certainty and clarity and that the rule of law is extraordinarily important, especially when it comes to our natural resources.

Mr P. Papalia interjected.

Mr P.A. KATSAMBANIS: That is why the government needs to not only reassure us, but also back up what it is telling us. It needs to provide documentation and comfort. As I said at the outset, in the time frame available to us, all we can do is take the government at face value, and we will. We need to balance the risk. The Western Australian people do not want to end up on the wrong side of a judgement for potentially up to $30 billion. That is too big a risk to ignore. When the people on that side, particularly the ministers, start interjecting, they should be very careful, because they are not interjecting on a group of people who are opposing what they are doing at all. We are here saying that we hear them loud and clear and we want to help them, but at the moment, all we can do is take the government's members' word for it.

Mr T. Healy interjected.

Mr P.A. KATSAMBANIS: Remember former Labor member Brian Burke and the others; if you want to throw mud, we can throw it back at you. This issue is too important to joke around and be a clown. This is far too important for your clownery and your buffoonery, member for Southern River!

Several members interjected.

The ACTING SPEAKER: Thank you, members.

Mr P.A. KATSAMBANIS: This is an issue that every single Western Australian has an interest in and I am on the side of the Western Australian public. The government tells us that this is the best way to protect the Western Australian public and the government has given us 24 hours to scrutinise the legislation. We cannot scrutinise it properly in that time. We just have to take the government at face value and we will because we care about the future of this state—as the government does too—and we are bipartisan in this. If the government tries to use this as a wedge or a political issue, it will be very, very wrong to do so. We are on the same side as the people of Western Australia; we are on the side of Western Australia.

DR M.D. NAHAN (Riverton) [5.11 pm]: I would like to make a contribution to the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. As other members have said, this is an unprecedented bill. It comprehensively and retrospectively attempts to remove the right to access the rule of law for an individual stuck in a contract under dispute with the state or in arbitration that is underway and it removes access to a wider recourse of other remedies.

The basis of our democracy is the rule of law and access to the rule of law for all citizens in all activities, even if they are people of low standing. If this action is taken unilaterally, it will create significant sovereign risk. As the Leader of the Nationals WA said, just because the Attorney General said the bill will not cause sovereign risk, does not mean it is true. It is not true. As other members have said, the foundation for our wealth in the mining sector is the strength of our agreement acts, the rule of law and the generally bipartisan approach to the implementation and formation of contracts and the property rights that spring from them. This is the fundamental issue to our economy.

Arbitration is underway of a dispute with Mineralogy and some associated businesses and the state and it has been rising for many years. The Attorney General said that the risk to the state could be as high as, or higher than, $30 billion. The truth is we face a substantial risk of a $30 billion bill, and drastic action is required. Implied in the government's argument is that Mr Palmer is a person of low character and disrepute—it is true; I will make that argument later. However, irrespective of their character, we allow everybody—paedophiles, thieves, murderers—access to the rule of law. I am not saying that Clive Palmer is any of those, but the rule of law is available to all. If we pull that away from him, we have to have strong justification.

Clive Palmer has been a serial menace to the state, particularly in the mining sector. He acquired an agreement act back in 2002 under the Gallop government for 1 000-square hectares of land, which contained substantial iron ore deposits, particularly magnetite. Debate about access to that land started under the Court government, but it did not progress because the Minister for Resources Development at the time, Hon Colin Barnett, followed precedents and did not ratify the agreement because it was clear that Clive Palmer was not able to develop the resource. He did not have the wherewithal or indeed the intent or capacity to develop the resource. Prior to that, and subsequent to that, we only signed agreement acts with firms—with proponents—that actually developed the resource themselves. It was clear to Hon Colin Barnett that Clive Palmer was going to get access to a right and flog it, which is why he did not ratify the agreement under the Court government. When the debate came up early in the Gallop government, he warned the Gallop government to not sign or ratify the agreement until Mr Palmer had a development underway, but the government signed it and brought Clive Palmer into Western Australia.

Mr Palmer then sold part of the lease to CITIC Pacific Mining, which put the largest investment of a Chinese operation outside of China and the US into Perth. It invested many billions of dollars and lost money. That project was undermined every step of the way by Clive Palmer, who made hundreds of millions of dollars and refreshed his wealth from that. Part of that project was the Balmoral South mining project that we are dealing with now. He did great damage to our reputation and our major trading partner. He has been a menace and he was brought here by Labor, which was warned. But he is here; how do we deal with him?

During the 2000s when the Gallop and Carpenter Labor governments were in power—signing the agreement with Mineralogy and promoting the Balmoral South mining project—mineral resources and Clive Palmer were two of the largest donors to the Labor Party. During that period, when Mr Palmer was selling his assets to CITIC Pacific Mining, mineral resources and Clive Palmer gave donations totalling $160 000 to the Labor Party—not to the Liberals, but to Labor. They were one and the same. Therefore, the argument that Mr Palmer was always a Liberals' associate is untrue. Indeed, when he first came to Western Australia, he was a major promoter of, and donor to, the Labor Party.

We as an opposition are confronted with a real situation here. If the risk that the state faces—clearly, as arbitration is underway—is anywhere near what the Attorney General indicated, we have to do something drastic. We do not know the details of the arbitration and there are some issues that simply do not add up. We also know that Clive Palmer is not just a businessman and a serial pest; he is a political player. He has been a member of Parliament. He has created his own party. He has spent money in many state and federal campaigns, and he has threatened to campaign against the McGowan government—not for us—in the next state election. He is a political player and we have to make sure that we are taking this drastic action to address a serious, significant commercial risk rather than to address the McGowan government's political angst. We cannot undermine the rule of law for political gain. Therefore, we know he is a political opponent; we have to ascertain what the real risks are.

As indicated by the Attorney General, in 2013, the minister at the time, Colin Barnett, made a decision to knock back a plan to promote the mine at Balmoral South. That went to arbitration, and the arbitrator decided that the minister's decision at the time was wrong and that the government of the day had to approve it, which the government subsequently did in 2014 with a new plan. The arbitrator at that time awarded damages, but the damages were limited. The state was also ordered to pay the arbitrator's costs, including expenses. That is not $30 billion; that is much less. Palmer at the time said that he was also going to pursue a claim for commercial damages, and he said it would be hefty; it would be in the vicinity of $1 billion. How did we go from a claim of $1 billion in 2013 to $30 billion today? How does that happen? Also in 2013, the same year, Palmer indicated in an article in *The Australian* that the Balmoral project was in limbo because he could not raise any money for the Balmoral project until his legal actions with the CITIC Pacific project were resolved. Until his legal actions were resolved with that project, he could not get any funding for the Balmoral project. His litigation with CITIC Pacific went from 2013 or before and was not resolved until 2017–18. In fact, Zhenya Wang, who later became a senator and who was running Australasian Resources Ltd, the Palmer entity that ran the Balmoral project, stated quite clearly: we cannot get the money for the Balmoral project until we rectify our legal issues with CITIC Pacific. That went on for four years. Therefore, how can Palmer claim to have lost billions of dollars when he stated that he could not fund the Balmoral project due not to any issues with the state, but issues with another partner he had? It does not add up. How did it come to that?

More importantly, anybody who has been around Western Australia will know that investment for a magnetite mine will come only from China. China needs it; it is the only country that will invest in it, except for the recent investment by Fortescue Metals Group. That ore will go to China; that is fine. However, given the relationship between CITIC Pacific and Mineralogy and Clive Palmer, no Chinese firm will invest in a Clive Palmer firm. Absolutely not. He had no market for Balmoral—none whatsoever. He had no investment, no source, no money himself, no partner, and no chance of a partner. That is why this project lay dormant from 2013 until 2018, with a new project definition in 2014. Do members know why it went? It was because he had no project. He could not fund it. He had no partner. It had no value. By the way, during that time, up until last year, all the magnetite projects in Western Australia were losing huge amounts of money; no-one would invest in it because they would lose not only their capital, but also their operating costs. This $30 billion is fiction. It is ridiculous. It is absurd. He had no project; that is why he did not progress it. He stated that publicly. By the way, Australasian Resources was dumped from the ASX in 2014 because it had no money, no operation, and had failed to meet the reporting requirements, so the entity to develop the project was dissolved.

The assertion that Clive Palmer has a claim against the state for $30 billion does not add up. If it is true, then we should do something, but we cannot be confident of that from the information we have been provided. I understand that we have no access to the arbitration details. The publicly available information says that $30 billion is ridiculous. I have to say, the Attorney General's speech yesterday was verging on incoherent. It just does not add up.

We have been given 24 hours to vote on a bill that rips away the fundamental rights of a proponent. He is a disreputable person; I think we all agree on that. I say to members that the harm he did to our state in China is inexcusable. But this legislation has to be justified, and on the information provided today, we cannot justify it. As other people have said, it is up to the government. We have to rely on the government. As to what the High Court would do, all I can say is that we did something different but similar with Bell Resources. We had another problem, some disreputable people ripped off the state way back in the 1980s—the Bell Resources Group—and that has been the longest litigation in history. There has been a legal feeding frenzy for 20 years. There is a sum of—I do not know—$1.5 billion or $1.6 billion sitting in the kitty. The previous government tried to resolve that with drastic action. The shadow Attorney General at the time spoke against and voted against that legislation because he was worried about the removal of a rule of law. The opposition supported the legislation, but on the basis that there be

an inquiry into it so that the various crossbenchers and the Labor Party could scrutinise and get advice on it from a wide range of experts. We went through the process to ensure that the Parliament of Western Australia, although taking a risk, was doing the best that it could, and the facts were there. In that case, the quantum of money under dispute was clearly nominal. This time, it is not. That is what we are asking. We need time to scrutinise the facts here. This is particularly important because Palmer is not only a serial litigator in a dispute with the state, but also the government of the day's political opponent.

Mr T.J. Healy: Therefore, your allies.

Dr M.D. NAHAN: No, we are concerned that the state is using drastic action for political gain rather than economic. That would be a travesty. I do not know whether it is. Maybe it is a mixture of both; maybe it is a coincidence, but until the government gives us the time and the detail to verify the facts that have been put forward and answer the questions that we have, we struggle to do nothing more than say, "It's your bill; you cooked this up; you rushed it through." The Attorney General's explanation has been terrible. It just does not add up.

There is another immediate issue: what gave rise to this? Palmer sat on this arbitration from 2014 to 2018. What happened? The government of the day went to him and said, "By the way, your 2014 mine approval with 46 conditions is null and void, because you haven't done anything." At the same time, they told him, "By the way, some of the land that was designated for the Balmoral project can now be used for the CITIC project, with whom you are in dispute." Is that in the arbitration? We do not know.

A government member: Because that never happened.

Dr M.D. NAHAN: Well, we do not know. Is he arbitrating over that? I do not know. Is it going to be part of the arbitration or dispute that the government unilaterally told Mineralogy that the 2014 mine approval with conditions is null and void? We do not know. The government says that; the Attorney General, who is running the bill, did not indicate that. We found that evidence out subsequently. These are the types of facts that we should be told and be able to inquire into. I go back to the principle: what is the principle? We are targeting removing the rule of law from an agreement act from a proponent. He might be a disreputable person, but he is a legal entity. As the member for Cannington knows very well, the rule of law and a low sovereign risk is the basis of our economy.

[Member's time extended.]

Dr M.D. NAHAN: We need to see the justification that the risk warrants the action. The action is severe. The Attorney General has indicated that the risk is severe and, if it is, I am sure he will get our support. However, if it is not anywhere near that, then the evidence will support it. Any judge worth their salt would look at this say, "Mr Palmer, your project has no value. It didn't have any value. That has been evidenced, so what are we compensating you for?" If the arbitration process is to just award the cost of arbitration and the cost of the arbitrator, that is not much money at all and it is not worth undermining the rule of law. But is it anywhere near $30 billion? I do not think it is anywhere near that. I think that sum has been used to scare the hell out of the people of Western Australia, and it has effectively done that. That fright has been used to try to force us, running into an election, to forget about the rule of law. I do not know that any of us should do that; that is why we are here. The rule of law puts checks on government and businesspeople and makes sure that our state, economy and democracy ticks over. That is what the government is asking of us, but it has not done its homework. The government did not give us time to inquire into this matter. It did not give us time to talk to the proponents and the peak organisation to get advice and it did not brief us in detail. Most of us heard about this serious action yesterday on the radio on the five o'clock news prior to the bill being brought in under a motion to suspend standing orders. In other words, the government informed the media first rather than Parliament. That is when we first heard about this. That is not good enough. I am sure that the government is very confident that it has, through the media, made Clive Palmer look like an orc. In the public's mind, anything that is done to an orc is justifiable, even removing its legal rights. The government has said that this orc is going to double the debt of the state and therefore it is justified in removing his rights. That may be true. I am not going to say that Mr Palmer is an orc, but he is not very far from being one.

We wish to support the bill, but the government has not gone through the proper process of informing us. Given the unprecedented nature of this action, we have to pursue the matter in the upper house because the government will not give us the chance in this house to adequately ensure that the risk is worth the action, even though this is the house of government. The government has not done that. Politics is important—that is why we are here, to some extent—but it should not override the rule of law. Politics without law is, in fact, demonology. We have to make sure that the rule of law controls politics.

MR I.C. BLAYNEY (Geraldton) [5.33 pm]: The Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020 will mark a milestone if it is passed. I have often wondered whether I would see something like this happen while being a member of Parliament and it looks as though that day has come around. For as long as I have been here, I have been told that state agreements are sacrosanct; they are not to be touched unless agreed to beforehand by both parties. As much as I understand the issue that will be fixed by this legislation, I see it as necessary. I support it, but I wonder, with the genie being allowed out of the bottle, can it be just as easily put back in.

It is frequently said that our country is too generous when dealing with major resource companies. From my studies, I have come to the conclusion that the gold standard in this area is Norway. The government of Norway puts the deal on the table, not vice versa. I have noted with concern the use of Singapore trading hubs by major companies to avoid paying tax. I refer to an article in *The Australian Financial Review* last month, which states —

> Australian and Singapore tax authorities are in negotiations over Rio Tinto's tax arrangements, after the miner asked the two nations to resolve which of them could claim tax on profits made by its Singapore marketing hub.
>
> Rio and the Australian Taxation Office have been in a dispute over $447 million of taxes linked to iron ore sales by the Singapore hub since 2017, and this year the ATO said it also believed Rio owed $86.1 million for aluminium sales linked to the Singapore operation.
>
> In the first sign of meaningful progress on the dispute, the ATO has agreed to hold talks with Singapore's Inland Revenue Authority to see if the two government agencies can reach a deal over Rio's affairs.
>
> "The Australian and Singaporean tax authorities have accepted our request for them to resolve these matters through negotiation under the Australia-Singapore double tax treaty," said Rio.
>
> "If the tax authorities are unable to reach agreement within two years, any disagreement between them will be resolved via binding arbitration.
>
> "We will accept the outcome of this bilateral dispute resolution process."

As a side issue, I find it quite amazing that although the profit was generated in Australia and belongs entirely in Australia, we are accepting arbitration. I think we should be insisting that the profit belongs in Australia. The article continues —

> The development comes almost two years after BHP agreed to a $529 million settlement with the ATO over iron ore sales linked to its Singapore marketing hub.

As we all know, iron ore prices over the past year have far exceeded Treasury estimates, raising fears among some investors that the sector may be targeted for new taxes amid forecasts of a federal budget deficit of more than $184 billion in the fiscal year 2021. Resources and energy companies remain firmly in the Australian Taxation Office's crosshairs with Alcoa and Alumina Limited also facing a $921 million tax claim over the price at which alumina was sold by its longstanding joint venture to a Bahrain company. In recent years, the ATO has also pursued oil and gas companies, such as Chevron and ExxonMobil, over the interest rates that their foreign subsidiaries charged their Australian subsidiaries.

When we look at some of the developments in the iron ore sector—I will talk more about that in a moment—we can see the level of automation that it is indulging in. Obviously, every time they replace three well-paid blue-collar jobs with one computer-driven truck, the Western Australian government loses a lot of payroll tax. I have often wondered whether that is actually cheaper given the cost of automation. They think that they are very clever because they have an office building at Perth Airport from which they operate their machinery that is located in the Pilbara. Members should remember that there is nothing to stop them from shifting those people who are working in Perth and operating machinery in the Pilbara to Chennai in India where they could be just as effective. Rio's use of an Indian base to pay accounts had a huge impact on businesses in the Pilbara. Both of them decided a few years ago to pay invoices at about three months rather than one month. These companies, which were making billions of dollars, were using struggling small businesses in the Pilbara as their bank. I credit the former Premier, Hon Colin Barnett, for putting a very quick stop to that. It is disappointing, but it appears to me that the companies' Singapore hubs are basically used to avoid paying taxes. They claim otherwise, but members can see from the amounts of money that they are saving—I will say it here—that the sole purpose of the Singapore hubs is to save money on taxes. That is disappointing, because it seems to me that it is supported by the government of Singapore, with which we have a close and growing defence and security relationship. I would be crude enough to suggest that I do not think its behaviour is that of a close friend. I wonder whether our state or federal government should legislate these hubs out of existence, if possible. The COVID-19 damage to our economy is already serious, yet all we see from Canberra is continuing red ink, and I think it is going to get considerably worse. It is time that this particular rort was shot down.

Understandably, we could say that state agreements are commercially confidential, but I think there is a valid point in saying that there is a lack of transparency and I do not see why they should not be subject to a serious review. Maybe this legislation is the wedge in the door that will enable that to take place.

I have not touched on the issue of sovereign risk, which is always wheeled out as a reason why we cannot touch state agreements. Companies do their figures and if they can make money working where they work, they will work there. That is why Rio Tinto and its Chinese partners are doing a lot of work on a new mine in West Africa called Simandou, which will produce about 100 million tonnes a year and probably be a bigger threat to Australian iron ore prices than anything else.

Mr W.J. Johnston: Can I just put to you about the Singapore hubs? Our challenge is different from that of the commonwealth government, because we charge the royalty at the port. Almost all minerals have an index price, so we can compare the price that's declared with the index price. We have a lot more protection for our revenue base than the commonwealth does. The commonwealth is at much greater risk than we are. Let's just take the BHP situation that was resolved previously. That wasn't about the Singapore hub; that was about deductions they were claiming.

Mr I.C. BLAYNEY: Yes, I know that.

Mr W.J. Johnston: We are in a stronger position than the commonwealth is, because we are charging a percentage of the gross value.

Mr I.C. BLAYNEY: Yes, ad valorem.

Mr W.J. Johnston: There's more transparency. There are still risks. There was the nickel matter that we had to deal with that overlapped your government and our government. The companies are always looking for ways to reduce their obligations, but it's much more transparent in royalties than it is in taxation.

Mr I.C. BLAYNEY: As an aside on a totally unrelated matter, the car companies left Australia because they said that they could not make money building cars in Australia. As the components of those cars were brought in from overseas, was anybody checking invoices to see whether they were loading the invoices to make sure that they never made any money in Australia?

Mr W.J. Johnston: There was another issue with them, and that was the payment for the brand names.

Mr I.C. BLAYNEY: Aldi and Ikea.

Mr W.J. Johnston: Let's say that you had a Kingswood or a Commodore. They were paying money to their headquarters for the use of the word "Commodore" on a car that was built in Australia. There are all these ways for companies to get away from company tax. You have two other former Ministers for Mines and Petroleum other there. There are challenges in the royalty space, but it is easier for the state because usually you can compare the returns with the index prices. There are some commodities like lithium for which it's hard because there's no internationally recognised index price. We have the challenge. Take Greenbushes, for example. One hundred per cent of the offtake of Talison goes to the two owners, Tianqi and Albemarle, in a sector in which there is no index price. There are challenges. I'm not saying that there aren't, but we have fewer challenges in the royalty space than the commonwealth does in the company tax space.

Mr I.C. BLAYNEY: Yes, but as far as I am concerned, it is unacceptable.

Mr W.J. Johnston: I'm not saying that it's acceptable; I'm just explaining that for us it's a different challenge.

Mr I.C. BLAYNEY: If we are one nation, we should be working together to solve this problem.

Mr W.J. Johnston: Absolutely, and of course the reason that Singapore does it is that it's getting revenue. It's like Luxembourg in Europe or Delaware in the US.

Mr I.C. BLAYNEY: And Ireland.

Mr W.J. Johnston: They get a small percentage of the big pool. They're trying to encourage you to claim your profit in their jurisdiction because then they get a small percentage of this massive pool.

Mr I.C. BLAYNEY: I think it is about four per cent or something that they pay in tax. As far as I am concerned, it is outrageous and unjustifiable.

MR D.T. REDMAN (Warren–Blackwood) [5.44 pm]: I would like to make a contribution to the debate on the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. I find it terribly interesting. I have been in Parliament now for 15 years—16 years come February—and members often think that things start doing circles. We start seeing things that have happened before and then suddenly, right out of the blue, something will happen that we did not know would happen, and of course it has happened. Quite unprecedented circumstances have been presented with this bill. In record time and with very little time to get our heads around it, we nevertheless have to contribute to a debate that will hopefully be in the best interests of all Western Australians.

The interesting circumstance is that obviously there is a bit of history with Clive Palmer, and his litigation has been mentioned by just about all members so far. His relationship with CITIC Pacific Mining and the Sino project has been well documented over a long period. There has been court action. Indeed, Mr Palmer has probably stitched up CITIC Pacific in the deal he has with it. I remember when I was the minister having some conversations around some fairly senior tables where it was suggested that it would have been good advice for the Chinese to go through government and get some good advice about how they might strike arrangements and deals in Western Australia. I do not believe that was done, and of course the price of that can be seen in how history has played out with this project. Needless to say, Mr Palmer and CITIC are not the best of mates. In fact, that relationship is so destructive that at the end of last year, the Premier, Hon Mark McGowan, made some public comments about his suggestion that the state might intervene and unilaterally look at state agreements in the interests of Western Australians. The

Leader of the Nationals WA reminded us today of the arguments that the Nationals took to the last state election about considering changes to the special lease rental and to state agreements, but we were howled down. Indeed, the Premier, who would normally be sitting in front of me now, considered those arguments in the case of the Sino project as late as last year. The fact that the Premier made that commentary obviously put on the public agenda his preparedness to take some fairly serious steps. It is my understanding that that is the reason that this was kept very quiet. I think since about June this year, the Attorney General and the Premier alone have been aware of the details of what was happening. They even surprised the backbenchers.

Mr J.R. Quigley: And cabinet.

Mr D.T. REDMAN: And cabinet. I think cabinet was brought up to speed only late yesterday. I assume that was in the interests of protecting us against a very litigious person taking actions that might be challenging for the state to manage.

We have these very unique circumstances with very unique characters. Now Mr Palmer has turned his sights on the state and taken action against it. Once again, there has been some debate about just how serious that is and how much the state could be liable for. The suggestion is that it could be $30 billion. I find just the sheer quantum of it outrageous. As was well pointed out by the Attorney General yesterday, that is pretty much Western Australia's state budget for one year, which is a massive amount of resource.

It is interesting that in the briefing we had yesterday, the State Solicitor made the point that there is advice on the table—we did not get to see it—to give an opinion on just how much the state could be liable for. The point made by the member for Riverton was that we do not have visibility of that. Just how big is the issue? If the issue is small, this is a really big hammer to deal with a small issue, but if the issue is significant, we can understand why the government might take some of these unprecedented steps.

We now have a piece of legislation that fundamentally changes the rights of parties in a number of ways. The Leader of the Nationals WA went through a number of them, including freedom of information, subpoenas and the fundamental right to appeal against certain decisions. Those rights are being taken away, so it is a very unique piece of legislation. The government argues that these unique circumstances demand a unique response like this, and that decision is being presented as being in the best interests of Western Australians, which every single person in this place wants to respond to. We, as the opposition and as the Nationals WA, certainly want to respond in the best interests of Western Australians. As has been pointed out, we can only take the government and the advice we received yesterday at face value. There has been some visibility of the legal parameters that sit around this legislation, but it is very hard to absorb their complexity in the time available.

The bill seeks to make some significant changes to a state agreement. It is my understanding that this legislation will provide some fundamental blockers to actions Mr Palmer might take against the state. As a secondary barrier, the government has said that if he happens to be successful in getting through those barriers, the consolidated account will not be allowed to be used as a resource for paying the bill. That is a second barrier to the attack. Of course, the last piece is a bunch of powers to unilaterally put in place government orders and regulations. That basically says that if we get to that point, we can actually change the rules so that the state finishes up on top. Once again, it is quite unique. As has rightly been pointed out, this bill will fundamentally take away, in a unilateral sense, the rights of certain parties, whether or not we like those parties. That is an interesting question that will no doubt be debated by experts in parliamentary processes—how appropriate it is. As the Leader of the Nationals WA has indicated, the Nationals at face value support what is happening here. With what we have been given, that is all we can do.

There are some interesting questions that should be asked. I know the Leader of the Opposition mentioned that maybe some sort of select committee should be set up to have a closer look at this bill so that we can have some scrutiny of it. I recognise and understand the reasons for doing that, because we are flying blind here. Oppositions need to hold governments to account and in this case we do not have the tools to be able to do that. It is my understanding that alternative actions were put to the government. The Premier and the Attorney General went to the State Solicitor and said, "Right, we want some choices on the table." I think the word "several" was used in the briefing yesterday—that several options be put on the table.

Mr J.R. Quigley interjected.

Mr D.T. REDMAN: How many? There were two options, were there?

Mr J.R. Quigley: I recall two.

Mr D.T. REDMAN: Okay, that is not the number we got yesterday. Were two options put on the table?

Mr J.R. Quigley: I will just go and check my notes.

Mr D.T. REDMAN: I can probably ascertain what they might have been. We have here a bespoke piece of legislation that targets Mr Palmer and Mineralogy, so it is specifically for that state agreement.

Mr J.R. Quigley: The alternative was to amend the state agreement act more broadly, which we wouldn't do.

Mr D.T. REDMAN: I am going to come to that. I believe there were alternatives on the table, but we have no visibility of what those alternatives were to see whether this was, in fact, the best choice. But that is an interesting point, and I guess it is a question that should be asked and that the government should make some commentary around.

I turn to the point the Attorney General made about looking at all state agreements. Another point that was made in the briefing yesterday was that the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2002 was drafted at a certain point in time. I think there were a couple of alterations in 2008, but from memory it originally went through Parliament in 2002. State agreements are updated based on the time they are put in place; provisions are made that reflect upon some of the issues that have occurred in past agreements. When we go through the history of state agreements, from the 1950s to the 1980s, we see that they were often refined to deal with issues. The point that has been made is that state agreements drafted in recent times have covered off the risks and provisions that we are dealing with in this legislation, but state agreements made in the past did not. Although we are dealing with a particular state agreement and a person who has chosen to take action against the state, we did not get any confidence from the briefing yesterday. In fact, there was the suggestion that all the parties to other state agreements are in exactly the same legal position as was the case in this original agreement, and this is clearly open to challenge from the parties involved.

The Attorney General just confirmed that the government had a choice of either pursuing a bespoke strategy by looking specifically at the Mineralogy state agreement, or putting some sort of global arrangement over all the state agreements out there and dealing with provisions across the board. That option was there, but it obviously was not considered. The Attorney General will hopefully make some comments on this, but given we have identified a liability with a particular party in this case, what liability sits out there with all the other agreements? Is that a risk? That is a perfect question for a parliamentary select committee to perhaps have a look at. The Leader of the Nationals WA highlighted that some transparency around state agreements is probably a good thing, given the risks that sit out there. The government knows the National Party's history in that space.

I turn to the issue of sovereign risk. The Attorney General went to great lengths to highlight that this does not constitute sovereign risk, but certainly some fundamental changes to the agreement will be made in a unilateral sense, and if we are voting in this place, we will all be a party to that, even though the other parties have not agreed to those changes. What is sovereign risk? In his second reading speech the Attorney General stated, according to the uncorrected *Hansard* —

> This bill does not give rise to sovereign risk. Since the 1950s, the state has entered into over 70 state agreements and it currently has over 50 state agreements on foot. In the history of state agreements, no other state agreement proponent has sought to challenge a minister's decision about a proposal or taken the state to arbitration on any matter, let alone a minister's decision to reject or comment on a proposal that has been submitted.

The point being made here is that the fact no-one has tackled or taken up those matters apparently reinforces that there is no sovereign risk in this case—until now, when there is a challenge. Does that change the settings in respect of sovereign risk? I find the next paragraph interesting also, which states —

> Therefore, this bill does not create a risk to other current state agreement parties or to future investors. Other state agreement parties and proponents deal properly and appropriately with the state in the terms of their proposals.

That is assuming that they are nice people and not characters like Mr Palmer. The Attorney General continued, in relation to the Mineralogy state agreement —

> I also wish to make clear that this bill does not override the primary provisions and rights of Mineralogy and International Minerals under the provisions of the state agreement. This bill affirms the terms of the state agreement and leaves open to Mineralogy and International Minerals the right to submit proposals for the Balmoral South Iron Ore project should they wish to do so. This bill will remove the capacity for Mr Palmer, Mineralogy and International Minerals to pursue litigation and damages claims regarding prior decisions of the then minister and the state more broadly, or damages for any future decisions of the minister on any new proposals submitted, or purportedly submitted, pursuant to the state agreement.

In drafting this legislation, the government has chosen to cut a path through the state agreement and the contract that sits in the schedule of the state agreement. It has said that no changes override the primary provisions and primary rights of the act, but, by the way, it is taking away these other things and saying, "This is the line that says if you touch that, it's sovereign risk, if you take that, it's not." The government has chosen to take the path of saying, "This is sovereign risk and that is not", yet we are fundamentally changing the rights of the parties without their consent. Indeed, we now have on the table a party that has chosen to take action against the state. Does that fundamentally change the settings in respect of sovereign risk issues for all the other 60 or 70 state agreements sitting out there that the Attorney General, by his own admission, said was a consideration of government in dealing with

this matter? The issues do not sit with just one state agreement; there are another 70 out there that were drafted prior to this one. A whole range of issues emerge out of this, not least of which is the one raised by the member for Riverton—that people invest in Western Australia.

Sitting suspended from 6.00 to 7.00 pm

Mr D.T. REDMAN: It is a little hard when you are building up your case just before the dinner recess and the bells go. You go off and have some dinner and then come back and expect to tie up all the loose ends. Deputy Speaker, I am going to have a go.

Mr W.J. Johnston: You mellow, too.

Mr D.T. REDMAN: That is right; you kind of soften a bit after that.

I will try to summarise the approach that I took in this debate. First, no doubt the circumstances are unprecedented. We are dealing with a bill, which I happen to have left sitting on my table, that is unique. I will go and get it. Excuse me for a second.

The DEPUTY SPEAKER: Just talk amongst yourselves, members.

Mr D.T. REDMAN: In time, others will no doubt comment on the appropriateness of this legislation and whether it oversteps the mark, but the government has had the benefit of its advisers and the State Solicitor's Office putting up options to deal with the challenges that are there, and this is what the government has come up with. Rightly, we can only take that on face value. But there are some questions to be asked about this legislation, which is only too reasonable. The government has put on the table some alternative options. The Attorney General said today that there is at least one; that is, putting legislation over all the state agreements because all the state agreements written before the state agreement that this legislation will change have the same—"flaws" is the wrong word—components that allow parties to take the actions that Clive Palmer has taken.

I think the question of sovereign risk is one to be debated in this chamber. I do not accept the government's argument that there is no sovereign risk in this. We have had some debates about that in the past—that some of the actions suggested by the National Party might trigger sovereign risk—yet the government says that what it is doing here will not do that. Interestingly, if a miner—in terms of the people who dig stuff out of the ground—does something that the state does not like, the state can take action. In this case, that is what has happened. This is a miner who has done something that the state does not like—he has threatened the people of Western Australia. The state has chosen to take some unilateral action. One could argue that that, in and of itself, is sovereign risk, because the whole idea of having an agreement is that there is some certainty around the positions that the miners have on the activities that they undertake.

I think there are a range of issues. The National Party clearly supports the legislation. The Leader of the Nationals WA made a very good speech that put on the table a range of issues. But, nevertheless, we are relying on the government at face value and the expertise that it has behind it that this is the most appropriate action for the circumstances that we are presented with. Indeed, we all rightly need to react in the best interests of the people of Western Australia.

MR W.J. JOHNSTON (Cannington — Minister for Energy) [7.03 pm]: The relevant minister is still on urgent parliamentary business outside the chamber, so I will fill in for a moment until he gets here.

The DEPUTY SPEAKER: Would the member like to take centre stage while he is filling in?

Mr W.J. JOHNSTON: I want to make a couple of comments about some of the opposition's contributions. I am not having a dig at anybody or trying to get involved in a screaming match, but there are a couple of things. It is not actually true that every other state agreement is with a party that had the resources to do the project. I give the example of the Kingstream agreement, which was done with a shelf company. Indeed, it was following the signing of the state agreement and its ratification by Parliament at the end of 1996 that the company then went to the stock market and sought additional resources to carry out the project. It never had the resources to carry the project forward. It is not actually correct to say that every other state agreement has been with an entity that had the resources to execute the project. Indeed, even Todd Corporation is seeking partners for its project. It is an interesting example because the state agreement was negotiated by the former government and ratified by this government. I am just using that as an example. It is not actually correct to say that every other state agreement was with a party that could execute the state agreement.

This legislation does not take the project off the proponent. The proponent can still bring forward his project, and we would invite him to do so. We are not stopping the project; we are dealing with the matters that are dealt with in the bill. He could submit the project plan if he wants to. Given that he is getting basically a million dollars a day from his tenant, it would seem that he probably has the resources to move his project forward. He can make his own decisions about his project—the bill that we are dealing with does not stop the proponent from taking his project forward.

With those two comments, I will take my seat.

MR J.R. QUIGLEY (Butler — Attorney General) [7.06 pm] — in reply: I thank and acknowledge members of the opposition and the Nationals WA for their contributions this afternoon on the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. I particularly acknowledge the contribution of the Leader of the Opposition, who stated unequivocally that the opposition supports this bill.

At the outset, I would like to disclose that in my second reading speech there were a couple of typographical errors in the amount claimed. Those figures were prepared and supplied by the State Solicitor's Office. I apologise for that. I have a paper with the corrected figures to table. I have given them all in Australian dollars. What the total shows is the actual amount. For example, I stated in my second reading speech that the value of the Balmoral South iron ore project was $10.72 billion. On adding it up again, it is $10.78 billion, which is $600 000 more than I stated in my second reading speech. I said the wasted expenditure of International Minerals was $37.24 million, but it is $37.25 million. I said in my second reading speech that Mineralogy's loss associated with being unable to sell any of its project required under the state agreement was $11.37 billion. That is confirmed as accurate. I said that Mineralogy's loss associated with an inability to obtain royalties in relation to the BSIOP was $326.18 million. That is confirmed as accurate. I said in my second reading speech that interest at six per cent from 9 October 2012 was, in Australian dollars, $5.21 billion. In fact, it is $5.24 billion. It was $300 000 under. I totalled those in my second reading speech, when I said it was $27.66 billion. In fact, it is $27.75 billion—that is, $900 000 more than I said. These billions are confusing me, but that is what it is. I have a chart here with those corrected figures, in both US and Australian dollars. I apologise to the chamber for the minor errors in those additions and I would like to table that paper as an addendum and correction to the second reading speech.

[See paper 3558.]

Mr J.R. QUIGLEY: Although the Leader of the Opposition said that the opposition will support this Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill, as did the Leader of the National Party, all members expressed both surprise and concern at the late notice the opposition was given about the introduction of this bill and the short amount of time they had to consider the bill before it was debated in the chamber today. There were and are reasons for this, and I will briefly outline them again. I stress that it was the same for cabinet because, on behalf of the public of Western Australia, we could not risk Mr Palmer getting any advance wind of what was coming by way of a legislative response to his outrageous claim of $30 billion against the taxpayers of Western Australia.

Such was the level of secrecy—if I can say that—or security that even the State Solicitor vacated his office and worked on this at home, so that the office would not generally know what was happening. Senior Parliamentary Counsel, Mr Lawn, was brought into the loop, and the Premier and I. Even the Treasurer, who is one of my closest friends, did not know any of this at all. It was kept absolutely tight until Friday night, when a small group of ministers knew so that we could plan the coming week, but not cabinet generally. Cabinet then held an emergency cabinet meeting at 4.00 pm yesterday, and at about 4.10 pm it was informed of the situation. The State Solicitor was in the cabinet meeting to brief the cabinet.

I am laying this out to let the opposition know that this was not a general push by the government, and that the opposition was no more disadvantaged or given any less notice than was the whole of government itself. We were being advised at all times by the State Solicitor of Western Australia and the Solicitor-General. We realised the importance of the outcome of this to the state of Western Australia in protecting all Western Australians from this outrageous claim. I say "outrageous claim" because it is a claim for damages by Mr Palmer, saying that he had lost the opportunity of selling the project to the Chinese government. The irony of that must cut deep given the last election campaign, when he was campaigning that the government was facilitating the invasion of Western Australia by the Chinese. Members might remember the ads at Derby Airport, Port Hedland Airport and Merredin Airport, which was a training base and may be still a training base for Singapore Airlines or something like that. This was the pathway the Chinese were seeking to use to invade and take over Australia. Here is this hypocrite trying to hit up the taxpayers of Western Australia for $30 billion for his claimed loss of opportunity to sell the Balmoral South iron ore project to the Chinese government. It is unbelievable—just breathtaking.

Although we are saying it does not involve sovereign risk, we are not interfering with his rights under the state agreement. He still has all the iron ore in his tenement. Under the state agreement, he still has the ability to mine all that iron ore and export about 48 million tonnes of it; two million tonnes over 28 years. He still has that. This bill does not seek to take away his rights under the state agreement. All it seeks to do is protect the taxpayers of this state from an outrageous damages claim because the former minister and Premier, Hon Colin Barnett, first of all, refused his first proposal as being invalid. His first proposal was as botched as his application to enter this state under an exemption when he was named as the husband of his airline pilot. The airline pilot suggesting he was a gay bigamist or something—that he was the husband of the pilot. It was unbelievable.

Mrs L.M. Harvey: I thought the state's case said that he had applied for a permit?

Mr J.R. QUIGLEY: No; he had not.

Mrs L.M. Harvey: So, the state's case did not say that he had applied for a permit?

Mr J.R. QUIGLEY: The state does not accept that he made a valid application for a permit; no.

Mrs L.M. Harvey: That is not what your case stated.

Mr J.R. QUIGLEY: There is a purported application; there is no valid application. We will deal with that later. We are saying in relation to the application that Mr Barnett refused in 2012, that the application included some of the ground that was already under a tenement for the Sino project. So Mr Barnett rightly said that it was an invalid one. We are being sued now for that project alone.

I do not know where that tabled paper has gone. It is being passed around but it has not been passed back to the table, unfortunately.

The amount is $11.37 billion, plus interest. We are not taking anything from him; we are protecting the state from a damages claim against the decision Mr Barnett made.

This matter is very urgent. I do not wish to reply in detail this evening to every second reading contribution. I understand the concerns that have been raised in this chamber by members. Many of them were repetitious. I do not criticise members for raising the same points, but it is the government's determination to see this bill through tonight. There are 31 clauses over 64 pages. The opposition has indicated—no criticism—that it wants to deal with this bill in consideration in detail. However, it is the government's determination on behalf of the Western Australian public to see this bill passed before we go home. If that is at breakfast, that is at breakfast. This matter is urgent. During question time, the Leader of the Opposition asked a rhetorical question: why the urgency? I will not deal with each of the clauses that we will be dealing with during the consideration in detail stage, but for a moment I will refer to the operative provisions for an arbitration or award. Proposed section 10, to be found on page 19 of the bill, states —

> (1) Any relevant arbitration that is in progress, or otherwise not completed, immediately before commencement is terminated.
>
> (2) Any relevant arbitration arrangement, and any relevant mediation arrangement, connected with a relevant arbitration terminated under subsection (1) are terminated.
>
> …
>
> (4) The arbitral award made in a relevant arbitration and dated 20 May 2014 is of no effect and is taken never to have had any effect.

When is the commencement? It is upon assent, in clause 2. I can disclose to members why we brought this bill in at 5.00 pm last night. We brought this bill in when we knew that every courthouse and every registry in the country was closed and the doors locked, and there was no chance to make an application to the court on that day. The significance of that is to be found in proposed section 7 of the bill, the definition section. I take members to the bottom of page 7 of the bill, which states —

> ***introduction time*** means the beginning of the day on which the Bill for the amending Act is introduced into the Legislative Assembly;

The introduction time is the beginning of yesterday, because we anticipated that as soon as Mr Palmer got wind of this bill, he would do what his lawyers had failed to do for six years for the 2014 award, and failed to do for the award of 11 October 2019, referred to on page 20 of the bill under proposed section 10(6). They had failed to register it with a Supreme Court. Under the Commercial Arbitration Act, once it is registered with a Supreme Court, the award can be enforced. We could not take the risk of giving him a heads-up that this bill was coming so that he could rush into court to register it. We would be failing the people of Western Australia if we did that. It was not to take the opposition by surprise, and it was not to take my party by surprise; it was to protect the interests of every Western Australian.

How right we were, because what did Mr Palmer do today? He filed in the New South Wales Supreme Court, just as we anticipated he would. But he is one step behind the play. Now that he has filed in the New South Wales Supreme Court, it becomes all the more urgent to get this bill through and assented to, with no inquiries and no committees. To go down that path would be to put at risk the interests of all Western Australians. Think about it. This is not the government standing here to have its way over the opposition; this is the government in this Parliament doing all it can to protect all Western Australian families against the rapacious conduct of Mr Palmer. Just think about that letter that I tabled during question time. Challenging the hard border in the High Court for the benefit of Western Australians was a ruse—a charade—exposed by his own correspondence that says, "We can't get into Western Australia to do this arbitration hearing. We can't get in here with our lawyers and experts. We can't even get in here with Mr McHugh, the arbitrator. He has to get in here, because under the arbitration, Western Australia is the nominated venue. Will you agree, by consent, to varying the arbitration by varying the venue and transferring the venue to Canberra; and, if you agree to that, we'll drop the High Court proceedings challenging the hard border?" What does that expose him to be? He has no care at all about the health and welfare of Western Australians.

The Leader of the Opposition today made the point about who was the first to advocate a hard border. Who was the first and why was the Leader of the Opposition advocating that at that time? It is because she and the opposition believed that a hard border was the safest for all Western Australians. We eventually received that advice from the Chief Medical Officer. The call had to be made not by the government, but by the State Emergency Coordinator under the emergency legislation. The State Emergency Coordinator happens to be the Commissioner of Police, who had to act on the advice of the Chief Medical Officer, but it was the honourable Leader of the Opposition and the opposition first calling, saying "We've got to have a hard border to protect Western Australians." What is Mr Palmer saying? "I'll tear this border down; I'll spend whatever money you like to have this border torn down unless you agree to transfer the arbitration out of the state to Canberra." Mr Palmer is saying, "I don't care about the safety of Western Australians, I don't care about the health of Western Australians and I don't care about what lives may be lost by tearing this border down. I'm going to tear the border down so I can get into the jurisdiction to conduct the arbitration in the jurisdiction. I'll put all of Western Australia at health risk."

This is blackmail; he is a blackmailer. He will put all Western Australians at health risk. He does not care if he costs elderly lives, he does not care if he costs the lives of health workers, and he does not care if he shuts the economy down. He does not care if he sends the economy to the wall. He will do all these things unless Western Australia agrees to take his arbitration to Canberra where he can have his $30 billion damages claim assessed. What outrageous conduct! How un-Australian! What a phony, putting all these ads in the paper during the election campaign, saying that we are going to invite China to invade us through our airports.

Mrs L.M. Harvey: We might not get through this bill tonight.

Mr J.R. QUIGLEY: We will get through it, member! We will get through it tonight or tomorrow morning.

This has to be said and put on the public record: he is using the ruse that China is invading Australia whilst he is trying to sell the mine to the Chinese. He is calling himself Australian when he is doing the most un-Australian thing that could be done—putting a whole population of 2.5 million people at risk of COVID-19 by tearing down the hard border, as advocated by the opposition early on in the piece. The opposition now understands the importance of the hard border. It is disgraceful conduct by Palmer—absolutely disgraceful—which has been exposed by his own letter from his own lawyers.

We are ready to go into consideration in detail. We do not seek to discourage members from consideration in detail. This is an important bill for Western Australian families. This is an important bill for all Western Australians. Even the little babies in the neonatal wards will be hit up for the $12 000 debt before they get out of hospital if we do not get this bill through. It is appalling—absolutely appalling.

Palmer talks about natural justice. He can bleat, he can squeal, he can abuse and he can buy full-page ad after full-page ad, but neither the Premier nor I will be intimidated by this bullying billionaire. I am very conscious of the fact that I stand here not as some puffed-up Attorney General. I am carrying a heavy responsibility this evening on behalf of all Western Australians to see this bill through and to think strategically down the board to anticipate what Mr Palmer might do next, and, like in a chess game, foreclose on his options. This government did foresee that Mr Palmer would try to register the awards of 2014 and 2019 in the Supreme Court as soon as he heard about the legislation, and that is what he did. Too late, mate! Not checkmate; too late mate—by a day.

I do not know what his lawyers are thinking tonight, but his lawyers now have a duty to inform their insurers in New South Wales—I think it is the Law Society of New South Wales—that they might be exposed to a $30 billion claim by their client Clive Palmer for having failed to register the awards in the six years they had to register the 2014 award and the year that they have had to register the 2019 award. If I was his lawyers, I would be shaking in my shoes tonight. This bill is going to get through and he is going to go around looking to pick up $30 billion from somewhere, and it will be from the Law Society of New South Wales and all of the rich lawyers in New South Wales. His lawyers now have a duty to inform their insurers tomorrow that, having failed to register the award before the introduction of this bill, they are looking down the barrel of Mr Palmer's rapacious conduct. If he does not get it from Western Australia, he will get it from all the lawyers in New South Wales. How incredible! This man knows no bounds. We know the lawyers have that duty, and we know that this litigant, Mr Palmer, knows no bounds. As I say, he has gone to court in New South Wales today. That is why it is so important that we have no committees and no delays.

We are here not as Labor against Liberal, but to see this job done for the community of Western Australia. The families of Western Australia will not rest easy until they know that His Excellency the Governor Hon Kim Beazley has signed the vellum copy of the bill. I thank all members for their concern. I share their concerns. I hope I have explained both why I have had to bring in this bill in a hurry and the pressing urgency for this bill to pass through the Assembly tonight and through the other place tomorrow.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mrs L.M. HARVEY: On the commencement date, could the Attorney General please confirm for the chamber when the legislation will come into operation and the exact date it will be effective from?

Mr J.R. QUIGLEY: The act will come into operation hopefully tomorrow evening after the Legislative Council has passed the bill and the Governor has signed it, so the exact date we are anticipating it will come into effect is Thursday, 13 August 2020.

Mrs L.M. HARVEY: Notwithstanding the date on which it comes into effect, I believe that some proposed sections will be backdated and effective from a date other than the day upon which the act receives royal assent. I seek the Attorney General's clarification of the real-time effective date of the operation of the proposed sections of this amending legislation.

Mr J.R. QUIGLEY: I am happy to explain that now, but it will mean a hold-up. I will have to take the member through proposed sections 10 and 11, which I will get to in due course. If I can deal with those in sequence, I think it will be faster than me going through proposed sections 10 and 11 now.

Mrs L.M. HARVEY: That is what I am seeking. Different proposed sections have different effective dates, and I just wanted to get that on the record as part of the commencement clause.

Mr J.R. QUIGLEY: Sure. We will deal with that when we get to proposed sections 10 and 11. From recollection, it is in relation to protected proceedings under proposed section 19. We will deal with it when we get to proposed sections 10, 11, 18 and 19. I can explain it for members, which I also did in my second reading speech. There are two groups or separate areas of this bill. It seeks to, firstly, terminate any dispute that is currently happening and, secondly, prohibit any prospective dispute, which we call a "protected matter". It will terminate a dispute that is already going on and protect the public from any further matter. That is in proposed sections 18 and 19. I am happy to deal with them in detail when we get to clause 7.

The DEPUTY SPEAKER: They are all under clause 7, if anyone is completely confused now. We will deal with them when we get to clause 7.

Clause put and passed.

Clauses 3 to 6 put and passed.

Clause 7: Part 3 inserted —

Mrs L.M. HARVEY: This is quite complicated.

Mr J.R. Quigley interjected.

Mrs L.M. HARVEY: Yes. Clause 7 amends part 3 of the existing agreement. I have not been able to get a marked-up copy of the act.

Mr J.R. Quigley: It inserts part 3.

Mrs L.M. HARVEY: It inserts part 3. Regarding the definitions —

> ***introduction time*** means the beginning of the day on which the Bill for the amending Act is introduced into the Legislative Assembly;

Mr J.R. QUIGLEY: This was the subject of some debate and advice by the State Solicitor's Office, the Solicitor-General and the law firm Clayton Utz, which is represented in the chamber this evening. I can explain the importance of the introduction time. I take members to proposed section 10. Was the member looking for an explanation of how introduction time relates to the bill?

Mrs L.M. Harvey: Yes.

Mr J.R. QUIGLEY: It is plain that it says the beginning of yesterday, but how does it relate to the bill? I take members to proposed section 10(1), which states —

> Any relevant arbitration that is in progress, or otherwise not completed, immediately before commencement is terminated.

We have already said that commencement is upon royal assent. However, it was anticipated that some action might be commenced after the introduction of the bill but before its royal assent. I take members to proposed section 11(5), which states —

> Subsection (6) applies to any proceedings, to the extent that they are of the type described in subsection (3), if the proceedings are —

We then go back to proposed section 11(3), which is about arbitration and claims for loss. Going back to proposed section 11(5), it continues —

(a) brought, made or begun against the State at or after introduction time; and

(b) completed before the end of the day on which the amending Act receives the Royal Assent.

If anything happens after the introduction of the bill but before royal assent, that is covered by the bill. That is the reason "introduction time" is defined as the beginning of yesterday. As proceedings have commenced in New South Wales, it is imperative that when we are in that New South Wales court we are not talking about a pending bill before the Parliament of Western Australia, but an act of the state of Western Australia. We have covered this little period between introduction and assent, but because the action in New South Wales means the court has been approached and proceedings have started in New South Wales, it is absolutely imperative that we secure royal assent urgently so that when we are in court in New South Wales we can say, "Read the provisions of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2020", and we are not trying to address a judge about what may or may not happen in this Parliament.

Mr D.R. MICHAEL: Can I hear more from the Attorney General, please?

The DEPUTY SPEAKER: Yes, member for Balcatta, of course.

Mr J.R. QUIGLEY: This is no criticism, Leader of the Opposition: when we drill right down to the detail, it is complex, because we are dealing with a complex situation. We are dealing with teams of lawyers that Mr Palmer has engaged in the eastern states. He has his own huge jet to fly them around the country. He pulls $1 million a day in royalties out of this state. There is no bottom to his pockets. They go right down his trouser leg and they are all stuffed full of gold. He can do what he likes.

Mr A. Krsticevic: I thought it was iron ore.

Mr J.R. QUIGLEY: He is paid in US dollars and that is as good as gold. There is no criticism. We want to take members through this and we want to explain to the chamber and to the public of Western Australia that it is the very best legal advice of Mr Joshua Thomson, SC, our Solicitor-General. If anyone followed the proceedings conducted in the Federal Court last Monday week, they would know that Mr Thomson, SC, is the best Solicitor-General in Australia, beyond question. He creamed it. He got Palmer's witness to agree that his expert opinion was flawed because it was just based on assumptions and was worthless. It is on Mr Thomson's advice that this was the best way to protect ourselves during the intervening period between yesterday when I stood up and introduced the bill—remember, it was just after five o'clock when we knew that every courthouse in Australia had its doors locked; yesterday was the introduction day—and tomorrow, which should be the assent day, now that the members of the other place know that proceedings have commenced in New South Wales and that any delay they cause puts at risk every Western Australian. The urgency now has become patently obvious and pressing. That is a bit of a long explanation for the definition of the introduction time. Although it is only two and a half lines and reads easily, we have to know how that interlaces with the bill and what extra protections this Parliament will give the people of Western Australia upon the passage of this legislation.

Mr D.T. REDMAN: Proposed section 7 is "Terms used". I refer members to page 9 of the bill. One of the terms used is "Mr Palmer". It is unusual that a person is named in a piece of legislation. I recognise thatsome of the schedules in state agreements have names of people because they are signatories to the contract. I wonder whether the Attorney General could tell me the reason for having "Mr Palmer" in the terms used and why that is significant to this proposed section.

Mr J.R. QUIGLEY: We will get to that later in the bill, but Mr Palmer is very inventive and a very suss character. I took the opportunity last night to ring Hon Colin Barnett to reassure him that this government, in bringing this bill forward, was in no way critical of the decisions he made. He recounted a little story of meeting the person named in the proposed section. He said "'Quigs', I will never forget it —

Mr Z.R.F. Kirkup: He would never have called you "Quigs"!

Mr J.R. QUIGLEY: He did. We are old Neddies state school alumni. We bowled on the malthoid wick down in the oval—malthoid being a sort of a tar paper—and we played footy at the same oval, Melvista park, and we learnt to swim down at Neddies' baths.

Leaving that aside, he said, "Quigs, I'll never forget it. I was down at the Parmelia Hilton and I bumped into Clive Palmer." This is when Colin Barnett was the Leader of the Opposition and the state agreement had gone through. He said, "Clive, who I had previously met, walked up to me, threw a big bear hug around me and said, 'I love this state. I love Australia. I'm a billionaire miner and I've never put a spade in the ground.'" He has made billions and billions of dollars just by his inventiveness and his manipulation of the system.

If there is a case for an award and he invents some future legal action that we do not know about yet, even though we have tried to cover the field, there is an indemnity clause in this bill. If we get an award made against us anywhere

down the track on any action that we have not foreseen, Mr Palmer, by this legislation, indemnifies the state for every dollar that he gets. We have had to put him in the definition clause because it comes up in the indemnity clause. If members turn to page 29 of the bill, they will see at proposed section 14(2) that the indemnity clause states —

> For the purposes of this section, each of the following persons is a ***relevant person*** —
>
> (a) Mineralogy;
>
> (b) International Minerals;
>
> (c) Mr Palmer;
>
> (d) every relevant transferee;
>
> (e) every former relevant transferee.

That is in case he has transferred assets or assigned rights under leases or contracts. Under this indemnity clause, if he invents an action and somehow works out how to get through the wall that we have built, there are layers of protection for the public so that Mr Palmer will have to fully indemnify the state and we can execute and grab the money back. That is why Mr Palmer is defined on page 9 to mean —

> (a) … the individual who, on 10 August 2020, is named Clive Frederick Palmer and is a director of Mineralogy; and
>
> (b) includes —

In case he croaks, but we do not want that —

> any executor, administrator or trustee of the estate of the individual referred to in paragraph (a);

That is the reason that he is in there, member. It is because of the indemnity clause, so that we can claw it all back.

Mrs L.M. HARVEY: My understanding is that some of these entities that are party to the existing state agreement may have other office-bearers listed for the companies, as in other directors, secretaries and potentially treasurers of the various corporations that are party to the original act. Is there anything in this amending legislation that prohibits, for example, Mr Palmer's wife or daughter or some other person who happens to be a secretary or office-bearer in any of those companies from bringing an action against the state at some future point?

Mr J.R. QUIGLEY: There are layers of protections for those situations. They are to be found in proposed section 11 of the legislation. We will get to that when we get to proposed section 11.

The DEPUTY SPEAKER: It is all part of the same clause, so you can go there now.

Mr J.R. QUIGLEY: Proposed section 11 states —

> (1) On and after commencement, the State has, and can have, no liability to any person that is or would be —
>
> (a) in respect of any loss, or other matter or thing, that is the subject of a claim, order, finding or declaration made against the State in a relevant arbitration; or
>
> (b) in respect of any other loss, or other matter or thing, that is, or is connected with, a disputed matter (whether the loss, or other matter or thing, occurs or arises before, on or after commencement); or
>
> (c) in any other way connected with a disputed matter.

That covers all those people the Leader of the Opposition is concerned about. It is a good question, and it has to be ventilated for the public. When Mr Palmer's lawyers, who failed to register the arbitration before we introduced it, read this section, they will be sweating in their socks.

Mrs L.M. HARVEY: Could the Attorney General advise the chamber whether appropriate company searches and office-bearer searches were done for all the entities that are listed in the state agreement? It seems to me that if the government has singled out Mr Palmer as an individual to bring an action in the future, if any of those office-bearers are currently office-bearers for those companies, it would be somewhat of a discrepancy to not have them individually named as well. I seek the Attorney General's advice about whether that is potentially a loophole or weakness that could be exploited, given the nature of the people we are dealing with.

Mr J.R. QUIGLEY: The bill works in this way. I have already taken the Leader of the Opposition to clause 11. It refers to "any person" who brings an action for damages in relation to a relevant arbitration or disputed matter. It does not matter whether they are an office-bearer or not. We do not have to worry about company searches. Any living person who brings an action for damages in relation to the disputed matter cannot win it. It does not matter whether they are the typist at the front door, the telephonist, or whatever. No person can bring an action in relation to a disputed matter. The reason Mr Palmer is specifically named at page 30 is that Mr Palmer has assets, and we can seize his assets. He is named because of the indemnity provision, just as Mineralogy and International Minerals are named, and every relevant transferee or former relevant transferee is named. It is not a matter of having to list

all the office-bearers or all the employees. It could be his maid. It could be Mr Carlos Filingeri—I think I have got his name right—his airline pilot, if he were to bring an action against the person whom he had nominated as his husband. No. I will take that back. If Mr Carlos Filingeri, the airline pilot, were to bring an action, he would be "any person". We do not need to name them all. The reason Mr Palmer is named in the bill is because he has assets, and Mineralogy and International Minerals have assets. As I have already explained, if they invent some action that we cannot foresee and they get a damages award, we can go back to them and say that it all lies under the state indemnity.

Mrs L.M. HARVEY: Is the Attorney General saying that potentially Mr Palmer could foresee an outcome whereby the state could go after his assets? Is the Attorney General saying that the reason Mr Palmer has been put in the bill as a named individual is because he is the owner of the assets and there are no other owners of the assets? Has the Attorney General accounted for the potentiality that Mr Palmer will transfer those assets to another individual in the event of the scenario that he just described? Just to clarify what I am saying, the way that some of these corporate entities operate is they have a series of trusts and companies and those sorts of things, and when they are trying to avoid responsibility or liability for something, it is not uncommon for asset transfers to occur from one company or trust to another individual. It sounds from the Attorney General's answer as though the reason Mr Palmer has been named is because he is the owner of the assets. However, at some point in the future, that could potentially be another entity. Can the Attorney General point to where in the bill that potentiality has been covered off?

Mr J.R. QUIGLEY: The people in this arbitration—Mineralogy and International Minerals—could try to invent some cause of action that we have not been able to think of, and that would be wiped out under clauses 10 and 11. They may sue the state on some cause of action that we have not yet seen in our thinking. I just want to say that the State Solicitor's Office approached the redoubtable national law firm Clayton Utz, who assigned their senior partner, Mr Nick Cooper, to the task of black-hatting this bill. They were asked, "If you were acting for Mr Palmer, how would you attack this bill? Where are the loopholes?" Without going through it line by line, everything that they came up with was then taken back to the State Solicitor's Office and parliamentary counsel. We thank Clayton Utz and Mr Cooper and his partners for their diligent work in this black-hat exercise.

I take the Leader of the Opposition to clause 14 at page 31 of the bill. If, for example, despite the best efforts of Clayton Utz, the best efforts of the State Solicitor and the best efforts of the Solicitor-General to try to anticipate every eventuality, Mr Palmer and his team were to come up with some novel and unexpected cause of action that is not covered, or were to find a loophole in this bill, clause 14(7) states —

> (7) The State may (without limitation) enforce the indemnity under subsection (4) —
>
> (a) even if the State has not made any payment, or done anything else, to meet, perform or address the proceedings, liability or loss in question;
>
> and
>
> (b) by setting off the liability of the relevant persons under the indemnity against any liability that the State has to 1 or more of them.

It is not a matter of Mr Palmer hiding his assets somewhere. If they did come to enforce a judgement against the state, the state would say, "We're indemnified. We don't have to pay you a cracker." It states "without limitation". Mr Palmer's personal assets are tied up with Mineralogy and the royalty stream from the mine. Mineralogy and International Minerals cannot transfer assets without the consent of the state, because that is part of the state agreement. These assets cannot just disappear or be shipped to an offshore identity. That can be done only with the consent of the state, and the state would never agree to that. Clause 14(7), the indemnity, would then come into play, so the state would not have to pay anything anyway. The prospect of Mr Palmer transferring assets without the state's consent and knowledge is not possible. He cannot transfer the state agreement. He cannot transfer the royalties stream. He cannot do any of that. If he or Mineralogy or International Minerals or any other person sues us, the indemnity applies and we do not have to pay anything anyway. In any event, these are not like assets that normal corporations have that they can transfer beyond the reach of their creditors.

Mrs L.M. HARVEY: I seek final clarification from the Attorney General on this point. The companies named in the state agreement act are Mineralogy Pty Ltd, AusSteel Pty Ltd, Balmoral Iron Pty Ltd, Bellswater Pty Ltd, Brunei Steel Pty Ltd, International Minerals Pty Ltd and Korean Steel Pty Ld. If any other office-bearers of those companies that currently exist are not listed specifically in this legislation, the state is not at risk of an action from any of them by virtue of clauses 10 and 11. Is that what the Attorney General is saying?

Mr J.R. QUIGLEY: There are two layers of protection. Any of those companies and their directors are covered by the definition of "any person" in clauses 10 and 11, as the member has correctly identified. That is the end of the matter because none of those companies, or any person, can bring an action for damages for loss under arbitration for the disputed matter. Say, for example, a court delivers some unforeseen judgement or something around the definition of "person". We cannot imagine it. We have our second line of defence, which is the indemnity. If any

of these entities, characters or creatures tried to get through the razor wire, we would still have a second line of defence to belt them with, and that is the indemnity—by setting off the liability of the relevant persons under the indemnity against liability that the state has to one or more of them. The indemnity is another line of defence.

Mr D.T. REDMAN: I refer to page 3 and part 3, "Provisions relating to Balmoral South Iron Ore Project and certain other matters" in bold type. What does "certain other matters" cover?

Mr J.R. QUIGLEY: The other matters are other lines of defence that are built into the amending bill; for example, the indemnity, and a prohibition of the payment of any moneys out of appropriation, and the prohibition against executing against any state assets. Bearing in mind that we are dealing with an inventive, hugely rich, contestant, we have tried to build in lines of defences. First of all, he has to get past clauses 10 and 11 and then he has to get past the indemnities. If he gets past the indemnities, the act forbids payment out of appropriations. If he gets past that, there is a prohibition against the execution of any state assets. This is the product of the best legal minds that this city has to offer working intensively over the last couple of months.

The other matters include all those other matters. It is a fair question but I wanted to lay out for the public of Western Australia that this bill is not rushed in with a simple solution. This bill is like the Terracotta Army in China—we have built rows and rows of defences into the bill to protect everyone in Western Australia from this rapacious, fraudulent person.

Mrs L.M. HARVEY: I refer the Attorney General to page 4 of the bill, and the definition of "civil wrong" on line 15. The explanatory memorandum states —

> The term **civil wrong** is intended to be broad, to expand the ordinary meaning of the term and, when used throughout the Act, to provide wide protection to the State.

I understand that the normal definition of a civil wrong is basically any wrongdoing that could result in a damages claim. Is that correct?

Mr J.R. QUIGLEY: When we talk about civil wrongs at law, we are usually talking about "shows as an action", like a tort. If a person is injured in a car accident, they have a tort of a civil wrong, or trespass is a civil wrong. There are heads of civil wrongs that lead to causes of action. In the definition, we have tried to list all those known civil wrongs—a tort, a breach of trust, a breach of confidence, a breach of duty in equity, a breach of a written law, and then the sweeper. We do not go to court and say, "I have an action here because of maladministration." We have to identify what that maladministration covers as a head. Paragraph (f) states —

> maladministration, misconduct or any other conduct that, under an Act or law, could be the subject of an adverse report, adverse finding, penalty or other sanction of a disciplinary, regulatory or other civil type.

We have defined the definition of "civil wrong" to be as broad as it is and to expand the ordinary meaning of the term "civil wrong" that we know at law. We have expanded it to make it as wide as possible to provide the state and the public of Western Australia with the broadest possible protection.

Mrs L.M. HARVEY: I am glad that the Attorney General expanded on that. I understand that the government says that this legislation is required but it is somewhat breathtaking. "Civil wrong" needs to be read in conjunction with the definition of "protected matter" on page 13. A protected matter can mean a range of actions that the state government could be taking. With respect to those two definitions, on page 38, clause 18 of the bill states —

> (1) No protected matter has the effect of —
>
> (a) causing or giving rise to the commission of a civil wrong by the State;

Under that list of protected matters, the state government can take a broad range of actions. In taking those actions, it could be construed in any other sense or any other circumstance as a breach of trust, a breach of confidence, a breach of duty and equity, a breach of written law or a tort, but this ensures that no protected matter has the effect of being defined as a civil wrong. A somewhat breathtaking suite of actions can be taken that would ordinarily result in the state government being taken to court, but this legislation will ensure that no matter what the breach, maladministration, misconduct or any other thing may be, the state's actions will be a protected matter and cannot give rise to the commission of a civil wrong by the state.

Mr J.R. QUIGLEY: I think Mr Palmer's lawyers would concur with the Leader of the Opposition; it is breathtaking in its scope. I will give an example of how it could work. For instance, the Commercial Arbitration Act 2012 imposes statutory obligations of confidence. If someone in the state were to breach those confidences in the Commercial Arbitration Act in this arbitration, that would give rise to a cause of action against that state employee or the state. For example, in the preparation of this bill, a number of people had to be informed about what was in the state agreement. To get it into this chamber, a number of people had to be told, including the caucus and the party room. The confidential nature of the arbitration was breached. I was very careful when I was asked questions at the press conference this morning, which was live, to say that I would refer only to the second reading speech. If I referred only to the second reading speech, I would not breach the confidentiality conditions imposed by the Commercial Arbitration Act 2012. There is an example.

We have tried to cover the field to protect everybody—the public, our state employees and agents, and firms like Clayton Utz—from any possible cause of action that could be brought by Mr Palmer. The only people we have not protected in this legislation are Mr Palmer's lawyers, who failed to register the arbitration award. They are on their own. They will look to their insurers in New South Wales and notify them lickety-split that there is a potential claim against them for $30 billion. But we have sought to protect everybody else, so, yes, the Leader of the Opposition is right—it is breathtaking in its scope. It is unprecedented in its scope, but we are dealing with a person who was described by Mr Justice Martin in the CITIC litigation as a person who conducts litigation as warfare and as a person who does not conduct commercial affairs normally but seeks to make every single point a matter of high controversy. That litigation has been running in the Federal and Supreme Courts for years. I have spoken to the court, and it is concerned and wants more judges appointed just to cover off on the CITIC litigation. We are dealing with a very inventive legal team that is acting for Mr Palmer and doubtless being paid a prince's ransom on a daily basis to come up with ways to get at this state. That is why we anticipated what they would do as soon as we introduced this bill—they rushed to a court and tried to register arbitration awards for 2014 and 2019.

I do not claim credit for all of this. I am a traffic court lawyer who got lucky and ended up the Attorney General. I am advised by the best legal minds in Western Australia. Two of them are sitting at the ministerial table and one, the senior partner of Clayton Utz, is observing the proceedings from the Speaker's gallery. The Solicitor-General, who fought so brilliantly and valiantly against Mr Palmer and his ally Christian Porter —

Mr Z.R.F. Kirkup interjected.

Mr J.R. QUIGLEY: He was. He intervened in support of Mr Palmer.

The ACTING SPEAKER (Ms J.M. Freeman): Minister, time.

Mr J.R. QUIGLEY: I am not taking —

The ACTING SPEAKER: Minister, your time is out.

Mr B.S. WYATT: I am intrigued and would like to hear what the Attorney General has to say.

Mr J.R. QUIGLEY: As I was saying, Mr Thomson, SC, fought brilliantly against Mr Palmer's lawyer, Mr Peter Dunning, QC, and Mr Porter and his lawyer, Dr Stephen Donaghue, QC, the Solicitor-General of the commonwealth. He creamed them. Legal minds of that level were advising this humble lawyer on how to present this legislation to Parliament to provide total protection for all Western Australians.

I might say that not only did Mr Thomson, SC, our Solicitor-General, and his legal team do brilliantly in Brisbane; they also made a big sacrifice on behalf of Western Australia. That hearing finished last Friday week and, on coming back to Western Australia, Mr Thomson and his team remain in self-isolation. We have hired Mr Thomson an Airbnb. I will not say in which suburb. I speak to him daily. He is surviving on Uber Eats and he has his dumbbells to do weights, because he is not even allowed out for exercise.

I will tell members something funny. I dialled in to a Federal Court directions hearing that was brought on after the commonwealth tried to skulk out of the court via the side door. Having entered the contest, it was trying to escape. It was very funny that during the telephone audio, the police would ring up Mr Thomson to see whether he was still in self-isolation in his Airbnb digs. They check up on him. It makes you think; we have this brilliant lawyer who is now isolated from his wife and children, and other members of the team are doing exactly the same.

Point of Order

Mr R.S. LOVE: We expect to be here late tonight talking about the substantive nature of this bill. I do not really know that hearing about the isolation techniques of this particular person is really contributing to that debate.

Mr J.R. QUIGLEY: Point taken. I will not go on, member.

Debate Resumed

Mr J.R. QUIGLEY: I was just saying that we have taken the best legal advice that the government has to protect Western Australians from all imaginable and almost unimaginable efforts of Mr Palmer and his legal team. I agree that the breadth of the protections is, indeed, breathtaking.

Mr W.R. MARMION: I refer to proposed section 13 "documents" on page 25 in relation to freedom of information. Proposed section 13(1) states —

> (1) The *Freedom of Information Act 1992* Parts 2 and 4 do not apply to a document connected with a disputed matter.

The definition of disputed matter goes over two and a half pages and looks all encompassing. The Attorney General has done such a good job everything is covered in spades. If we do not have anything, it is in paragraph (f) and then paragraph (g) and even the pre-agreement. "Disputed matter" seems to cover everything.

Proposed section 13(1) says that parts 2 and 4 of the Freedom of Information Act do not apply to any document connected with this state agreement act. Can the Attorney General explain what parts 2 and 4 of the Freedom of Information Act relate to?

Mr J.R. QUIGLEY: There is precedent, as was pointed out during question time by the learned Treasurer, who has left the chamber to get the bill. This was a device used in the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill. The member for Nedlands was a member of cabinet and voted for it in this chamber, as did the Leader of the Opposition. In that legislation, the Freedom of Information Act, it was identified that the authority has the effect that the authority was mentioned in schedule 2 of the act; that is, an exempt authority. The member will remember that the Bell litigation bill was dealing with an authority that took the assets for which the assets of the liquidator were sequestrated by the bill. They were, therefore, able to insert the authority into schedule 2 of the Freedom of Information Act. Part 2 of the Freedom of Information Act deals with applications for information and part 4 of the Freedom of Information Act deals with the review mechanisms of those applications. The member will be aware that if someone applies and gets knocked back, there is a process of review to the Freedom of Information Commissioner and, ultimately, to the Supreme Court on a point of law. We are not able to just throw in there, as the former Liberal government was able to do in the Bell litigation issue, talk about the authority; we wanted to cover the field. This is not an effort to hide anything from the public. This is to make sure that Mr Palmer and his lawyers do not get hold of any of the government documents, any of the state documents, to try and invent a cause of action against the state.

The arbitration itself is confidential and it would be exempt material. The exemption under freedom of information exists. Documents relating to the bill might be subject to an FOI application. Litigants use the freedom of information process as a tool to gather information and documents to pursue the state. This is a standard tactic of litigants and we want to stop this in relation to this particular litigant: this is over, Mr Palmer; we are passing this legislation. He may take it to whatever court he wants; we will be there to meet him on the doorstep. We will resist him at every turn and he will not get hold of the documents of the state to assist him in his cause. If he got hold of the state documents, it might revert, as the Leader of the Opposition pointed out, to a cause of action or something concerning what the state or an employee or agent of the state did in relation to a protected matter. That goes back to proposed section 18. We want to close it down. Mr Palmer is not getting any of our documents. Mr Palmer will see nothing in relation to this bill; he will see nothing in relation to our preparation for the arbitration. Mr Palmer will see nothing in relation to any of the matters that are described as a disputed or protected matter.

Mr W.R. MARMION: The briefing covered that very well, so I understand all that. The Attorney General can comment on the impact of this. I understand that Clive Palmer should not get anything and this adequately covers that under freedom of information. However, this does more than that; from what I understand, it will stop anyone under freedom of information. It will stop the opposition, the Leader of the Opposition or anyone who might be doing any of their own interrogation on any process around the Balmoral South proposal. I could apply for an FOI, for instance, and do that, and Mr Palmer could go through the backdoor through me to get the documents. I understand that could be a concern, but I would not. Under proposed section 13(1), this mechanism is needed to close off any FOI application and review. Is there any other way this could be done so that other people could get hold of information they might want?

Mr J.R. QUIGLEY: Our assessment is that if it were not for this clause, we would be flooded with FOI applications by people—maybe by the member because he has a parliamentary interest in the matter. I know he would not then rush off to Mr Palmer and say, "Look what I've found, Clive." But how would we know? Anyone in Australia could make an application, even Clive Mensink from whichever hellhole he is hiding in at the moment. That is, I think, Mr Palmer's nephew, whom the Australian Securities and Investments Commission wants as a witness in the $12 million fraud charge it has against Mr Palmer. I remember the inquiry. Mr Mensink was on a world cruise and ATSIC could not serve him because he was always at sea. I do not know that he is at sea now because of COVID-19. He is hiding in some hellhole somewhere where ATSIC cannot get to him. Even he could make an application for freedom of information and pass it on to his uncle. We are not taking any risk that Mr Palmer or his agents, friends or allies, including Mr Porter, will get a look at any of these documents.

Mr W.R. MARMION: Proposed section 13(2) refers to section 11 of the Freedom of Information Act. Can the Attorney General explain the different between parts 2 and 4 and why an application under section 11 of the FOI act for access to a document is also extinguished?

Mr J.R. QUIGLEY: The reason for that is as follows —

Connected with a disputed matter is extinguished if either or both of the following apply —

> An application under the *Freedom of Information Act 1992* section 11 for access to a document connected with a disputed matter is extinguished if either or both of the following apply —
>
> (a) the application is made before commencement but no notice under section 13(1)(b) of that Act is given before commencement;
>
> (b) the application is made at or after introduction time.

That is to cover the period between the introduction of this bill and the royal assent. If an application is lobbed in now before we get royal assent and before this proposed act comes into force, that application will have no effect.

The advisers are good, are they not? They are fantastic. We have to say that Western Australia is fantastically served by our public service, especially by the State Solicitor, sitting to my right, and his senior assistant who is sitting opposite me. The Solicitor-General is texting from where he is watching, saying, "Stop this", because he feels a little embarrassed by the praise that I give him, but he is brilliant. All this is being done to protect us from an application that was made yesterday morning. Hopefully, this bill will be assented to by His Excellency tomorrow night sometime.

Dr M.D. NAHAN: Just to be clear, proposed section 13 prevents freedom of information regarding documentation about the nature, veracity and magnitude of the claims that Mr Palmer and co are making. Does that also apply to parliamentarians?

Mr J.R. QUIGLEY: That is right, member. But the member could not access them anyway, even without this proposed section, because the documents to which he refers would be covered by the secrecy provisions of the Commercial Arbitration Act 2012 as they are documents that relate to the arbitration. The member could not get to see them anyway because they would be covered in any event.

Dr M.D. NAHAN: I would like to explore some issues that I brought up in my contribution to the second reading debate. The basis for this legislation is that Clive Palmer and co have a potentially massive claim against the state, let us say $30 billion—let us not quibble at the rounding of billions. From my assessment, that would be a huge over-the-top ambit claim in the sense that he, under Balmoral South, has had no chance to get a joint venture partner or develop that mine. It has been well canvassed in the professional press, and he has stated himself, that he was going to sell it to a Chinese firm or go into a joint venture—they will not touch him. He stated that since 2012 and 2013 he could not develop the mine until he resolved the disputes with CITIC Pacific Mining. Indeed, in 2013, when he went to arbitration, he stated in the media that he was going to pursue damages against the state, potentially. He said it would be a magnitude of up to $1 billion. How did that go from $1 billion in 2013 to $30 billion today when he stated in the intervening period that there was no chance of him developing the mine? He makes outrageous and over-the-top claims, but that does not mean they are in touch with reality. My issue is that the government is very professionally, very thoroughly and comprehensively prohibiting him, his allies and others from pursuing, directly or indirectly, any claim against the state in charge of those issues. We have to get some confidence that the claims that the Attorney General is making of anywhere near $30 billion are the reality. That is what this whole thing hinges on, in my view. Can the Attorney General describe how he came up with $30 billion, because it does not tie in with reality?

Mr J.R. QUIGLEY: The member has before him the corrected schedule. The corrected schedule of his claims, such as that for the value of the Balmoral South iron ore project—BSIOP—is $10.78 billion. International Minerals' wasted expenditure is $37.25 million. Mineralogy's loss associated with being unable to sell any project required under the state agreement is $11.37 billion. Mineralogy's loss associated with an inability to obtain royalties in relation to BSIOP is $5.24 billion. That makes a total of $27.75 billion. I hold up a document, that I do not intend to table because I am not reading from it. These figures all come from a document titled "Applicant's amended statement of issues, facts and contentions". The arbitrator is Mr Michael McHugh, AC, and this is filed in the arbitration, so whatever he said elsewhere at any other time—who knows?—the formal document is dated 28 May 2020. That is after Justice Martin dismissed the state's appeal against the 2019 award. Just to remind the member—this is so complex—the 2019 award of Michael McHugh AC, QC, was when he determined that there had not been an inexcusable delay from the 2014 award to the 2019 award and ruled that he would hear an application for damages, which the state appealed against. Justice Martin dismissed our appeals and said he can go to assess damages, and then what Mr Palmer put on his formal claim, all properly done in accordance with the act, is where we got the figures from. The state has engaged Mr Higgs, SC, one of Australia's leading commercial and arbitration silks in Sydney, who has given us the assessment of risk. I do not wish to disclose to the member his assessment in this chamber or at any other time, but these figures that I have put in the second reading speech and disclosed here are not a fairytale or something I have pulled from the ceiling. They have come directly from the arbitration documents. Obviously, we are bringing this forward, because we have had an assessment of risk and we are not prepared to take that risk for the people of Western Australia and put at risk their jobs, their livelihoods, the functioning of the state of Western Australia, the running of our hospitals, the running of our police stations, the running of our schools and the saving of our economy in this pandemic time.

Mr Palmer says anything, does he not? He says anything that comes into his head that will suit his purpose. If we talk about the pandemic, he calls it a media beat-up. If we talk about the hard state border, as advocated by the opposition, he says, "This is nonsense. It is constitutionally invalid nonsense. Hang on, but I will trade the safety and health of Western Australians if you agree to move the arbitration to Canberra where I can have a go at you. I cannot get into the jurisdiction." He will say anything, and that is why we have tried to cover the field. But I appreciate what the member is saying.

We have to remember that he still has a chance to develop this project if he wants to. He is sort of double dipping in a way. He is going for the damages.

Mr D.R. MICHAEL: I would like to hear some more.

Mr J.R. QUIGLEY: He has still got the chance to develop the project. He still has the asset, if you like, of the state agreement. Mr Barnett impressed on me in the phone call last night that I should remind him that he does not own the iron ore. He has a licence to mine the iron ore. Under the state agreement, he does not own it until it is on the ship. He still has a chance to develop the deposit. He is bringing an action because Hon Colin Barnett, firstly, refused his original project proposal and, secondly, attached 46 conditions to it. We see that as almost akin to double dipping. What should we do? We have to protect the people of Western Australia; that is all we are seeking to do here. We are not advancing some Labor ideological cause or anything like that. We are protecting mums, dads, children, workers and everybody from this rapacious, fraudulent, dishonest litigant.

Dr M.D. NAHAN: I will not go into his character; the Attorney General has done enough of that. I do not necessarily disagree with him. Clive Palmer will say and do anything—make outrageous claims. We are responding to those outrageous claims, which are completely over the top, with drastic action. If the claims are even remotely true, the government is doing what it has to do. I do not disagree with that. I would like some confidence that the Attorney General has, as he said, pursued and obtained expert advice on the risk profile that would be exposed. The Attorney General just described that Clive Palmer will say and do anything and go over the top, so we need some kind of assessment of what the real risk would be. The Attorney General said he has it—I do not expect him to give us that advice, nor would I ask for it—and I would like him to give a commitment to Parliament that the advice he has is that it is a substantial risk to the state, even if the risk is not $30 billion.

Mr J.R. QUIGLEY: I realise that I am standing at the ministerial table as the Attorney General and giving an undertaking to the Parliament of Western Australia is a serious thing to do, so I do not do it lightly. On advice from Mr Higgs, SC, of the Sydney bar, the taxpayers of Western Australia face a real and substantial risk. We do not take this action as a stunt or some such thing. Once we saw the risk profile and were seized of the problem that confronts all Western Australians, after careful consideration it was determined that what we are doing with this bill is in the best interests of all Western Australians and fully justified.

Dr M.D. NAHAN: I would just like to follow up on that. I am no expert on this stuff, although I had some bitter experiences with Bell Resources. We went to the High Court and lost, thanks largely to the Australian Taxation Office.

The ACTING SPEAKER: What clause are you on?

Dr M.D. NAHAN: The same one. I am trying to explore the exposure to risk, and is the quantum of it dealt with directly in this bill? I accept what the Attorney General said today. What happens if Clive Palmer takes this to the High Court—I assume he will—and wins? Where do we go then?

Mr J.R. QUIGLEY: There are a number of things I would like to say in response. First, as I have mentioned, we have a risk profile from Mr Higgs, SC, of the Sydney bar, and in view of that risk, we go forward with this bill. Mr Higgs also advises that we have some respectable defences to the claim, but the claim is for $30 billion and we do not exactly know how far those respectable defences would take us down the ladder or the escalation of the damages. That is the first thing I would like to say.

The second thing is in relation to a constitutional challenge. This has been looked at by our Solicitor-General, who is, as I said, par excellence in terms of constitutional law. His advice to the government is that this will survive a constitutional challenge. Clayton Utz has looked at the bill separate from government and its advice to us is that it will survive a constitutional challenge. If the bill or parts of the bill were to be attacked—if we can imagine that, say, proposed sections 10 and 11 were struck out—it would not be the case that the whole bill would be struck out, just that proposed sections 10 and 11 would be struck out. We still have protections built into the bill in terms of indemnities, if Mr Palmer then brings on actions. That is why I said earlier that the advice and help that the government has had from the Solicitor-General, the State Solicitor and Clayton Utz has been to build in these layers of defence. At the centre of the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Act 2015 was the sequestration and transference of the assets from the liquidator to an authority, and that was found to fundamentally contravene section 109 of the Constitution, there being a law that was inconsistent with the law of the commonwealth. As the member will remember, the Australian Taxation Office, under the distribution, had precedence, and that took away its precedence —

Dr M.D. Nahan: Yes, they successfully claimed their precedence.

Mr J.R. QUIGLEY: That is right. No-one has thus far been able to identify in this bill an inconsistency with the law of the commonwealth, and the best legal minds have been at it. No-one has so far been able to identify to the government any law of the commonwealth that this bill clashes with. Our best constitutional advice is that we will survive, but even if we are partially knocked down, there will be other layers of defence built into the bill.

Dr M.D. NAHAN: I take that as given, but just to speculate, I would like the Attorney General to answer a question in relation to the Corporations (Commonwealth Powers) Act. Does this bill in any way threaten or contravene that act and the commonwealth's primacy in corporate dealings? Also, does this bill in any way—to put it crudely—not just poke the bear but also provide solace or support to Clive Palmer's claim if he were, in fact, successful in the High Court?

Mr J.R. QUIGLEY: Once again, our best advice is, no, it does not compete or clash with any provision of the Corporations (Commonwealth Powers) Act. The member might remember that there was a clawback in the Bell act—I think it was section 5F or 5G of the Corporations Act—because it was still a law of the state; it was not a referred power, but a consistent law. But no, Clayton Utz has looked at it separately from government, and the government has looked at it, and we cannot see any provision in this bill that is inconsistent with the Corporations (Commonwealth Powers) Act or any other law of the commonwealth.

Mrs L.M. HARVEY: Getting back to proposed section 13 titled "Documents", which is the provision relating to freedom of information, these are a lot more comprehensive than what was included in the Bell litigation. As I understand it, the Bell litigation basically had —

Mr J.R. Quigley: It is not very long.

Mrs L.M. HARVEY: No.

Mr J.R. Quigley: It is just a couple of lines.

Mrs L.M. HARVEY: It applied to the Bell litigation as though it were an exempt agency.

Mr J.R. Quigley: Correct.

Mr B.S. Wyatt interjected.

Mrs L.M. HARVEY: That is right.

Mr J.R. Quigley: Like internal affairs in police is an exempt organisation.

Mrs L.M. HARVEY: Yes. That is the reason that it could not be done in this case. Parts 2 and 4 of the Freedom of Information Act 1992 do not apply to a document connected with a disputed matter. I just want to be clear. There is a broad range of disputed matters, and a number of them are referred to. Various proposals, for example, are listed by the date of the action or the date of a decision. The arbitration file that the Attorney General read from previously, regarding where he took the approximate damages information from, is not listed in the legislation. I want to be sure that the state would be covered by any indemnity provisions in any matters pertaining to that action, given that it is not listed like every other matter that we are considering has been separately listed and named.

Mr J.R. QUIGLEY: There are two parts to the answer to that question. Once again, the advisers have come to the field. I refer members to the definition of "disputed matter" at the top of page 7. Paragraph (f) states —

> to the extent not covered by paragraphs (a) to (e), —

They are the ones we looked at on page 6, in the member's earlier question —

> any conduct of the State, or of a State agent, occurring or arising before commencement and connected with the Balmoral South Iron Ore Project;

It is any matter connected with the Balmoral South Iron Ore Project. This is just unbelievable and breathtaking, as the Leader of the Opposition described earlier. I take the Leader of the Opposition back to what a connected matter is. On page 5 is the definition of "connected with". It states —

> ***connected with*** —
>
> (a) means directly or indirectly, and wholly or partly —
>
> (i) in anticipation of; or
>
> (ii) preparatory to; or
>
> (iii) relating to; or
>
> (iv) caused by; or
>
> (v) arising out of; or
>
> (vi) resulting from; or
>
> (vii) in consequence of; or
>
> (viii) contributed to by; or
>
> (ix) connected with in any other way;
>
> and
>
> (b) has the extended meaning given in subsection (3);

We then go back to where we were before on page 7 —

> (f) to the extent not covered by paragraphs (a) to (e), any conduct of the State, or of a State agent, occurring or arising before commencement and connected with the Balmoral South Iron Ore Project;

We have gone through the definition of "connected with". It is a dream. It covers everything. It is so broad that Mr Palmer will not be able to pierce the file in relation to the Balmoral South iron ore project, and then try to dream up what we talked about before in the definition of "civil matter", being some action that his highly paid legal team may invent.

Mrs L.M. HARVEY: To go back to the approximate damages table, was that schedule put forward by Mr Palmer's team?

Mr J.R. QUIGLEY: No. What I did with this schedule is that when I prepared the second reading speech, it contained a quantum of claims. That quantum of claims was taken from this document, being the applicant's amended statement of issues and facts and contentions. There were a couple of decimal point errors, as I have pointed out. If members go to the second column, "Amount per Second Reading speech", they will see that I said in the second reading speech that it was $A10.72 billion, when it is actually $A10.78 billion. This schedule was prepared by the State Solicitor this afternoon to put before the Parliament to correct the minor errors that I had in the second reading speech. Those actual amounts in Australian dollars in the first column are taken from the applicant's amended statement of issues, facts and contentions.

In a way, I have breached the confidential requirements of the Commercial Arbitration Act, but I did that under the privilege of Parliament, so I am protected. We do not want to release anything else that Mr Palmer or his legal team will be able to get their hands on. The reason I have released those figures under parliamentary privilege is the very same reason that the member for Riverton raised. He asked, "Are you satisfied, Attorney General, that the risk and the amounts involved justify what you are doing here?" I take the member for Riverton's point that we are all here for the same purpose. This is not political. I thank members opposite for that. The government acknowledges, and I am sure the public thanks the opposition for its early concession, that the opposition will support this legislation. We are all here—the whole lot of us—to support this legislation. This is not a party-political matter. This is all the public's elected representatives working together to protect the public, and that is what they expect of us. This morning, at the live press conference, I invited Mr Palmer—I am sure his legal team saw it—to waive confidentiality on the arbitration documents. Mr Palmer has it within his gift to say, "I don't mind if it's all out there in the public. I waive my right of confidentiality under the arbitration act." So far, Mr Palmer has not responded to say that he will waive his right to confidentiality. The state government will not breach that confidentiality without that waiver by Mr Palmer in fairness to him because he has his rights under the act. However, I breached the act under parliamentary privilege just to tell the public exactly what this claim would involve. I feel fully justified in doing so and that is a valid use of the privilege of this chamber.

Mrs L.M. HARVEY: Further to the Attorney General's explanation, in one box on the schedule it states —

> Interest (@6% from 9 October 2012 on four amounts listed above except the figure of US8.19 billion)

I assume that that should be interest at six per cent from 9 October 2012 on all four amounts listed above, except for the figure of $US11.37 billion?

Mr J.R. QUIGLEY: The problem is the complicated nature of his claim for interest. It is not just claiming interest at six per cent. His claim for interest goes beyond interest up to making an award; the interest on the first damages claim, paragraphs (f), (g), (h) and (i); and then the interest on the debt under the award; the interest on the first damages claim—that first damages claim being the first refusal of Mr Barnett—and then paragraphs (j), (k) (l) and (m). Then we go to the interest on the second damages claim in paragraph (n). The calculation of the interest is very, very difficult. I am advised that is the best deduction of the interest, because in all the paragraphs that I just cited in the arbitration claim, there is no actual figure. We must then calculate from what he says and the interest at six per cent on these enormous sums from 9 October 2012. The State Solicitor advised me that three solicitors worked through this interest claim to come up with the best possible figure. That is our advice. It is just shocking.

Mrs L.M. HARVEY: To be clear, could the Attorney General confirm that all the values listed in the schedule under "Actual Amount", being the "Value of Balmoral South Iron Ore Project" of $AUD10.78 billion, have been put forward as part of the claim?

Mr J.R. QUIGLEY: Yes, that is correct. But the Leader of the Opposition will appreciate that the actual amounts are claimed in US dollars and that they fluctuate daily. The Leader of the Opposition might remember that in my second reading speech on Tuesday I gave Monday's exchange rate dollars. It will fluctuate. We just know that the claim is tens of billions of dollars up to $30 billion.

I turn to the little spot that the Leader of the Opposition took me to on the chart—except interest on $8.19 billion.

Mrs L.M. Harvey: It is US dollars.

Mr J.R. QUIGLEY: I also want to refer to paragraph (l) of the claim. It is all so complicated and mind-boggling. Paragraph (l) of the claim is an order that if the amount of $US8.19 billion referred to in paragraph 187(c) is not paid in full by the due date referred to in the paragraph, the state shall pay interest to Mineralogy on such part of

the amount of $8.19 billion as then remains unpaid at the rate of six per cent per annum. The figure of $1.89 million is the interest from 9 October on the four amounts listed, except the figure of $8.19 billion. It is saying "except if that amount is not paid in full by the due date". This is complex. These are mind-boggling numbers.

I think I made a mistake earlier. If the Leader of the Opposition goes to the schedule that she has a copy of, I think I made an error earlier—the numbers are so large—with the amount in the second reading speech, being in Australian dollars. If we look at the totals of $27.66 billion as opposed to $27.75 billion, I said there was a difference of $900 000. It is not; it is a difference of $9 million. We are talking about billions here. I correct the record; it was a mistake of $9 million. When we are dealing with numbers like this, if we are a couple of digits out, we are talking about millions. It is very, very serious. I know that is why members of this chamber are all working together. The member for Riverton is not with us at the moment, but he said that he realises the comprehensive nature of the protections that the bill is putting in place for the public of Western Australia.

Mr W.R. Marmion: Are you sure it is not $90 million instead of $9 million?

Mr J.R. QUIGLEY: It could be. We are talking about the difference between $27.66 billion and $27.75 billion. What is a few hundred million? It is $90 million. Thank you, member.

Mrs L.M. HARVEY: With respect to the interest at six per cent, why is the date 9 October 2012, given that the first purported refusal occurred on 4 September 2012? I am curious to know why it was not effective immediately, as opposed to five weeks later.

Mr J.R. QUIGLEY: That is how he has claimed it in his document, and what we are putting forward to the Parliament is: what is the claim we are dealing with? The minister had two months in which to make his decision. Although the claim was in August—when the proposal went in—Hon Colin Barnett had two months to make the decision. It was the day after 8 October that he is pleading is the date from which the interest starts to run.

Mr W.R. MARMION: Having covered everything we can possibly cover, on page 62, under clause 7, "Part 3 inserted", proposed section 29 states —

> The Governor may make regulations prescribing any matters that are necessary or convenient to be prescribed for giving effect to this Part.

Can the Attorney General give us an example of what regulation he might put in?

Mr J.R. QUIGLEY: I do not really want to use my imagination. Mr Palmer's lawyers will use their imaginations.

Mr W.R. Marmion interjected.

Mr J.R. QUIGLEY: It gives a prescribing power to make any regulation that will give effect through this part of the act. Therefore, if Mr Palmer and his lawyers come up with something that we have not thought of, we will bring in a regulation or an order. That is often called a Henry VIII power. But we go further in proposed section 30, so if he does something speedy to get around us, it states —

> (1) Subsection (2) applies if the Minister is of the opinion, having regard to the purposes and subject matter of this Part, that 1 or more of the following circumstances exist or may exist —
>
> (a) this Part does not deal adequately or appropriately with a matter or thing;
>
> (b) this Part does not apply to a matter or thing to which it is appropriate for this Part to apply;

It goes on to state that the minister can make the order to wipe it out. No matter what Mr Palmer and his lawyers might invent to circumvent the protections that this act will give the public of Western Australia, they can swiftly be put to the sword by the minister making an order that that is out of order, too. It is the Henry VIII clause of all Henry VIIIs!

Mr W.R. MARMION: The Attorney General has pre-empted my next question. It was nice of the Attorney General to clarify that. As a coverall, if the government finds that Mr Palmer, or his subsidiaries, has worked out a method to circumvent this amendment, the actual process is that the minister, without having to do anything, can amend the principal act to circumvent Palmer. The Attorney General may or may not answer this, but is it the convention in his party for a minister to advise cabinet before such an action is undertaken by the minister, or would the minister just do it?

Mr J.R. QUIGLEY: There is power for the minister to do it. Within our side of politics, they would certainly go to cabinet. Under our party rules, the government will not introduce legislation into Parliament without the approval of caucus, except in an emergency. We decided there was an emergency and that no-one was to know about this—that we were to get this in after five o'clock so that the day of introduction would be there without Mr Palmer being able to get in the door of a court.

Mr W.R. Marmion: So you could do the same in this case.

Mr J.R. QUIGLEY: A minister could do the same in this case in an emergency. It would be unimaginable. We cannot imagine the circumstances in which it would apply. We want the public to know that every step has been

taken to protect them. This is not granting the power to a government to override the people. This is not granting the power to the government to take something from the people of Western Australia. This is empowering the minister in an emergency. But the caveat is found in proposed section 30(1), which states —

> Subsection (2) applies if the Minister is of the opinion, having regard to the purposes and subject matter of this Part, that 1 or more of the following circumstances … may exist —
>
> (a) this Part does not deal adequately or appropriately with a matter or thing;
>
> (b) this Part does not apply to a matter or thing to which it is appropriate for this Part to apply;

No matter what Mr Palmer invents, this is like *Whac–A-Mole*. Do members know the game *Whac-A-Mole*? Wherever it pops up, you can knock it on the head! The explanatory memorandum has been drafted in such a way that the purpose of this is clear, if it is unclear from the act. The purpose of the provision is found on page 11 of the explanatory memorandum. The explanatory memorandum states —

> The purpose of proposed section 10 is to:
>
> (a) terminate any arbitration that concerns a disputed matter between the State and the Project Proponents that is on foot prior to commencement, and any relevant arbitration arrangement and any relevant mediation agreement connected with that arbitration;
>
> (b) render the arbitral awards made on 20 May 2014 and 11 October 2019 in the course of such arbitrations of no legal effect; and
>
> (c) render the arbitration agreements under which such arbitral awards were made invalid to the extent that they authorised the making of the awards.

Therefore, the purpose and subject matter of the act to which proposed section 30 is relevant for the conferral of the power of the minister to outlaw it, to give effect there, is set out in detail in the explanatory memorandum.

Mrs L.M. HARVEY: I refer to proposed section 10 on page 19 of the bill. Proposed section 10(3) states —

> The following provisions of the *Commercial Arbitration Act 2012* continue to apply in relation to a relevant arbitration terminated under subsection (1) —

It refers to sections 27E and 27F of the Commercial Arbitration Act. This is, once again, around the disclosure of confidential information. I just want to get clarification that, should this legislation become law, every relevant arbitration will be terminated, as outlined in the bill, but then there is a prohibition on the disclosure of any confidential information pertaining to any of those matters, with the protections over that confidential information sitting in the Commercial Arbitration Act.

Mr J.R. QUIGLEY: If I take the member back to page 17, proposed section 8(1) states —

> This Part has effect despite Part 2 and any other Act or law.

That means the Commercial Arbitration Act. This would wipe out the confidentiality provisions of the Commercial Arbitration Act. Then, in proposed section 10(3), the confidentiality provisions are re-legislated, if you like, or reimposed. So, they will be wiped out by "This Part has effect despite Part 2 and any other Act or law." That eliminates the confidentiality provisions contained in the Commercial Arbitration Act from applying. They are then reaffirmed or reinserted by proposed section 10(3), to preserve that confidentiality.

Mrs L.M. HARVEY: The relevant sections of the Commercial Arbitration Act are then preserved by way of proposed section 10(3). Section 27F(5) of the Commercial Arbitration Act basically states that there are circumstances in which confidential information may be disclosed. It states —

> The information may be disclosed if it is necessary for the establishment or protection of a party's legal rights in relation to a third party and the disclosure is no more than reasonable for that purpose.

I am just trying to work this out. The legislation is trying to keep some of this information confidential, but it would seem to me that the protection of a third party's legal rights would be paramount to the information being disclosed. From my reading of that, I am wondering whether a third party, by virtue of the inclusion of section 27F of the Commercial Arbitration Act, might be able to apply to receive the confidential information provided by the government in an arbitration in order to protect their legal rights in relation to a third party.

Mr J.R. QUIGLEY: If a claim were made against the state by a third party, the state could release such information that was necessary and reasonable to protect the third party's legal rights. It is very limited. It is just preserving a regime in the Commercial Arbitration Act. As I said, on the preceding page, proposed section 8(1) would have otherwise eliminated section 27F, the confidentiality section.

I will provide an example that was helpful to me. If a third party, such as an expert witness who was called by Mr Palmer, then sued the state for the recovery of fees, the state could release such information from the arbitration papers as was reasonable and necessary to defend the claim made by the third party. It is very complex and detailed, but that was an example given to me by the State Solicitor.

Mr W.R. Marmion interjected.

Mr J.R. QUIGLEY: Not against the state.

Mr W.R. Marmion interjected.

Mr J.R. QUIGLEY: That is right. It may be against Mr Palmer. But only as little information as is reasonable and necessary to protect that third party's rights.

Clause put and passed.

Clauses 8 and 9 put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by **Mr J.R. Quigley (Attorney General)**, and transmitted to the Council.

WORKERS' COMPENSATION AND INJURY MANAGEMENT AMENDMENT (COVID-19 RESPONSE) BILL 2020

Returned

Bill returned from the Council with amendments.

ADJOURNMENT OF THE HOUSE

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [9.41 pm]: I move —

That the house do now adjourn.

Before I adjourn the house, I want to acknowledge the opposition's giving of time from private members' business. Also, in order to proceed with the electoral reform bill that will be on the notice paper tomorrow, we will not be taking government grievances in the morning; we will just take opposition grievances. I remind members that that will, of course, affect the timing of tomorrow morning's agenda. I also congratulate the Attorney General on the passing of the very important bill that we just passed in this house.

Question put and passed.

House adjourned at 9.42 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

POLICE — VEHICLES

6157. Mr P.A. Katsambanis to the Minister for Police; Road Safety:

I refer to police vehicles, and ask:

(a) How many new vehicles have been added to the police fleet in each of the last five years;

(b) For each of the last five years what were the vehicle types added to the fleet; and

(c) How many vehicles have been removed from the police fleet in each of the past five years?

Mrs M.H. Roberts replied:

The Western Australian Police advise:

(a) A new vehicle increases the agency's total fleet number, and are additional to vehicles which update or replace vehicles in the fleet. In 2015, 38; 2016, 79; 2017, 10; 2018, 23; 2019, 5; and 2020 (part year) 2.

(b)

Year	Number	Type
2015	3	Ford Falcon XR6 4D sedan 4.0L
	5	Ford Ranger 3.2 XL Plus (4x4) dual
	1	Ford Ranger XL 3.2 (4x4) c/chas 3.2
	2	Ford Territory TX (4x4) 4D wagon 2.
	1	Holden Caprice 4D sedan 3.6L
	6	Holden Commodore SV6 4D sedan 3.6L
	12	Holden Ute utility 3.6L
	1	Mazda Mazda3 Maxx 5D hatchback 2.0L
	1	Mercedes-Benz Vito 114 Bluetec crew
	1	Nissan Navara ST (4x4) dual cab uti
	2	Toyota Hilux SR (4x4) double c/chas
	3	Toyota Landcruiser Prado GX (4x4) 4
2016	5	Ford Falcon XR6 4D sedan 4.0L
	5	Ford Ranger 3.2 XL Plus (4x4) crew
	7	Ford Territory TX (4x4) 4D wagon 2.
	9	Holden Commodore SV6 4D sedan 3.6L
	6	Holden Commodore SV6 4D sportwagon
	5	Holden Ute utility 3.6L
	2	Isuzu D-Max SX (4x4) crew c/chas 3.
	1	Kia Optima Si 4D sedan 2.4L
	1	Nissan Navara ST (4x4) dual cab uti
	29	Toyota Aurion Sportivo 4D sedan 3.5
	1	Toyota Aurion Sportivo 4D sedan 3.5
	4	Toyota Hilux SR (4x4) dual cab
	2	Toyota Kluger GX (4x4) 4D wagon 3.5
	1	Toyota Landcruiser Prado GX (4x4) 4
	1	Toyota Tarago GLi 4D wagon 2.4L

2017	4	Toyota Hilux SR (4x4) dual c/chas 2
	1	Holden Commodore SV6 4D sedan 3.6L
	1	Ford Falcon utility 4.0L
	1	Mercedes-Benz Vito 114 Bluetec SWB
	1	Fiat Ducato MLWB/LOW c/chas 3.0L
	1	Ford Mondeo Zetec TDCi 4D wagon 2.0
	1	Kia Sorento SLi (4x4) 4D wagon 2.2L
2018	1	Ford Ranger XL 3.2 (4x4) crew cab u
	1	Holden Commodore SV6 4D sedan 3.6L
	1	Holden Commodore SV6 4D sportwagon
	1	Hyundai i30 Active 1.6 CRDi 5D hatc
	3	Isuzu NNR 45-150 CREW c/chas 3.0L
	1	Mazda Mazda6 SPORT (5YR) 4D wagon 2
	1	Nissan Navara ST (4x4) dual cab P/U
	1	Subaru Impreza 2.0i (AWD) 5D hatchb
	1	Subaru Levorg 2.0 GT-S (AWD) 4D wagon
	1	Subaru Liberty 2.5i 4D sedan 2.5L
	1	Toyota Aurion Sportivo 4D sedan 3.5
	8	Toyota Kluger GX (4x4) 4D wagon 3.5
	2	Toyota Landcruiser GX (4x4) 4D wagon
2019	1	Mazda CX-5 Maxx (4x2) (5YR) 4D wagon
	1	Toyota Hilux SR (4x4) double cab P/
	1	Toyota Camry SX V6 4D sedan 3.5L
	1	Isuzu NNR 45-150 crew c/chas 3.0L
	1	Toyota Landcruiser Prado VX (4x4) 4
2020	1	Toyota Landcruiser LC200 GX (4x4) 4
	1	Mercedes-Benz Sprinter 416CDI VS30

(c) 0

POLICE — STATIONS

6165. Mr P.A. Katsambanis to the Minister for Police; Road Safety:

I refer to police stations in Western Australia, and ask:

(a) What is the number of police stations in Western Australia;

(b) How many new police station stations have been built since 2008;

(c) Please list the location (town or suburb) of these new police stations;

(d) Since 2008, how many existing or 'old' police stations were decommissioned when a new police station was opened in that police district; and

(e) What is the current full time equivalent that each police district can accommodate?

Mrs M.H. Roberts replied:

The Western Australian Police Force advise:

(a) 158

(b) 26

(c) Augusta, Ballajura, Barrow Island, Blackstone, Broome, Burringurrah, Carnarvon, Cockburn Central, Eucla, Fitzroy Crossing, Harvey, Hopetoun, Jerramungup, Jigalong, Karratha, Leonora, Looma, Mount Magnet, Mundijong, Perth, South Hedland, Three Springs, Walpole, Waroona, Yalgoo and Yanchep.

(d) 19

(e) The number of FTEs that can be accommodated depends on how officers are deployed by the Commissioner of Police and what duties are undertaken. It is noted that specialist units are often not accommodated in police station but in alternative facilities.

PRISONS — CAPACITY

6185. Mr D.T. Redman to the Minister for Corrective Services:

I refer to claims by the WA prison officers union that WA prisoner numbers have hit a record high, and I ask:

(a) Can the Minister please list the monthly muster for the state's prisons since March 2017 for each facility against the prison capacity;

(b) Can the Minister list for each month since March 2017 the number of prisoners serving a sentence and the number on remand for each facility;

(c) Of those prisoners currently on remand, how many have been held in custody for greater than one year and for how many days has each of these been held;

(d) For those prisoners who have currently been held in remand for over one year, can the Minister provide details of why they are held on remand without sentencing or trial;

(e) What ability do prisoners being held on remand have to access work, education or rehabilitation programs, and is there any difference to those who are sentenced; and

(f) Has the COVID-19 risk changed the capacity to provide the above mentioned programs?

Mr F.M. Logan replied:

(a) Table 1 – figures are as at 31 May 2020 [See tabled paper no 3553.]

(b) Table 1 – figures are as at 31 May 2020 [See tabled paper no 3553.]

(c) As at midnight, 1 June 2020, there were 230 adult prisoners on remand status, with a period held in custody exceeding one year (365 days). Table 2 provides individual prisoner remand days spent in custody [See tabled paper no 3553.]

(d) Remand prisoners who exceed 365 days in custody awaiting sentencing can be attributed to circumstances including but not limited to; seriousness of offence and the time spent pending court proceedings. Table 3 provides the top 20 prisoners, which includes days spent on remand, including most serious offence [See tabled paper no 3553.].

(e) Remandees across all prisons are eligible to access education, employment and transitional services depending on their length of stay and their individual circumstances.

There are employment options for all prisoners (remand and sentenced). Employment offered will depend on individual's circumstances, skill levels and security considerations.

Remand prisoners are not referred for any criminogenic treatment programs as they have not been sentenced for any particular offending. Cognitive based programs and voluntary programs such as alcohol brief intervention and parenting programs are offered on a case by case basis.

Remandees held on remand longer than twelve months are eligible to enrol in traineeships if they are employed in a suitable prison industry.

(f) No. COVID 19 has not impacted on the above as education and programs are considered essential services, though some programs received minor modifications to the mode of delivery.

Some additional employment opportunities have become available in prisons through activities such as additional cleaning regimes, but external employment through Section 95 and the Prisoner Employment Program were ceased.

PREMIER — PORTFOLIOS — FAMILY AND DOMESTIC VIOLENCE LEAVE

6200. Mr P.A. Katsambanis to the Premier; Minister for Public Sector Management; State Development, Jobs and Trade; Federal–State Relations:

In relation to the Minister's department, agency or government trading enterprise, since the introduction of family and domestic violence (FDV) leave in 2018, how many days of FDV leave has been taken for each month of:

(a) 2018;

(b) 2019; and

(c) 2020 year to date?

Mr M. McGowan replied:

I refer the Member to the answer to Legislative Assembly Question on Notice 6196.

MINISTER FOR EMERGENCY SERVICES — PORTFOLIOS — FAMILY AND DOMESTIC VIOLENCE LEAVE

6203. Mr P.A. Katsambanis to the Minister for Emergency Services; Corrective Services:

In relation to the Minister's department, agency or government trading enterprise, since the introduction of family and domestic violence (FDV) leave in 2018, how many days of FDV leave has been taken for each month of:

(a) 2018;

(b) 2019; and

(c) 2020 year to date?

Mr F.M. Logan replied:

I refer the Member to the answer to Legislative Assembly Question on Notice 6196.

MINISTER FOR ENVIRONMENT — PORTFOLIOS — FAMILY AND DOMESTIC VIOLENCE LEAVE

6206. Mr P.A. Katsambanis to the parliamentary secretary representing the Minister for Environment; Disability Services; Electoral Affairs:

In relation to the Minister's department, agency or government trading enterprise, since the introduction of family and domestic violence (FDV) leave in 2018, how many days of FDV leave has been taken for each month of:

(a) 2018;

(b) 2019; and

(c) 2020 year to date?

Mr R.R. Whitby replied:

Please refer to Legislative Assembly Question on Notice 6196.

POLICE — REDRESS SCHEME

6209. Mr P.A. Katsambanis to the Minister for Police; Road Safety:

I refer to the Western Australian Police Redress Scheme, and ask:

(a) On what date did the Western Australian government decide that cadet service will now be included towards the total length of service;

(b) Did cabinet need to approve this adjustment to the redress scheme, or was it a ministerial direction;

(c) How many applications are anticipated to be impacted by this change;

(d) As a consequence, will additional funding from Treasury be required; and

(e) What is the new anticipated timeframe for the redress scheme to be finalised and completed?

Mrs M.H. Roberts replied:

The Western Australian Police Force advise:

(a) 4 May 2020.

(b) By Ministerial approval.

(c) An estimated 30 eligible applicants have Cadet service.

(d) No. The inclusion of Cadet service may only affect the outcome in some cases.

(e) As soon as possible.

POLICE–TREASURY — RESOURCES AGREEMENT

6216. Mr P.A. Katsambanis to the Minister for Police:

I refer to the Police resource agreement between the WA Police Force and Treasury, and ask:

(a) On what date did the WA Police Force and the Department of Treasury reach agreement on a draft resource agreement;

(b) On what date did the draft resource agreement become the agreed resource agreement for the current financial year;

(c) On what date did Police Commissioner Chris Dawson sign the current resource agreement; and

(d) On what date did the Treasurer sign the current resource agreement?

Mrs M.H. Roberts replied:

Please refer to Legislative Assembly Question on Notice 6217.

CORONAVIRUS — *AL KUWAIT*

6220. Mr D.T. Redman to the Premier; Minister for Public Sector Management; State Development, Jobs and Trade; Federal–State Relations:

I refer to the Al Kuwait docking in WA on Friday 22 May 2020, and the COVID-19 matters related to this vessel, and ask:

(a) Will the Premier table all briefing notes he has received from relevant departments in relation to the issue of managing the COVID-19 risk related to this vessel:

  (i) If not why not;

(b) Can the Premier confirm an email from a federal department related to health issues on the Al Kuwait was sent to the Public Health Emergency Operations Centre (PHEOC) prior to the Al Kuwait docking in Fremantle port;

(c) How many staff work in the PHEOC;

(d) How many email addresses does the PHEOC have;

(e) Who reads the generic emails that are sent to the PHEOC;

(f) How regularly are those generic emails monitored:

  (i) During the working week;

  (ii) After hours during the working week; and

  (iii) On weekends and public holidays;

(g) Is it true that other emails into the PHEOC are directly to a person;

(h) Is it usual for a critical matter necessitating an email to the PHEOC to be sent to the 'generic email' address:

  (i) If not, why not, and who should it be sent to;

(i) Does the agreed protocol established between the state and the federal government dictate use of the generic email as appropriate for communicating information such as that sent by a federal department in relation to the Al Kuwait matter;

(j) Who is responsible for monitoring the generic email address of the PHEOC;

(k) Was the email from the federal department to the PHEOC read prior to the Al Kuwait docking in Fremantle;

(l) What was the position title of the highest ranking WA official who saw the email from the federal department to the PHEOC prior to the Al Kuwait docking in Fremantle;

(m) What was the position title of the highest ranking official who saw the email from the federal department to the PHEOC after the docking of the Al Kuwait and before public disclosure of the COVID-19 risk by Keith McCorriston on Sunday, 24 May 2020; and

(n) When was the Premier's office first notified of the issues of potential COVID-19 on the Al Kuwait?

Mr M. McGowan replied:

(a) There were no briefing notes prepared for the Premier regarding the docking of the Al-Kuwait.

(b) Yes.

(c) Currently, there are 75 staff in the PHEOC.

(d) PHEOC has two generic email addresses. The primary email address (PHEOC@health.wa.gov.au) is widely published and used for most correspondence. A secondary email address is used for specific communications between PHEOC and WA Police, and is not public. The matters raised in these Parliamentary Questions relate to communications received by the primary PHEOC Health email address only.

(e) A member of the PHEOC Administration team.

(f) The PHEOC inbox is monitored as follows:

  (i) Monday to Friday, 8am – 5pm.

  (ii) Not monitored.

  (iii) 8am – 4pm.

(g) Emails to staff working in PHEOC may be addressed directly to that individual; to the PHEOC generic email address and marked attention to the individual; or to both addresses.

(h) Critical matters are usually alerted to the PHEOC via email to PHEOC@health.wa.gov.au, with a follow up phone call, or notification in person.

(i) Not applicable.

(i) Issues regarding attention by a Human Biosecurity Officer about maritime arrivals would usually be communicated by phone to a Human Biosecurity Officer within WA Health. However, following the docking of Al Kuwait, a protocol outlining the communication process between relevant agencies to assist with the detection of COVID-19 for maritime vessels arriving into Fremantle Port was developed and agreed to by the federal Department of Agriculture, Water and Environment, the Australian Border Force, the Fremantle Ports and the WA Department of Health. This communication plan dictates that information will be forwarded to the PHEOC generic email, with a phone call to follow if a response is not received within a specified time period or if a response is required out of normal PHEOC business hours.

(j) The PHEOC Administration Team.

(k) The PHEOC Administration Team received the email prior to the docking of the Al Kuwait at 1600 hours on 22 May. However, the Department of Health is unable to confirm if the PHEOC Operations Team read the email prior to docking.

(l) The Department of Health is unable to confirm the specific time the email was read, or by whom. On 22 May, the PHEOC Operations Team comprised persons working in the following roles: Senior Medical Advisor, Medical Registrar, and Senior Policy and Planning Officer.

(m) As above.

(n) 26 May 2020.

SCHOOLS — TRUANCY OFFICERS

6248. Mr I.C. Blayney to the minister representing the Minister for Education and Training:

I refer to the Western Australian Auditor General's Report: 'Follow-on: Managing student attendance in Western Australian Public Schools' published in August 2015 and the finding that there has been no improvement in student attendance in public schools since 2009, and I ask:

(a) Please provide a table showing a breakdown of the number of truancy officers located in Geraldton by year, including in:

(i) 2009;

(ii) 2010;

(iii) 2011;

(iv) 2012;

(v) 2013;

(vi) 2014;

(vii) 2015;

(viii) 2016;

(ix) 2017;

(x) 2018; and

(xi) 2019;

(b) Please provide a table showing a breakdown of the number of attendance officers located in Geraldton by year, between 2009–2019;

(c) Please provide a table showing a breakdown of the number of truancy and attendance officers located in the Mid West by year between 2009 and 2019;

(d) When were both truancy and/or attendance officers first established in WA, including the date when they were first instated in:

(i) The Mid West;

(ii) Geraldton;

(iii) Metropolitan Perth;

(iv) South West;

(v) Pilbara;

(vi) North West;

(vii) Bunbury;

(viii) Albany;

(ix) Kalgoorlie;

(x) Port Hedland;

(xi) Karratha;

(xii) Northam;

(xiii) Busselton;

(xiv) Broome; and

(xv) Kununurra;

(e) Were school truancy officers employed by the Department of Education:

(i) If not, who was their employer;

(f) When were truancy officers abandoned in WA, including the date when they ceased in:

(i) The Mid West;

(ii) Geraldton;

(iii) Metropolitan Perth;

(iv) South West;

(v) Pilbara;

(vi) North West;

(vii) Bunbury;

(viii) Albany;

(ix) Kalgoorlie;

(x) Port Hedland;

(xi) Karratha;

(xii) Northam;

(xiii) Busselton;

(xiv) Broome; and

(xv) Kununurra;

(g) Outline the rationale behind the decision to abandon truancy and/or attendance officers in Geraldton;

(h) Outline the rationale behind abandoning truancy officers in WA;

(i) Provide a table outlining the average public high school student attendance rate for students in Geraldton by year including:

(i) 2009;

(ii) 2010;

(iii) 2011;

(iv) 2012;

(v) 2013;

(vi) 2014;

(vii) 2015;

(viii) 2016;

(ix) 2017;

(x) 2018; and

(xi) 2019;

(j) Provide a table outlining the average public high school student attendance rate for students in WA by year including:

(i) 2009;

(ii) 2010;

(iii) 2011;

(iv) 2012;

(v) 2013;

(vi) 2014;

(vii) 2015;

(viii) 2016;

(ix) 2017;

(x) 2018; and

(xi) 2019;

(k) Will the Minister consider trialling truancy officers in Geraldton;

(l) What solutions are being considered to tackle long term student non-attendance rates in Geraldton beyond the COVID-19 pandemic; and

(m) Please provide a breakdown of average student attendance rates by school in WA between 2016 and 2019?

Mr P. Papalia replied:

For clarification, the Department of Education does not use the designation "truancy officer". Sections 33 and 34 of the *School Education Act 1999* provide for the designation and badging of attendance officers. This is an authority under the Act, not a position. Any person employed in the Department can be designated with this authority. Staff accept the responsibilities of a badged attendance officer as part of their normal duties.

Additionally, schools are able to appoint a 'school-based' attendance officer which is a position within the school with a specific job description.

(a) The Department of Education does not employ staff under the designation of truancy officer.

(b)–(c)

Year	Geraldton	Midwest
2009	0	8
2010	0	10
2011	1	10
2012	2	12
2013	6	11
2014	7	15
2015	77	107
2016	94	125
2017	97	145
2018	64	119
2019	56	122

The numbers include school-based and badged attendance officers.

(d) The introduction of the *School Education Act 1999* made legislative provision for staff to be designated as attendance officers. The Department does not have information on when attendance officers were first instated in the locations listed.

(e)–(f) The Department's records reflect the only Education Region that employed a Truancy Officer was the Goldfields Education Region in 2003. Following 2003, the region ceased this role and employed a Retention and Participation Officer.

(g)–(h) I do not agree with the premise of the question. 'Truancy officer' is not a designation used by the Department of Education. There are currently 75 badged attendance officers at Geraldton schools and 1453 at schools throughout Western Australia.

(i)–(j)

Year (Semester 1)	Geraldton Attendance Rate (%)	Western Australia Attendance Rate (%)
2009	78.8	88.6
2010	79.1	88.6
2011	78.5	88.4
2012	78.4	88.5
2013	81.4	88.3
2014	83.0	87.7
2015	81.0	87.9
2016	82.0	87.7
2017	81.8	87.8
2018	80.3	87.6
2019	80.2	86.8

(k) Western Australian public schools make local decisions to address student attendance based on their individual context and need. Any staff member employed by the Department of Education may be designated as a badged attendance officer. In accordance with Sections 12 and 33 of the *School Education Act 1999*, principals and regional executive directors have delegated responsibility to designate staff as badged attendance officers in public schools on behalf of the Minister for Education and Training.

A designation of 'truancy officer' would not have any more powers than are already conferred on badged attendance officers under the Act.

(l) Two additional staff members have been employed by the Midwest Education Regional Office to work directly with schools to improve student attendance across the Midwest region.

(m) [See tabled paper no 3554.]

PREMIER — PORTFOLIOS — RESEARCH, INNOVATION AND SCIENCE PROJECT FUNDING

6249. Mr W.R. Marmion to the Premier; Minister for Public Sector Management; State Development, Jobs and Trade; Federal–State Relations:

(1) Can the Minister advise for each portfolio agency within their responsibility, what expenditure was incurred in supporting external and internal research, innovation and/or science related projects for the years 2017–18 and 2018–19?

(2) Can the Minister advise for each portfolio agency within their responsibility what funding has been allocated towards supporting external and internal research, innovation and/or science related projects for 2019–20 and 2020–21?

(3) For each of (1) and (2) can the Minister provide a breakdown of expenditure/funding between the following recipient categories:

(a) Universities;

(b) State government agencies;

(c) Private organisations;

(d) Cooperative Research Centres; and

(e) All Other Categories?

Mr M. McGowan replied:

Gold Corporation, Infrastructure Western Australia and Salaries and Allowances Tribunal

(1) Nil.

(2) Nil.

(3) Not Applicable.

Note that Infrastructure WA was not established until 24 July 2019.

Lotterywest

(1) 2017–18 – $2,824,202

2018–19 – $6,162,283

(2) 2019–20 – $7,901,151

2020–21 – nil.

(3)

Categories	**2017–18**	**2018–19**	**2019–20**	**2020–21**
(a) Universities	–	$914,079	2,660,209	–
(b) State Government Agencies	–	–	–	–
(c) Private Organisations	$424,202	$322,286	$375,898	–
(d) Cooperative Research Centres	–	–	–	–
(e) All Other Categories	$2,400,000	$4,925,918	$4,865,044	–
Total	**$2,824,202**	**$6,162,283**	**$7,901,151**	**–**

Premier and Cabinet

(1) Cyber Security Cooperative Research Centre:

2017–18: $150,000 cash funding plus equivalent of 1 FTE in-kind funding.

2018–19: $300,000 cash funding plus equivalent of 2 FTE in-kind funding.

(2) Cyber Security Cooperative Research Centre:

2019–20: $300,000 cash funding plus equivalent of 2 FTE in-kind funding.

2020–21: $300,000 cash funding plus equivalent of 2 FTE in-kind funding.

(3) Cooperative Research Centres – $1.05M in cash plus equivalent of 7 FTE in-kind funding.

Public Sector Commission

Response includes amounts paid (excluding GST) to an external party in the financial years in (1) and (2) for projects where the predominant purpose is research or innovation.

(1) $204,000

(2) $191,000

(3) For 2017–18 and 2018–19

(a) Nil.

(b) Nil.

(c) 100%

(d) Nil.

(e) Nil.

For 2019–20 and 2020–21

(a) Nil.

(b) Nil.

(c) 100%

(d) Nil.

(e) Nil.

State Development, Jobs and Trade

The Department of Jobs, Tourism, Science and Innovation advises:

(1) $53.03 million

(2) 73.77 million

(3) Breakdown of (1) and (2) by category:

	(1) $m	(2) $m
(a) Universities;	17.99	28.74
(b) State government agencies;	3.83	3.53
(c) Private organisations;	20.87	26.69
(d) Cooperative Research Centres; and	0	1.2
(e) All Other Categories	10.39	13.61

MINISTER FOR ENVIRONMENT — PORTFOLIOS —
RESEARCH, INNOVATION AND SCIENCE PROJECT FUNDING

6252. Mr W.R. Marmion to the parliamentary secretary representing the Minister for Environment; Disability Services; Electoral Affairs:

(1) Can the Minister advise for each portfolio agency within their responsibility, what expenditure was incurred in supporting external and internal research, innovation and/or science related projects for the years 2017–18 and 2018–19?

(2) Can the Minister advise for each portfolio agency within their responsibility what funding has been allocated towards supporting external and internal research, innovation and/or science related projects for 2019–20 and 2020–21?

(3) For each of (1) and (2) can the Minister provide a breakdown of expenditure/funding between the following recipient categories:

(a) Universities;

(b) State government agencies;

(c) Private organisations;

(d) Cooperative Research Centres; and

(e) All Other Categories?

Mr R.R. Whitby replied:

For the Department of Biodiversity, Conservation and Attraction

(1)–(3) The Department of Biodiversity, Conservation and Attractions is a science-based organisation. Research, innovation and science-related projects are undertaken across the agency, including through the department's Biodiversity Conservation Science section, Parks and Wildlife Service divisions, regions and districts, Zoological Parks Authority, Botanic Gardens and Parks Authority and Rottnest Island Authority. Therefore, most of the work of the department could be considered to be science-related activities and it is not feasible to differentiate expenditure according to the categories in the question.

For the Western Australian Electoral Commission:

(1) 2017–18 $9 100

2018–19 Nil.

(2) 2019–20 Nil.

2020–21 Nil.

(3) (a) Universities

(1) 2017–18 $9 100

2018–19 Nil.

(2) 2019–20 Nil.

2020–21 Nil.

(3) (b)–(e) Nil.

MINISTER FOR EMERGENCY SERVICES — PORTFOLIOS —
RESEARCH, INNOVATION AND SCIENCE PROJECT FUNDING

6255. Mr W.R. Marmion to the Minister for Emergency Services; Corrective Services:

(1) Can the Minister advise for each portfolio agency within their responsibility, what expenditure was incurred in supporting external and internal research, innovation and/or science related projects for the years 2017–18 and 2018–19?

(2) Can the Minister advise for each portfolio agency within their responsibility what funding has been allocated towards supporting external and internal research, innovation and/or science related projects for 2019–20 and 2020–21?

(3) For each of (1) and (2) can the Minister provide a breakdown of expenditure/funding between the following recipient categories:

(a) Universities;

(b) State government agencies;

(c) Private organisations;

(d) Cooperative Research Centres; and

(e) All Other Categories?

Mr F.M. Logan replied:

The Department of Justice advises:

(1) 2017–18: Nil.

2018–19: $299,413 provided to WA Crime Statistics and Research Unit.

(2) 2019–20: $260,000 allocated to WA Crime Statistics and Research Unit.

2020–21: $286,000 allocated to WA Crime Statistics and Research Unit.

(3) (a)–(e) The funding is for the WA Crime Statistics and Research Unit which is part of the Department of Justice.

The Department of Fire and Emergency Services advises:

(1) 2017–18 expenditure – $472,550

2018–19 expenditure – $360,605

(2) 2019–20 funding – $326,070

2020–21 funding – $269,600

(3) (1) 2017–18 and 2018–19 Expenditure Breakdown:

(a) Universities – $56,050

(b) State Government – $414,605

(c) Private Organisations – Nil.

(d) Cooperative Research Centre – $96,500

(e) All Other Categories – $266,000

(2) 2019–20 and 2020–21 Funding Breakdown:

(a) Universities – $28,050

(b) State Government – $204,000

(c) Private Organisations – Nil.

(d) Cooperative Research Centre – $95,900

(e) All Other Categories – $267,720

The Office of the Inspector of Custodial Services advises:

(1)–(2) Nil.

(3) Not applicable.

The Supervised Release Review Board advises:

(1)–(2) Nil.

(3) Not applicable.

MINISTER FOR TOURISM — PORTFOLIOS —
RESEARCH, INNOVATION AND SCIENCE PROJECT FUNDING

6260. Mr W.R. Marmion to the Minister for Tourism; Racing and Gaming; Small Business; Defence Issues; Citizenship and Multicultural Interests:

(1) Can the Minister advise for each portfolio agency within their responsibility, what expenditure was incurred in supporting external and internal research, innovation and/or science related projects for the years 2017–18 and 2018–19?

(2) Can the Minister advise for each portfolio agency within their responsibility what funding has been allocated towards supporting external and internal research, innovation and/or science related projects for 2019–20 and 2020–21?

(3) For each of (1) and (2) can the Minister provide a breakdown of expenditure/funding between the following recipient categories:

(a) Universities;

(b) State government agencies;

(c) Private organisations;

(d) Cooperative Research Centres; and

(e) All Other Categories?

Mr P. Papalia replied:

Tourism Portfolio

Tourism Western Australia

Please refer to Legislative Assembly Question on Notice 6249.

Rottnest Island Authority

Please refer to Legislative Assembly Question on Notice 6252.

Racing and Gaming Portfolio

For the Racing, Gaming and Liquor Division of the Department of Local Government, Sport and Cultural Industries please refer to Legislative Assembly Question on Notice 6256.

Racing and Wagering Western Australia (RWWA)

(1) 2017–18 $127 523.50

2018–19 $66 032

(2) 2019–20 $3 300

2020–21 $80 000

(3)

	2017–18	**2018–19**	**2019–20**	**2020–21**
(a)	Nil	$34 382	$3 300	$80 000
(b)	Nil	Nil	Nil	Nil
(c)	$127 523.50	$28 150	Nil	Nil
(d)	Nil	Nil	Nil	Nil
(e)	Nil	$3,500	Nil	Nil

Western Australian Greyhound Racing Association (WAGRA)

(1)–(3) Nil.

Burswood Park Board (BPB)

(1)–(3) Nil.

Small Business Portfolio

Small Business Development Corporation

(1) 2017–18 $19 467

2018–19 $90 151

(2) 2019–20 $59 846

2020–21 $70 246

(3)

	2017–18	**2018–19**	**2019–20**	**2020–21**
(a)	Nil	Nil	Nil	Nil
(b)	Nil	Nil	Nil	Nil
(c)	$19 467	$90 151	$59 846	$70 246
(d)	Nil	Nil	Nil	Nil
(e)	Nil	Nil	Nil	Nil

Defence Issues Portfolio

Please refer to Legislative Assembly Question on Notice 6249.

Citizenship and Multicultural Interests Portfolio

Please refer to Legislative Assembly Question on Notice 6256.

SCHOOLS — ATTENDANCE OFFICERS

6269. Mr I.C. Blayney to the minister representing the Minister for Education and Training:

I refer to the Western Australian Auditor General's Report: 'Follow-on: Managing student attendance in Western Australian Public Schools' published in August 2015 and the finding that there has been no improvement in student attendance in public schools since 2009, and I ask:

(a) When were badged attendance officers first introduced to Geraldton and why;

(b) Provide a table showing the number of badged attendance officers located in both Geraldton and the Mid West in:

(i) 2012;

(ii) 2013;

(iii) 2014;

(iv) 2015;

(v) 2016;

(vi) 2017;

(vii) 2018;

(viii) 2019; and

(ix) 2020 to date;

(c) Provide a table showing the number of badged attendance officers currently located in:

(i) Albany;

(ii) Bunbury;

(iii) Esperance;

(iv) Geraldton;

(v) Northam;

(vi) Karratha;

(vii) Broome;

(viii) Kununurra;

(ix) Port Hedland;

(x) Kalgoorlie;

(xi) Busselton;

(xii) Mid West; and

(xiii) WA;

(d) Are badged attendance officers employed by the Department of Education:

(i) If not, who is their employer; and

(ii) Are the positions permanent, full time roles; and

(e) Please provide a breakdown of the number of badged attendance officers by public school in Geraldton, including:

(i) Geraldton Senior High School;

(ii) Champion Bay Senior High School;

(iii) Beachlands Primary School;

(iv) Geraldton Primary School;

(v) Wandina Primary School;

(vi) Mount Tarcoola Primary School;

(vii) Waggrakine Primary School;

(viii) Bluff Point Primary School;

(ix) Rangeway Primary School;

(x) St Johns Primary School; and

(xi) St Lawrence Primary School?

Mr P. Papalia replied:

(a) System-wide collection of data about the number of badged attendance officers commenced in 2013 and indicates badged attendance officers were present in Geraldton at this time.

(b)

Year (as at end of the school year)	Badged attendance officers in Geraldton[1]	Badged attendance officers in the Midwest education region
(i) 2012	Not available^	Not available^
(ii) 2013	5	5
(iii) 2014	7	8
(iv) 2015	77	105
(v) 2016	94	123
(vi) 2017	97	143
(vii) 2018	64	118
(viii) 2019	56	121
(ix) 2020[2]	75	168

^ The Department does not hold system-wide data prior to 2013.

[1] Regional Education Office staff and public schools within a 20km radius of the Geraldton GPO.

[2] Data as at 3 July 2020.

(c)

Location[1]	Badged attendance officers as at 3 July 2020
(1) Albany[2]	31
(ii) Bunbury[2]	55
(iii) Esperance	6
(iv) Geraldton[2]	75
(v) Northam[2]	21
(vi) Karratha[2]	28
(vii) Broome[2]	33
(viii) Kununurra	0
(ix) Port Hedland	43
(x) Kalgoorlie[2]	70
(xi) Busselton	4
(xii) Midwest[3]	168
(xiii) Western Australia	1 453

[1] For (i)–(xi), schools within a 20km radius of the location's GPO.

[2] Includes regional education office staff.

[3] All schools and regional education office staff within the Midwest Education Region.

(d) Yes.

(1) Not applicable.

(2) A badged attendance officer is an 'authority' under the *School Education Act 1999*, not a 'position'. Any staff member employed by the Department of Education may be designated as a badged attendance officer.

(e)

School		Badged attendance officers as at 3 July 2020
(i)	Geraldton Senior High School	24
(ii)	Champion Bay Senior High School*	0
(iii)	Beachlands Primary School	2
(iv)	Geraldton Primary School	2
(v)	Wandina Primary School	3
(vi)	Mount Tarcoola Primary School	5
(vii)	Waggrakine Primary School	9
(viii)	Bluff Point Primary School	7
(ix)	Rangeway Primary school	13

Western Australian public schools make local decisions to address student attendance based on their individual context and need. For example,

* Champion Bay Senior High School has measures in place to address attendance, including:

0.2 FTE Attendance Officer;

home visits and follow up phone calls with parents and family by AIEOs/Team Leaders/Year Coordinators;

student engagement programs delivered through Shine and Clontarf Academy; and

classroom teachers contact parents/families after a student has recorded three absences (as per the school attendance policy).

(x)–(xi) St Johns Primary School and St Lawrence Primary School belong to the Catholic Education Western Australia sector.

TOURISM — "WANDER OUT YONDER" CAMPAIGN

6283. Mr V.A. Catania to the Minister for Tourism:

I refer to your media release on 1 June 2020, launching the "Wander out Yonder" campaign, and I ask:

(a) How much of the $2 million for this campaign has been spent;

(b) Please provide details on the amounts spent for the following:

(i) Radio;

(ii) Digital;

(iii) Partnerships; and

(iv) Print;

(c) For question (b)(i)–(iv), what is the expected spend for each at the conclusion of the campaign;

(d) Please list the regional towns in the North West which have been featured in advertising in this campaign;

(e) What is the amount spent on advertising for each town listed in (d); and

(f) Have 'co-operative marketing campaigns, including holiday offers across hotels, holiday parks, campervans and a variety of tours and experiences' commenced:

(i) If yes to (f) which specific offers have been marketed during this campaign;

(ii) Please list which offers are associated with specific regional towns in the North West; and

(iii) If no to (f) what is the explanation for the delay?

Mr P. Papalia replied:

(a) Approximately 80 per cent.

(b) (i) Radio $127 200

(ii) Digital $269 600

(iii) Partnerships $950 000

(iv) Print $115 200

(c) (i) Radio $159 000

(ii) Digital $337 000

(iii) Partnerships $950 000

(iv) Print $144 000

(d) The campaign advertisements feature different experiences and tourism operators, not towns.

(e) Not applicable.

(f) Yes.

(i) Specific offers include Top Parks holiday parks, RAC WA holiday parks and resorts; Accor properties; Britz campervan road trips; Viva Holidays (Helloworld) East Kimberley, Broome and Exmouth packages; and Virgin Australia airfares to Broome and Kununurra.

(ii) All offers are associated with regional towns in the North West.

(iii) Not applicable.

CORONAVIRUS — RESOURCES SECTOR

6302. Mr V.A. Catania to the Premier; Minister for Public Sector Management; State Development, Jobs and Trade; Federal–State Relations:

I refer to the $1.7 billion of measures introduced by the State Government in response to COVID-19, and in particular the $3.8 million to the FIFO and mining industry to establish two Western Australian-based resource sector export hubs and, I ask:

(a) How much of the $3.8 million has been spent to date;

(b) How much has been spent in Metropolitan Perth and in regional areas? Please provide breakdowns according to Development Commission regions; and

(c) If the full amount has not been spent, why not and when is it expected to be spent?

Mr M. McGowan replied:

The Department of Jobs, Tourism, Science and Innovation advises:

(a) The State has contributed $350,000 to the METS Export Hub which will be delivered by Austmine. The balance of $3.45 million is a mix of funding from the Commonwealth Department of Industry and Science ($1.9 million) and contributions from the two proponents (Subsea Energy Australia and Austmine). The Department provided $350,000 to Austmine on 26 June 2020. To date, $0 of the State's funds have been spent.

(b) To date, $0 has been spent.

(c) The Department provided payment to Austmine on 26 June 2020. Funds are to be expended by Austmine by 30 December 2022.

CORONAVIRUS — LOTTERYWEST CRISIS AND EMERGENCY RELIEF GRANT FUND

6307. Mr V.A. Catania to the Premier; Minister for Public Sector Management; State Development, Jobs and Trade; Federal–State Relations:

I refer to the $1.7 billion of measures introduced by the State Government in response to COVID-19, and in particular the $159 million to Crisis Relief Funds, and I ask:

(a) How much of the $159 million has been spent to date;

(b) How much has been spent in Metropolitan Perth and in regional areas? Please provide breakdowns according to Development Commission regions; and

(c) If the full amount has not been spent, why not and when is it expected to be spent?

Mr M. McGowan replied:

(a) As at 24 July 2020, Lotterywest has provided $37.5 million as part of the COVID-19 Relief Fund. A further $10 million has been committed for community arts and sports projects to be delivered in conjunction with the Department of Local Government Sports and Cultural Industries.

(b) A large component of Crisis Relief Funds is spent on state-wide programs and as such a meaningful breakdown cannot easily be provided.

(c) The COVID-19 Relief Fund will continue to support communities and organisations affected by COVID-19 throughout 2020–21.

CORRECTIVE SERVICES — ADULT PRISON POPULATION

6309. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

As at 30 June 2016, what was the adult prison population and how many prisoners were:

(a) On remand;

(b) Serving a sentence;

(c) Male and on remand;

(d) Male and serving a sentence;

(e) Female and on remand; and

(f) Female and serving a sentence?

Mr F.M. Logan replied:

(a) 1852

(b) 4476

(c) 1622

(d) 4074

(e) 230

(f) 402

CORRECTIVE SERVICES — ADULT PRISON POPULATION

6310. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

As at 30 June 2019, what was the adult prison population and how many prisoners are:

(a) On remand;

(b) Serving a sentence;

(c) Male and on remand;

(d) Male and serving a sentence;

(e) Female and on remand; and

(f) Female and serving a sentence?

Mr F.M. Logan replied:

(a) 1956

(b) 4984

(c) 1733

(d) 4492

(e) 223

(f) 492

CORRECTIVE SERVICES — ADULT PRISON POPULATION

6311. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to each of the following prisons: Acacia Prison, Albany Regional Prison, Bandyup Women's Prison, Broome Regional Prison, Bunbury Regional Prison, Casuarina Prison, Eastern Goldfields Regional Prison, Greenough Regional Prison, Hakea Prison, Karnet Prison Farm, Melaleuca Remand and Reintegration Facility, Pardelup Prison Farm, Roebourne Regional Prison, West Kimberley Regional Prison, and Wooroloo Regional Prison, and ask:

(a) As at 30 June 2016, what was the adult prison population in each of these facilities; and

(b) As at 30 June 2019, what was the adult prison population in each of these facilities?

Mr F.M. Logan replied:

Facility	**(a) As at 30 June 2016**	**(b) As at 30 June 2019**
Acacia Prison	1,469	1,513
Albany Regional Prison	417	471
Bandyup Women's Prison	396	227
Boronia Pre-release Centre for Women	88	91

Broome Regional Prison	0	69
Bunbury Regional Prison	332	369
Casuarina Prison	939	953
Eastern Goldfields Regional Prison	98	301
Greenough Regional Prison	327	166
Hakea Prison	962	1,157
Karnet Prison Farm	322	368
Melaleuca Remand and Reintegration Facility	Not Operational	241
Pardelup Prison Farm	78	93
Roebourne Regional Prison	177	209
West Kimberley Regional Prison	271	215
Wooroloo Regional Prison	376	423

BANKSIA HILL DETENTION CENTRE — DETAINEE POPULATION

6312. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to Banksia Hill Juvenile Detention Centre, and I ask:

(a) As at 30 June 2016, what was the juvenile population in this facility;

(b) As at 30 June 2019, what was the juvenile population in this facility;

(c) As at 30 June 2016, were any detainees over the age of 17 housed in this facility;

(d) As at 30 June 2019, were any detainees over the age of 17 housed in this facility; and

(e) What is the process to transfer juvenile detainees who reach the age of 18 from Banksia Hill Detention Centre to an adult prison?

Mr F.M. Logan replied:

(a) 145

(b) 123

(c) Yes.

(d) Yes.

(e) In line with s178 of the *Young Offenders Act 1994*, if a young person who reaches the age of 18 years and is detained at Banksia Hill Detention Centre serving a period of detention, the chief executive officer may apply to the Children's Court for a direction to transfer the young person to a prison under the Prison's Act 1981 to serve the unserved portion of the sentence in prison.

The Children's Court can make the direction should it be satisfied that the young person's behaviour in the detention centre is or has been a significant risk to the safety or welfare of other people in custody, staff, centre or antecedents; or if the young person has a significant period of detention to serve, if the young person is serving a period of imprisonment or if the Court see thinks fit.

CORRECTIVE SERVICES — DEPARTMENT — STAFF GRIEVANCES

6313. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to the Department of Corrective Services, and I ask:

(a) Were any staff grievances lodged in financial year 2016–2017;

(b) If yes to (a), how many were lodged:

  (i) How many were resolved;

  (ii) How many were dismissed;

  (iii) How many were upheld; and

  (iv) How many are outstanding;

(c) Were any staff grievances lodged in financial year 2017–2018:

  (i) How many were resolved;

  (ii) How many were dismissed;

  (iii) How many were upheld; and

  (iv) How many are outstanding;

(d) Were any staff grievances lodged in financial year 2018–2019:

(i) How many were resolved;

(ii) How many were dismissed;

(iii) How many were upheld; and

(iv) How many are outstanding; and

(e) Were any staff grievances lodged in financial year 2019–2020:

(i) How many were resolved;

(ii) How many were dismissed;

(iii) How many were upheld; and

(iv) How many are outstanding?

Mr F.M. Logan replied:

(a) Yes, 9

(b) (i) 3

(ii) 0

(iii) Not applicable.

(iv) Data not captured.

(c) Yes, 18

(i) 4

(ii) 1

(iii) Not applicable.

(iv) 1

(d) Yes, 24

(i) 10

(ii) 3

(iii) Not applicable.

(iv) Data not captured.

(e) Yes, 15

(i) 3

(ii) 0

(iii) Not applicable.

(iv) 3

Please note:

In relation to part (ii) for each year, please note that grievances are not generally dismissed, on the basis that the complainant owns the grievance. Grievances can cease for a number of reasons, including, but not limited to:

The complainant withdrawing the grievance.

Lack of evidence.

The complaint lodged does not meet the criteria for a grievance; or

The complaint is being ceased and managed under another process.

Under part (ii), grievances included here relate to one of the above withdrawal reasons.

In relation to part (iii) for each year, please note that grievances are not "upheld" but rather resolved.

CORRECTIVE SERVICES — BROOME PRISON

6314. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to the planning for a new Broome Prison, and I ask:

(a) When does the Minister expect the planning for the new Broome Prison to be complete;

(b) When is the construction start date for the new prison; and

(c) What is the expected completion date of the new prison?

Mr F.M. Logan replied:

(a) The Department is currently engaging with the traditional owners, Nyamba Buru Yawaru, to identify a preferred site for the proposed new Broome Regional Prison. Once a new site has been identified, the Department is expecting to provide a project definition plan to Government in 2021.

(b)–(c) These dates will be contained in the project definition plan.

PRISONS — DRUG TESTING

6315. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to illicit drug tests in WA Prisons, and I ask:

(a) Has the number of positive results decreased since the suspension of social visits due to COVID-19?

Mr F.M. Logan replied:

There has been a reduction in the number of recorded positive drug tests since the suspension of social visits due to COVID-19 which occurred on 23 March 2020. The Department of Justice (Corrective Services) have conducted two Drug Prevalence Testing (DPT) events since the suspension of social visits. DPT events occur four times a year and tests a percentage of prisoners and young people in custody across the custodial estate to determine the prevalence of drug use over a predetermined period of time.

An event was conducted on 11 May 2020 which resulted in 9 positive indications for drug use. Another event was conducted on 15 June 2020, and whilst the results are not final (at 6 July 2020) current results indicate 15 positive indications for drug use.

The results for the last quarterly DPT event to occur prior to the suspension of social visits was on 5 February 2020 which returned 35 positive indications for drug use.

CORRECTIVE SERVICES — DEATHS IN CUSTODY

6316. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

Were there any deaths in custody in the calendar years of 2017, 2018, 2019, and 2020 to date:

(a) If yes, how many deaths in custody occurred according to each calendar year:

(i) According to calendar year, in which prisons did these deaths occur;

(ii) According to calendar year, what were the causes of these deaths in custody; and

(iii) How many of these deaths in custody were the death of person of Aboriginal or Torres Strait Islander descent?

Mr F.M. Logan replied:

(a) (i)

Prison	**2017**	**2018**	**2019**	**2020***
Acacia Prison	1	2	2	2
Albany Regional Prison	1			
Bandyup Womens Prison	1			
Broome Regional Prison			1	
Bunbury Regional Prison	1	1		1
Casuarina Prison	6	5	7	7
Eastern Goldfields Regional Prison			1	
Hakea Prison	1		4	
Karnet Prison Farm	1	1		
Melaleuca Remand And Reintegration Facility	1			
Roebourne Regional Prison				1
West Kimberley Regional Prison		1		

* Up until 31 July 2020.

(ii)

Cause of Death*	2017	2018	2019	2020**
Apparent Natural	6	8	9	7
Natural	5			
Apparent Unnatural	1		6	3
Unnatural	1			
Unable To Determine Whether Natural/Unnatural		2		1

* Until the Coroner determines the cause of death, the cause is reported as 'APPARENT'.

** Up until 31 July 2020.

(iii) From 1 January 2017 up until 31 July 2020, total – 15.

From 1 January 2020 up until 31 July 2020, total – 4.

MINISTER FOR CORRECTIVE SERVICES — PORTFOLIOS — CYBERSECURITY BREACHES

6317. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to each Department, Agency and Government Trading Enterprise within the Minister's portfolio of Corrective Services, and I ask:

(a) Were there any cybersecurity breaches to agency computer systems or servers in 2017;

(b) If yes to (a), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach;

(c) Were there any cybersecurity breaches to agency computer systems or servers in 2018;

(d) If yes to (c), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach;

(e) Were there any cybersecurity breaches to agency computer systems or servers in 2019; and

(f) If yes to (e), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach?

Mr F.M. Logan replied:

(a) Yes.

(b) (i) 11th January 2017.

(ii) Unknown.

(iii) Unknown.

(iv) A user clicked on a link from a news website and was further instructed to contact a technician for IT support which they did. The call was disconnected before the end of their conversation. The user immediately alerted the IT Department of the incident. IT reset the users passwords, wiped and rebuilt the PC. To minimise the chances of recurrence, the Department of Justice conducted social engineering awareness raising exercises and undertook an internal social engineering audit.

(c) No.

(d) Not applicable.

(e) Yes.

(f) (i) 15th November 2019.

(ii) It was a phishing email. Unknown.

(iii) No.

(iv) The bank details of an employee were changed after Payroll received an email from an individual purporting to be a genuine employee of the Department. Once HR were alerted of the change, they immediately identified a security breach and the matter was reported to the fraud department of the employee's bank and to the WA Police. To minimise the chances of recurrence, the Department of Justice:

Immediately sent out a Cyber Security Advisory notification by email to all users alerting them of potential for social engineering attacks and reminding them to be vigilant against social engineering attempts.

Implemented changes in how payroll requests sent through email are assessed to ensure fraudulent requests are detected and reported. This includes directing employees to use the Department's HR Kiosk facility to make changes themselves, and where HR is required to make the change, they should phone the employee using a known employee's phone number to confirm the change request, and when the change is made. HR then send an email to the employee using a known employee's email address to confirm the change.

Implemented a mandatory online security awareness training program for all users in December 2019 to periodically remind users of their information security responsibilities, including identification, prevention and reporting of social engineering attacks.

Drafted an ICT Acceptable Use Policy that will be published in the third quarter of 2020 to clarify information security responsibilities for users, including responsibility for identifying and reporting potential and actual cyber security incidents.

Conducted an internal social engineering audit and raised awareness of social engineering risks and how users can prevent social engineering attacks from succeeding.

CORONAVIRUS — CORRECTIVE SERVICES — PERSONAL PROTECTIVE EQUIPMENT

6318. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to the Department of Corrective Services, and I ask:

(a) List the quantity of COVID-19 personal protective equipment (PPE) items currently held on stock/storage, as at 1 June 2020, for each individual for the following:

(i) Prison officer;

(ii) Senior officer; and

(iii) Prison employee?

Mr F.M. Logan replied:

(a) (i)–(iii) As at 3 June 2020, Corrective Services held the following Personal Protective Equipment (PPE) items:

Item	Unit of measurement	Number
Alcohol gel	Litres	14,031.7
Coveralls	Each	3,622
Face Shields	Each	55
Gloves	Individual gloves	880,003
Goggles	Each	1,286
Gowns	Each	108
Masks	Each	105,906
Safety Glasses	Each	3,439

PPE stocks are centrally recorded by Facility, Location and Regional Area to allow for monitoring and deployment. PPE stocks are not recorded or allocated to particular categories of employee. PPE is deployed in accordance with Department of Health guidelines and advice.

CORONAVIRUS — CORRECTIVE SERVICES — PERSONAL PROTECTIVE EQUIPMENT

6319. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to the Department of Corrective Services, and I ask:

(a) What COVID-19 personal protective equipment (PPE) shortages by item exists as at 1 June 2020?

Mr F.M. Logan replied:

(a) Corrective Services had no shortages of Personal Protective Equipment (PPE).

CORRECTIVE SERVICES — PRISON OFFICERS AND EMPLOYEES

6320. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to the Department of Corrective Services, and I ask:

(a) What professional qualified personnel shortages exist, by rank/trade for:

(i) Prison officer;

(ii) Senior officer; and

(iii) Prison employee?

Mr F.M. Logan replied:

The following information is provided for all adult prisons within Corrective Services. The staffing level requirements reflects the positions required to manage a public prison population of 6415. The Department has a public prisoner population of 5257 (82% prison capacity). The Department has approximately 93% of all required positions for service delivery of a public prison population of 6415.

Occupational Group	**FTE Vacancies @ 30 June 2020 for population of 6415**
(i)	
Prison Officer	–112.1
(ii)	
Principal Officer	0
Senior Officer	–49
(iii)	
Vocational and Support Officer (VSO)	–85
Aboriginal Visitors	–9
Nurses	–25.1
Medical Practitioners	–6.65
Senior Public Service	–2
Public Service General	–31
Aboriginal Health Worker	–3
Counsellor	–9
Group Program Officers	–4.6
Psychologists	–1
Total	**–337.45**

Notes on data:

Prison Officer, Principal Officer and Senior Officer numbers are based on vacancies against the current Staffing Level Agreements (SLA) for 6415. Short and medium term vacancies that cannot be filled via redeployment are filled with overtime on an ad hoc basis.

The table does not include the 116 Prison Officer recruits undergoing, or soon to commence, training at the Academy as a part of the Department's continuous recruitment strategy.

A current VSO Recruitment Pool is being finalised which will significantly reduce the number of vacant VSO positions.

MINISTER FOR EMERGENCY SERVICES — PORTFOLIOS — CYBERSECURITY BREACHES

6321. Mr S.K. L'Estrange to the Minister for Emergency Services; Corrective Services:

I refer to each Department, Agency and Government Trading Enterprise within the Minister's portfolio of Emergency Services, and I ask:

(a) Were there any cybersecurity breaches to agency computer systems or servers in 2017;

(b) If yes to (a), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach;

(c) Were there any cybersecurity breaches to agency computer systems or servers in 2018;

(d) If yes to (c), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach;

(e) Were there any cybersecurity breaches to agency computer systems or servers in 2019; and

(f) If yes to (e), for each breach:

(i) When did the breach occur;

(ii) What entity was responsible for each breach and what was their suspected purpose;

(iii) What information was compromised; and

(iv) How did the breach occur and what action has been taken to stop a recurrence of this breach?

Mr F.M. Logan replied:

For the purpose of this response, DFES defines a security breach as a successful attempt by an attacker to gain unauthorised access to an organisation's computer systems.

(a) In 2017 no known security breaches occurred to agency computer systems or servers.

(b) (i)–(iv) Not applicable.

(c) In 2018 four known security breaches occurred to agency computer systems or servers:

(d)–(f) The State Government takes seriously any security breach or compromise of Agency data. DFES has implemented numerous cyber security enhancements consistent with the State Government's strengthening of cybersecurity, ICT performance and data sharing following the security breaches and continues to work towards improving cyber security capability. Since mid-2018 DFES has implemented an ongoing program of works to identify and mitigate risks to the confidentiality, integrity and availability of DFES information and systems.

In 2018 four known security breaches occurred to agency computer systems or servers.

<u>Breach 1 – Email compromise</u>

(i) 8 October 2018

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

<u>Breach 2 – Email compromise</u>

(i) 9 October 2018

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

<u>Breach 3 – Email compromise</u>

(i) 25 October 2018

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

Breach 4 – Email compromise

(i) 10 December 2018

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

In 2019 five known security breaches occurred to agency computer systems or servers.

Breach 1 – Email compromise

(i) 9 January 2019

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

Breach 2 – Email compromise

(i) 19 May 2019

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset.

Breach 3 – Email compromise

(i) 5 July 2019

(ii) Unknown

(iii) Email account credentials for one account

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The user account credentials were reset, Multi-Factor Authentication (MFA) applied and credentials breach was reported through the Office of Digital Government Incident Reporting Portal.

Breach 4: – Email compromise

(i) 14 August 2019

(ii) Unknown

(iii) Email account credentials for three accounts

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The affected user account credentials were reset, Multi-Factor Authentication (MFA) applied and credentials breach was reported through the Office of Digital Government Incident Reporting Portal.

Breach 5: – Email compromise

(i) 21 August 2019

(ii) Unknown

(iii) Email account credentials for two accounts

(iv) Suspect the user entered credentials into phishing website causing automated entry to their mailbox, resulting in spam/phishing emails being sent from a DFES mailbox. The affected user account credentials were reset, Multi-Factor Authentication (MFA) applied and credentials breach was reported through the Office of Digital Government Incident Reporting Portal.

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