

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

TEACHER REGISTRATION BILL 2011

Consideration in Detail

The SPEAKER: Members, while the minister brings in her advisers to the floor of the chamber, I inform you that the Teacher Registration Bill has been reprinted overnight. Members, those of you who wish to follow in detail this process, at the bottom of the front page will be the numerals 260–2. That is the copy you need to have. Members, for your information, a pro forma amendment has been made. We now move to consideration in detail itself.

Members, I need an indication from you as to the clauses you might want to deal with.

Clause 1: Short title —

Mr P. PAPALIA: I want to seek a little clarification I guess because of the complicated and confusing nature of this entire process. I want to yet again place on *Hansard* the opposition's objection to this process and our criticism of the minister's failure to introduce to Parliament a complete Teacher Registration Bill when she introduced the bill and read the second reading speech last year. Where are we starting; are we starting on page 1, which you indicated, Mr Speaker, is bill 260–2, or on page 1, which has on it a replication of the title "(As amended—proforma amendments)"? The pro forma amended version is probably the only indication the people of Western Australia—who were not here last night until midnight trying to extract answers from a minister who was very, very reluctant to provide them—have that this minister failed to introduce a complete document when she introduced the bill and read into Parliament the second reading speech on 1 December last year, the very last sitting day of the parliamentary year. The minister failed to introduce a complete document after she had received a comprehensive report of a review in June 2010 that indicated that this legislation was required to provide certainty and guidance to the teaching profession of this state through provision of a new body—which is afforded by this legislation. The minister received that report in June 2010. And on the very last sitting day of 2011, the minister rushed into this place an incomplete, flawed and fairly useless document.

The SPEAKER: Member for Warnbro, the opportunity to widely debate what this particular bill is about is not provided under clause 1, "Short title". I have given you some lenience and an opportunity to make your point, member for Warnbro. I will always do that in this place. The discussion at this point should be with respect to the short title, which is clause 1. For all members' information, all consideration in detail starts on page 2 of the document you have in front of you, which, as I indicated previously, should be numbered 260–2. I will give you the call again, member for Warnbro, to make your points on clause 1.

Mr P. PAPALIA: Thank you, Mr Speaker, for your guidance. I will immediately go on but I will, however, point out that not only does the front page we are not considering have "(As amended—proforma amendments)" it also has some changes. There is a change on the front page because the original document did not even include the word "implementation" as an objective. I will relinquish my hold on that page and move on.

The SPEAKER: Member, perhaps for clarification for you and for other members—you have drawn our attention to the document—under standing order 175, discussion on the information on page 1 that you have drawn our attention to can be discussed under the long title at the end of this bill.

Mr A.J. WADDELL: It seems to me that the Teacher Registration Bill 260–2, which is before us today, is a substantial rewrite of bill 260–1, which was before us yesterday. It would probably be more appropriate if this bill were renamed the Teacher Registration Bill 2012 to eliminate the confusion that may exist among those in the community who have been dealing with the previous version for some time. That would simply reflect that we have made what appears to be an almost clean break from what was before us yesterday.

Mr J.N. HYDE: Again, as this short title is at the moment, it is extremely deceptive. We clearly heard in the debate last night that the minister is not sure exactly what we are debating. Clearly, from the range of alternative material that keeps coming into the house since version 260–1 of the original bill was introduced into the house, there has been change after change and amendment after amendment, and there is no clarity from the minister that we are debating a bill that will create the Teacher Registration Act 2011, let alone 2012.

Dr E. CONSTABLE: I can assure members that we have before us the reprinted Teacher Registration Bill 2011. It is the complete bill and, for the member for Forrestfield's edification, I understand that when the bill is passed through both houses of this Parliament, it will be automatically dated 2012.

Mr P. PAPALIA: This particular line of the short title indicates an absence of any recognition that this is a completely different bill. Is the fact that the minister introduced a changed bill at a time when there was no media scrutiny, and then pushed it through the second reading stage last night, an indication that she was trying to avoid any scrutiny of her failure to introduce the bill correctly in the first place?

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Mr T.G. STEPHENS: I ask the chamber whether there is any reason why I should not now move to amend the bill in such a way as to ensure that it is more accurately titled—that is, to move for the deletion of “2011” and insert in its place “2012”, so that the bill accurately reflects the circumstances with which we are faced? We have a very significantly altered bill but, more importantly, a bill that, when it becomes an act, will be a 2012 act. Why do we not simply get on with it? Mr Speaker, I would like to take the opportunity to move the deletion from the short title of “2011” and to replace it with “2012”.

Dr J.M. Woollard: Where’s the precedent, member?

Mr T.G. STEPHENS: Commonsense, member; commonsense.

The SPEAKER: I am not interested in interjections across the floor while a member has the call. Member for Alfred Cove, I formally call you to order for the first time today. Member for Pilbara, my best advice, and I am quite happy to provide it to you, is that if you want to move that as an amendment, you need to write it out and sign it; we can proceed from there.

Mr T.G. STEPHENS: I will do that while I am on my feet, Mr Speaker. You have a very helpful table!

The SPEAKER: We try to be, member!

Mr T.G. STEPHENS: I move —

Page 2, line 3 — To delete “2011” and substitute —

2012

The opposition is moving this amendment for no other reason than to at least get the bill in some semblance of order as we embark upon it. However, it is a further indication to government backbenchers of the pathetic situation they are faced with in respect of this minister. Only they can sort it out now; the people of Western Australia will eventually have the opportunity to sort it out, but in the meantime the house is obliged to propose a correction of this bill through the amendment that is now before the house.

The SPEAKER: For the benefit of members in respect of this amendment, the amendments to the bill will be made by officers of the house once the bill has moved through this place. That is just for the information of members.

Mr P. PAPALIA: I support the proposed amendment entirely, but I would suggest that there is another reason to label this bill “2012”; that is, to indicate that the original rushed introduction of the legislation in 2011, on the last day of Parliament, was a flawed process. The minister did it under duress, because she realised she had made a commitment to the media some seven months earlier and had failed to deliver on it, and so she rushed the legislation into Parliament on the last sitting day. It was not adequately prepared and it was inappropriate; it should not have been done. It is appropriate that we change the date of this bill to 2012, because that is when it really got to Parliament. It did not get to Parliament in February, as was indicated in the media by the minister on 1 December; it got here at the end of March. That is a further indication that the minister has completely failed in her duties. This is only the third bill introduced to this Parliament by this Minister for Education, and one of those was training legislation, so it was not her portfolio. She has introduced two pieces of legislation. I would suggest that this bill is of the greatest interest to the teaching profession of Western Australia—it should also be of interest to parents and students, but predominantly to the teaching profession. The nature of this bill, its content and the manner in which it was delivered sends a clear message to the teaching profession, and that message is: the minister could not be bothered. The minister could not be bothered to get the legislation right; she barely got it into Parliament within the time frame she had set, almost two years after having received the report into the Western Australian College of Teaching. She finally introduced the legislation yesterday, and we are debating it today.

That is a terrible message to convey to the teaching profession in Western Australia. It reflects the minister’s attitude, and the fact that her focus is elsewhere. The minister has her mind elsewhere, and it is not appropriate for her to retain her job if she cannot give it her full focus, because education is too important to the people of Western Australia, and it is particularly too important to the most challenging and disadvantaged children within our education system, upon whom we should be focusing all our efforts to ensure that we get a better outcome for them and a better outcome for society. It is incredible that in this one opportunity—out of only two during her entire time in Parliament—for the minister to demonstrate her capacity to deliver, she has failed. I am very thankful to the member for Pilbara for moving this amendment; I fully support it, and I suggest that the minister accept it immediately.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Dr E. CONSTABLE: As I indicated earlier, when the member for Forrestfield raised the issue of the date, the date will be automatically changed to 2012 when the bill goes through both houses of this Parliament and passed. I do not accept this amendment.

Mr T.G. STEPHENS: Why do we bother, then, if the minister can just chuck any old thing in this place? Why worry about legislators? Why leave us to fix up anything? We are only elected to the place to be legislators; we can leave it all in the safe hands of the ministers to negotiate with the people who do these things. Well, we are the people who do these things. I do not care that the minister does not accept the amendment; I am sure that she is embarrassed by the amendment. But what an absurdity; she will not accept an amendment that will subsequently be accepted by some hidden, automatic, pro forma process. What a bizarre act of stupidity, to compound the embarrassment that the minister should be experiencing. Here we have an amendment that simply calls a spade a spade. The minister could have simply swallowed her pride and arrogance and accepted the amendment; she has just told the house that the date on the bill will be changed through some process that will be hidden from the chamber, after I have moved an amendment to make it explicit, overt and self-evident that the act will be a 2012 act.

Do members not think that by any other normal process the amendment would simply have been accepted and incorporated into the bill so that the title would become the definition that is accepted by the processes before the bill is trundled down to Government House to become an act? I ask the minister to explain to the house why she will not accept the amendment moved in my name. What reason does she have for rejecting the amendment that deletes “2011” and inserts “2012”? What strength of intellectual argument can she put before the house to persuade members to accept her recommendation that we leave to other people the job that is ours as legislators?

Dr E. CONSTABLE: I have a very simple and straightforward explanation for the member for Pilbara. It is the proper process of this Parliament that the date in the title will be changed after the bill passes through both houses of Parliament. It was introduced in December 2011 and it has been amended. The proper process is that the date will be changed to 2012 because it will be passed in 2012.

Mr P. PAPALIA: That answer from the minister was completely inadequate. The proper process should be consistent with and have some relationship to the bill that was introduced in December. The minister has introduced a completely new bill. She did it intentionally last night at the last minute, just a few moments before midnight, just like the delivery of the Republic of India. The minister came into this place and introduced a bill that bore very little resemblance to the original bill introduced on 1 December 2011 in a rushed, ad hoc and ineffective, although quite a representative, fashion, because it demonstrates how the minister operates. The minister’s mind is not on her portfolio—it is elsewhere—and she has failed to produce a reasonable argument for why we should not change the short title of the bill right now. The short title should be 2012 to reflect when the minister finally got her act together and introduced something we could debate and deliberate on. It should not be 2011, which would suggest that the bill the minister introduced in December was adequate and worthwhile. It was a failure on the minister’s behalf last year to try to prevent us changing the short title of the bill to reflect what actually happened. It is just stubbornness on the minister’s behalf. It is incredible that she would suggest that that is the proper process of Parliament. What the minister has done bears no relationship to the proper processes of Parliament. I understand that the minister has been advised that a similar situation occurred to a planning minister once before, 10 years ago. We have a member of Parliament who has been here for a long time —

Dr E. Constable: It was in May 2010.

Mr P. PAPALIA: Who was the minister and what was the nature of the bill? Was it a controversial bill?

Dr E. Constable: It was a planning bill.

Mr P. PAPALIA: Did it have a direct impact on the professionals for whom it would become the guiding document? I doubt it very much. I suggest to the minister that what has occurred is a unique event. The minister has done something that very few ministers, if any, have done before. The minister is trying to cover it up by refusing to change the short title so that it can be recognised forever more that it occurred in this debate in order to acknowledge a specific failure on the minister’s behalf, and not just because the minister did not want to do it.

Mr A.J. SIMPSON: The opposition raises a good point, but I would like to ask the minister a question because it is my understanding that when the bill becomes an act, it will become the Teacher Registration Act 2012, so the title will change as we work through that process. Can the minister clarify that for us?

Dr E. CONSTABLE: It is my understanding, as the member for Darling Range said, that the proper process is that when this bill passes through both houses of Parliament and becomes an act of Parliament, it will be the Teacher Registration Act 2012, so the date will automatically change. That is the proper process of Parliament. No matter what members of the opposition want to dress this up as, that is how Parliament works.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Mr T.G. STEPHENS: I wonder what the minister will say then is the great harm that would be done by simply accepting my amendment so that the title will be 2012. That is the title by which the bill will be known when it becomes an act. What is the harm in this amendment being carried to amend the short title of the bill so that it becomes 2012? That is name by which the act will be known henceforth. It seems to me a reasonable thing on the part of legislators to simply recognise the circumstance we are in. One year has passed and 2011 has gone by. We have a substantially new bill in front of us. We as a chamber are opting to recognise that fact by deleting “2011” and inserting “2012”. That is the name by which the bill will eventually be known when it becomes an act. What is the harm in accepting my amendment?

Dr E. Constable: There is no point.

Amendment put and a division taken with the following result —

Ayes (22)

Ms L.L. Baker	Mr J.C. Kobelke	Mr E.S. Ripper	Mr A.J. Waddell
Dr A.D. Buti	Mr M. McGowan	Mrs M.H. Roberts	Mr P.B. Watson
Mr R.H. Cook	Mr M.P. Murray	Ms R. Saffioti	Mr B.S. Wyatt
Ms J.M. Freeman	Mr P. Papalia	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)
Mr J.N. Hyde	Mr J.R. Quigley	Mr C.J. Tallentire	
Mr W.J. Johnston	Ms M.M. Quirk	Mr P.C. Tinley	

Noes (26)

Mr P. Abetz	Dr E. Constable	Mr A.P. Jacob	Mr D.T. Redman
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr M.W. Sutherland
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr T.K. Waldron
Mr I.C. Blayney	Mr J.M. Francis	Mr P.T. Miles	Dr J.M. Woollard
Mr I.M. Britza	Mr B.J. Grylls	Ms A.R. Mitchell	Mr A.J. Simpson (<i>Teller</i>)
Mr G.M. Castrilli	Dr K.D. Hames	Dr M.D. Nahan	
Mr V.A. Catania	Mrs L.M. Harvey	Mr C.C. Porter	

Pairs

Mr A.P. O’Gorman	Dr G.G. Jacobs
Mrs C.A. Martin	Mr W.R. Marmion
Mr M.P. Whitely	Mr J.E. McGrath

Amendment thus negatived.

Mr R.H. COOK: I want to speak briefly on the Teacher Registration Bill’s short title. I think we must be careful when we legislate that we are not accused of any sort of false advertising when we title these bills. Of course, the nature of this legislation is essentially threefold. The registration of teachers is just one aspect of what this bill does. As we discussed at length last night, the bill does three things. First of all, it registers teachers, and there is no argument with having it called the Teacher Registration Bill. However, there are, of course, two other aspects of this legislation that we think should be incorporated in the title. This bill will also govern the way in which we regulate the teaching profession, so it is not simply a question of receiving the registrations; it is the regulation of teachers in the field. Indeed, it is an ongoing process. “Registration” would suggest that it is just a one-off; that is, the teacher registers, and the act is done. But we know that that is not the case. There is in fact an ongoing process that is core to the business of the Teacher Registration Board. The board is also charged with the role of regulating teachers in the pursuit of their profession. First of all, teachers register with the TRB, and then the TRB will regulate teachers in how they go about pursuing their profession. That, indeed, one would say, is probably the main work of the TRB. It is not just the registration; it is the accreditation of education programs, it is liaison with authorities in other jurisdictions, it is monitoring of those education programs and it is monitoring of the teachers in that role. However, there is, of course, a third function that is very important and one about which there was some discussion last night, and that is the disciplinary process. When teachers fall outside the bounds of what we consider to be professional behaviour, the TRB is very actively and very appropriately charged with the responsibility of disciplining those teachers. Therefore, it is simply not accurate to say that this is the Teacher Registration Bill 2011. It is, however, accurate to say that this is the “Teacher Registration, Regulation and Disciplinary Bill 2011”, because that set of words more accurately captures the actual business of the TRB.

What we want to do in the short title is very succinctly and appropriately capture the role, the duties and the demeanour of the TRB. The TRB, in performing its functions under this legislation, would obviously want to refer to an appropriately titled piece of legislation to describe its business. What we acknowledged and discussed yesterday evening was that there is a threefold process—the registration, the regulation and the disciplinary process. Therefore, I move —

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

To insert words such that the short title of the bill would become the Teacher Registration, Regulation and Disciplinary Bill 2011

The SPEAKER: Member for Kwinana —

Mr R.H. COOK: And I had better write that down.

Ruling by Speaker

The SPEAKER: Member for Kwinana, I am going to rule that out of order, and I will provide you with an explanation. If you wish to refer to your standing orders, you will find under standing order 132 the words that will describe what you are able to do with an amendment to something that has already had an amendment to it proposed. That amendment has been defeated in this place, so the words with respect to the short title, clause 1, “This is the Teacher Registration Act 2011”, remain. I am advising you and giving you the opportunity to look at standing order 132. That particular amendment that you are moving is out of order.

Point of Order

Mr P. PAPALIA: I have a point of order with regard to that observation. Standing order 132, as I read it, states —

No amendment will be proposed —

- (a) in any part of a question if a later part either has been amended, or has had an amendment moved to it, unless the proposed amendment has been withdrawn by leave of the Assembly without a dissentient voice; or
- (b) to any words which the Assembly has resolved will stand part of a question except to add other words to it.

Are we not proposing to add other words? Is that not within the constraints of the rule?

The SPEAKER: The proposed amendment that the member for Kwinana has brought to this house actually inserts words prior to the completion of the words that can be seen there: “This is the Teacher Registration Act 2011.” The member for Kwinana proposes an amendment that would insert words before those words that can be seen there.

Mr T.G. STEPHENS: I am sorry, Mr Speaker; I think it is helpful for us all to understand exactly what you are saying. I am reading standing order 132 and I am reading the short title. I have heard the amendment that has been moved by my colleague the Deputy Leader of the Opposition. He has asked the house to have the opportunity to insert some words in the short title. I have the task of trying to understand how we would do it so that it would be in conformity with standing order 132. At this point, is there a way of moving the foreshadowed amendment that would be in conformity with standing order 132? Can you guide the house as to how we could be in conformity with standing order 132? It reads —

No amendment will be proposed —

- (a) in any part of a question if a later part either has been amended, —

Nothing has been amended —

or has had an amendment moved to it ...

Are you suggesting, Mr Speaker, that I have moved an amendment to delete —

The SPEAKER: You have proposed an amendment to the short title, and that qualifies under standing order 132 that you are now referring to.

Mr T.G. STEPHENS: Paragraph (a) says, “has had an amendment moved to it”. I moved for the deletion of “2011”. The standing order says that no amendment will be proposed in any part of a question. Can we break this clause into two questions at this point?

The SPEAKER: It would not be breaking the clause into two questions, member for Pilbara.

Mr T.G. STEPHENS: Is there a way of conforming with standing order 132 that still opens up the opportunity that the Deputy Leader of the Opposition —

The SPEAKER: You would have to give consideration, member for Pilbara, to the short title, which is, “This is the Teacher Registration Act 2011.” There was a proposed amendment to those words. That was defeated. So those words must remain in any amendment that is proposed.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Mr T.G. STEPHENS: Therefore, if the member were to move to insert after the numeral “1” and before the full stop —

The SPEAKER: It would need to be after the full stop.

Mr T.G. STEPHENS: After the full stop. Can I suggest to the Deputy Leader of the Opposition that he move to insert after the full stop the words that he wishes to insert, to which he earlier referred, and then it would be in conformity with standing order 132(a).

The SPEAKER: To clarify for the member for Pilbara and everybody, the full stop that would be acceptable in this discussion occurs after the year, “2011”. So, after that an amendment, yes; prior to that an amendment, no.

Mr R.H. COOK: On that point in this fascinating discussion, when the member for Pilbara moved his amendment the question that was put was that the words to be deleted be deleted, so in that instance it was “2011” and no other part of that title. I am seeking your clarification, Mr Speaker, as this is indeed a learning process. In fact, the Parliament has not yet deliberated the question of the words “Teacher Registration Act”; it has simply deliberated “2011”. Therefore, is it not consistent with standing order 132 that we can amend the words “Teacher Registration Act”, because at this point of the debate the Parliament has not expressed a view about those words?

The SPEAKER: Member for Kwinana, the only way that would be a possibility would be in reconsideration in detail, and that would be undertaken only after we had been through all the clauses in this bill.

Debate Resumed

Dr J.M. WOOLLARD: I do not believe we should be lengthening the short title of this bill. If any amendment were proposed, it should be to shorten the title, because we have the Pharmacy Act, the nurses act, the medical act, and I could probably go through each profession and the name of the profession is part of the title of the act. If an amendment is to be put forward, it should be that the bill becomes the teachers act rather than the Teacher Registration Act.

Mr R.H. COOK: I am pursuing this somewhat further, and I take on board the comments of the member for Alfred Cove, which is another approach to this. Mr Speaker, I know that I cannot ask you “Is this in order?” But I still think it is important—if, as the member for Alfred Cove suggested, this could be called the registration act, rather than just the teacher act—that the short title makes reference to the regulation and discipline of teachers, with which the TRB is charged under this bill. I understand from your ruling, Mr Speaker, that I cannot alter or challenge the words which currently exist, “Teacher Registration Act 2011”. I wish to provide the chamber with an opportunity to debate and form a view about the addition of the words “regulation” and “discipline”. From that perspective, I will move that we insert after “Teacher Registration Act 2011” the words “and the Teacher Regulation and Discipline Act 2011”

The SPEAKER: The member is absolutely able to do that. If you wish to move that amendment, we will need to have the words and your signature.

Mr R.H. COOK: I move —

Page 2, line 3 — To insert after “2011” —

and the *Teacher Regulation and Discipline Act 2011*

The SPEAKER: Can I confirm with you, member for Kwinana, that the words you have added are “and the Teacher Regulation and Discipline Act 2011”?

Mr R.H. COOK: That is right, Mr Speaker. I have used “2011” to be consistent with the current date in the title of the bill.

Mr P. PAPALIA: I would like to briefly contribute to the debate on the proposed amendment. I share the member for Kwinana’s concerns that, as a consequence of the massive changes to the bill and of abandoning the Western Australian College of Teaching, the proposed board effectively has three roles which all revolve around registration, administration and disciplining of teachers. I want to contribute because, through this bill, the minister has completely abandoned any pretence of wanting to support the elevation of the profession of teaching in the public domain. That was made very clear last night when the minister suggested in her response to the second reading contributions, when I was not able to interject, that that will be done entirely through registration. The argument that we can elevate a profession solely through the act of registering the individuals engaged in that process is completely inadequate, if the intention is to contribute in any way to elevating the status of the profession in the public domain. It will not work. If that were the case, we could argue that WACOT was doing that. It did not do it very effectively. Ultimately, registration was achieved, but it was not done

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

effectively. Ultimately, we know that WACOT did not elevate the status of the profession, because in the course of the review a comprehensive survey of teachers showed overwhelmingly that they felt they had been let down by WACOT. Overwhelmingly, teachers felt that WACOT had failed in endeavouring to elevate the status of the profession of teaching. I would suggest that was because they saw its only contribution to that process as registration. The people in WACOT, well meaning and motivated as they were, felt that the mere presence of that authority and the process it would put teachers through to be able to practice teaching would be adequate to elevate their status.

I think that the Parliament of Western Australia, in introducing WACOT, with the full and wholehearted support of the current minister when she was previously an Independent, created an expectation within the teaching profession that they would have an independent third party authority that would go in to bat on behalf of teachers when the profession was under attack from government, opposition or any other party in the community. That frequently occurs; in fact, when members consider stories in the media about the teaching profession, incredibly a large number of them are negative or it is the negative stories that engender the most attention from the media. It is a sad indictment on this place that we have built up the expectation of teachers, but the minister's response is to abandon that whole expectation. Instead of coming up with another means of elevating the status of the profession and mapping out a plan to support and bolster the reputation of that profession in the community's eyes, the minister has said that the government will abandon that whole part of the process and make this bill purely about registering, administering and punishing teachers.

I suggest the consequence of this bill and the action of publicly abandoning the role of the minister, the government and the Parliament in elevating the status of teachers will have exactly the opposite effect: it will demean and lower the reputation of teachers in the public eye. It will contribute to what teachers are feeling at the moment and what they were feeling all those years ago when they asked for WACOT to be created: the sense that they are not accorded the appropriate respect that their profession deserves. I am saddened by the move to abandon and throw away that very clear, well-articulated objective, so this amendment is appropriate.

Mr A.J. WADDELL: There is the old saying that if it walks like a duck and quacks like a duck, it is probably a duck, so it is appropriate to call it a duck.

This new Teacher Registration Board will register teachers, but it will also discipline and administer teachers. I think it is a very good amendment. I say that as somebody who, in my brief time in Parliament, has had to look for acts to determine the appropriate legislation that covers a particular incident that comes before me, and the first thing I do is go to the State Law Publisher website and look at the list of the acts in force. I remember one occasion when I spent quite some time trying to find the education act. I had naturally assumed the education act would be called the education act; that was probably a reasonable assumption. It took me a couple of minutes—it was not a huge amount of time—to find out that it was called the School Education Act. We need to remind ourselves that when members of the community have an issue or a concern with a teacher and they want to know where to go and what authority to bring that before, they are probably going to look at the short title of the legislation that is in effect to determine the appropriate body. I think that if we include “discipline” in the short title, it will send a very clear indication to members of the public who wish to make a complaint if something untoward has happened that this is the legislation to be looking at, and hopefully it will point them to the appropriate procedures that need to be followed. Of course, clarity is probably one of the overriding objectives we should be trying to achieve with legislation that passes through this house.

Dr E. CONSTABLE: We have this amendment before us that states “and the Teacher Regulation and Discipline Act 2011”; I point out to you, Mr Speaker, that there is only one act here, not two, and this implies two acts, which is rather peculiar.

I will talk about the word “registration”. Registration necessarily includes discipline. It is about being registered and getting registration, and about losing it—it is not just about getting it. So, it is implied in the word “registration”. I do not think these words add anything whatsoever to the title. In fact, if we look at similar titles for other professions and other teacher registration acts, in Tasmania it is the Teachers Registration Amendment Act and in the Northern Territory it is called the *Teacher Registration (Northern Territory) Act*. In Western Australia we have the Building Services (Registration) Act and the Occupational Therapists Act—without the word “registration” even, but it is registration legislation—and it is the same for the WA Nurses and Midwives Act, which is a registration act. It does not even have the word “registration”. Mr Speaker, we find the detail of the bill in the long title, and I believe that “Teacher Registration Act 2011” very adequately describes what this bill is about.

Amendment put and negatived.

Clause put and passed.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Clause 2 put and passed.

Clause 3: Terms used —

Mr P. PAPALIA: I would like to refer to the definition of “child care centre”, which states —

child care centre means a place where a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

I want to refer to that line because last night, in the course of a very long debate, the minister refused to reply to contributors, and in her response to the second reading debate she refused to respond to most of the points I raised in my hour-long contribution. A key component of my contribution to the second reading debate referred to third parties—interested stakeholders who had replied to the former shadow Minister for Education’s letter asking for their opinions of the original draft bill, which is not the bill we are debating now. Those stakeholders submitted a number of letters to the former shadow Minister for Education, and the minister has a copy of some but not all of those letters. My concern is that now that we have moved on to a completely different bill, the questions raised and points made by those stakeholders at the time were never responded to by the minister. Her response did not include answers that could be recorded in *Hansard* and conveyed to those parties. A letter came from Curtin University that acknowledged that early childhood teachers were going to be accommodated for the first time in this bill. I am raising this because the minister, in her response, did not answer any of the points raised by Curtin University and which I read into *Hansard*, and I assume that that means that the minister did not want to respond, was incapable of responding, or did not think it was important to respond to third parties such as Curtin University, the West Australia Music Teachers Association, the English Teachers Association of Western Australia or Edith Cowan University. All those organisations submitted responses to the shadow minister that were read, in part, into *Hansard* because I felt that they deserved some sort of response from the minister. Will the minister now answer the questions as I raise them? I am seeking an undertaking from the minister as I go through and try to pick the relevant clauses in this new bill, because I thought the appropriate time for the minister to answer those questions was in the second reading of the other one that she sent out for comment. It will be a little difficult now because we are going to have to try to pick and choose clauses that relate to the different points made by these different stakeholders. I would appreciate it if the minister would respond as I go through them. I will try to pick them in time for each clause. The commentary from Curtin University was supportive and positive, but I chose its comments on early child care just to raise that point; it was mentioned by a number of other stakeholders. I did not get any response, so I do not know what the minister’s position is, but I will try to pick them as we go. I would appreciate, when I do that, the minister providing an answer based on the original submissions.

Dr E. CONSTABLE: Look, it is quite plain in the bill, and I am not too sure why the member is raising it in this way. People can be registered if they teach—straightforward. If they teach, they can be registered. The definition of “teach” is to deliver an educational program and assess students in a prescribed curriculum at an educational venue. So if early childhood teachers do that at childcare centres, which are educational venues, or if specialist music teachers or people delivering professional development training do that, they can be registered because they teach. I am not too sure what more than that the member is trying to get to.

Mr P. PAPALIA: I will go to a part of Deputy Vice-Chancellor Professor Robyn Quin’s letter that was sent to my predecessor in the role of shadow Minister for Education. The minister has sought clarification of why I raised this matter; okay. The letter specifically refers to a couple of matters, including the description of “child care centres”. The letter quotes the minister’s second reading speech—although the letter states “first reading”—and reads —

According to the Minister, in her first reading speech on December 1st, 2011 “The bill provides for the TRB to assist in the establishment and implementation of a national scheme for the accreditation of teacher education programs that was agreed by education ministers at the Ministerial Council for Education, Early Childhood Development and Youth Affairs earlier this year. It also provides for the possible adoption, through regulations, of national standards for the profession, including how recent the experience and ongoing professional development. The adoption of these agreements, in whole or in part, does not involve the enactment of uniform legislation across jurisdictions”.

Professor Quin went on to say —

This area over the next 2–3 years will be a complex, but important area for the new Board to address. It is hoped that this brief mention of the Board’s role in implementing these changes is a positive sign that WA will be an early signatory to these changes.

Will WA be an early signatory to the changes?

Dr E. Constable: I am sorry; what did you say at the end?

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Mr P. PAPALIA: Professor Quin quoted the minister's reference to the Teacher Registration Board having a role in assisting in the establishment and implementation of a national scheme for the accreditation of teacher education programs that was agreed at the Ministerial Council for Education, Early Childhood Development and Youth Affairs earlier this year. The professor continued the quote of the minister in her second reading speech about the role of the TRB and made the observation that that is a very brief mention of the whole process of moving to national accreditation, although the minister suggested that that would be a role for the TRB. The professor then said —

This area over the next 2–3 years will be a complex, but important area for the new Board to address. It is hoped that this brief mention of the Board's role in implementing these changes is a positive sign that WA will be an early signatory to these changes.

Will WA be an early signatory to these changes?

Dr E. CONSTABLE: I have a couple of points. Let us get it straight. People have to be registered if they teach and they are entitled to be registered if they are qualified. If someone in an early childhood centre is qualified and is an early childhood teacher, they must be registered. Others, such as the music teachers the member mentioned earlier, will perhaps have the possibility of limited registration if they are specialists in the subject. The member then moved on to accreditation of teacher education programs, which is obviously a very important matter for Curtin University and the professor whom he has quoted. Clause 89(c) provides for the accreditation of teacher education programs, so we will deal with that matter then. The accreditation of teacher education programs is a matter for the Teacher Registration Board. Yes, we are up there with the matters that have been discussed at the Ministerial Council for Education, Early Childhood Development and Youth Affairs about the accreditation of teacher education programs, which I think was the question that the member asked. It will be a function of the board. It will accredit teacher education programs. We will come to that matter when we deal with clause 89(c).

Mr R.H. COOK: I want to seek clarification from the minister about some of the reverse engineering that has been undertaken with this bill.

Dr E. Constable: Which page?

Mr R.H. COOK: It would have appeared after line 24 on page 2. In the original bill, there was a definition of "child sex offender", with a reference to clause 46.

Dr E. Constable: Which page are you on?

Mr R.H. COOK: At page 2 of the current bill, a range of terms are provided. After the definition of "CEO" in the original bill that the minister brought to this place, there was a definition of "child sex offender", with a reference to clause 46. I note that there has been more extensive reverse engineering. Obviously, when people see words such as "child sex offender", it gives rise to some level of concern. Can the minister provide some clarity to the chamber about what she has undertaken in removing that particular reference from the terms used in part 1?

Dr E. CONSTABLE: The words have been removed from this clause and replaced in another part of the bill. The definition of "child sex offender" has been deleted from this clause because of the consolidation of sex offences involving children. In the newly printed bill, it comes under "sexual offence involving a child" and that incorporates child sex offender as one example. This is dealt with in detail in clause 46.

Dr A.D. BUTI: I refer the minister to page 3. I have a number of questions, but I will start with the definition of "detention centre" at line 10. The bill provides that "detention centre" has the meaning given in the Young Offenders Act 1994. That is okay; I understand that. In clause 3, "Terms used", there is reference to "detention centre" at line 24 on page 3. I presume that means the same as that provided in the definition at line 10. If it does, what about immigration detention centres? At the moment, education is not provided in immigration detention centres, but it may be provided in the future. Where in this bill is there provision for the registration of teachers who teach in immigration detention centres? At the moment, "detention centre" has only the meaning given to it in the Young Offenders Act.

Dr E. CONSTABLE: I thank the member for Armadale for his question. I thought that he would raise this issue. The question is really about what would happen in immigration centres if education programs were to be presented. To the extent that immigration centres provide schooling for asylum seeker children, the requirement for teachers who are employed in those centres to be registered certainly warrants consideration. I agree with the member. Although that does not happen now, in all instances so far at Leonora in which children have been provided with educational programs, they have been provided at Leonora District High School. It is possible that

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

it could happen at some time. It warrants consideration because it is in the interests of enabling teachers to have their service taken into account as part of their registration and the renewal of their registration.

As the member will know, immigration detention centres are federal facilities and some constitutional issues may arise from that fact. For example, the bill imposes obligations on and offences for teacher employers. I am not sure that we can do that for people employed in immigration detention centres. I will certainly ask the Department of Education and the Department of Education Services to investigate the issue that the member has raised and whether it would be appropriate to prescribe WA centres for the purposes of this bill. However, the strength of the bill is in paragraph (e) of the definition of “educational venue” on page 3, which means “any other place prescribed as an educational venue”. So it may well be covered by that.

Dr A.D. BUTI: With regard to the definition of “educational venue”, what will happen with home teaching, which, as we know, is becoming more and more popular? If a student is being taught by a parent, I presume the parent is not considered to be a teacher.

Dr E. Constable: They might be.

Dr A.D. BUTI: But not as a registered teacher; I understand that. What about the situation in which parents employ a teacher to teach their child in their home? Firstly, would a home be considered an “educational venue”? Secondly, would a teacher who is employed by parents to teach their child in their home be required to be registered? Thirdly, would tutors who come into a household to teach, or tutors who have their own business, be required to be registered?

Dr E. CONSTABLE: I thank the member for his questions in his presentation just now. I understand that home schooling is a private arrangement in the home, and that is regulated under the School Education Act, not this act. Tutors would not need to be registered under this act, because they are not teaching and assessing a prescribed curriculum. The registration act covers those people who teach and assess a prescribed curriculum.

Mr R.H. COOK: Could the minister please explain the process whereby an “educational venue” will be prescribed? Will it be the Teacher Registration Board that will prescribe the venue, or will it be done through some other instrument? Could we please have a description of how that process will take place, particularly in terms of the speed?

Dr E. CONSTABLE: Paragraph (d) of the definition of “educational venue” refers to “any other place prescribed as an educational venue”. That would be covered in regulations, as I understand it.

Mr R.H. COOK: I thank the minister for that. So an educational venue would be prescribed. But would the minister do that, or would the TRB do that? I am trying to understand who will determine those places of education in which the profession of teaching will take place. I do not necessarily have a view about whether it should be the TRB or the government. I understand that the actual process will be prescribed in regulations, but I am interested to know to what extent we are delegating authority to the TRB for how we prescribe an “educational venue”.

Dr E. CONSTABLE: There is no delegation to the TRB. The TRB might make recommendations to the minister, and, through the minister, to the Governor, and there would then be the ability for the regulations to be disallowed by either house of Parliament. So it will be through regulations. But the minister might take advice from any number of people. Catholic Education Western Australia might have a venue that is different from a school; or something might come before the TRB and it might want to make a recommendation to the minister; or the Department of Education or the Department of Education Services might give advice to the minister. The minister would then, on behalf of the government, make those regulations, which would go to the Governor.

Mr R.H. Cook: So that declaration itself would not be disallowable?

Dr E. CONSTABLE: The regulation would then come before this house.

Mr P. PAPALIA: I refer to page 4, line 23, which states —

teach means to undertake duties in an educational venue that include —

...

(b) the administration of any such educational programme,

...

(c) by a teacher’s aide, a teacher’s assistant or a student teacher; or

(d) by a person employed or engaged to provide care at a child care centre ...

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

- (e) by an unpaid volunteer, unless the volunteer is undertaking duties of a kind, or to an extent, prescribed for the purposes of this paragraph; or
- (f) by such persons, or in such circumstances, if any, as are prescribed.

The minister might intend to do this later, but I think now is the time to address the questions that have been raised by a couple of the stakeholder groups that I have mentioned. I have posed these questions to the minister. One of those groups is music teachers. It is not so easy to just dismiss their concerns. I want to get some more detail about that. They have a specific question. They have engaged in a process for 100 years now of trying to convince people that they should be accredited and recognised as teachers. They have established their own accreditation system, which comprises a two-year diploma course to improve teachers' skills and knowledge, and maintaining an ongoing program of professional development through seminars, workshops and conventions in association with the UWA School of Music. They want to know whether they will be included in this act. I do not think it is adequate to say that it will be on a one-off, individual basis, depending upon the principal and depending upon the circumstances. Music teachers are everywhere. They are an essential component of the teaching profession. They are an essential component of what we provide for education in the public sector and in the non-government sector across the state. They enrich the education of all our children. I think they have posed a fair question, and I want to get some detail about what is being done in response to their request—whether it has been considered, and whether this bill will take that into account; or whether there will be some further action at a later date.

Dr E. CONSTABLE: I just draw attention to the words that were read out by the member for Warnbro. He read out paragraphs (c), (d), (e) and (f) as though they are included. It actually states, before those paragraphs are listed, “but does not include duties of the kind undertaken” by those people. I want to make that clear.

Mr P. Papalia: Yes. My error was to read those out as though they are included.

Dr E. CONSTABLE: I just wanted to clarify that first.

Mr P. Papalia: Sorry. I accept that. I did not make that clear.

Dr E. CONSTABLE: I just wanted to clarify that first.

There are two different groups of music teachers, and I think it is important to clarify this. If a music teacher is teaching as part of the curriculum, and they are qualified as a teacher, they could be registered. But if a music teacher is a part of some activity, such as the school orchestra, that is not part of the curriculum but is extra to what they do. Those people are not considered to be teachers and they do not have to be registered. If they have qualifications, they could be registered, as I have said. I think the member might be talking sometimes about those music teachers who are qualified teachers, teaching the curriculum, and sometimes about the peripatetic teacher who teaches an instrument that is extra to the curriculum. If a music teacher is running the school band or the school orchestra, that is extra to the curriculum, and they will not fall under this legislation—although if they are qualified, they could be registered .

Mr P. PAPALIA: Thank you, minister. However, that does raise questions. If music teachers are not considered to be teaching, or they are not considered to be teachers, as the minister just indicated, it raises the question as to whether a person who employs a music teacher is vulnerable to that part of the legislation that deals with employing people who are not qualified as teachers or are not registered as teachers. I also would raise the letter from the English Teachers Association, which refers to a number of visiting specialists, such as writers and actors, and those sorts of people, who are certainly not teachers, but who enrich the opportunities for education within our system and make a valuable contribution. It may be that the more appropriate time to deal with this discussion is when we get to the clause that deals with the penalty for employing a person who is not registered as a teacher. I would be happy to deal with this at that time if the minister so desires. What happened last night is that, as a consequence of my getting three calls during question time, and then being unable to push the envelope at all with the Speaker, I was unable to raise some legitimate questions that I had wanted the minister to address during her second reading summation. I just wanted to ask the minister to respond to the contributions and questions of those third parties that I raised in my speech, and that the minister did not refer to. That is what I was trying to get from the minister last night. I am glad the minister is accepting; that is a good thing. People have written contributions about the last bill, a completely different thing, and the minister has brought in pro forma amendments, and it is a completely different document. The minister can either address it now or we can wait until we get to the clause about penalties and talk about it then. There was a concern from the English teachers and from the music teachers in the following context: will people who employ them be vulnerable because they are not registered or acknowledged as teachers?

Dr E. CONSTABLE: If we just keep with the example of the music teachers for a moment. Music teachers, football coaches and others are brought in for extracurricular things to enrich what is happening in the school.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

They enrich the life of the school in general and they enrich the lives of children, but they do not teach because the definition of teaching in this legislation is that to teach, a person delivers the curriculum and assesses student performance. Those two things are what teaching is about. These wonderful extra things happen and they enrich our schools. Every time we go to school these days as local members, we go to an assembly and hear wonderful music. Music enriches the lives of those children, but it is not part of delivering the curriculum or assessing student performance. There may well be issues that arise later on when it comes to discipline and so on, and we can deal with them then. Those people working with children have to have had a working with children check, and that is a really important part of their engagement by a principal to be part of what happens in the school.

Mr P. PAPALIA: Minister, can we just explore that a little. Is the minister sure about her observation that these musicians working in schools do not deliver a curriculum and do not conduct assessment, and that is why they are not defined as teaching? Is it not the case that people are employed in a lot of schools, often on a part-time basis, who deliver a curriculum in the field of music and conduct an assessment?

Dr E. Constable: They would be registered as teachers if they are doing that.

Mr P. PAPALIA: Is the minister sure about that?

Dr E. Constable: That is the advice I have, and that fits in with the definition of “teach”—delivering the curriculum. They might be part time or they might work across several schools delivering the music curriculum in primary schools.

Mr P. PAPALIA: Accepting that, the West Australia Music Teachers’ Association raised a point, and I think it is a fair point. Maybe the minister will cover it in the clause in which she has allowed expansion of the qualification recognition. I quote the point the association raised in its letter —

... there are many people in the community who teach instrumental music without any professional qualifications and this has always been a matter of grave concern to us.

Dr E. Constable: They are peripatetic teachers.

Mr P. PAPALIA: They want to incorporate all of their membership and all of their people conducting musical education in the school system into the system. I wonder about the legislation being so rigidly stuck on them being a teacher or not under the current definition, as opposed to whether they have gained accreditation through their own association. Could we not look at their accreditation and determine whether there is a way of acknowledging that accreditation, or is that beyond the scope of the intent towards getting national recognition? Maybe that is constrained; I do not know.

Dr E. CONSTABLE: I think in his comments, the member is now particularly talking about the peripatetic music teacher—the one who teaches my grandchild violin.

Mr P. Papalia: And my son piano.

Dr E. CONSTABLE: And who teaches the member’s son piano. Those people do not teach the curriculum nor are they assessing student performance; they are enriching the lives of my grandson and the member’s son. That is a fantastic thing, but they are not teaching in the sense defined in this bill. They are not covered by this bill, and I do not see why they need to be. What difference does it make? They will still be able to teach their musical instrument; they will still be able to teach piano, violin or whatever. It does not come under school education and it does not come under what happens in schools in terms of the curriculum. However, they may well have a teaching qualification; they might have a Diploma of Education and they could in that case be registered. The legislation is not rigid; it is just clear. It is clear that a person must be registered if they teach the prescribed curriculum and assess student performance in a school; that is what this bill is about.

Dr J.M. WOOLLARD: Madam Acting Speaker?

Mr P. PAPALIA: Madam Acting Speaker, I have a question on this. Unless the member for Alfred Cove wants to speak specifically on this subject, I want to continue the discussion.

I think the intent of the association—excuse me, Leader of the House; I am representing a stakeholder group that has written and made a submission!

Mr R.F. Johnson: I am asking the Clerk what clause we are on, my friend—that’s all.

Mr P. PAPALIA: I beg your pardon.

Mr R.F. Johnson: Thank you.

Mr P. PAPALIA: The intent of the West Australia Music Teachers’ Association, as I understand from its letter, is to lift standards and to try to eliminate people who may not be of standard. I understand what the minister said

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

about her grandson's violin teacher and my son's piano teacher. If considering school environments, the association's objective to get recognition of its process may have a role to play in improving and ensuring standards of music. I have seen a contribution from, I think, the review of the Western Australian College of Teaching—I am not sure about that—in which some principal made the observation that they thought they were getting a music teacher and instead got someone who filled out the application form saying they were a music teacher just so they could get a position in a certain school. I do not know that that will be resolved through this legislation, but was consultation conducted with that association in the course of developing this bill? Does the minister think it is worth conducting any subsequent consultation? Maybe the association will be looking for an amendment later on to encapsulate or to answer its concerns.

Dr E. CONSTABLE: I understand the concern of the West Australia Music Teachers' Association. I think we are now mainly talking about instrumental music teachers—the teachers we talked about who are not delivering the curriculum in a school; essentially, that means that they are outside of this legislation, because it affects people who deliver the curriculum. I wonder whether the association really wants registration, but that is perhaps another matter. It certainly wants recognition and it wants to ensure that the standards of people teaching instrumental music are high; I think that is the point. I am not sure what the association's process is, but it is up to the Teacher Registration Board to accredit, and it may well be that it is worthwhile that this association opens up a dialogue with the board at some point when it is in place.

Mr P. Papalia: I will notify the association of that; I think that is probably the best approach. I think the minister has addressed the association's concerns.

Dr J.M. WOOLLARD: My understanding of this definition of “teach” would not preclude other people on a school campus, perhaps the school health nurse, assisting in health education, which is part of the prescribed curriculum. They may be assisting by teaching about breast examinations or testicular examinations or the use of an EpiPen. They would be performing that as part of their role. Such people are often called in to assist with the health education part of the syllabus. Therefore, I believe they would still be able to assist in those areas under this legislation. I do not believe that this definition of “teach” would preclude them because they are called in as experts to assist teachers with that part of the curriculum.

Dr E. CONSTABLE: I thank the member for Alfred Cove for raising this matter. She is absolutely right; it does not preclude someone like a school health nurse assisting and delivering part of the curriculum or some particular aspect of it. The classroom teacher is the person who makes the assessment. Therefore, there would be no requirement for that assisting person to be registered, for instance, but they could of course continue to deliver and support the curriculum in the way they do so very well.

Mr A.J. WADDELL: I am concerned. The points that have been raised have been very valid, but I am concerned about tutors as well. I am well aware that many tutor organisations are tutoring children in the curriculum specifically to enable them to achieve results in National Assessment Program — Literacy and Numeracy tests and in year 11 and 12 tests. This very much falls within that definition of “designed to implement a prescribed curriculum”. I am also aware that many of these tutoring organisations also carry out assessment of the students to report and determine whether or not the students are performing adequately, what they need to work on and so forth. I am of the view that in that sense tutors would certainly fall within the definition of “teach” at paragraph (a), as they are dealing with a prescribed curriculum. I could even draw a long bow to say the definition of “prescribed curriculum” is not in the legislation. We simply have “*prescribed* means prescribed by regulation”. We have no definition of curriculum.

Going over to the music side, my daughter is currently being taught piano, and she is currently studying for her piano exams. Again, curriculum and assessment come within that definition of “teach”. The only thing that saves these people being caught up in this legislation is the fact that they will not necessarily be doing it at an educational venue. Is the intent of this legislation to ensure that any of that activity is not occurring whatsoever on a school premises? Are we seeing the end of tutoring at the end of the school day? Are we seeing the end of bringing in music teachers to assist children when they are in after-school care and those sorts of activities? If the minister could comment on that, that would be appreciated.

Dr E. CONSTABLE: The member for Forrestfield raises an important issue. Let us talk about tutors in particular, which the member raised initially. That is usually a private arrangement between the parent and that tutor. The tutor's activities will certainly be covered by child protection legislation. Tutors require a working with children card. Although they might be teaching part of the curriculum or helping the child with part of the curriculum, they are not teaching a prescribed curriculum, nor are they assessing that child and nor are they carrying that out in an educational venue. So they do not, in that case, fall under the definition. But it does not stop those private arrangements being carried out, as they are by many people.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Mr A.J. Waddell: Will there be prescribed regulations that define exactly which curricula are caught up in this act?

Dr E. CONSTABLE: Yes, I understand that there will be.

Mr A.J. Waddell: For any private organisation that has an arrangement with a school to carry out tutoring on school premises, though, how will they get around this particular legislation?

Dr E. CONSTABLE: I am not aware of that situation. Is the member referring to a school employing tutors?

Mr A.J. Waddell: Some schools have after-school programs. The children do not get picked up until five o'clock or six o'clock, and parents can arrange for a tutor to come onto the premises and tutor the child in that period after school has closed.

Dr E. CONSTABLE: Run by the school or run by somebody else?

Mr A.J. Waddell: The after-school program is run by the school on school premises. It is for children who simply do not have homes to go to until their parents return from work.

Dr E. CONSTABLE: Although something is being delivered, which may or may not be a prescribed curriculum, because I think it probably varies enormously, children would not be assessed on that. Therefore, again, it does not fit under the scope of this legislation.

Mr A.J. WADDELL: I have one final question that is separate from those matters we have just canvassed. Page 2, line 20 states —

CEO means the chief executive officer of the Department;

Page 3, line 7 states —

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

Why are we being so circumspect here? It is a logic puzzle to try to work out —

Dr E. Constable: Member, I understand it is standard drafting.

Mr A.J. WADDELL: Would it not be easier to simply say, “The CEO is the CEO of the education department,” so people know who we are talking about?

Dr E. CONSTABLE: I have to make it quite clear on the record that we are not talking about the Department of Education. We are talking about the Department of Education Services, which is a totally separate agency .

Mr A.J. WADDELL: We have just proven the point then. My confusion on this matter is clear, and I suspect many people who read those clauses will have that same confusion. Would it not be better to define it?

Dr E. Constable: Member, it might change its name at some point, and this covers that. It is standard drafting.

Clause put and passed.

Clauses 4 and 5 put and passed.

Clause 6: Requirement to be registered —

Mr P. PAPALIA: I am going to refer to the same thing we were discussing earlier on with regard to this clause, because this clause does not appear to have much latitude within it for capturing people who are not registered teachers. By the minister’s definition, somebody who goes into a school as an actor, writer, musician or sports coach, who is not a registered teacher but works in the school, will not be subject to the penalties associated with this particular clause. I would contend that they probably are people delivering curriculum and making assessments, but if the minister is claiming that they are not, that is interesting. Does the minister have an expansive list of those people?

Dr E. Constable: The best way for the member for Warnbro to look at this is to look at the definition of “teach” in the legislation. If they do not come under the definition, then they are able to participate in those activities in the school, such as instrumental music, footy coaching or tutoring that we have discussed before, without incurring such a penalty—for example, people such as the child health nurse that the member for Alfred Cove mentioned. They are people who support what happens in a school but do not fall under the definition of “teach” that we have been talking about and must be in an educational venue. That person must be registered. If they teach a prescribed curriculum, if they assess the performance of students on the curriculum, then they must be a registered teacher.

Mr P. PAPALIA: I am a little concerned, because I am not entirely convinced by the minister’s argument that no-one is out there—an artist, musician or an author—actually delivering the curriculum and making

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

assessments. I suspect that there are people conducting those two activities. I do not think we should stop them from conducting those activities. We should ensure that they are protected from any penalties under the act, intentional or unintentional. I think that was a reasonable question that was raised, firstly, by the English Teachers Association. They were the ones who have raised it, but they referred in their letter to visiting specialists, such as artists, authors or whoever that schools engage from time to time. Because the minister is assuring us that there is no-one like that out there delivering the curriculum and conducting assessment, all we can do is accept that the minister is recording in *Hansard* that those people are not intended to be the subject of this legislation and they should be protected from any penalties resulting from them being accused of teaching without being registered.

Dr E. CONSTABLE: The important part of this is that teachers have to be registered. The terms “teach” and “educational venue” are defined. People must be registered if they are working as a teacher, delivering the curriculum and assessing student performance. However, if someone who does not have the qualifications wants to be registered, they can apply, with the assistance of their principal, for limited registration. That is an avenue for those people who may not have qualifications but who are delivering the curriculum and assessing student performance on that curriculum. That will happen from time to time, but this is very clear: a person must not teach, as it is defined in this legislation, in an educational venue, as it is defined in this legislation, unless that person is a registered teacher. That is very straightforward. The people who the member is talking about and has quite properly raised in this place today and tonight—namely, the peripatetic music teacher, the writer who comes in and does a special course or something special with students, perhaps over a month, or the artist-in-residence—do not fall under this, generally speaking, because they are not doing those things defined in the legislation. For me, what is required of people in terms of registration is totally straightforward and very clear.

Dr A.D. BUTI: I really want to talk about clauses 6 and 7 together but, because of the way we operate, I have to talk about clause 6 now. The penalty for a first offence is \$5 000 and for a second or subsequent offence, \$10 000. The penalty under clause 7 has the same monetary value. It seems that there is a slight imbalance in that the teacher will receive the same monetary punishment as an institution. I would have thought that the institution should receive a greater monetary punitive sanction than an individual, because presumably the sanction is prescribed to be a deterrent. If it is supposed to be a deterrent, a \$5 000 or \$10 000 penalty for an individual would probably be a greater deterrent than a \$5 000 or \$10 000 penalty for an institution. Therefore, my argument is that we either reduce the monetary punitive sanction in clause 6 or increase the monetary punitive sanction in clause 7.

Dr E. CONSTABLE: First of all, I thank the member for drawing attention to this. However, I point out that these penalties are exactly the same as the penalties in the Western Australian College of Teaching Act. The penalties have not changed at all; they have been maintained at the same level. The member would know from his background that the penalties are the maximum penalties that can be imposed; therefore, that value will not necessarily be imposed. Given that they are the same as the WACOT legislation penalties—we have kept them at that level—and they were accepted before, I do not see the necessity to change them.

Dr J.M. WOOLLARD: A lot of confusion has come about because of the definition of “teach”. My understanding of “teach” is that it is “the delivery of an educational programme designed to implement a prescribed curriculum”. A lot of concerns raised in the chamber by members have been about extracurricular activities, such as musical activities. Clauses 6 and 7, again, go back to the definition of “teach” in terms of prescribed curriculum; therefore, people who assist with extracurricular activities at schools would not be subject to the offences in these clauses.

Dr E. CONSTABLE: All I can add to the comments of the member for Alfred Cove is that I agree with what she said.

Clause put and passed.

Clause 7: Requirement to employ etc. teachers who are registered —

Dr A.D. BUTI: The minister dealt with my issue about the punitive value, but my other issue is the measure of liability of the institution or the employer. Is it strict liability or absolute liability? In other words, if an institution employs a teacher who is not registered, will it be liable to the sanction only if it knew that the teacher was not registered? Is it an absolute liability if the school employs a teacher who is not registered? Namely, is it subject to the sanction, or is it subject to the sanction only if it knew that the teacher was not registered and it had not taken the necessary due diligence?

Dr E. CONSTABLE: Member for Armadale, I understand it is not strict liability, but employers should access the register to get the information that they require.

Dr A.D. Buti: The due diligence.

Speaker; Mr Paul Papalia; Mr Andrew Waddell; Mr John Hyde; Mr Tony Simpson; Dr Elizabeth Constable; Mr Tom Stephens; Mr Roger Cook; Dr Janet Woollard; Dr Tony Buti; Acting Speaker

Dr E. CONSTABLE: Yes.

Clause put and passed.

Clauses 8 and 9 put and passed.

Clause 10: Application for registration —

Mr P. PAPALIA: I am not sure, minister, whether this clause is the right place to raise this question. Looking at the registration of teachers, the detail required from applicants and the content of applications in clause 10(2)(a) to (e), which is subsequently repeated in other clauses, does this legislation define who will receive and analyse this information, and determine whether it meets the requirements; or is that just stated as “the board” for the purposes of the legislation? Is there any reference in the legislation to the secretariat or the administrative staff who will conduct the actual nuts and bolts of the task?

Dr E. CONSTABLE: I think it is obvious and implied that the board, operating through its staff, would receive and assess the information. Members of the board will not do that; they will have employees who do that. However, the board will have the overarching responsibility for that work.

Mr P. PAPALIA: It does not specify that within the legislation; that is just assumed throughout the legislation —

Dr E. Constable: That would be assumed; the board is the decision maker, and people are employed to do that work.

Mr P. PAPALIA: I will be interested to know the extent of the secretariat allocated to this task, particularly in light of the challenges and pitfalls that befell the Western Australian College of Teaching in its financial management and the difficulties it encountered with conducting its role in an effective and financially viable way. I will be interested —

The ACTING SPEAKER (Ms L.L. Baker): Members! Excuse me, members entering the house, we are debating a bill. Could you please keep it down? Thank you.

Mr P. PAPALIA: I will probably raise this issue in different clauses as we go through the legislation. I am very interested to learn from the minister the analysis or work done in determining exactly how many people will be required to conduct this task in an efficient manner, noting that WACOT was widely criticised for being inefficient and ineffective. How many people will there be and what sort of budgetary allocation has been made? What costs will be associated with conducting this administrative task in receiving all these applications and processing them in an appropriate fashion?

The ACTING SPEAKER: Members, please keep the noise down.

Dr E. CONSTABLE: This will come up as we go through the bill, but I flag that clause 92 indicates that the CEO of the Department of Education Services is required to provide the staff and the appropriate support so that the work of the board can be carried out; this will come up in later consideration.

Debate adjourned, pursuant to standing orders.