



# **Parliamentary Debates**

**(HANSARD)**

FORTY-FIRST PARLIAMENT  
FIRST SESSION  
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LEGISLATIVE COUNCIL

Wednesday, 10 November 2021

# Legislative Council

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

## **SUMMER JOBS CAMPAIGN — BUSSELTON–MARGARET RIVER**

*Statement by Minister for Regional Development*

**HON ALANNAH MacTIERNAN (South West — Minister for Regional Development)** [1.04 pm]: With the labour shortage continuing to pose issues across the state, our government is throwing everything at innovative approaches to support local businesses. Today, we have launched the “ctrl your summer job” campaign to help fill labour shortages in the south west ahead of the peak of the tourist season. The campaign has been developed by the state government in partnership with local governments, industry and schools to encourage teenagers aged between 14 and 17 to take up summer jobs in the Busselton–Margaret River region over the upcoming holidays. The South West Development Commission has worked creatively and diligently to make the idea of developing this labour pool a real possibility. Partnerships with local schools have been established as part of an innovative approach to creating a pipeline of workers needed to fill positions in cafes, restaurants and bakeries. The campaign has been launched to students and parents via a social media blitz on TikTok, Instagram and Facebook—I can see the members over there; perhaps some of their colleagues will have to start applying for some of these jobs!

Several members interjected.

**The PRESIDENT:** Order! Order from everyone in this chamber.

**Hon Tjorn Sibma** interjected.

**The PRESIDENT:** Order!

**Hon ALANNAH MacTIERNAN:** The campaign has been launched to students and parents via a social media blitz on TikTok, Instagram and Facebook that drives interested students to a campaign website that features easy to understand information and job opportunities. The campaign website makes it easy for junior jobseekers to register their interest in employment opportunities by eliminating the need for a traditional resume, incorporating an online form. The campaign is a win-win; local businesses will receive the extra sets of hands they need over the holiday season, while local young people will earn money and skills for life. We urge employers and jobseekers to sign up at [www.hospogigs.com.au](http://www.hospogigs.com.au).

## **PAPERS TABLED**

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

## **MEDICAL PRIVACY**

*Motion*

**HON SOPHIA MOERMOND (South West)** [1.08 pm]: I move —

That this house notes that all Western Australians have a right to medical privacy, and that the disclosure of private medical information is a personal choice and should not be mandated by the state. In so noting, the house supports all citizens’ constitutional right to freedom of choice as it relates to their own medical decisions.

I do not believe that medical privacy should be a controversial subject. Everyone has a right to medical privacy. I thought we had all agreed on this many years ago, but, thanks to COVID-19, we now seem to be living in two worlds. This is generally more obvious on the east coast and in other parts of the world than here. In one world, people who reveal their vaccination status can do whatever they want; in the other, those who do not face societal shunning and a wasteland of available services. I have discussed othering and dehumanisation before in a member’s statement. I do not believe this is what we are about. I have received a plethora of emails from citizens who have been questioning recent decisions around this issue and I think it behoves us as a Parliament—as the representative of the people of this state—to have a robust, civil and informed debate on matters relating to one’s medical privacy. Here are just a few examples of the emails that I have received. The first from a lovely gentleman, says —

I am emailing you to raise my concerns regarding WA’s recent decision to mandate vaccines across 75% of the working population.

Concerns:

1) Trust

First and foremost, mandating vaccinations is an unacceptable use of authority that is both unethical and a complete breach in the important principles of trust and relationship that characterises good leadership.

## 2) Non-scientific

I understand that we must balance the human rights of those vulnerable to COVID-19's more life-threatening consequences for some, against the human right of autonomy over one's own body for others. I therefore also understand that perhaps in some extreme situations the prioritisation of one of the other is necessary. However, the science behind the current vaccine's capacity to prevent spread is nowhere near strong enough to warrant mandatory vaccinations, in particular from the Delta strain.

Request:

## 1) Protein vaccinations

I, amongst many, feel much more confident in the emerging protein vaccines which have been developed and which are close to being available to the public.

Can you, or anyone, support those of us who wish to use a more conservative (from a safety perspective) vaccine. Can we develop a system whereby certain exemptions are made for the current deadline to be vaccinated until such a time that protein vaccinations are available?

Another email says —

I just want to thank you for standing up and fighting for the freedoms that most Australians want although they are too afraid to confront the current government (or dictatorship as it is turning out to be). I appreciate your stand to not reveal your medical status to anyone. This vaccine mandate is horrific and straight out of history from Hitler's government.

I just want you to know that we have a group of people that are trying the best we can to stand up against this too.

Another email says —

Hello Ms Moermond.

I am writing with a simple message.

I wholeheartedly disagree with the so-called requirement to produce proof of my vaccination status for me to return to my work as a teacher in 2022. The call to do so is a violation of my rights as an Australian citizen. It is a violation of law. I demand the removal of this illegal mandate. I demand the right to choose whether or not I allow what Pfizer itself says is a dangerous vaccination into my body.

The last email I have is quite long, so I will read just the beginning of it. It says —

I am writing due to my absolute distress due to the current state of Australian politics. The emergency use vaccine is a gene therapy and is subject to a medical trial and we have no informed consent of long term effects.

It appears my stance on mandated medical treatment and medical privacy has gained some attention. Initially, that surprised me. There are very good reasons why medical treatments are not allowed to be mandated by a government or an employer. Changing this means that the ethical boundaries we currently have in place will soon mean nothing. Every time the media whips us into a frenzy about something new, it will be a little bit easier to mandate a medical treatment. It is a Pandora's box. I cannot predict which medical mandate will be next, but all of them will be for the "greater good"—I am sure about that! And just like now, those who experience adverse events will callously be called collateral damage necessary to keep everyone safe, their lives and their suffering simply disregarded.

Already doctors are telling people who are hesitant, "If you have a stroke, it'll be worth it to keep people safe." This simple statement displays an incredible lack of humanity, which absolutely blew me away. It is that same lack of humanity we saw when a 70-year-old woman was pushed over by two police officers, followed by her lying on the ground with an officer pepper spraying her face. We have a 37-year-old woman who has had a major stroke. A stroke is not a mild illness, nor is it a short-term illness—it can create a lifelong dependency on care for people. There was the 70-year-old unarmed woman—just let that sink in for a moment. Where is the humanity?

It is also interesting to note—I am going to use some American terms here—that the left is all about consent and bodily autonomy when it comes to sex and abortions. The religious right is all about bodily autonomy and consent when it comes to vaccinations and, at times, blood transfusions. Bodily autonomy is apparently only allowed when it suits a particular narrative. The lack of logic here should be a concern for everyone. As I see it, we cannot have it both ways; either we have bodily autonomy under our laws, or we do not.

Premier McGowen recently stated that "Mandating COVID-19 vaccinations for more than half of WA's workforce sets out a safe and clear framework for industries and workers, based on our expert health advice,"

The phased approach to mandated vaccination is designed to prepare the state for expected community transmission as Australia opens up, and will cover the majority of occupations and workforces within Western Australia.

Perhaps the Premier should listen to trade union head Sally McManus, who has specifically come out and said that workers should not be forced into having vaccinations at all. Forcing people to give up their right to medical privacy is a major concern, another opening of Pandora's box. Once this is out, we cannot put it back. It is my view that the state should not be mandating the disclosure of any medical information of an individual or forcing medical treatment on them. But this is not about COVID-19. Today it is about the release of vaccination status—sure, but what is next? This is such a concern because medical technology is advancing rapidly. A simple swab test can identify all of our genetic weaknesses and predispositions. How might this work in favour of an employer or an insurer? But even more so, how might a government use this information—“High risk of diabetes; no cake for you. High risk of cancer; no wine, no cigarettes and possibly no spliffs for you either. High risk of depression; you must gobble down on antidepressants; trust us, it'll be good for you.” Thank you, Big Brother.

By allowing a mandated breach of medical privacy, the government is setting the stage for medical discrimination. This will become messy very quickly. I know I am not the smartest cookie out there, which is why I am amazed there are so few others voicing their concerns. Are their voices being silenced or are they scared to lose their job? In that regard, I fully acknowledge my privilege, as a member of Parliament, that I can be neither mandated to have a vaccination nor forced to breach my own medical privacy.

I cannot, and I will not in all honesty, stand by and be complicit in the watering down of our human rights. It goes against every grain in my body—a body that you do not get to know about unless I tell you so. No-one has the right to tell anyone else what to do with their own bodies. I stand for all those Western Australians who believe this to be a human right that they wish to protect.

I know that many members will not agree with me. I get that and I understand it, but surely they can hear the cries of those, like me, who have real concerns—those of us who are worried about where this may lead and those of us who value our privacy. Those people vote as well.

**HON DR BRIAN WALKER (East Metropolitan)** [1.19 pm]: I rise, of course, to support this motion, but in this case I am speaking not so much as a politician, but as a frontline doctor. I, like all members, have received many emails complaining about the current status, mandatory vaccinations and, indeed, the whole vaccine issue with the different vaccines. Let me first say that legally—and I have sought legal advice about this—a doctor–patient relationship does not stand the test of law in a court case. If I am called as a witness, I am obliged to reveal the whole consult. But there is a doctor–patient relationship for confidentiality, and if against a patient's permission I were to reveal anything of that medical consultation, I would be liable in front of the medical board to lose my licence, maybe for a few months, maybe forever, and certainly with a financial penalty. I was going to tease Hon Lorna Harper about what would happen if I were in the unfortunate position of revealing anything of her medical secrets, of which I know none, by the way. I am certain that a torrent of Furies from hell would descend upon my head, and rightly so. When a person has a consultation with a doctor, they are entitled to expect that every aspect of the consultation remains private between that person and the doctor. In fact, if a husband comes in asking what happened to his wife, I am legally, I think, but certainly medically by our ethical structure, forbidden from telling even the nearest and dearest anything about that consultation unless I have the express permission of that patient. The idea of confidentiality is very important.

I then compare that with the fact that when someone applies for work, say, at the mines, they have their whole medical history laid out before them and they are required to put down that they have diabetes or hypertension or have suffered anything like that. They have to say what their alcohol consumption has been like, so technically there are no secrets there either. Immigrants moving to Australia are required to document every single aspect of their health, and were they to deprive our government of some information and later to be found in hospital because of something they had failed to disclose, they could then lose their residency and be deported for having failed to disclose all of their medical history. The idea of being required to expose yourself to the government is enshrined in our current practice, and I must say I find it very troublesome that it is used so freely in this case. On the other hand, I also understand the public health needs. Quoting, I think, Spock, “The needs of the many outweigh the needs of the one.” Of course, later Captain Kirk rejected that and said the needs of the one outweigh the needs of the many. I hope there are some Trekkies here who share that point with me! There is a line that has been laid and that can be crossed and is quite vague at times, and I think this is one case in which people are justifiably concerned that the line has been crossed. I would very much like if people were permitted to maintain the privacy of their data. I think that is a fundamental right that we should expect to have, except in cases of severe need.

People might say then that COVID is a case in which need is quite severe. As a medical practitioner, I am not sure I could agree with that, because we have here a virus that is coming through and it is going to affect every single one of us. When the borders come down, we will be catching this virus. Those of us who are vaccinated are far more likely not to require intensive care or hospitalisation, and the risks of death are going to be much less, in fact 16 times less than for those who are unvaccinated. But that begs the question: If the vaccine works so well, why would one person out of 16 die of COVID? Why can we then catch this virus and spread it even if we are double vaccinated? I am not quite sure I have the details from those who have had their booster vaccine. This opens up the next question: do we have sufficient science? I happen to have conversations with patients in my clinic on a regular basis who throw at me all the things that members have been receiving in their emails. As a medical practitioner, I sit there and am

expected to be able to give an answer, such that they can inform themselves and then, hopefully, present for full vaccination. That is the aim. However, as much as I want to give the full facts, I have to admit that even as a health practitioner, I am not in full possession of the facts. There is so much misinformation and disinformation out there, a lot of it complete rubbish, but how am I able to answer these questions if I do not have the full facts in front of me? How can I assess what is true and what is not true? If I cannot do that, what about the ordinary person who has no medical training or who does the research sitting on the toilet scanning Facebook for the latest documentation? In that bubble of ideas that are filtered by Facebook, they come upon only those articles that highlight the dangers of COVID vaccination. Under those circumstances, how would the ordinary person expected to discern truth from fiction?

Before I go on to the next part of my speech, I must let members know that I lived in Hong Kong for many years, and I was a medical practitioner there during H5N1 and SARS. Fortunately, SARS did not become a pandemic, but it was not far short of getting to that place. It was a time when you could see what happens when a major infection comes through a community. At that time, we had about a 2.5 per cent fatality rate, which is not too bad as a number, until the bodies start piling up, as they did, and people had trouble getting their nearest and dearest taken to a crematorium or a cemetery because there were too many bodies waiting there. You can imagine what would happen if you found bodies piling up and the disease going rampant; you would be wondering what would happen next. The Americans in Hong Kong gave a very good answer: they fled; they left Hong Kong in panic. I could make comments about the Americans and how well they are able to face danger. I recall in my youth those survivors of the Second World War in the armed forces who, when faced with being shot up by communist guerrillas in Malaysia, showed a middle finger to the terrorists and carried on despite the threat of imminent death, but let us not make that comparison. Let us make a comparison, rather, with those who are facing an unknown enemy—a virus, H5N1, SARS or, in this case, COVID-19. One of the first things we classically see people being victims of in this pandemic or epidemic is fear and panic. When that happens, the mind fails to work properly. Imagine an aeroplane crashing into the tarmac. Rather than running to the side, people run away from it, and of course are overtaken by the plane as it crashes into them. The mind sees the enemy coming and it runs directly away from it and does not avoid it in a better manner. This is the way we seem to function, and so it has happened with COVID-19—panic has supervened and commonsense has flown out the window. Combine that with a lack of readily available clear scientific information, and panic and disorder in the community results. That is going to make things far more difficult for us to manage as a government, as people supporting the government or as people working to enhance government functions, as we on the crossbench hopefully are doing. That is fear, uncertainty and doubt. This is coming from someone who should know about these things, because he has been trained in the science of epidemiology, virology and simple things like that. So here we are, stuck.

One of the things we should be looking at is how we are going to manage those who are in fear, uncertainty and doubt. Do we want to force them into a vaccine that, allegedly, is going to kill them or put them at risk? What is then going to happen to the mental health status of our society when people are forced into that? Are we going to be doing a good thing for our nation or not? I am pointing out that the strength of leadership that we need to guide our society is not as unified, compelling and science driven as one might hope. This is something we have to take responsibility for; we are the ones who need to be offering that leadership. I have recognised that I, myself, am unable to give the pure scientific facts to my patients and am unable to offer that leadership. Therefore, in the next few weeks—maybe in January—I am hoping to put together a group of doctors and scientists who are for and against vaccination to see whether I can get the answers that I need to give to my patients and, hopefully, at some stage, put that before members as well, if need be. I am very much hoping that this will find approval with the Premier, the Chief Health Officer and the Minister for Health. That is entirely something that I need to do for my benefit and that of my patients. I ask why this is not more readily available in society, which would allow people to more happily move forward with the ultimate aim of protecting our society with a 90 per cent vaccination rate, which I would heartily approve of, but I would like that to happen voluntarily. I do not want to see people frogmarched into vaccination clinics to receive, against their will, a vaccine that in their minds might cause them physical or mental damage. What we have seen so far has exposed people, as we saw in this very house not so long ago. Our colleagues have been vilified, if you like, in the open press. I find this unacceptable.

I ask that we look at this motion, not so much as an issue regarding the science, because the science is not yet as clear as I would like it to be, but more of how we manage the public perception in the absence of science that is solid enough for us to give a proper response. I would also ask that we bear in mind the many complaints that we have had about the Nuremberg laws that have been put out there to prevent people from being exposed to unnecessary or unwanted interventions. I think, for example, of a patient I had many years ago who suffered catastrophic blood loss during surgery and was revived but was hypotensive—that is low blood pressure—for some considerable time and suffered irreversible brain damage. He was put into intensive care, brain dead. Because of the laws regarding surgery and safety under the medical board, he was kept alive on a ventilator for another 10 days until they could definitely prove on two occasions that brain death had occurred. His family was there seeing a living cadaver being ventilated and at the post-mortem, when we looked at the brain, it was liquid. That was an abuse. That is quite an extreme form of abuse, but what about the elderly person who says, “I don’t wish to carry on. I have pneumonia. Don’t give me antibiotics. Let me take the natural way out”, and they are given medication against their will because we can and because grandma does not know what she is really saying, so we will treat her against her will? Yes,

we have voluntary assisted dying now, but that requires a number of hoops to go through and generally we find that people who no longer wish to be treated are being treated against their will. I find that totally unacceptable because we should be sovereign human beings and determine how we live our lives. No-one else can tell me what to do with my life. In fact, I have made this quip many times: if I decide that I no longer wish to have treatment but I am treated, I will get up from my bed and kill you and then I will die, because I do not want anyone exerting their control over my body against my will. This should be a fundamental right for us all—the autonomy of decisions. When we make the wrong decisions, we accept the consequences and move on, but we should not allow someone else who is supposedly caring for us to make so-called better decisions for us. I recommend this motion to the house and ask members to support it for a variety of reasons, not the least being human rights and human dignity.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health)** [1.33 pm]: I rise this afternoon to indicate that the government will not be supporting the motion before us. I want to take offence with one of the emails Hon Sophia Moermond read in her contribution this afternoon when it seemed that one of the writers compared this government to Hitler's regime. I find that deeply offensive and I hope the member does not believe what she read out today because if we compare a man who exterminated between 5.5 million and seven million people during the Holocaust and who got rid of human life with what we are doing in Western Australia by keeping humans alive, it is a deeply offensive comment the member made and a deeply offensive thing she said. I urge the member to consider that.

The motion before us talks about the right to privacy and the disclosure of medical information. In normal circumstances, talking about those things is okay, but we are not living in normal circumstances, and have not been for the best part of 18 to 20 months. This motion is not really about medical privacy at all. It is a thinly veiled attack on the state government's mandatory vaccination policy that was implemented to keep Western Australians alive. To support this motion is to undermine the COVID-19 vaccination rollout and it gives credibility to the arguments of the anti-vaxxers. Over the past year and a half, we have faced extraordinary circumstances in this state and around the world. We have had to make decisions to keep people alive. Some of those decisions taken by government and this Parliament have taken liberties and rights away from people, but those decisions were not made lightly. Those decisions were made, as I said, to keep people alive. One only has to look around the world at the moment to see that over the past year and a bit about five million people have died because of COVID-19. When we look around Australia, we see that about 1 190 people died in Victoria and about 600 in New South Wales. Compare that to the number of deaths in Western Australia—nine. That may be tragic—nine people having died—but it is not hundreds, thousands or millions. That is because we have made some difficult decisions in this state, and we will not resile from those decisions as a government. We have made them with the best of intentions, which is to keep people alive and in their livelihoods and to keep the economy going. We have made these decisions to keep Western Australians safe.

The danger from the Delta strain is very real. Unvaccinated workers in settings where exposure will likely cause tremendous harm are a risk to themselves, their colleagues and their community. The mandatory vaccination policy has been based on the latest health advice from the Chief Health Officer. We believe it is necessary to avoid catastrophic risk to the safety of our community. The importance of protecting personal information, including an individual's health information, is well understood and supported. The protection of this information is legislated in the Health Services Act 2016 and the Public Health Act 2016, which contains restrictions on the disclosure of that information. The directions that require certain workers to be vaccinated against COVID-19 in order to access certain premises have been issued by the Chief Health Officer. They include requesting personal or health information in circumstances in which it is necessary for emergency management purposes. The only personal information required to be produced pursuant to the directions is evidence of whether a person has been vaccinated against COVID-19 or whether they are an exempt person under the directions. There is no requirement to disclose private medical information beyond this. The directions ensure that information is protected by requiring that the information not be used or disclosed except as provided for in the directions. These directions also require that reasonable steps be taken to protect any records from misuse and loss and from unauthorised access, modification or disclosure. The protections contained in the directions recognise the importance of protecting personal information and ensuring that it is used appropriately and for only emergency management purposes. If a person chooses not to provide evidence of their vaccination status or chooses not to be vaccinated and does not have an exemption under the directions, they will not be permitted to enter the relevant premises. They will not be forced to provide the information or to be vaccinated if they do not wish to go do so. It will be up to individual employers to enforce this. A breach of the directions is an offence under the Public Health Act, with a fine of up to \$20 000 for individuals and \$100 000 for bodies corporate. I again want to stress that this is not a decision we took lightly; we believe it is critically important to keep our community safe from the threat of COVID-19.

We have seen that a majority of Western Australians understand this message. For example, Australia's three major supermarkets, Coles, Woolworths and Aldi, have announced vaccination mandates for their workers, but in any event, we have announced an overarching one for supermarket workforces. We have seen Wesfarmers back WA's vaccination mandate, and that includes businesses like Bunnings, whose workers will also need to be vaccinated by the end of January. Its managing director, Rob Scott, has indicated his support for this policy. We have also received support for the policy from the Tourism Council Western Australia, the Chamber of Minerals and Energy

and the Chamber of Commerce and Industry of Western Australia; they have all indicated their support. The Australian Hotels Association has recognised the benefits of the policy. In fact, Bradley Woods from that organisation has said in the media that he understands why mandatory vaccinations are critical to keeping that industry open. When it comes to the unions and the not-for-profit sector, the State School Teachers' Union of WA supports the policy, saying that it removes uncertainty for teachers and mitigates anxiety across the education workforce. I should point out that Hon Sophia Moermond mentioned Sally McManus, the leader of the trade union movement in Australia. Let us be clear: she, too, supports this policy, as do the leaders of unions across the country. The Western Australian Council of Social Service supports the policy because it supports the most vulnerable people in our community. As I indicated, the broader union movement has overwhelmingly indicated its support for what we are doing. I have been in this place for a few years and I know that in public life, it is very rare for leaders from industry, business, unions and the community sector to all be on the same page on the one issue, but this issue has achieved that outcome, which is terrific.

I am reminded of a debate we had in this place in 2019 when a similar issue was raised with the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019. That legislation sought to increase the childhood immunisation rate in Western Australia through strengthening the immunisation requirements for enrolment in early childhood education and care. It does this by providing that schools, community kindergartens or childcare services must not permit a child to enrol before the child's compulsory education period unless the child's immunisation certificate states that the child's immunisations are up-to-date. The second reading speech of that bill states —

The government has a responsibility to take measures beyond standard initiatives to protect individuals and the community from serious infectious disease.

The government introduced this bill because, despite all efforts to achieve and maintain childhood immunisation rates at 95 per cent and above, which is considered optimal to achieve herd immunity, immunisation coverage among Western Australian children remained lower than in other Australian jurisdictions. On a much smaller scale, it was essentially the same situation that we now find ourselves in.

**Hon Dr Steve Thomas:** Supported by us.

**Hon STEPHEN DAWSON:** It was supported by the opposition. I think Hon Dr Steve Thomas made some great comments on that piece of legislation, as did Hon Tjorn Sibma. In Hon Tjorn Sibma's contribution, he commended the government for —

... bringing this matter to some public attention with this legislation and reinforcing the need to remain eternally vigilant of preventable health crises, which will emerge with great rapidity and without mercy should we drop the ball.

Perhaps he is a soothsayer; he might have known something that the rest of us did not know at that time! He went on to say —

We are facing a number of threats to sensible medical practice in this and other jurisdictions, and they seem to be combined. The first is complacency. We are probably only three generations removed from one of the world's most devastating global pandemics, the Spanish influenza crisis that immediately followed the First World War ...

Of course, what he did not know was that we were very close to the next global pandemic. Hon Tjorn Sibma also said —

With each generation that passes, the social memory fades. We are not used to members of our families and communities being struck down by random, merciless and fatal maladies that are preventable.

Honourable member, that was a great contribution then, and it is just as pertinent a contribution now. We have been through a humongous, sensational, extraordinary 18 months—something that we hope, and I certainly hope, never to see again in our lifetime. As I said, we have made decisions, and we have not taken them lightly. We have done it to keep Western Australians alive. I am reminded, as many of us would be, of our family members who live on the east coast of Australia or around the world who have been tragically affected by COVID-19, whether by death or serious disease. They are long-term impacts. The decisions we have made up to now have been about ensuring that as few Western Australians as possible pass away from this deadly disease. Again, there have been five million deaths around the world. Over 1 100 people have died in Victoria and 600 people have tragically died in New South Wales, yet we have had only a handful of deaths in this state. That is to the state's credit, because people in this state have done the right thing up to now. We have socially distanced and stuck to the rules. What we are asking people to do now, so that we can get life back to normal, is to get vaccinated. Vaccinate, vaccinate, vaccinate, because I do not think any of us can go on like this forever. The way to get back to normal is to get people vaccinated.

Mandating COVID-19 vaccinations for more than half Western Australia's workforce sets out a safe and clear framework for industries and workers based on our expert health advice. The phased approach is safe and proportionate to the very real risk of COVID-19 in our community. The Premier has announced a road map. We need to be prepared for community transmission both now and when Western Australia opens up. By mandating our essential and critical workforces, we will be able to maintain services and businesses will be able to continue to operate safely in the

long term. As I said at the beginning of my comments, we have been living in extraordinary times. We have had to take measures to keep Western Australians alive. The danger from Delta is very real. The mandatory vaccination policy that we have announced is safe and proportionate, is based upon health advice—expert health advice—and is a clear framework for industries and workers across this state. We want to be as safe as possible for as long as we can before any introduction of COVID into Western Australia, and the way to do that, as I said, is to get as many people vaccinated as quickly as possible. We especially do not want to see people die from COVID-19 in this state, as we saw happen elsewhere. I think motions like this undermine the health and safety of Western Australians, and so as I indicated at the start, the government will not be supporting it.

**HON WILSON TUCKER (Mining and Pastoral)** [1.47 pm]: I rise to speak on this very topical motion raised by Hon Sophia Moermond. I want to say from the outset that although I support the motion on principle and under normal circumstances I would agree with all the clauses, I cannot support the motion due to the current circumstances we all face and the practical implication of needing to manage this pandemic. I believe this is probably one of the first motions to split the crossbench, just as this issue is splitting members of the Western Australian community.

Taking a step back, I will talk about my own experience during this pandemic. I have been vaccinated and I have also caught COVID. I can confirm that this virus is not a joke. I was very sick for about seven days with flu-like symptoms, including a very heavy chest. At times, it was difficult to breathe. I can only imagine what it would be like for elderly people and people in those vulnerable categories, and I think we all know the outcomes for those people. Given the experience I had of living for 16 months under restrictions and lockdowns in the United States, I support vaccinations and I also support disclosing one's vaccination status as an incentive to encourage other members of the community to get vaccinated.

Taking a 10 000-foot view of the situation being faced in WA today, which is certainly boiling over out the front of this building—I think all members have had experience with the current protests that are going on—we have the anti-vaccination cohort and also the anti-mandatory vaccination cohort. Both have been tarred with the same brush. They are on one side and on the other side is the government, which is trying to get the community vaccinated, prevent deaths and ultimately open the borders to the rest of the country and the world. Although I do not agree with the anti-vaccination movement, and I support the disclosure of medical information in the form of vaccination status in these special circumstances we all live in today, I believe there is more the government can do to ease some of the anger that people are expressing and to give people more of an incentive to get vaccinated. In my opinion, the mandatory vaccination policy feels very heavy-handed and the government is taking a stick approach to these community members, which is forcing more people from the no mandatory vaccination cohort into the anti-vax cohort.

According to the Melbourne Institute, currently Western Australia has about a 13 per cent hesitancy rate and also a slowing rate of single vaccination uptake. Given these factors, I think it is unlikely we will hit the 90 per cent double vaccination rate by January or February. In the meantime, we do not have a date set for the borders to open. In my humble opinion, I believe we should be doing more to offer incentives and to encourage the community to get vaccinated rather than the heavy-handed approach that we see from the government.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [1.51 pm]: On behalf of the opposition, I inform the house that the opposition is unable to support the motion before the house today on medical privacy. We have some sympathy for some of the intent of the member who moved the motion, but I will go through the motion before the house. Hon Sophia Moermond has moved —

(1) That this house notes —

(a) that all Western Australians have a right to medical privacy ...

We agree with that at a qualified level. Obviously people's medical records should be private as much as is feasible. It is not currently the case that people's medical records are always private in all circumstances, as Hon Dr Brian Walker mentioned at the beginning of his contribution. If the motion before the house read, for example, that we believed that medical privacy was a paramount priority unless otherwise required, the opposition might find itself in a position to support the intent. However, it is not the case that we always have a right to medical privacy and there will be circumstances in which that is very difficult. Part (1)(b) of the motion, which states that the disclosure of private medical information is a personal choice, could receive qualified support in that it should be a personal choice unless the circumstances mean that it cannot be. Again, that currently exists. It is not the case that our medical records will always be secret unless we choose to release them, because circumstances currently exist in which those are waived in the interests of the community. If that part of the motion were phrased slightly differently, there might be an opportunity to support that. Unfortunately, part 1(b) suggests that the disclosure of medical information should not be mandated. Part (2) calls on the house to support —

... all citizens' constitutional right to freedom of choice as it relates to their own medical decisions.

I do not think that can be supported, for the primary reason that it is not actually correct as we speak. Unless I have misread the Constitution, I am not aware of a part that states that people have that constitutional right of freedom of choice. I might be wrong and the minister might correct me on that, but I do not think the Australian Constitution gives that power. That makes it a very difficult motion to support.



Having said that, I am interested to debate some of the things that have been raised so far in this debate. Hon Dr Brian Walker raised the issue of vaccinated people being able to be infected and spread the disease, and that is absolutely the case. Indeed, people who have COVID-19 once are capable of catching it again and spreading the disease. That makes obvious sense when we think about the structure of the immune system and precisely how it operates. This is not about developing a level of antibody reaction to a foreign body. With a significant enough challenging dose a second and third time, almost any vaccination can be overwhelmed. The potential always exists to overwhelm and reinfect and respread. That is not new, even with stronger and longer held vaccines against the clostridials, for example, because we are dealing with respiratory viruses such as influenza and coronavirus. With coronavirus, the immune response tends to be much more short-lived. With the clostridials, the immune response is probably at least 10 years, in whatever species we are dealing with, including humans. We do not tend to overwhelm previous infections for clostridials because we do not usually survive them. However, we can absolutely overwhelm infection. That is not new, and that needs to be explained to everybody in the community. That does not make vaccination less valuable. It does not reduce the impact of vaccination as a method to prevent the spread and protect the vulnerable parts of the community. It is a simple biological reality. Therefore, it will not be the case that everybody who is vaccinated with two vaccines, and even has a top-up dose, which we will probably all get next year, I suspect—I fully expect to get one next year—will be provided 100 per cent protection against COVID-19, or any other disease for that matter, because 100 per cent protection does not occur. Any infection can be overwhelmed. That means that we need to treat this as an epidemiological question. That is, this is about controlling the spread, so getting the maximum amount of available immunity into the most number of people.

There are only two ways to do that. I know we debated this when COVID first came along last year. I make the same comment now as I made then: there are only two ways to offer protection; one is infection and the other is vaccination. There are no other ways. Through all the discussions we have had about alternative supportive therapies—some of them do make a difference—people can boost their immune system to try to minimise the impact if they catch any disease; however, it is not protection. The level of protection in a boosted immune system is minute. There are only two efficient ways to offer protection—vaccinate or allow infection. As we debated a couple of years ago, the question, therefore, is: if we choose to allow infection, how many people are considered an acceptable loss? The number of people who die and have long-term impacts from COVID-19 are significant. There is obviously also an impact in vaccination. I do not know the exact number—I have not looked it up recently—but at one point there had been eight Australian deaths from the COVID-19 vaccine out of something like 35 million vaccinations, so the risk is present, but very, very slight. It does not compare at all to the reaction rate and death rate from catching the disease.

We need to have a sensible conversation about what the vaccination is and is not. I think the message comes back partly to personal interest: if you are vaccinated, you are unlikely to get the severe form of the disease. Members should bear in mind that a huge number of people who catch COVID-19 are probably unaware that they have caught it because for a robust proportion of the population, the symptoms are very mild. If someone is vaccinated, the chance of them getting the severe form of the disease is much reduced. Israel is the place where everybody says that the vaccine did not work and it is all nonsense. We must get past all the social media rhetoric to get to the reality of what happened in Israel. Israel determined that protection with the vaccine declines more rapidly than originally thought, particularly the mRNA vaccines, but that the booster shot gives long-term immunity. That is exactly what Israel found. That makes sense when we consider what vaccinations generally do. I refer not to just COVID-19. Hon Dr Brian Walker would know that when young people are vaccinated more than once, and sometimes more than twice, for lots of early childhood diseases, they are immunised once and they get an antibody reaction as the body recognises a foreign body, and it declines very rapidly.

The booster shot is given six to eight weeks later, ideally. I know we are talking about four weeks for COVID, but six to eight weeks is probably ideal. That gives people a much higher and more sustained antibody level, which can be measured going up. A booster shot is given for most of those early childhood diseases 12 months later, which raises the antibody levels to a significantly higher level and the decline is then remarkably slower. Again, the levels will still decline and, even at the peak, resistance can still be overwhelmed by a massive infection. As the levels decline, a disease can still be caught and spread but a person is much more protected than an unvaccinated person. Why do we vaccinate? In the first instance, we vaccinate to protect ourselves but, probably more critically, and I think this is where the government's policy is focused, we vaccinate to protect everybody else. That was put forward in the contribution made by Hon Tjorn Sibma, who is obviously a fine speaker in the house. He talked about protecting everybody else, particularly vulnerable members of the community. That is a part of the advertising campaign.

I am pleased that the Minister for Mental Health raised the issue of vaccinations for children and the no jab, no play stuff because I will repeat what I said then. We do this because it is in the best interests of the community that we protect the greatest part of the community. As wise and sensible members of the community, we accept that there is a very small risk of adverse reaction in any vaccine, but we accept that risk because it is for the benefit of the greater community that we protect people who cannot be vaccinated. There is a group that cannot be vaccinated and they should not be forced to be vaccinated. They can get medical exemptions. We take that risk for them. We take that risk for all the other people who might be infected and have that infection overwhelm whatever protection they have. We accept that because it is the thing to do to protect the community. We cannot suggest there should be another outcome.

When we talked about constitutional rights, there were some particularly interesting comments around what people will be forced and not forced to do. It is not the case, for the most part, that people will be “frogmarched into vaccination clinics”—I wrote down the exact words. That is not what is being proposed. That is not to say that, under certain circumstances, some people are not forcibly medically treated. That happens now. Members of the community can be sectioned and have medication, including vaccination, forced upon them in certain circumstances. It is a very limited set of circumstances and that is a debate for a whole other day, but it exists now and it can be done. What is being proposed with mandatory vaccination is not frogmarching people into vaccination clinics to be vaccinated; it is people risking their employment if they do not make that choice themselves. People are not being forced into vaccinations. They make a choice whether their intent to not be vaccinated is more important than their intent to hold the job that they currently have or want. That is the decision that we face. My personal opinion is I do not believe you have the right to the job that you want to the exclusion of every other influence that might impact upon you, including whether you are vaccinated. If a person takes a job in a workforce or a business, particularly when other people are present, my personal view is they do not have the right to put anybody else at risk. A person makes a decision, and it should be their decision. They can make a personal choice not to be vaccinated and that personal choice should impact only them, in my view. Some parents make that choice and I am not convinced that there might not be some eventual responsibility for that, but the issue is that if a person refuses vaccination, which I absolutely believe should be their right, they should not have the ability to impact anybody else in the community. They should not be a risk to their family, co-workers, aged parents or aged grandparents and the vulnerable members of the community. If a person takes that risk, that is fine, but they take that risk for themselves; they do not get to take that risk for everybody else in the community. That is the issue we have to debate.

This debate becomes very much about whether a person can hold employment in certain industries rather than whether they are going to be vaccinated. If that was the focus of the debate, I think it would be really interesting. I think the government is somewhat unprepared for what the mandated vaccination program in industry and business is likely to do. I asked a series of questions yesterday on how prepared we are for what is going to happen. For those people who choose not to be vaccinated, what is the risk to business and their employers right now? What will the risk be on 1 December when a number of people who choose not to be vaccinated, I presume, will be sacked? What will be the income of that—sorry, the outcome? The income will be zero! What will be the outcome of that? How will the government manage that? How will businesses who suddenly lose a crucial employee in an era in which people cannot find employment manage? How do we manage that process? These are interesting questions that the government appears to have no answers for at the moment. The response yesterday was, “We are negotiating with industry.” But there are industries that are requiring their employees to have their first vaccination by 30 November so they get their second vaccination by 31 December. The opposition is not opposing this position, but how is that going to be managed? How is it going to work? Will inspectors go and check out workplaces? In an ideal world, someone’s medical history and vaccination position should not be a public document and it should not be discussed but, under this legislation, a person will have to allow their employer to know. I do not know whether that will require a form of evidence, like a vaccine passport of some sort, or simply the employer asking, “Are you vaccinated?” and them replying, “Yes, I am.” Will that be sufficient? These are the regulations that have not been written yet, so I do not know any of these things, but an employee will have to inform somebody. In an ideal world, that would not happen; people would have complete privacy, but that happens now.

As the minister said, a couple of years ago, we debated the requirement for vaccination for day care with the no jab, no play provision, so obviously the transfer of information has to occur, and it has to occur now. This is not new. We put aside our right to civil liberty for the benefit of the wider community. It is frustrating and I absolutely understand that. There are lots of things I could suggest that the government is doing wrong in its COVID response and its borders and all the rest, but let us distil the motion before us today down to a simple principle. It is not whether a person has the right to refuse a vaccine that is the critical part, because they have that right—unless, of course, they are potentially a prisoner or somewhere where someone has no choice but to take responsibility for them, and that is a debate for another day. A person has the right to refuse the vaccine. Under what is proposed by the government and what it is enacting, a person does not have the right to refuse the vaccine and work in the position that they want to work in if it is one of the industries that is on the list. That exists now. That is not new. This is not a new concept. It may not be a perfect concept and it may not be in agreement with the philosophy of absolute personal freedom, but it is what we do to protect the community. It is a decision that we make to put other people first. We do that accepting that there is a very small risk that this will come in with injurious harm to ourselves. That is called the greater good. I take on board what the minister said. Normally, the first reference to anything related to Hitler and the Nazis just ends the conversation. I think there was a very good *QI* program on which they asked the question: “What’s the one thing you can say to end any sensible discussion?” and that was the answer. It is absolutely the case. This point is raised a lot with me. I do not think our previous leaders, including all the veterans who fought in wars and all those things, would say that nobody has any right to require us to act for the greater good. I do not think that is the case. I have not met too many soldiers who say, “I went and fought so that nobody would be forced to be vaccinated.” I do not think that is the case but maybe they exist. Those soldiers were the prime example of self-sacrifice. They were prepared to take significant risks for the betterment of our society. That is what they did. I think it is a pretty comfortable concept that we, the community, take a much smaller risk, because

nobody is shooting at us, to protect our entire community as much as we possibly can. We can never protect everybody and things can get overwhelming, but we can take a very small risk to protect the vulnerable, the immunosuppressed, the elderly and the entire community—our grandparents, our parents and our children. I cannot support a motion that will undermine the position that that is a reasonable risk and sacrifice to make. Therefore, the opposition will not support the motion today.

**HON DR BRAD PETTITT (South Metropolitan)** [2.10 pm]: I start by saying that I have enjoyed listening to the contributions to the motion today. I came to this debate with a position, but the contributions of members today have certainly helped me refine that. I find myself in a similar position to my crossbench colleagues, but I think that this is the first time I will not be voting in a similar way. A bit like Hon Dr Steve Thomas, I very strongly support parts of this motion. I think that the key principles of having the right to medical privacy and personal choice in disclosing that is really important in the majority of cases. I suspect all of us across the chamber support that, but we find ourselves in very interesting circumstances in this case. Hon Dr Steve Thomas made the point extremely well: no-one is being forced to get vaccinated and no-one is actually being forced to disclose their medical privacy or the like; there will just be consequences if people do not. In many ways, the first parts of the motion hold up, but in these circumstances I do not think that we can expect them to be consequence-free—and they should not be consequence-free. A person can choose not to get vaccinated and not to disclose their medical privacy, but, of course, there will be consequences in terms of where a person will be able to work, and so there should be.

I feel as though the debate has pretty well been covered. When I walked into Parliament House today, like many members, I was heckled—“heckled” is probably too strong a word, but I had words thrown at me such as “people’s body and their choice”. It made me think of something a family who has an extremely vulnerable newborn child in hospital wrote, and it is worth reading part of what it says —

“My body, my choice!”

Except...

It’s not just YOUR body that is impacted by your decision to avoid vaccination. Unless you promise to never leave your home, you are going out and about in society, rubbing shoulders (and germs!) with people who have newborns, kids with cancer, pregnant women, people with cystic fibrosis, frail elderly people etc.

“My body, my choice” is a great mantra when it comes to personal health decisions that don’t impact other people. But when it comes to infectious diseases? It’s a really bizarre concept. Because it is NOT just YOUR body at risk—you are risking the spread of disease to many, many others!

There are many people who are far more vulnerable. That is what is at the heart of this for me. I absolutely support, like everyone in this room, the key principle of people having choice. But we also have a collective responsibility to make sure that people who are far more vulnerable than we are will be looked after and kept safe.

On that basis, I find myself unable to support the motion, although I acknowledge that we would broadly support key parts of it in different circumstances, and with a bit more nuance. But, given where we are right now in terms of the COVID-19 pandemic and some of the key discussions, if I were to support this motion, I would be sending the wrong message from this chamber.

**HON SOPHIA MOERMOND (South West)** [2.14 pm] — in reply: I want to address one particular comment made by Hon Stephen Dawson. Although I agree that the comparison with Hitler is offensive, it has come up a lot in emails that I have received. People are feeling coerced. They are feeling threatened. They are feeling that their body autonomy and choice in regard to medical treatment is being violated. They also do not feel at all heard currently by Parliament. That is one reason I am speaking up because I feel that these people deserve to be heard.

**Hon Stephen Dawson:** Honourable member, you are very welcome to speak out, but it is unforgivable for you to suggest that this compares to the extermination, the gassing, of millions of people.

**Hon SOPHIA MOERMOND:** That is fair enough. I am just reflecting on the emails that have been sent to me, and there have been numerous emails, which is unfortunate.

A lot of people are also concerned about having an adverse reaction to the vaccination and it worries me that there has been no effort to set up a diagnostic strategy to see who may experience an adverse event and who will not. The callousness with which these concerns are dismissed, I think, is unfair. I certainly believe that vaccine hesitancy would be much reduced if people were guaranteed that they would not experience a stroke or that they would not end up with a pericarditis, myocarditis or some other cardiovascular incident.

**Hon Kyle McGinn:** That’s not guaranteed with any vaccination.

**Hon SOPHIA MOERMOND:** I am aware that that is not guaranteed with any vaccination. But when I speak to people, quite a few of them in the south west, they say that if they knew they would be safe, they would be less hesitant in having their children vaccinated.

**Hon Kyle McGinn:** But that is not a standard for any vaccination.

**Hon SOPHIA MOERMOND:** No; but I think it should be. If we could have that tested and we could guarantee that those people who are concerned will not have an adverse event and that it is safe for them to have the vaccine, that would reduce vaccine hesitancy.

The anti-vax movement has been around for quite a while and one of the big things that people are concerned about is adverse events from vaccines. Hon Wilson Tucker said that currently there are two distinct factions: the anti-vaxxers, and people concerned about the erosion of their human rights and vaccine side-effects. Some scientific papers on social media refer to people definitely suffering side-effects, and I feel that that needs to be addressed. If we could guarantee that people would not have an adverse event, it would reduce vaccine hesitancy and improve vaccine uptake.

**Hon Alannah MacTiernan:** Member, I acknowledge what you are saying, but do you also think that these people use a lot of misinformation, like the information that there are all of these people who have died from the COVID vaccine and that they are figures that aren't substantiated at all? Do you challenge that when they put that to you?

**Hon SOPHIA MOERMOND:** Yes, I have, and I have received an incredible amount of information. Most of it was not verifiable; I acknowledge that. One interesting paper that I came across recently was on conspiracy theories, and I thought that was fascinating, because conspiracy theorists are often dismissed as being not particularly bright. One thing that is happening is that people are becoming more educated, and when they see a particular paper or a scientific article and there is data missing from that article, they are curious about how a conclusion can be reached without having that sort of data.

#### *Division*

Question put and a division taken, the Acting President (Hon Dr Sally Talbot) casting her vote with the noes, with the following result —

Ayes (2)

Hon Sophia Moermond

Hon Dr Brian Walker (*Teller*)

Noes (27)

Hon Martin Aldridge  
Hon Klara Andric  
Hon Dan Caddy  
Hon Sandra Carr  
Hon Peter Collier  
Hon Stephen Dawson  
Hon Kate Doust

Hon Donna Faragher  
Hon Peter Foster  
Hon James Hayward  
Hon Jackie Jarvis  
Hon Alannah MacTiernan  
Hon Steve Martin  
Hon Kyle McGinn

Hon Dr Brad Pettitt  
Hon Stephen Pratt  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Tjorn Sibma  
Hon Matthew Swinbourn

Hon Dr Sally Talbot  
Hon Dr Steve Thomas  
Hon Neil Thomson  
Hon Wilson Tucker  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Question thus negated.

### COMMITTEE REPORTS — CONSIDERATION

#### *Committee*

The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair.

**The DEPUTY CHAIR:** The Deputy President has just reminded me to draw members' attention to the fact that our new advice about timing is now appearing on the *Daily Notice Paper*. I hope that the times that apply to the various items listed under "Consideration of Committee Reports" are all now crystal clear for everybody.

#### *Joint Standing Committee on the Commissioner for Children and Young People — First Report — Annual report 2020–2021*

Resumed from 16 September.

#### *Motion*

**Hon KYLE MCGINN:** I move —

That the report be noted.

**Hon NEIL THOMSON:** I will just make a very brief comment. As members will be aware, this report goes beyond the forty-first Parliament; it goes back to the fortieth Parliament. It was quite a brief report in terms of its content. I made a small statement on the report at its tabling. However, I want to reiterate the important work of the committee in the early stages of this Parliament, and also re-endorse and restate my thanks to the Commissioner for Children and Young People, Mr Colin Pettit, who is finishing up in two weeks' time. I believe that a new commissioner will be appointed shortly. The important work of that committee continues.

As people will know and note, a number of issues must continue to be forensically assessed, and the fact that we have a Joint Standing Committee on the Commissioner for Children and Young People speaks of the importance of its role in providing bipartisan input into what is integral to our community and, in particular, its future. As

people will see from the commission's annual report and website, these important matters include child poverty in Western Australia and the work that has been done in engaging with young people. That massive piece of work was commissioned in 2018, I believe, with the "Speaking Out Survey", whereby almost 4 000 young people were surveyed on a whole range of topics to get an understanding of our children's wellbeing. I urge members to read about and consider some of the challenges facing our young girls in terms of their mental wellbeing and sense of wellbeing. I know that there is a sense of bipartisanship in the work of the agencies and, in this case, the Joint Standing Committee on the Commissioner for Children and Young People, in driving better outcomes for young people. Of course, there is the issue of Aboriginal children, which is ongoing and further discussion will no doubt occur, as will further announcements and investigation into how they will be better catered for as the committee does its work with the new commissioner.

I believe it was important to say something about this because that work will continue with the chair, Hon Robyn Clarke, and me as deputy chair. I get a great sense of satisfaction from being involved in the committee. I know from my own position as a member for the Mining and Pastoral Region how important the committee is for our young people, particularly those in some of the remotest parts of our state.

I want to finalise my comments by reiterating—I believe I speak for the whole committee—my thanks to the members who were members of the Joint Standing Committee on the Commissioner for Children and Young People in the fortieth Parliament during the life of this report, which has been tabled. I want to thank Mr Colin Pettit for his outstanding work, supported by both sides of this house. I wish him all the very best as he goes forward to whatever endeavour he chooses. I trust and I hope that he will continue to have involvement in his area of expertise and skill in whatever capacity he chooses and whatever capacity he can find to exercise his outstanding skills and knowledge in the area of young people. On that, I thank the house for the time and note the report.

**Hon DONNA FARAGHER:** I rise to also note the report. I want to recognise first that I am obviously no longer a member of the Joint Standing Committee on the Commissioner for Children and Young People, but I was in the previous Parliament, and the three reports this annual report refers to were tabled under the previous committee. I want to reflect on a couple of them and make some concluding remarks about the commissioner.

This *Annual report 2020–2021* reflects that the previous committee undertook some significant inquiries. The main inquiry resulted in the culmination of a quite significant report titled *From words to action: Fulfilling the obligation to be child safe*. I have had the opportunity to speak to this report in this house on a few occasions in a couple of different contexts, in consideration of committee reports as we are doing today, and regarding legislation that has recently passed in this house relating to community services reform. This report made a series of quite significant recommendations centred around improving child safety. I will say that the government has responded to the recommendations. I indicate, however, that I have some concerns that there is a lack of detail on progress of matters surrounding, particularly, the establishment of an integrated oversight system. I accept and acknowledge that the government has stated that it is committed to developing such a system here in this state in recognition of the outcomes of the Royal Commission into Institutional Responses to Child Sexual Abuse. However, it is easy for matters as important as this to get bogged down in departmental committees, working groups and meetings. I will say that, certainly on this matter and in public hearings the committee held in the previous Parliament, there are a lot of committees and a lot of meetings. I remain concerned that outcomes from those various forums were not seeing any significant movement. Obviously, when such a system is established, it needs to be done properly and correctly, because at the end of the day we are seeking to achieve, most importantly, that children will be safe from harm, but we need to act on it, and that is the title of this very report. I want to, I suppose, reflect to the government that I am watching very closely regarding the establishment of this system. I want to see some tangible actions with respect to this matter.

The report also reflected on a number of other matters, including the advocate for children in care. A specific recommendation was made about providing some urgent funding to increase capacity for that position until a long-term solution is found. I have asked some questions in this house about this matter and I will say that I am disappointed that despite the government's perspective on the importance of the advocate, the funding for the advocate continues to decrease and has done so since 2018 when it was \$171 000; now, in the 2020–21 budget it is down to \$140 000. This is an important role, and I appreciate that there are views and perspectives on whether the advocate should be within the Department of Communities or separate. However, while it is within the department, it is important that some additional funds are provided for that very important position.

Equally, the annual report also reflects that the committee tabled a discussion paper towards the end of the last parliamentary term titled, *"In their own voice: The participation of children and young people in parliamentary proceedings"*. I will say that if members have not had an opportunity to read this report, I encourage them to do so. It resulted from a series of discussions the committee had as part of our investigations regarding the previous report I have just mentioned. We found that, certainly overseas—the UK Parliament is an example—there were quite clear protocols for the participation of children, whether that be in parliamentary committees or the like. I think that is something we as a Parliament need to give consideration to and if it is to be done, how it can be done appropriately. I think we need to recognise very strongly that we make decisions in this place every day about children and young people and that they have views and perspectives on a wide variety of issues. Yes, we consult and engage but

I think many would like the opportunity to even make a submission to a parliamentary committee. That is not readily available to them right now, so I encourage members who have not done so to have a look at that. I will be keen to know whether the current committee intends to look at that further.

Finally, I note that the report reflected on the fact that the current commissioner will be retiring in November, which is this month, so I presume we will hear from the government in due course about the appointment of a new commissioner. I want to pay my thanks to the current commissioner. I think he has done an exceptional job; he has delivered a number of significant reports on what is impacting children and young people. He certainly has a way of engaging children and young people in all that he does. I saw that both when we were out and about and when he made himself readily available to the previous committee in hearings both public and private. His commitment to children and young people in this state and beyond is undisputed. I think I would certainly be speaking on behalf of the previous committee, and Hon Neil Thomson has referred to the current committee. We all join in wishing him well in his future endeavours, whatever they may be. He can stand with great pride in knowing he has been an exceptional Commissioner for Children and Young People in this state.

**Hon DAN CADDY:** I seek to continue the comments I barely started last sitting week, noting that the previous time I rose I sought the call and talked to the wrong report, which, as time has gone on, has now become the correct report! It is the report at the top of the list for consideration today. In acknowledging this, I would also like to recognise the way the deputy chair dealt with my premature enthusiasm on that day, which avoided a certain level of embarrassment for me!

I briefly want to comment on the annual report and one of the reports referred to within it. For the benefit of the house and *Hansard* this is *Annual report 2020–2021*, being the first report of the Joint Standing Committee on the Commissioner for Children and Young People, as presented by Hon Neil Thomson. I thank and acknowledge the past membership of the committee, and the current membership who are Robyn Clarke, the member for Murray–Wellington; Hon Neil Thomson; the outstanding new member for Albany, Rebecca Stephens, MLA; and Hon Klara Andric, who sits in this chamber with us. I also acknowledge the committee staff, Dr Palmer, Ms Roberts and Ms Parsons. Before I start, I echo the sentiments and comments made by Hon Donna Faragher and others and thank the Commissioner Pettit whose tenure ends this month, I believe. I take this opportunity to thank him for his service and for furthering the interests of children and young people in this state.

A government member: Is he related to Brad?

**Hon DAN CADDY:** I am unsure, member!

I will repeat a little bit of what Hon Donna Faragher said. It was a hardworking committee, with three reports tabled during the reporting period, which was the six months leading up to December last year. I note reading the annual report that of the reports tabled, the one I would like to spend some time speaking to is the report *From words to action: Fulfilling the obligation to be child safe*, which was tabled on 13 August 2020. The two other reports were the annual report from last year and *In their own voice: The participation of children and young people in parliamentary proceedings*, which was tabled in November 2020. The first report I mentioned is nearly 200 pages long and looks closely at child safety standards in Western Australia. I chose to speak to this a couple of weeks ago, because the day I stood up two weeks ago was the day that the federal government finally landed on a national strategy, four years after Prime Minister Julia Gillard established a royal commission. I will briefly go to the terms of reference. I will not read them all out, but they included —

- The recommendations made by the Commissioner for Children and Young People in the report *Oversight of services for children and young people in Western Australia*;
- The recommendations from the *Royal Commission into institutional responses to child sexual abuse* relating to an independent oversight body responsible for monitoring and enforcing child safe standards; and
- The response from the State Government of Western Australia to the above recommendations.

We should never underestimate the importance and critical nature of the role of the Commissioner for Children and Young People. We should also recognise the importance of continuing to deal with issues, as we are, of child sexual abuse. I note the report is prefaced with a quote from the sixth volume of the Royal Commission into Institutional Responses to Child Sexual Abuse, *Final report: Making institutions child safe*, which appeared on page 42 of that report. I quote —

What if we changed the way we think about child sexual abuse, from inevitable to preventable? ... We need to recognise that, like every form of violence, child sexual abuse is an avoidable tragedy.

Those words from four years ago, I think, when that was first published are still chilling to me. No crimes at all against young people should be considered inevitable. The crimes that fall into the category of child sexual abuse should never, ever have been seen thus. This report specifically looked in the challenge faced by this state government in implementing the 310 recommendations from the royal commission that were directly applicable in full to the Western Australia government. It is a process that is still ongoing. I commend the diligence of the committee. It

went to great lengths to assess how governments assess such institutions. Reading from the report, the committee embarked on a series of hearings not just in Western Australia, but interstate and overseas jurisdictions to see how governments and organisations other than ours have responded to the growing demand across the world for these failures to be rectified. One really critical thing to me is the importance of transparency in all of this. I am drawn to a quote from Ms Sarah Blakemore, who is, or was, the CEO of Keeping Children Safe, which is a United Kingdom-based not-for-profit organisation. Her quote is 27 lines. I will read her whole quote. It is centred on transparency. The quote is —

The more transparent we can be the more we can learn from our mistakes. We all know stories of people who turned away when they shouldn't. There are stories of people who have actively covered abuse up, but there are millions of stories of people who have not looked too hard. If we are not clear about what is expected of us as individuals, and we do not support that process in a transparent way, we will continue to have child abuse because the perpetrators look just like the other people who are not trying to stop the situation. If we can be really clear and empower people and make them not be frightened, then they will do the right thing. Otherwise...many people will think—"I'll just stay in my lane."

The key line for me in that lengthy quote is "there are millions of stories of people who have not looked too hard." That, to me, whichever institution may have been covering up child sexual abuse, goes to the core of the matter because the abusers are one thing, but the people around them who could have helped vulnerable young people but did not is quite another. This is the ultimate example to me of the saying that we often hear used in many circumstances, which is that the standard you walk past is the standard you accept. Those particular words of Ms Sarah Blakemore that there are millions of stories of people who have not looked too hard are chilling.

**Hon NICK GOIRAN:** The matter before us is the first report of the Joint Standing Committee on the Commissioner for Children and Young People. The committee has tabled its annual report in the customary way. Members will be aware that this committee operates under the auspices of the other place, which requires that these annual reports be tabled. I want to draw to members' attention page 2 of this report under the heading "Briefings", which states —

The Committee invited the Commissioner for Children and Young People, Colin Pettit, to a briefing to meet the new members and outline his recent and ongoing work.

No mention was made at that time of the work that was being undertaken by the Commissioner for Children and Young People on the independent review that he was asked to undertake at the direction of the Minister for Child Protection during the reporting period. In fairness to the new committee, the committee also says on that same page —

One of the Committee's functions is to consult regularly with the Commissioner and review the exercise of the Commissioner's functions. To this end, in the next months the Committee will review and report on the Commissioner's annual report and other key recent reports published by his office.

One of those reports that the committee is referring to is a report titled *Independent review into the Department of Communities' policies and practices in the placement of children with harmful sexual behaviours in residential care settings*. I want to read from page 11 of that report under the heading "Purpose of the Review" in which the following comments are made by the Commissioner for Children and Young People. He says —

In October 2020, a young person in the care of the CEO of the Department of Communities ... in Western Australia spoke out in the media about her experience of being in residential care and specifically of being placed in the same group home as an older young person who she understood had engaged in acts of harmful sexual behaviour.

On 30 October 2020, the Minister for Child Protection, Hon. Simone McGurk MLA requested the Commissioner for Children and Young People ... conduct an Independent Review ... of the Department's policies, practices and services regarding children with harmful sexual behaviours ... in residential care.

The Commissioner agreed to undertake the Review, and the following Terms of Reference were established and accepted by the Minister and the Department:

1. Identify systemic issues arising from the experience of Macie that affect the wellbeing of children and young people in residential care more broadly, including:
  - a. The extent to which the Department's own policy and practice settings regarding HSB and the safety of children and young people in residential care were met in the case of Macie.
  - b. The extent to which any systemic issues, including Departmental policies, practices and services regarding HSB of children and young people in residential care, are consistent with recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse ...
2. Identify short, medium and long-term changes that may be required based on the findings of the Review.

During the reporting period, this work that the committee refers to as the ongoing work of the Commissioner for Children and Young People included this particular inquiry that he was required to undertake at the direction of the Minister for Child Protection. There is reference here to a person by the name of Macie. Macie is not this individual's real name; she has been de-identified. It is important that members contemplate exactly the circumstances in which Macie found herself and bravely blew the whistle on that which caused the Minister for Child Protection to direct the Commissioner for Children and Young People to undertake this particular report. Members need look no further than page 13 of that report in which there is a short summary by the Commissioner for Children and Young People about Macie's experience. A quote by Macie says —

*"I know from my experience, no one believed me, like DCP didn't really believe me when what happened to me at 12."*

The Commissioner for Children and Young People then summarised some of the information contained in the case records. He says that those case records indicated the following —

- Macie was taken into the care of the Department of Communities at a very young age.
- She lived in a foster care placement for nine years before being placed in a Department of Communities' residential care home early in her teenage years, living in three different residential care placements over a five-month period.
- The Department was aware Macie had been exposed to inappropriate sexual behaviours and HSB both before and while in the Department's care.
- The Department placed Macie in a residential care home with Lee, —

I hasten to add that Lee is also not that individual's real name. The case records go on to indicate the following —  
a male young person who was known to have previously engaged in HSB towards other children and young people.

- Macie spoke up on a number of occasions about HSB and sexual assaults she had experienced.
- Macie repeatedly raised concerns about her safety when around Lee.
- The Department was aware of multiple incidents of inappropriate sexual behaviour or HSB involving Lee and Macie over the period they resided together, including 20 reports from Macie of alleged HSB perpetrated by Lee.

The case file then includes this quote from Macie —

*"I don't know why they would put me in a house with [him] when they know that I have been sexually assaulted before."*

A further quote is —

*"I don't feel safe there. I don't understand why they keep making me go back there."*

I have limited time this afternoon to make a few points about this matter. Thank goodness we have a Commissioner for Children and Young People who was able to inquire into this matter and shine a light on this despicable episode. I still to this day do not understand why it has taken the McGowan Labor government this long to change its policy settings for children in residential care. Why does it require a report from the Commissioner for Children and Young People to come to the conclusion that we should not be placing these people in the same residential setting? What disturbs me even more is that during the budget estimates recently when I tried to interrogate this matter a little further, it was not apparent that the department has decided to cease and desist when it comes to harmful sexual behaviours. A number of words were used in response by the witnesses during the budget estimates hearing that seem to suggest it is only a particular category of person who is now no longer being placed in residential care settings, but when the minister, the government and the department were asked whether they are still housing victims and perpetrators of harmful sexual behaviours together in residential care settings, we did not get a straight answer. It should not be that difficult, because we know that the government is quite capable of providing a clear and categorical yes or no when it wants to. This should be an example of when that occurs. It disturbs me enormously that this is still going on. It has not been clarified by the Minister for Child Protection. Worse still, we have a situation in Western Australia in which the Department of Education continues this same practice of allowing attackers and perpetrators to be at the same school. When I have asked the Minister for Education and Training, the Leader of the House, about this, the response simply comes back that the minister is satisfied with the policy settings. The McGowan Labor government should not be satisfied with any policy settings that allow attackers and perpetrators to be in the same setting. It is incredibly re-traumatising for the victims. It is no wonder that we have pleas from the likes of Macie, who is reported to have said, quite understandably —

*"I don't know why they would put me in a house with [him] when they know that I have been sexually assaulted before."*

It is quite understandable that this young teenage person, who has been brought into the care of the state, would express this exasperation. It is the same type of exasperation that has been expressed by victims in educational settings.



**Hon KLARA ANDRIC:** I rise to make a brief contribution today as a former, albeit very short-lived, member of the Joint Standing Committee on the Commissioner for Children and Young People on the committee's first report for the forty-first Parliament, *Annual report 2020–2021*. I had the privilege of being a member of this committee earlier in the year. However, I would like to take this opportunity to congratulate my parliamentary colleague Hon Ayor Makur Chuot on her recent appointment to the committee. I am sure Ayor will make an outstanding contribution.

The Joint Standing Committee on the Commissioner for Children and Young People of the forty-first Parliament met for the first time on 2 June. The reporting period for this first report covers the first three meetings of the current committee and the activities of the previous committee between July and December 2020. With just one month of operation before the end of the financial year, there were limited activities on which to report. However, an important first activity of the new committee, and one that I was a part of at the time, was to meet with the Commissioner for Children and Young People, Mr Colin Pettit, and Mrs Natalie Hall, director of policy, monitoring and research. The commissioner provided an overview of key projects that he and his dedicated staff have been working on, and this provided us with an appreciation of the important role they have in listening to the concerns of children and young people in this state and ensuring that we are acting on their needs. The commissioner's overview has in fact given hope and direction to the committee's future work. I also wish to note that Mr Pettit's tenure as commissioner will end this month, and I take the opportunity to thank him for his six years of supporting children and young people and working to make the world a safer place for them. We will follow with interest the outcomes, in addition to progress, of projects and initiatives that he has established during his time as commissioner.

As mentioned earlier today, the previous committee of the fortieth Parliament tabled three reports within the reporting period, between 1 July and 7 December. The reports were *From words to action: Fulfilling the obligation to be child safe*, which was tabled on 13 August 2020; *Annual report 2019–2020*, tabled on 15 October 2020; and *In their own voice: The participation of children and young people in parliamentary proceedings*, tabled on 26 November 2020. The fifth report of the previous committee, titled *From words to action: Fulfilling the obligation to be child safe*, was laid on the table of the Legislative Assembly and the Legislative Council on 13 August 2020. This report examined the scope and direction of the work being undertaken by government agencies, regulatory bodies and non-government organisations to improve the monitoring of child safe standards and the role of the Commissioner for Children and Young People in ensuring that Western Australia's independent oversight mechanisms operate in a way that makes the interests of children and young people the paramount consideration. In the chair's foreword to this report, I noted the comments, which were also raised by Hon Dan Caddy, of Sarah Blakemore, whom I can confirm, according to her LinkedIn account, is still the CEO of Keeping Children Safe Global, and president and CEO of Keeping Children Safe USA. To quote the chair's foreword —

... Ms Blakemore observed that while we all know what bad looks like, we are less clear about what good looks like and how we might make real and lasting improvements to our system.

It is worth noting the quote of Ms Blakemore in the chair's foreword, which Hon Dan Caddy also read out. Although it is of some length, it resonates in terms of how transparent we are. It states —

The more transparent we can be the more we can learn from our mistakes.

She went on to talk about how we all know stories of people who turned a blind eye and turned away when they should not have done so, and stories of people who unfortunately actively covered up abuse. But as Sarah mentioned —

... there are millions of stories of people who have not looked too hard. If we are not clear about what is expected of us as individuals, and we do not support that process in a transparent way, we will continue to have child abuse because the perpetrators look just like the other people who are not trying to stop the situation.

What that actually means resonates quite a lot. She went on to say —

If we can be really clear and empower people and make them not be frightened, then they will do the right thing. Otherwise...many people will think—"I'll just stay in my lane."

We all know that it is the responsibility of our entire community to do what it can to protect our children. In closing—I apologise, chair, if I digress from the actual report—there is a quote by Mandela himself that I think resonates in terms of this committee and the work that it does. He said —

There can be no keener revelation of a society's soul than the way in which it treats its children.

He also said —

Our children are the rock on which our future will be built, our greatest asset as a nation. They will be the leaders of our country, the creators of our national wealth, those who care for and protect our people.

In closing, I wish to express my thanks to the previous committee for its hard work and also to the current committee members: Chair Robyn Clarke, MLA, member for Murray–Wellington; Deputy Chair Hon Neil Thomson, member for Mining and Pastoral Region; Rebecca Stephens, member for Albany; and, as I mentioned earlier, Hon Ayor Makur Chuot, who recently took on this role as the newest member of this committee. Members of this house certainly know that none of the work of these committees, including the Joint Standing Committee on the Commissioner for Children and Young People, would be possible if not for the hard work of the incredible committee staff with whom

we work, so I would like to take this opportunity to thank the committee's staff: Dr Sarah Palmer, who is the principal research officer, and the other two research officers on this committee, Miss Lucy Roberts and Mrs Catie Parsons. They do some incredible work to assist us and I congratulate them. In closing, I wish the commissioner all the best in his future endeavours and thank him for the great contribution he has made to this committee over the past three Parliaments.

**Hon KYLE McGINN:** It is a pleasure to talk to the first report of the Joint Standing Committee on the Commissioner for Children and Young People, titled *Annual report 2020–2021*. It was a pretty wild and very busy period in the last term of Parliament I was in, from 2017 to 2021. We had to throw ourselves into many issues. I discovered on page 2 of this report the reports the committee accomplished in the previous term. One of the reports I was interested in was *In their own voice: The participation of children and young people in parliamentary proceedings*, which was tabled on 26 November 2020. As members will discover, November and December are crazy months, particularly near the end of a term, and a lot of reports tend to come up. Unfortunately, I missed the opportunity to talk to that report, so I will take time now to go through some of the parts that I think are interesting.

As I see it, the overall goal is to try to create a better process to allow participation from children and young people in parliamentary proceedings. The report seems to be directed towards engagement within parliamentary committees. I had involvement with a young person in a committee hearing when I was on the Standing Committee on Public Administration in the last term. The committee was conducting a significant inquiry into the operations of WorkSafe and heard about fatalities that had occurred at workplaces over many years. We heard evidence in public hearings from family members of workers whose lives were lost on the job. In those inquiries we heard from a strong and committed young person—I will not name them—who came to a public hearing with one of their parents and put on the record their feelings about the situation, and they handled it very well. They made their points commendably and relayed their memories of when it happened and what took place, which was a significant contribution to the content of that report. It is a very good report; it is big and it took three years. It looked into some of the issues that occurred in WorkSafe prior to 2017.

The report made me think about how we engage with our community, not just within the committee process, which this report highlights, but as political leaders to ensure that children and young people are engaged in our process and that Parliament is not perceived as a taboo, scary place on the hill and that when they get here, if it is to attend a committee inquiry, it is not daunting and it does not create as much anxiety as I am sure it does. I am not saying that the building is scary, but it can be once one gets inside.

I recently had an experience at an Ability WA event. A young man who has autism, David Atkins, said to me that he knew that people with disabilities could not get into Parliament, but he hoped to have a look one day. It really shook me because I said straightaway that clearly he did not follow the Greens, because they have someone with a disability in the federal Parliament. It was interesting to see how he reacted when I brought him to Parliament for the tour and for lunch, and we talked through the engagements of Parliament. He is now writing a few special projects for me around how children with autism are treated in the schooling system and also in employment.

I turn to the report of the Joint Standing Committee on the Commissioner for Children and Young People in the fortieth Parliament. There was an intriguing look into the House of Commons and the way it tried to adapt to bring children and young people into the committee process. It chose to strip it back to being open and informative prior to someone getting to the committee situation, which is important to ensure that that child or young person is comfortable. That seems to be one of the key principles in the attachments to the report—the information that goes out to a child or young person appearing before the committee. I note that it was a different committee from the one we have today. I will give an acknowledgement to the chair, Hon Dr Sally Talbot, who sits next to me and looks after me and makes sure I do not get into too much trouble.

**Hon Dr Sally Talbot:** Unsuccessfully!

**Hon KYLE McGINN:** Unsuccessfully! I acknowledge also the deputy chair and former member for Kalgoorlie, Kyran O'Donnell; Hon Donna Faragher, who spoke earlier; and Jessica Stojkovski, MLA, member for Kingsley. At the back of the report is a colourful, engaging picture with large words. It breaks down very well where people need to go and why they are here. It delves into what are the expectations of being at Parliament. It refers also to speaking to MPs and how that goes; whether they need to bring anything with them, such as pen or paper; arriving at Parliament; where the main entrance is and where they need to walk in; parking that is available; and wheelchair access. All these things break down the barriers. When I was on my last committee, the Public Accounts Committee, I was not aware of anything like this being sent out to someone who was going to be sitting in front of our hearing. This goes a long way to ensuring that they are prepared; that they do not park at the wrong entrance or go to the wrong building. It is a little embarrassing to say that when I first went to a committee meeting in 2017, I went to the other place's committee building trying to find my committee. It was the wrong building altogether.

**Hon Jackie Jarvis** interjected.

**Hon KYLE McGINN:** Security did not kick me out.

**Hon Jackie Jarvis:** You had a better haircut then.

**Hon KYLE McGINN:** I did not have this haircut back then. It would have been a little more intimidating, I am sure!

It is good to note that in the House of Commons committees, MPs sit around a table with witnesses. It breaks down the scenario that people are about to be faced with, so that it is not daunting. The report contains a picture that identifies the room that may be used and identifies that six to eight people will be in front of them. It indicates that “live on air” will light up in red and that those are the sorts of things people will confront.

Again, remember it might not be something that they intended to do, but I think it is important to ensure that children and young people have the courage to engage in the political process. It is important for the committees and this house to ensure that people of all ages have the ability to engage with our committee process. As I touched on earlier, I think this report that was tabled late last year goes a good way to describing a potential way forward for us to engage children and young people in the process.

I want to thank the committee from the last Parliament, particularly the chair, Hon Dr Sally Talbot, for putting together a discussion paper such as this that allows us to look into the future on how we, as a Parliament, may engage with children and young people in our inquiries and hearings that we are charged to hold under the standing orders of this house. Thank you, chair, for the giving me ability to talk today. I will leave my comments at that.

**Hon MARTIN PRITCHARD:** At the beginning of the consideration of committee reports, I thought there might have been a will within the chamber to note this report and move on to the next report. I thought that would have been quite interesting because the subject matter, at the present time, would have been quite a lively debate. However, there seems to be a will, particularly from the opposition, for government backbenchers to make comment on every report that comes before the house, so I will accede to that and make my comments on this report, the Joint Standing Committee on the Commissioner for Children and Young People’s *Annual report 2020–21*. In looking at this report, although I have not met the gentleman, I want to make special mention of the commissioner, Mr Pettit. From all I have heard, he has achieved much during his time as commissioner and will be greatly missed. I wanted to pass on my thoughts in that direction.

Looking at the report, it is fairly short, as most annual reports are. The only thing of particular interest is that it goes across two Parliaments, so the make-up of the committee changed because of the election earlier this year. I do not think there is a lot in the actual report that needs to be dwelt upon in any great detail, but during the last Parliament, the committee tabled a number of reports. I want to turn my mind to one of the discussion papers that was tabled, *In their own voice: The participation of children and young people in parliamentary proceedings*. I think it is quite important. Often, adults adhere to the view that children should be seen and not heard. I think that old-time thinking has led to a dismissal of the views of children and young adults—future leaders—whose views have been discounted. I think that is a pity.

The committee members when that report was tabled were Hon Dr Sally Talbot, member for South West Region; Kyran O’Donnell, MLA, member for Kalgoorlie; Hon Donna Faragher, member for East Metropolitan Region; and Jessica Stojkovski, MLA, member for Kingsley. I want to commend them for what I thought was a particularly good discussion paper. I will quote a couple of pieces from the discussion paper that really caught my eye. I will not take a long time—I do not think I will take up all my time, but I want to reflect on this discussion paper. The executive summary reads —

This discussion paper arises from the proposition that hearing the voice of children and taking into account their views on matters that affect them is important and worthwhile.

The parliamentary system is one that strives to reflect the voices, interests and concerns of the entire population. This includes children.

The definition of a child is someone under 18 years old in this discussion paper. It continues —

Given a quarter of the Western Australian population is under 18 years, incorporating their views on matters that affect them will make the Parliament more representative and inclusive. Further, children’s participation within the parliamentary process is consistent with Article 12 of the United Nation Convention on the Rights of the Child as ratified by Australia.

I was quite surprised, when reading this report, because many nations have signed the Convention on the Rights of the Child, to note that the United States had not. I thought it was quite alarming, to be perfectly honest, for a modern society not to sign up to this convention. I will not cast any aspersions on the reasons for that. I hope it is not the old thinking that children should be seen and not heard. As I said, children make up a large part of the population and they need to be given a voice as they grow into adulthood. It should not be a matter of reaching an age and then their view counts. They have a growing awareness of their rights and responsibilities and it is not an awareness that is not present at 17 and so many months, but all of a sudden at age 18, they are given the right to vote and do many things. It is important to gradually introduce children to those rights and responsibilities. The executive summary continues —

The Committee’s view is that the development of detailed guidance will assist future Parliaments and committees by guiding their consideration about how and when to engage with children and young people safely and appropriately.

I think that is a key part; it needs to be done in a safe manner and appropriately to the child's age.

Any process considered should include information about how to treat unsolicited evidence —

**Consideration of report adjourned, pursuant to standing orders.**

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

## CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT (ELECTORAL EQUALITY) BILL 2021

### *Committee*

Resumed from 9 November. The Deputy Chair of Committees (Hon Steve Martin) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

#### **Clause 1: Short title —**

Progress was reported after the clause had been partly considered.

**Hon MATTHEW SWINBOURN:** Out of the Committee of the Whole House yesterday a number of matters were raised that I indicated I would take under consideration. I hope to go through them and to address them at the outset.

During the early part of the day, Hon Nick Goiran made a number of points about what costs had been incurred; I think Hon Martin Aldridge might also have raised that. I can provide the following in response to that. I am instructed by the Department of the Premier and Cabinet that members were remunerated in accordance with the letter of appointment from the Attorney General; Minister for Electoral Affairs for the period between 28 April to 28 June 2021. DPC has advised that Mr McCusker declined to accept remuneration for his work as committee chair. The University of Western Australia, Curtin University and Notre Dame University invoiced for the services of Professors Murray and Phillimore and Associate Professor Drum as follows: Professor John Phillimore, \$14 117.40, inclusive of GST; Professor Sarah Murray, \$14 117.40, inclusive of GST; and Associate Professor Martin Drum, \$13 996.46 inclusive of GST. Additional costs were incurred for advertising. The cost of advertising that occurred in *The West Australian* on 1, 28 and 29 May 2021 was \$8 452.72. Printing costs were incurred for the printing of the report, which totalled \$1 245.20—that is, for the period 27 July to 20 September 2021. I am not able to provide members with the invoices. Of course, they have other means by which they can seek access to them if they wish.

On a point raised by Hon Nick Goiran about what recommendations the Electoral Commissioner made to the government regarding the bill, the Electoral Commissioner was consulted in relation to technical operational requirements under the bill. He provided advice to the Ministerial Expert Committee on Electoral Reform in drafting the report and to the government in drafting the bill in relation to many of the clauses in the bill, but particularly—if members want to get their pens ready—on clauses 12, 24, 28, 35, 37 —

**Hon Nick Goiran:** It feels like lotto.

**Hon MATTHEW SWINBOURN:** I do not think that there is a jackpot at the end of this, unfortunately—38, 39, 42, 45, 46, 47, 48, 49, 52, 54, 57, 62, 63, 64, 68, 84, 89 and 92.

Hon Martin Aldridge also raised an issue about the occasions on which the committee formally met and asked whether I could provide the dates, duration and who attended those meetings. I need to make a correction, which is not my correction to make but is in relation to a question the member asked leading into the estimates committee. It indicated that there were five in-person meetings. There were actually six in-person meetings and a further two meetings were partly in-person and partly by Zoom. Meetings took place on 5 May for 2.5 hours with all committee members; on 26 May, there was a meeting for 1.5 hours of all committee members—in fact, all committee members attended all meetings so I will not keep qualifying that. There were meetings on 4 June, for 1.5 hours; 17 June, for two hours; 18 June, for 4.5 hours; and 23 June, for 2.5 hours. The two additional meetings by Zoom were held on 12 May, for two hours; and on 10 June, for three hours, which was partly by Zoom and partly in person. Again, all members attended those meetings. Committee members also met without secretariat support on other occasions for the purpose of drafting the discussion paper and final report. Unfortunately, we do not have access to their personal records to be able to tell the member when they had those engagements.

Hon Martin Aldridge also referred to tabled paper 188 and whether I needed to correct the record. I have conferred with the clerks who indicated that no further action needs to be taken on my part because the clarification has already been made in the chamber.

Last night, Hon Nick Goiran stated a number of times that the final report of the Ministerial Expert Committee on Electoral Reform was unlawful and that the bill is based on an unlawful report. He continued to state that it was issued without power and went so far as to claim that it had been unlawfully tabled and was a nullity. He appears to base this somewhat obscure and hyperbolic argument on the reference in the chair's covering letter to the committee's appointment on 28 April and the eight-week appointment outlined in the terms of reference. The Minister for Electoral Affairs' letters of appointment, which have been tabled in this chamber, state that the MEC's term of appointment expired on 28 June. As I indicated in the chamber last night, the committee did in fact hold its last meeting on 23 June

and the report was formatted and printed before being transmitted to the minister by Mr McCusker on 28 June. Cabinet subsequently considered and endorsed the report and provided drafting instructions that were informed by the recommendations of the report.

The honourable member also attempted to impugn the committee in his statement by saying that the committee acted out of power. He said, according to the uncorrected *Hansard* —

... it had a lawful obligation to go back to its master —

That is, cabinet —

... to make sure that it had the power to do what it needed to do. It did not do that, so what we are now embarking on is an unlawful process.

Hon Nick Goiran invited the government to look into his claims. The government has conferred with the State Solicitor who has confirmed that there is certainly nothing unlawful about the report. The term “unlawful” clearly implies that a law has been contravened. The honourable member has not identified any relevant law that has been contravened because there is none.

The ministerial expert committee was convened by the government through the Minister for Electoral Affairs. The ministerial letter of appointment said that the appointment was to expire on 28 June. Even if one were to regard the term of appointment strictly as eight groups of seven days rather than two calendar months, it was a committee established via executive power, therefore, it is open to the executive to accept a report from the committee during or after the expiry of the terms of reference. The committee members have been subjected to repeated disparaging and pejorative comments regarding their professionalism and independence. The idea that Hon Malcolm McCusker, the former Governor of Western Australia, acted unlawfully by issuing this report is offensive and I invite Hon Nick Goiran to reflect on the imputations that can be drawn from his remark.

Finally, to refer, as the member did, to the report as having been unlawfully tabled is to question the absolute privilege of Parliament to receive any document by way of tabling and also imputes improper motives to the person who tabled the document, who was me. I invite the member to reflect on that as well.

**Hon NICK GOIRAN:** Parliamentary secretary, thank you for the update on the matters that were considered overnight. In particular, I thank you for drawing to our attention the number of clauses. Quite a few were subject to consultation by the Electoral Commissioner.

The parliamentary secretary will be pleased to know that for my part I have no further questions on clause 1 and, but for the remarks that he just made, no doubt on instruction from the Attorney General, I would not be making these remarks now. But he has invited me to reflect on the matters that he has drawn to our attention, so I will do so now.

I draw to the parliamentary secretary’s attention, and I particularly would like him to pass this on to the Attorney General, that on page 45 of the Ministerial Expert Committee on Electoral Reform report—the so-called final report which I still maintain was issued and provided at a time when the committee was *functus officio*, and I will elaborate on that in a moment—the parliamentary secretary said on the record yesterday, and it has never been corrected otherwise, that the terms of reference at annexure 1 were a faithful reproduction of the terms of reference. It says —

#### **TERM OF APPOINTMENT**

Eight weeks from the date of Cabinet Appointment

It is remarkable, if what is being told to the chamber now is true—that one of the senior legal advisers to government would say that eight weeks from the date of the appointment could somehow be interpreted as two calendar months. I would love to see in writing the advice provided by the senior legal official in government who says that it is appropriate on any level that we interpret eight weeks to be read as the same as two calendar months. It is inconceivable that any self-respecting legal practitioner in Western Australia on any level, whether they are of one year’s admission or multiple years’ admission, would say that we can interpret eight weeks as the same as two calendar months. It is inconceivable. If I am wrong about that and there is somebody senior in government who wants to put their name to it, I invite the Attorney General and the parliamentary secretary to table that document from that senior legal practitioner who is quite happy to author and sign a document that says that eight weeks is to be considered the same as two calendar months. It is absurd.

Yesterday, without prompting from me under questioning from my colleague, the parliamentary secretary indicated at one stage that the committee was *functus officio*. I did not introduce the concept into the debate. The parliamentary secretary should reflect on the *Hansard*. He introduced the concept into the debate and I said, at the time, that I agreed because we were talking about how after this report had been provided to government, we found out that some of the members of the former committee were consulted on drafts of this report. Hon Tjorn Sibma asked the parliamentary secretary about the time line and who had been consulted on the various iterations of the report. The parliamentary secretary indicated that during that time the basis upon which those people were being consulted was not because the committee was in fact in place, because the parliamentary secretary introduced the concept of it being *functus officio*, and he was right. The committee was *functus officio* at that time. Those people were being consulted in

a different individual capacity. I am not suggesting for a moment that there is anything improper about that. If it was *functus officio* then, it most certainly was on 28 June as well. Why? It is because the parliamentary secretary and his government tell us, the Legislative Council, that we are to believe that the terms of reference, annexure 1, are a faithful reproduction of the terms of reference.

Interestingly enough, because of some work I think undertaken by Hon Martin Aldridge, we found out that the letter of appointment that had been provided to these members has an annexure at the back that talks about seven weeks from cabinet appointment. When questioned about that, we were told, “Don’t worry about it; it’s a typographical error.” What does the cabinet minute say? What did members who are in the cabinet actually agree to on that day? Let me guess, the parliamentary secretary is not going to tell us because it is cabinet-in-confidence. He could not possibly tell us that. The government has been caught out; this is an unlawful report. There was no power for it to be issued. If the government wants to say, “No, it’s all fine because eight weeks is the same as two calendar months”, table the legal advice from the senior legal official who is happy to have their name next to that particular interpretation. Go for it. This is the same government that constantly tells us, “No, we can’t provide you with any legal advice, it’s subject to legal professional privilege.” Do it now. Put it beyond doubt. Let us confirm that there was power for this to be done. So far the explanation that has been provided is that a covering letter to these individuals from the Attorney General, in his capacity as Minister for Electoral Affairs, which refers to the date of 28 June, makes the appointment 28 June. With all due respect to those who are prosecuting that argument within government, that is not what cabinet agreed, if we are to believe what is being told to us, that the terms of reference set out in this document are a faithful reproduction. The only way we will ever get to the bottom of this is if somebody within government gets approval by cabinet to release that minute.

There is not some kind of great big conspiracy or great secrecy here—a great revelation out of cabinet. All we are asking them to confirm is that on that day when cabinet said “We’d like to appoint these particular individuals to the ministerial expert committee”, the Minister for Electoral Affairs, John Quigley was telling the members of cabinet, despite the fact that Mark McGowan prior to the election said this was not on the agenda, that this is a very important thing for us to undertake and we need to have Mr McCusker and his three friends undertaking this particular task. What was the date that that occurred? What did they agree to? What would possibly be the harm to government and any concept of cabinet confidentiality to tell us that? I bet we will never know. Until such time as somebody in government wants to release that information, I will continue to expose the fact that this committee was *functus officio* on 23 June. If it is inconvenient and uncomfortable for government because of the plethora of so-called typographical errors—whether they are in an appendix to a document or in a covering letter—the sheer incompetence of those who drafted those documents is what has caused this problem. No-one was paying attention. Once again, as I have said repeatedly, people need to spend the time to read. That means members of Parliament and members within the executive. Certainly, do not trawl out this kind of excuse now that that somehow becomes my problem, when there has been gross incompetence within government.

I finish on this point. The member has asked me to reflect on the so-called aspersions or reflections that I made with regard to the individuals. Again, read *Hansard* from last night. I repeatedly said that I was not calling into question the professionalism of the individuals.

**Hon Matthew Swinbourn:** You just did that then, member. You just called them incompetent. You did it then!

**Hon NICK GOIRAN:** That is absolutely right. Unless the parliamentary secretary is telling me now that any of those four individuals were the authors of the —

**Hon Matthew Swinbourn:** It is like you’re saying, “Look over here while I am doing this over there!”

**Hon NICK GOIRAN:** Parliamentary secretary, it would be very interesting if it is the case that one of those four individuals is the author of the letter. I understand that that letter has been signed by Hon John Quigley. If there is incompetence on his part, I am not ascribing that to Mr McCusker or anybody else. If the parliamentary secretary wants to correct the record and tell me that it was Mr McCusker or one of the other members who authored the letter or the appendix that has apparently got typographical errors, I am happy to correct the record. Whoever has done that is incompetent and that is what has caused the problem here. I am not and have never said that any of those other members were unprofessional. In fact, repeatedly, as is reflected in *Hansard* yesterday and is now on the record again, today—two days in succession—I am not saying that and I have never said that. It is false to suggest otherwise.

Lastly, regarding any interpretation that I am suggesting there was unprofessionalism on the parliamentary secretary’s part in tabling the document, that is absolutely not what was intended by me. He knows full well that I hold him in the highest of regard, and that he consistently behaves in a fashion that is highly professional. He continues to have my highest respect in that regard. But it does not change my argument here that the committee was *functus officio* on 23 June. I understand it is inconvenient for government, but it remains my argument.

**Hon NEIL THOMSON:** I would like to make some final statements in relation to the line of questioning I was making about page 21 of the report and the two paragraphs related to the large district allowance of the Legislative Assembly. I have had time to reflect on some of the answers that were provided earlier. I must say that I am very disappointed because I do not believe the electorate of Western Australia or the people of Western Australia have been given

sufficient information. In fact, I would suggest that they have been given no information about the wideranging impacts of this Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 on the Legislative Assembly. We can go to the Legislative Council second reading speech and we see that it says —

This bill will reform the Legislative Council, addressing well-known anomalies that have been canvassed from multiple quarters both interstate and locally over a long time.

However, I am flagging with the parliamentary secretary that when we get to part 4 there will be significant questioning about the impact of part 4 on the Legislative Assembly. We see that both the expert committee report has only referred to it in two paragraphs, and it talked about, for example, the fact that the Agricultural Region has an average of 17 230 voters and the Mining and Pastoral Region has 11 609 voters.

When I looked at the seat of Belmont, I saw that there were 30 025 voters at last count. We know that metropolitan seats have a significantly higher allocation. After the recent federal redistribution, we see that my federal seat of Durack touches into Bullsbrook from Kununurra. There is a significant divergence in the nature of the seat. I put on notice that my questioning will be significant. One of the changes is the prescribed factors that are necessary to be considered when the boundaries are redefined for the Assembly. They were read out. There were a number of prescribed factors, including community interest, land use patterns, means of communication, means of travel, distance from the capital, physical features, existing boundaries, regions and districts, existing local government boundaries and the trend of demographic changes. I will go into one of the amendments to the Electoral Act 1907 in more detail later; I am just flagging it with the parliamentary secretary.

I think the people of Western Australia deserve a much more significant explanation of the likely impacts on the Legislative Assembly. Sometimes things are put in a certain way. For example, we saw the Premier speak about Hon Wilson Tucker's election with 98 votes, being one of the major pretexts for this reform. That had nothing to do with the definition of "regions". We are now seeing significant changes to a number of acts, including the Electoral Act 1907. The removal of the definition of "regions" will have a significant impact on the number of electors in each of those districts in the Legislative Assembly. I think the people in the regions, in particular, deserve an explanation about how much this will impact on lower house seats. I guess I am summarising and asking the parliamentary secretary if it is possible for him to provide significant answers to that question during our detailed consideration of the bill after the debate on clause 1.

**Hon MARTIN ALDRIDGE:** I thank the parliamentary secretary for the responses that he provided to me and other members overnight. I wanted to address a few small areas to tidy up those loose ends before we move off clause 1. I start with the advice that the parliamentary secretary received from the Clerk on tabled paper 188. Obviously, by way of a statement delivered by the parliamentary secretary last night, he advised that we can no longer rely on tabled paper 188 due to a number of inaccuracies, not just in the terms of references that appear as appendices to the letters, but in the letters themselves.

I turn to the other matter that I raised. The Standing Committee on Estimates and Financial Operations, in answer to a question provided to it from the Premier, relied on the standing of tabled paper 188. I recognise that it was not the parliamentary secretary's response to the standing committee. I suggest that the Premier might like to reflect on the answers he provided to the Standing Committee on Estimates and Financial Operations prior to hearings that relate to tabled paper 188.

**Hon Matthew Swinbourn:** We have flagged that with the Premier's office.

**Hon MARTIN ALDRIDGE:** Okay; thank you.

I have a couple of minor questions about the costs. Thank you. It has probably taken around six months to finally get a straight answer on how much this rapid exercise has cost the taxpayers of Western Australia. We now find we have that. Three figures were quoted for the three members who have accepted payment, albeit through their universities, being members Phillimore, Murray and Drum. Mr Drum received a slightly lesser amount than the other two members, yet I think the parliamentary secretary told us that all three members attended all meetings. Could the parliamentary secretary clarify why member Drum received less remuneration than the other two members?

**Hon MATTHEW SWINBOURN:** I understand that it relates to who took on the lion's share of the drafting work. Obviously, there was some distribution of labour between the members, and others did more than Mr Drum—fractionally, because there was not a very large difference.

**Hon MARTIN ALDRIDGE:** It is not a major obstacle; I just thought it was worth considering, particularly given, as I understood it from a question that I asked, that there were set rates of remuneration. In fact, the answer was provided to the Standing Committee on Estimates and Financial Operations. There were set rates for a full day, a half day and per hour of work. Perhaps the difference in the payments made to the members relates to the hourly rate.

I want to comment on the arrangement that appears to have been struck after the fact with the universities. I find it a little unusual. I think about \$42 000 was expended on these committee members. The money is now not going to the committee members themselves; it is going to their employing universities. I think the parliamentary secretary

explained yesterday that they are salaried officers of those universities, so therefore they had probably taken time off from their roles. In effect, at least financially, it would appear that the services provided to the state to conduct this exercise were provided by the three universities in question. They are ones that have issued the invoices for the services provided. I wonder to what extent the universities are aware that they have provided services to the state of Western Australia on this exercise. Nevertheless, if they have issued the invoice, they will take responsibility for the services that they have provided in that respect.

The parliamentary secretary mentioned in his reply just now that he is not in a position to provide a copy of those invoices. Is that because the state does not have them? Actually, I think his response was that members had access to other means of obtaining those invoices. Of course, that could be by way of freedom of information. We could ask the minister kindly to provide them to us or we could use Parliament, and here we are, parliamentary secretary. Is there any good reason why Parliament should not have access to the invoices in the possession of the state with respect to the services provided by these three universities?

**Hon MATTHEW SWINBOURN:** I do not have access to the invoices to table them. I am not obliged to table them. There is no order relating to me tabling them. The member has asked me to table them. I have given him the substance of the costs, but I do not have the invoice documents to table them today or any other day.

**Hon MARTIN ALDRIDGE:** This matter was raised yesterday. It is not like it is a matter that has just arisen. We will not get those invoices out of the parliamentary secretary today. I suggest that he reflect on section 82 of the Financial Management Act and any responsibility that he or his minister may have with respect to the obvious refusal to provide that financial information to Parliament.

The parliamentary secretary tabled a paper yesterday, which was the response from the honourable Premier to the Standing Committee on Estimates and Financial Operations on 8 October 2021. Part (f) of that letter reads —

Please table any correspondence between the committee and the government, including letters of engagement or other documents relevant to their engagement or appointment?

The answer to that question was —

Refer to Legislative Council Tabled Paper #188 ...

We now know that that cannot entirely be relied upon. Was there any other correspondence, other than the obvious communication of the report, which I think was dated 28 June? Apart from the letters of appointment and the reply on 28 June 2021 with the report attached, was there any other correspondence between the committee and the government?

**Hon MATTHEW SWINBOURN:** There was correspondence between the committee and the secretariat support that was provided, which, as I indicated previously, was Ms Buchanan. There was no other formal correspondence between the government and the committee of the kind that I think the member is seeking in relation to that.

**Hon MARTIN ALDRIDGE:** To clarify: I take correspondence to include email or written communication; that sort of formal communication as opposed to perhaps corridor conversations and the like. Can the parliamentary secretary confirm that apart from the secretariat support, which was a ministerial officer, there was no communication written in letter or email form between the government and the committee other than the documents that I have identified?

**Hon MATTHEW SWINBOURN:** That is my advice, outside of those things and the things that have obviously been mentioned through the course of the Committee of the Whole.

**Hon MARTIN ALDRIDGE:** The last matter that I want to go to is something that I mentioned last night and I had the briefest of conversations with the parliamentary secretary about behind the chair—that is, whether this bill constitutes a bill requiring appropriation. I think the parliamentary secretary said to me during my briefing and confirmed to this house last night that it was his understanding this bill introduced into the Legislative Assembly did not have a message from the Governor confirming an appropriation. Is that still the government's position? Is the parliamentary secretary able to provide any further information or can he update us on that exchange last night?

**Hon MATTHEW SWINBOURN:** There was a message from the Governor. I have seen a copy of it. It is publicly available, so the member may have clapped eyes on it as well. I have a bit to say about this because I sought advice from the clerks on this particular issue. If we reflect on the briefing the government gave members, we might have been at cross-purposes a bit over this particular issue. During the briefing the member asked whether this was an appropriation bill, and we acknowledged that there will be a cost for the additional member of the Legislative Council somewhere in the legislation but that no specific appropriation was endorsed by cabinet because there are no financial implications across the forward estimates. The cost for the thirty-seventh member will come following the 2025 election and the election of the thirty-seventh member. I acknowledge that this may have created some confusion about the Governor's message, as indicated, but that message and that document do exist. I sought some advice from the clerks about this because there was some confusion on our part about what it is. I spoke with the Deputy Clerk who has provided me with some information that comes from the Clerk of the other place —

PCO, when drafting a bill, form an opinion as to whether a Governor's message is required under s46(8) of the —



## Constitution Acts Amendment Act —

In forming this opinion, they have regard to the LA practice of how s46(8) is to be applied. If they form an opinion that a Governor's message is required, they write a letter to Parliamentary Services of DPC in the form ...

I have a copy of the letter that was transmitted in relation to this bill from the Deputy Parliamentary Counsel to the director of Parliamentary Services of the Department of the Premier and Cabinet. I am happy to table that letter. I think it can be tabled.

[See paper [865](#).]

**Hon MATTHEW SWINBOURN:** That is the form of the letter. The advice continues —

With regards to the *Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021*, the Clerk and I received a letter by email —

That is the letter I just tabled —

from PCO ... in which PCO advised that a Governor's message was required.

That correspondence did not come through or from the minister's office; it was a communication between the Parliamentary Counsel's Office and the clerks because of their view about section 46 of the Constitution Acts Amendment Act. The advice continues —

As to why PCO concluded, with respect to this Bill, that a Governor's message was required, is not known to Kirsten or myself. However, I surmise PCO thought that as the Bill contemplates an additional member of the Legislative Council, and that this would require the State to fund this extra position, a Governor's message was required according to the practice of the Assembly. Had PCO sought the opinion of Kirsten and I as to whether this Bill required a message, we would have said it did, for the reason stated.

Separate to this process, the LA Clerks review each bill when it is introduced into the Assembly to see if a Governor's message is required under s46(8) of the CAAA. If we conclude a message is required, we check if PCO have recommended the same. If they have not, we enter into a dialogue with PCO. If after this dialogue it is clear that a message is required according to the practice of the Assembly, PCO will send a letter to DPC advising a message is required.

As a matter of practice in the Assembly, if a Bill does require a Governor's message, but has not yet been received and reported to the House, debate on the Bill can continue up to the point that the second reading debate is concluded. However the question, "That the Bill be now read a second time", cannot be put to a vote until the message is received and reported.

That advice was forwarded to me by the Legislative Assembly Deputy Clerk, Scott Nalder. I hope that explains it to the member. I am sure the member could sit down with our clerks and discuss with them in detail some of the controversies that exist between the Legislative Assembly and the Legislative Council in terms of what an appropriation —

**Hon Martin Aldridge:** We are right and they are wrong.

**Hon MATTHEW SWINBOURN:** I think it is safe to assume that, but they take a different view. That is how that stamp on the front of the bill that the member previously referred me to occurred. It is because of the communication of that correspondence from PCO to the clerks. The clerks formed independently their own view that it will be an appropriation, so regardless of whether they received that letter from PCO, they would have attached it themselves as an appropriation bill of that kind. I hope that addresses the point that the member raised.

**Hon MARTIN ALDRIDGE:** I think the parliamentary secretary has just short-circuited a range of questions that are no longer needed because we now have an understanding, first of all, that the bill requires an appropriation and a message from the Governor, which was received by the Legislative Assembly. Although I have not been able to access that message and I am not sure how to access it.

**Hon Matthew Swinbourn:** Apparently it is through the parliamentary website.

**Hon MARTIN ALDRIDGE:** Okay; I will have a look.

Given we have now established this is a bill requiring an appropriation, what is the cost to the state of Western Australia of implementing the provisions of the bill?

**Hon MATTHEW SWINBOURN:** There is no specific appropriation, as I said to the member in my response, because any costs for the thirty-seventh member will happen outside the budget estimates, but I can give a broad indication of the likely cost of a thirty-seventh member. Based on information from a number of sources, the anticipated cost—I will give an estimate; I have specific figures because someone has tallied up—is between \$520 000 and \$980 000. Those figures relate to the salary of an additional member and the provision of office accommodation and staff to the member. We cannot be certain about the exact figure because the costs will only be fully known once

they have been incurred. The thirty-seventh member might have their office in Paraburdoo and there will be costs that are unique to Paraburdoo. There will be flight costs; they might have additional accommodation costs, so there is no specific cost in that regard, but the estimate is —

**Hon Martin Aldridge** interjected.

**Hon MATTHEW SWINBOURN:** We are all equal, member. That is why it is an estimate between just over \$500 000 and just under \$1 million. Of course, if the Salaries and Allowances Tribunal deigns to increase our salaries over the next couple of years, those costs will obviously vary, depending on those things and subject to changes in market conditions as well. I hope that gives the member some idea, but, as I say, there is no specific budget allocation or an appropriation at this time because we do not have the thirty-seventh member and the bill has not yet passed the chamber.

**Hon MARTIN ALDRIDGE:** I thank the parliamentary secretary. I understand that it is hard to make a precise prediction for all the reasons the parliamentary secretary has outlined. I think it is probably closer to \$980 000 than it is to \$520 000, when all is said and done. The other obvious cost will be the cost to the Western Australian Electoral Commission. I think some questions have been canvassed around the necessity for an education campaign and resources to deal with the changes in the Legislative Council voting system and the ballot processing aspects. Another obvious significant cost will be resourcing thirty-seven members of Parliament to represent every Western Australian. I think that is something that Hon Tjorn Sibma pursued late yesterday. Those things cannot be precise and we will, to some extent, rely upon rulings by the Salaries and Allowances Tribunal. Of course, as the parliamentary secretary is aware, there are a number of things that are outside the remit of the Salaries and Allowances Tribunal, such as members' offices, staff resources and some of our other entitlements that are completely at the discretion of the executive government. That is a whole other debate for another day, but hopefully one day there will be a true separation of powers, including financial separation, between the government and the Parliament.

**Hon TJORN SIBMA:** I want to express my gratitude to both the parliamentary secretary and Hon Martin Aldridge for that exchange, because it obviates the necessity for me to raise those issues—at least the cost implication, which is brought in under clause 6, which is also the clause that will introduce the thirty-seventh member to the chamber. I think we can have a debate at that time about the merits of that proposition. It clearly was not a recommendation of the report and its inclusion does not seem pivotal to the government's purported central purpose of the bill, which is to introduce its view of voting equality and dismiss the possibility of preference harvesting and gamesmanship through the abolition of group ticket voting.

I want to speak to a couple of the resource issues that were addressed by way of the supplementary information provided by the parliamentary secretary when we recommenced our deliberations. Have the three invoices that were issued by the University of Western Australia, Curtin University and the University of Notre Dame, and presumably received by the government, been paid?

**Hon MATTHEW SWINBOURN:** We do not have a precise answer to that. We can seek further advice for the member if he wants us to as to whether they have been paid. That is obviously not dealt with through the ministerial office and department; it is outside that. I hope it will not delay progress, but we can try to seek advice for the member on whether they have been paid.

**Hon TJORN SIBMA:** My interest is not necessarily an idle one. If I take at face value the advice that has been provided to us that the official tasking of the group—noting that only three of the four members accepted remuneration—ceased on 28 June, some four months ago, I would have expected that invoices would have been issued in accordance with government procurement guidelines and that those invoices would have been honoured by now. Since it was acknowledged yesterday that —

**Hon Matthew Swinbourn:** Sorry, member. I think it was indicated in the answer that was given on 8 October that there were some outstanding invoices at that time. I believe that at least one of those was in relation to this issue.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. Noting that the individuals were also consulted on the form and structure of the bill through iterative drafts, may I ask whether any compensation or remuneration was offered or accepted in relation to the consultation on drafting the bill?

**Hon MATTHEW SWINBOURN:** No, member.

**Hon TJORN SIBMA:** In relation to the meetings of the Ministerial Expert Committee on Electoral Reform, of which the parliamentary secretary has advised there were six fully in-person meetings and two additional meetings that were via either Zoom or a hybrid of Zoom and in-person on dates between 5 May and 23 June, were the in-person meetings—forgive me if the chamber has already been advised of this—held in the minister's office or in some other location; and, if another location, which location?

**Hon MATTHEW SWINBOURN:** I can speak only to the ones at which Ms Buchanan was present. She said there were two or three at the minister's office and some were held at the Constitutional Centre.

**Hon TJORN SIBMA:** Can I ask whether the minister was involved in any of those meetings, even if he was only paying a courtesy visit?

**Hon MATTHEW SWINBOURN:** He attended the inaugural meeting to welcome them, to thank them for their time and to have a general discussion, but he did not participate in any of the other meetings.

**Hon TJORN SIBMA:** I have only a few more questions on this theme. I am interested in the minister's whereabouts only because I think last night after the dinner break the parliamentary secretary was reflecting upon a discussion the minister may have had with Malcolm McCusker at some stage. I think it was a phone conversation; it was not at the in-person meeting the minister held with Professors Phillimore and Drum, from my recollection. I have not familiarised myself again with the *Hansard*, but I recall from last night that it was difficult for the minister to determine the date on which that phone conversation may have taken place between him and Malcolm McCusker. Is that the case, or has the minister's memory been refreshed about when that conversation may have occurred?

**Hon MATTHEW SWINBOURN:** I confirm that there is no record of it in his ministerial diary, but we have not been able to confer further with the Attorney General since yesterday. The Attorney has carriage of another bill in the other place. He was in Parliament until after we had risen and then he was straight back into it today. We have not been able to lock in a specific time and date.

**Hon JAMES HAYWARD:** I have a couple of quick questions, if I may. I refer to page 42 of the report, paragraph 4.3, "Facilitating a regional presence of MLCs". We were speaking last night about the potential for the Premier to send the Salaries and Allowances Tribunal a letter that will be ready to go once this legislation is passed that would potentially consider, or encourage, SAT reviewing the circumstances in which allowances could be paid. I think that is outlined in the report here, as well as a potential enticement, if you like, to encourage MLCs to be located outside Perth; they may be given some extra income or resources in staffing and travel. I wonder about the basis of the idea that 37 MLCs will represent the whole state but a smaller number will be resourced to travel the state. Does the government consider that an inequity? What are the government's thoughts about five or six or seven, potentially, being located outside Perth? Does that create an inequity? What did the government consider in its deliberations on how that might affect remote communities?

**Hon MATTHEW SWINBOURN:** The Salaries and Allowances Tribunal independently determines those resources. It is not determined by government. If we were to go down that pathway, we would have to change the law and impose that on them. The undertaking from the Premier was to write to the tribunal to explore those matters that I previously talked about in terms of allowances and things of that nature. I think I pointed out—I am not sure whether the member was on urgent parliamentary business—that there is no mandate or requirement for a member of the Legislative Council to have their office within a region and, accordingly, some members do not. The number of those sorts of members goes up and down. We have not changed from the current position. There is no mandate for members to have their office in the region they represent, whether that is a metropolitan or a non-metropolitan region. Consideration of allowances will happen over time. If the bill is passed, the Salaries and Allowances Tribunal will then give consideration to the changes in circumstances for Councillors and the change of nature from being a representative for a particular region to a representative for the whole of state. I do not want to divine that because it is an independent tribunal and it will make its decisions. Individuals and political parties can write to the tribunal when it is considering those matters; people can write to the tribunal at any time to say it should take that into consideration. I have indicated already that the Premier will be writing following the passage of this bill.

#### *Division*

Clause put and a division taken, the Deputy Chair (Hon Steve Martin) casting his vote with the noes, with the following result —

#### *Ayes (21)*

Hon Klara Andric  
Hon Dan Caddy  
Hon Sandra Carr  
Hon Stephen Dawson  
Hon Kate Doust  
Hon Sue Ellery

Hon Peter Foster  
Hon Lorna Harper  
Hon Jackie Jarvis  
Hon Alannah MacTiernan  
Hon Kyle McGinn  
Hon Dr Brad Pettitt

Hon Stephen Pratt  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot

Hon Dr Brian Walker  
Hon Darren West  
Hon Pierre Yang (*Teller*)

#### *Noes (9)*

Hon Martin Aldridge  
Hon Peter Collier  
Hon Donna Faragher

Hon James Hayward  
Hon Steve Martin  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
Hon Wilson Tucker  
Hon Nick Goiran (*Teller*)

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#### *Pairs*

Hon Ayor Makur Chuot  
Hon Shelley Payne

Hon Neil Thomson  
Hon Colin de Grussa

**Clause thus passed.**

**Clause 2: Commencement —**

**Hon TJORN SIBMA:** I thought I had timed that a bit better than it appears to have turned out. Is it the government's view that it has an electoral mandate for this bill?

**Hon MATTHEW SWINBOURN:** I am struggling to see what it has to do with clause 2, but all governments have a mandate to govern for the goodwill of all Western Australians, and that is what we continue to do.

**Hon TJORN SIBMA:** In the parliamentary secretary's second reading reply speech, which I am desperately trying to find a copy of, he addressed the issue of precedent. He invoked a number of precedents that the government considered to be a defence against one of the propositions endeavoured in this bill, which the government describes as equality—others might more accurately describe it as a measure to abolish dedicated regional representation in the upper house—to a referendum. The parliamentary secretary initially cited a bill introduced by Sir Charles Court in 1977, which I believe then lapsed and may have been reintroduced in 1978. In terms of what was established by way of that bill, what is its connection to this bill?

**Committee interrupted, pursuant to standing orders.**

[Continued on page 5207.]

**QUESTIONS WITHOUT NOTICE****CORONAVIRUS — MANDATORY VACCINATION POLICY****921. Hon Dr STEVE THOMAS to the Leader of the House representing the Premier:**

I refer to the government's requirement for mandatory vaccination for employees of businesses in Western Australia announced on 20 October 2021 and prior mandates for workers.

- (1) How many public servants are expected to choose not to be vaccinated and therefore be dismissed or resign by —
  - (a) 31 December 2021;
  - (b) 31 January 2022; and
  - (c) 28 February 2022?
- (2) What plans has the government put in place to manage any loss of workforce?
- (3) What is the current rate of Western Australian public servants who have received —
  - (a) one COVID vaccine dose; and
  - (b) both COVID vaccine doses?

**Hon SUE ELLERY replied:**

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

- (1) There is no blanket policy for everyone to be subject to a mandatory vaccination. The mandatory vaccination policy is based on health advice and a significant number of public sector agencies are included in the mandates, where there is a risk. Approximately 80 per cent of the government sector may be captured by the mandates. This includes the public sector and some non-public sector entities, such as sworn police and government trading enterprises, but excludes local governments and universities.
- (2)–(3) Everyone eligible is encouraged to get vaccinated now and ensure that they have their proof of vaccination by the deadlines specified in the directions. Employees captured by the directions have until the nominated deadline to receive their vaccinations.

It would be helpful if all major political parties supported the vaccination program and encouraged Western Australians to get vaccinated.

**CORONAVIRUS — MANDATORY VACCINATION POLICY****922. Hon Dr STEVE THOMAS to the minister representing the Minister for Health:**

I refer to the government's requirement for mandatory vaccination for employees of businesses in Western Australia announced on the 20 October 2021 and prior mandates for health workers.

- (1) What percentage of health workers —
  - (a) in tier 1 healthcare facilities have now been double vaccinated;
  - (b) in tier 2 healthcare facilities have received a first COVID vaccine dose; and
  - (c) in tier 3 healthcare facilities have received a first COVID vaccine dose?

- (2) How many health workers have chosen to be dismissed or resign rather than be vaccinated in —
- (a) tier 1 healthcare facilities;
  - (b) tier 2 healthcare facilities; and
  - (c) tier 3 healthcare facilities?

**Hon STEPHEN DAWSON replied:**

I thank the Leader of the Opposition for some notice of the question.

I have been advised that further time is required to answer this question. The information will be provided to the honourable member by 16 November 2021.

#### SINGLE-USE PLASTICS

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

I refer to the minister's media statement of 13 June 2021 in which she announced that the plan for plastics developed by the Department of Water and Environmental Regulation and unveiled by her predecessor, Hon Stephen Dawson, in November 2020, would be fast-tracked by four years.

- (1) What industrial technological, logistical and/or economic change has occurred in the domain of single-use plastics from November last year to June this year that would allow the plan to be so rapidly expedited?
- (2) When did the minister make the decision to fast-track the plan and upon whose advice was the decision made?
- (3) If the decision was informed by a departmental briefing or other formal advice, can the minister please table that information?

**Hon STEPHEN DAWSON replied:**

I thank the member for some notice of the question.

Honourable member, I did see the question yesterday but it is not in my file today. Hopefully, the advisers are watching and if there is an answer, I will provide it later in the day.

#### SAFEWA APP — ACCESS — POLICE INVESTIGATION

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

I refer to the minister's answer on 28 October 2021 to my question without notice 886 about the issue of Western Australian police officers seeking orders to produce SafeWA app records, and I further refer to the President's ruling on 9 November 2021 about the application of standing order 104.

- (1) Did the Commissioner of Police ever raise the issue with the Minister for Police who immediately preceded the current minister?
- (2) If yes to (1), when?
- (3) Will the minister table the briefing note provided by the commissioner to the current minister on 14 May 2021?

**Hon STEPHEN DAWSON replied:**

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

- (1)–(2) Only the previous minister can answer this question.
- (3) Advice is being sought on whether the briefing note may be tabled.

#### LANGUAGE DEVELOPMENT CENTRES

**925. Hon DONNA FARAGHER to the Minister for Education and Training:**

I refer to the five language development centres operated by the Department of Education.

For each centre, will the minister advise —

- (a) the current 2021 enrolment capacity;
- (b) the total number of enrolment applications received for the 2021 school year; and
- (c) the total number of students currently enrolled?

**Hon SUE ELLERY replied:**

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

- (a) Language development centres are typically co-located with other primary schools. For each language development centre, enrolments are influenced by available classroom accommodation at each school site. This may vary from year to year.

(b)–(c) The next part of the answer is in tabular form, and I seek leave to have it incorporated into *Hansard*.  
[Leave granted for the following material to be incorporated.]

	(b)	(c)
Fremantle Language Development Centre	231	212
North East Metropolitan Language Development Centre	353	301
Peel Language Development School	307	288
South East Metropolitan Language Development Centre	258	234
West Coast Language Development Centre	330	311

For those students deemed eligible but not enrolled in an LDC, support is available through the department's speech and language outreach service.

#### CORONAVIRUS — VACCINATIONS — POLICE

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

- (1) Are all serving police officers fully vaccinated?
- (2) If no to (1), how many are not fully vaccinated?
- (3) Are there any circumstances whereby a serving police officer does not have to be fully vaccinated?
- (4) If yes to (3), what are these circumstances?

**Hon STEPHEN DAWSON replied:**

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

The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advises the following.

- (1) No.
- (2) There are 316 officers who have not yet been fully vaccinated.
- (3) Yes.
- (4) The direction authorised pursuant to the Public Health Act 2016 will enable police personnel to either seek a medical exemption via the Australian Immunisation Register or a temporary exemption via the Western Australian Chief Health Officer.

#### VIMY RESOURCES — SANDHILL DUNNART CONSERVATION PLAN

**927. Hon Dr BRAD PETTITT to the parliamentary secretary representing the Attorney General:**

I refer to the announcement that the Minister for Environment is recused from decision-making responsibilities regarding the Lake Way Sulphate potash project and Vimy Resources' uranium mine given a declared conflict of interest.

Does Vimy Resources' uranium mine have an approved sandhill dunnart conservation plan, as required through the federal environmental approval EPBC 2013/7083, condition 2, which is to be developed in consultation with the Western Australian Department of Biodiversity, Conservation and Attractions, formerly known as the department of parks and wildlife?

**Hon ALANNAH MacTIERNAN replied:**

On behalf of the parliamentary secretary representing the Attorney General, I thank the member for the question. The Attorney General has provided the following information.

The commonwealth Department of Agriculture, Water and the Environment should be consulted about whether a plan has been approved to meet the requirements of this condition under the Environment Protection and Biodiversity Conservation Act 1999. The Department of Biodiversity, Conservation and Attractions has provided advice to the Department of Water and Environmental Regulation and Vimy Resources on the terrestrial fauna monitoring and management plan required under state environmental approvals—ministerial statement 1046, condition 10.

#### HOMELESSNESS — BOORLOO BIDEE MIA SERVICE

**928. Hon WILSON TUCKER to the parliamentary secretary representing the Minister for Community Services:**

I refer to the newly opened Boorloo Bidee Mia homeless hostel.

- (1) Since opening, what is the rolling average of available beds each night?
- (2) Since opening, what is the rolling average of residents each night?
- (3) What is the maximum capacity of the hostel?

**Hon SAMANTHA ROWE replied:**

I thank the member for some notice of the question and provide the following answer on behalf of the Minister for Community Services.

- (1)–(2) There is no “rolling average”. Boorloo Bidee Mia differs from a walk-in or drop-in shelter model, as it seeks to provide longer-term accommodation, together with individualised, wraparound supports that promote a therapeutic model to aid transition into permanent, stable living arrangements. While currently operational and servicing clients, Boorloo Bidee Mia is still undergoing minor building works to enable full service capacity. The occupation of the service will be a gradual process and individuals will be selected carefully to ensure that the right cohort of people are engaged and the safety and wellbeing of residents and staff are maintained. As part of the budget estimates process in the Legislative Council, the minister has committed to providing occupancy details by way of supplementary information.
- (3) The total number of residents accommodated at Boorloo Bidee Mia at any given time will be dependent on the support needs of residents, with the delivery of a safe, culturally appropriate and effective service being a priority at all times. The service will continue to expand its capacity in coming months.

**PSYCHEDELIC SUBSTANCES — PTSD TREATMENT****929. Hon Dr BRIAN WALKER to the minister representing the Minister for Veterans Issues:**

As we prepare to commemorate Remembrance Day, I refer the minister to Department of Defence figures that suggest that as many as 8.3 per cent of Australian Defence Force members will have experienced post-traumatic stress disorder in the last 12 months, as compared with 5.2 per cent of the Australian community as a whole.

- (1) Is the minister aware of recent peer-reviewed studies, not least by Erwin Krediet and colleagues, published in the *International Journal of Neuropsychology* in June 2020, which demonstrate that psychedelic substances can have an important and substantial moderating effect when it comes to the treatment of PTSD?
- (2) Can the minister confirm that he is actively working alongside and in conjunction with his colleagues in both Health and Mental Health to pursue positive outcomes for both serving and ex-serving members of the ADF here in Western Australia who suffer from PTSD?
- (3) Would the minister be willing to join me in advocating for at least a limited trial of psychedelics here in WA as a PTSD treatment, so as to allow the medical community to move forward with this potentially groundbreaking treatment, in a measured and scientific manner, to the betterment of our veteran community?

**Hon ALANNAH MacTIERNAN replied:**

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

- (1)–(3) The Australian government, through the Department of Veterans’ Affairs, is responsible for mental health support, including medical treatment, for both serving and ex-serving Australian Defence Force members. The McGowan government is focused on delivering services to assist current and former Defence Force members to find meaningful employment and participate fully in the Western Australian community. These initiatives are aimed at preventing serious mental health issues requiring medical intervention.

**HOSPITALS — ELECTIVE SURGERY — CANCELLATIONS****930. Hon MARTIN ALDRIDGE to the minister representing the Minister for Health:**

I refer to all public hospitals, including public hospitals with private operators.

- (1) How many elective surgeries were cancelled in —
  - (a) September 2021; and
  - (b) October 2021?
- (2) For each month in (1), what was the total number of cancelled elective surgeries by area health service?
- (3) Are there currently any restrictions on elective surgeries?
- (4) If yes to (3), which surgery categories are under restriction, and in what locations?

**Hon STEPHEN DAWSON replied:**

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

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

**WATER CORPORATION — MAIN DAMAGE — SOUTH HEDLAND****931. Hon JAMES HAYWARD to the minister representing the Minister for Water:**

I refer to the recently damaged and repaired water main on Parker Street in South Hedland.

- (1) What was the cause of the damage?

- (2) How old was the infrastructure, and when was it last inspected for routine maintenance?
- (3) How many Water Corporation customers were impacted by the damaged water main?
- (4) Were all the residents directly impacted by the damaged water main notified by the Water Corporation?

**Hon ALANNAH MacTIERNAN replied:**

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

- (1) A collar that joins two pipe sections together developed a leak from the rubber seal. It got worse very quickly and required an emergency repair.
- (2) The main was constructed in 1975. The pipeline is well within its life expectancy of around 70 years and is part of the Water Corporation's linear asset risk model, which is used to determine which pipelines are at risk of failure. This model is run on a regular basis using various assessment criteria and those pipes that are identified as being high risk are then physically inspected.
- (3) There were 5 900 services impacted. Cartons of bottled water and bulk water from 15 000-litre tanks were made available for collection from the Wanangkura Stadium carpark on Hamilton Road.
- (4) As it was an unplanned, emergency repair, there was not time to issue letters to every customer. The corporation called more than 60 key business customers—for example, camps, hospitality and accommodation providers, the hospital et cetera—to notify them of the unplanned outage and to set up a prerecorded message on the main faults line. An outage notification page was put onto the Water Corporation website, with rolling updates. Social media posts targeted South Hedland Facebook users, with a link back to the outage notification page. The Water Corporation also requested that the ABC share details of the outage via radio news bulletins and its local social media channels, and also with the Town of Port Hedland so that it could share via its own local database of over 10 000 people. The Water Corporation also participated in a radio interview with the ABC on the Monday morning.

#### BANNED DRINKERS REGISTER — KUNUNURRA

**932. Hon NEIL THOMSON to the minister representing the Minister for Police:**

I refer to reports of escalating crime and serious incidents involving alcohol-affected people occurring in the town of Kununurra.

- (1) How many incidents involving alcohol-affected people that resulted in reports being created occurred during the following months —
  - (a) July;
  - (b) August;
  - (c) September; and
  - (d) October?
- (2) How many of the individuals involved in these incidents have been added to the banned drinkers register?
- (3) Is a mechanism available to magistrates to place offenders onto the banned drinkers register?

**Hon STEPHEN DAWSON replied:**

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

The Western Australia Police Force advises as follows.

A response to this question cannot be provided within the time frame. The honourable member may wish to place the question on notice.

#### GERALDTON HEALTH CAMPUS — STAFF

**933. Hon STEVE MARTIN to the minister representing the Minister for Health:**

I refer to the apparent discrepancy in the minister's answers yesterday to my question without notice 907 and to question without notice 904 asked by Hon Martin Aldridge about staffing levels at Geraldton hospital.

- (1) If there are currently 3.4 FTE midwifery positions vacant at Geraldton hospital, as referred to in the reply to question 904 asked by Hon Martin Aldridge, why did the minister in his reply to my question 907 state that Geraldton hospital is fully staffed?
- (2) Is Geraldton hospital fully staffed or are 3.4 FTE midwifery positions currently vacant?
- (3) Regarding the minister's answer to question 907 that staffing levels would be increased to cope with the extra demand on maternity services due to the closure of St John of God, how many extra midwives will be added to the staff at Geraldton hospital?



**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Health.

- (1) The 3.4 FTEs are currently filled by agency staff and part-time staff.
- (2) The midwifery positions at Geraldton hospital are currently fully staffed.
- (3) The number of extra midwives will be determined by the number of St John of God staff available for secondment to the WA Country Health Service and the forecast number of births.

**CORONAVIRUS — MANDATORY VACCINATION POLICY****934. Hon Dr STEVE THOMAS to the Leader of the House representing the Premier:**

I refer to the government's announcement on 5 November of a plan to have a plan for the opening of the state from COVID restrictions called *WA's safe transition plan*, and the answer to yesterday's question without notice 896 regarding mandatory vaccinations in which the Leader of the House stated —

The government is currently consulting with affected industries ... That ... will inform the drafting of legal directions and implementation issues such as compliance.

- (1) Given group 1 industries have less than three weeks before they must terminate staff who have not had their first immunisation by 1 December, when will this information be provided so that affected businesses have a clear understanding of their rights and obligations?
- (2) Will any of these legal directions require the drafting of legislation?
- (3) If yes to (2), when will this occur?

**Hon SUE ELLERY replied:**

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

- (1)–(3) Directions are being drafted as a priority and are being published as they become available. A number of group 1 directions are already published.

**SHARKS — HAZARD MITIGATION****935. Hon TJORN SIBMA to the parliamentary secretary representing the Minister for Fisheries:**

I refer to the answer provided to my question yesterday about the two automated shark warning towers that the minister advised were installed by the Town of Cottesloe on 1 November.

- (1) Were either of these towers manually activated prior to the suspected fatal attack on Saturday, 6 November?
- (2) If no to (1), why not?
- (3) Were these towers manually activated after reports of the attack emerged; and, if so, at what time?
- (4) Why were these towers not programmed by the Department of Primary Industries and Regional Development to operate automatically after they were installed on 1 November?
- (5) Will DPIRD bring forward its plan to automate the towers as a matter of priority, and before the end of this calendar month?

**Hon KYLE MCGINN replied:**

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

- (1)–(3) The shark alarm towers at Cottesloe and North Cottesloe Beaches are managed and operated by the Town of Cottesloe.
- (4) The shark alarm towers at Cottesloe and North Cottesloe were installed by the Town of Cottesloe. The Department of Primary Industries and Regional Development is currently working to automate these two towers from the adjacent shark monitoring receivers at Cottesloe and North Cottesloe.
- (5) DPIRD is working to automate the shark alarm towers as a matter of priority.

**CHILD PROTECTION — REGISTERED CARERS****936. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:**

I refer to the answer to my question without notice 852 in which the parliamentary secretary informed the house —

All child protection workers who take children home are screened to work with vulnerable children via the Department of Communities' screening processes, in addition to them holding a working with children check.

- (1) On how many occasions last month did a child protection worker take a child home or look after them in a hotel or similar accommodation?

- (2) When was the last occasion the minister was briefed about this practice that the director general described to the Standing Committee on Estimates and Financial Operations as “not something that we encourage”?

**Hon SAMANTHA ROWE replied:**

I thank the member for some notice of the question and provide the following answer on behalf of the Minister for Child Protection.

- (1) This information is not recorded centrally and would require manually reviewing all individual case files for each interaction. Gathering this data would require significant resources.
- (2) The minister regularly meets with the director general of the Department of Communities.

#### CORONAVIRUS — VACCINATIONS — POLICE

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

- (1) Is it a requirement that police staff, not police officers, be fully vaccinated?
- (2) If no to (1), why not?
- (3) If yes to (1), how many police staff, not police officers, are not vaccinated?
- (4) Are there any circumstances whereby police staff, not police officers, are exempt from being fully vaccinated?
- (5) If yes to (4), what are these circumstances?

**Hon STEPHEN DAWSON replied:**

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

Western Australia Police Force advise the following.

- (1) Yes—unless medically exempt.
- (2) Not applicable.
- (3) At this time, 192 have not yet been vaccinated.
- (4) Yes.
- (5) The direction authorised pursuant to the Western Australian Public Health Act 2016 will enable police personnel to either seek a medical exemption via the Australian Immunisation Register or a temporary exemption via the Western Australian Chief Health Officer.

#### WOODSIDE PLUTO LNG FACILITY — ROCK ART

**938. Hon Dr BRAD PETTITT to the Minister for Aboriginal Affairs:**

I refer to the Burrup and Maitland Industrial Estates Agreement Additional Deed between the state of Western Australia and other parties dated 16 January 2003, particularly clauses 7.2 and 7.3 of the deed in relation to the disturbance of any rock art by industrial development and the storing of information by the state.

- (1) Can the minister advise whether rock art that has been disturbed by reason of industrial development since the signing of the deed has been recorded, as required under the deed; and, if yes, who has this information been provided to and from where can this information be accessed by the public?
- (2) Can the minister table or make publicly available any records or information pertaining to the rock art that has been disturbed by the Woodside Pluto LNG facility and related infrastructure?

**Hon STEPHEN DAWSON replied:**

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

- (1) Yes. Prior to any disturbance of rock art, a proponent must seek an approval under section 18 of the Aboriginal Heritage Act 1972. As part of the section 18 notice seeking approval, the proponent must submit heritage information that includes the information in clause 7.2 of the Burrup and Maitland Industrial Estates Agreement Additional Deed. Information in a section 18 notice is submitted to the Registrar of Aboriginal Sites and considered by the Aboriginal Cultural Material Committee. Heritage information is included in heritage surveys and stored securely by the Department of Planning, Lands and Heritage in accordance with clause 7.3 of the deed. Information that is not culturally sensitive can be accessed by making a request online.
- (2) Records that are publicly available may be accessed by submitting an online application on the WA government website found in the “Aboriginal cultural heritage” section.

#### WA COUNTRY HEALTH SERVICE — KIMBERLEY — NURSES

**939. Hon WILSON TUCKER to the minister representing the Minister for Health:**

- (1) What is the benchmark for nursing hours per patient day for each WA Country Health Service facility in the Kimberley region?

- (2) What is the recommended number of full-time equivalent nursing staff for each WA Country Health Service facility in the Kimberley region?
- (3) When will the *Nursing hours per patient day: Annual report* for 2020–21 be published?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Health.

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

#### CORONAVIRUS — VACCINATIONS

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

I refer to *WA's safe transition plan*.

- (1) When is it predicted that Western Australia will reach 80 per cent of the eligible population having received two doses of a COVID vaccine?
- (2) What other interstate or international jurisdictions have achieved a rate of 90 per cent of the eligible population having received two doses of a COVID vaccine?
- (3) How has the modelling or the transition plan factored in the increasing number of people who will require, but may not access, a booster dose in coming weeks and months?
- (4) Given that from 1 November 2021 the Therapeutic Goods Administration has approved 13 rapid antigen tests for use in Australia, when will the state government review the prohibition on their use?

**Hon STEPHEN DAWSON replied:**

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

I have been advised that further time is required to answer this question. The information will be provided to the honourable member by 18 November 2021.

#### PEST MANAGEMENT — GOVERNMENT-CONTROLLED LAND

**941. Hon JAMES HAYWARD to the Minister for Agriculture and Food:**

I refer to pest management on crown land.

- (1) How many complaints relating to pest management on government-controlled land has the minister's office or the Department of Primary Industries and Regional Development received in the last six months?
- (2) Can the minister confirm that if a department, agency or government trading enterprise controls land, it is usually the responsible party for pest management on that land?
- (3) Does DPIRD monitor public complaints about pest management; and, if yes, what is the process for escalating those concerns within the public sector?
- (4) Does DPIRD have the ability to compel a department, agency or government trading enterprise to manage pests; and, if yes, please table any directions provided to departments, agencies or GTEs in the last six months?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question.

- (1) My office and the department, of course, receive a wide range of contacts and correspondence relating to pest management, both on government-controlled and private land. I am sure the member would appreciate that I am not able to provide a detailed answer in the time provided. However, if there is a particular issue that the member would like some detail on, I would ask him to be a little more specific.
- (2) Yes. Under the Biosecurity and Agriculture Management Act 2007, the owner or manager of land is responsible for managing declared pests on that land.
- (3) DPIRD receives complaints and responds accordingly. Pest management is one component of a large and complex state biosecurity response.
- (4) The BAM act provides powers to manage declared pests, which DPIRD can use, if appropriate, to direct landholders and/or managers to undertake pest control measures on their land. No directions have been issued to departments, agencies or government trading enterprises in the last six months. DPIRD uses a collaborative community-wide approach for the management of widespread and established pests to achieve broader and more effective long-term pest management outcomes. This includes initiatives such as matching declared pest rate funding, funding recognised biosecurity groups and, of course, our natural resource management activities such as funding the arum lily initiative in the south west and funding to provide specific pest control programs for high-impact pests through the wild dog action plan.

## FIONA STANLEY HOSPITAL — CARDIOLOGY SERVICES

**942. Hon NEIL THOMSON to the minister representing the Minister for Health:**

I refer to cardiology services at Fiona Stanley Hospital.

- (1) What is the median wait time to receive an appointment with a cardiologist at Fiona Stanley Hospital?
- (2) What is the current approved staffing level for FTE cardiologists at Fiona Stanley Hospital?
- (3) How many FTE cardiologists are currently employed at Fiona Stanley Hospital?
- (4) How many times were cardiologist appointments cancelled or rescheduled at FSH since July?

**Hon STEPHEN DAWSON replied:**

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

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

## FOREST PRODUCTS COMMISSION — KARRI THINNING

**943. Hon STEVE MARTIN to the minister representing the Minister for Forestry:**

I refer to the recently released Forest Products Commission *Annual report 2020–2021*.

- (1) Why has the FPC failed to meet the karri-thinning schedules over the previous five years?
- (2) What measures is the FPC taking to ensure that the target is met for 2021?
- (3) How does the FPC intend to meet the target for karri thinning once the ban on hardwood harvesting comes into place in 2024?

Minister, that question was asked some time ago, I believe.

**Hon ALANNAH MacTIERNAN replied:**

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

- (1) The achievement of karri-thinning targets is dependent upon consistent access to markets for the product generated. Fluctuations in these markets in recent years have impacted on the Forest Products Commission's capacity to achieve thinning targets.
- (2) The FPC is working with established and new customers of karri-thinning products to increase market stability for resource produced by thinning activities.
- (3) The level of karri thinning required to support forest health will be determined through the development of the next forest management plan.

## SINGLE-USE PLASTICS

*Question without Notice 923 — Answer Advice*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health)** [5.01 pm]: Earlier today, Hon Tjorn Sibma asked a question of me, representing the Minister for Environment. The answer to that question is as follows.

- (1)–(3) The decision to bring forward Western Australia's Plan for Plastics will see a range of problematic single-use plastic products banned in two stages by 1 January 2022 and 1 January 2023. Since the release of the WA government's Plan for Plastics in 2020, a number of other Australian jurisdictions have implemented similar bans on single-use plastic, generating increased awareness of community support for action to ban single-use plastics. The rollout of the bans is being overseen by the single-use plastic working group, which comprises representatives from the disability sector, retailers, hospitality, health and environment groups.

## CHILDREN IN CARE — WHEREABOUTS UNKNOWN

*Question without Notice 899 — Answer Advice*

**HON SAMANTHA ROWE (East Metropolitan — Parliamentary Secretary)** [5.02 pm]: Yesterday, Hon Nick Goiran asked question without notice 899, to which the Minister for Child Protection was not in a position to provide a full response. As the Parliamentary Secretary to the Minister for Child Protection, I am now able to provide the response for the honourable member as follows.

- (1) Yes.
- (2)–(3) Not applicable.
- (4) As at 31 October 2021, seven children in care were recorded in a placement type "unknown". While a child is recorded in a placement type "unknown", or the young person is unwilling to disclose their location, they are still in contact with their caseworker or other safety networks that keep in contact with them. The

child's safety and wellbeing is monitored by their caseworker through regular contact, and the child still has access to the same supports that would be made available to them if they were residing in an endorsed placement. In circumstances in which this contact cannot be maintained, Communities will lodge a missing person's report with the Western Australia Police Force.

- (5) One of these children is not in regular contact with their caseworker. Communities is supporting WA Police to undertake inquiries in order to locate the child.

**CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT  
(ELECTORAL EQUALITY) BILL 2021**

*Committee*

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

**Clause 2: Commencement —**

Committee was interrupted after the clause had been partly considered.

**Hon TJORN SIBMA:** When I was last on my feet, I was canvassing the arguments the parliamentary secretary used in his second reading in reply speech to argue against, in the government's view, the need for a referendum to be held on this bill. I do not think that point is contested even by the government necessarily, considering that the measures embedded in the bill, particularly as they pertain to the abolition of regional representation, are an issue for which the government does not have a mandate. It was referred to throughout the course of the debate that in one particular interview the claimant denied any intention to draft a bill of the kind that we have in front of us on seven occasions and that he repeated that assertion when we had the single televised debate during the pre-poll phase. I think that question was put to him by Peter Hall and the Premier responded in the same manner that he responded to Daniel Mercer when those questions were put by regional media in Albany.

The first justification, though, that the parliamentary secretary seems to rely upon is that, apparently, in 1977 and 1978—I mentioned that I was a mere infant at that time—the then Premier, Sir Charles Court, introduced the Acts Amendment (Constitution) Bill, which, among other things, ensured that there could be no reduction in parliamentary representation in either house other than through a referendum to deal with the question and a range of other factors.

But my question, I suppose, directly, is: did the bill introduced by the then Premier undermine or abolish regional representation?

**Hon MATTHEW SWINBOURN:** Deputy Chair, this is clause 2. It deals with commencement. I cannot see any connection between the matters that have been raised and clause 2, and I do not intend to elaborate on anything that relates to a referendum.

**Hon TJORN SIBMA:** Try as he might, I do not think the parliamentary secretary can completely avoid the issue of having to deal with a referendum. I draw the parliamentary secretary's attention to supplementary notice paper 47, issue 1. He will see at clause 2, two amendments standing in my name.

**Hon Matthew Swinbourn:** Are you moving those amendments, member?

**Hon TJORN SIBMA:** I will get there. Is the parliamentary secretary in a real hurry?

**Hon Matthew Swinbourn:** I'm just asking whether you are moving the amendments because if you move them, then we can discuss them. But you haven't yet moved them.

**Hon TJORN SIBMA:** I will get to the point of doing that. I will be doing that. I will just note that the parliamentary secretary has not contradicted the obvious in that the government does not have a mandate for these measures.

**Hon Matthew Swinbourn:** You can't take from a non-response agreement. It's not good faith to do so.

**The DEPUTY CHAIR:** Members, I ask that comments be directed through the chair. I give the call to Hon Tjorn Sibma.

**Hon TJORN SIBMA:** Thank you, Deputy Chair. I know this is uncomfortable.

**Hon Matthew Swinbourn:** I'm very comfortable, member. Very comfortable. This is clause 2, which is the commencement clause. Ask me a question about commencement.

**Hon TJORN SIBMA:** I will get to this, but I will not be rushed. I still have eight minutes and 26 seconds to get there and, frankly —

*Point of Order*

**Hon STEPHEN DAWSON:** This is clause 2; it is about the commencement date. I would urge the honourable member to actually ask a question about the commencement date. Otherwise, he may well be holding up the house unnecessarily, and we can get on to more important clauses.

**The DEPUTY CHAIR (Hon Steve Martin):** Thank you, Hon Stephen Dawson. I had only heard several interjections and Hon Tjorn Sibma just making the first point of this discussion. I rule that there is no point of order.

*Committee Resumed*

**Hon TJORN SIBMA:** Indeed, Mr Deputy Chair. What prolongs this issue are the unruly interjections. We will get to where we need to get to if I am heard in silence, which is the customary way in which these matters are dealt with. We have made progress; we have passed clause 1.

I want to try to understand. The government indicated that it would not support the need to take these issues to a referendum for a couple of reasons, the first of which was the invocation of a precedent some 44 or 45 years old. I think the parliamentary secretary in his second reading reply speech then invoked a measure introduced by the Barnett government to establish four-year terms. In the course of making that contribution, the parliamentary secretary committed an error, which he then later retracted and corrected for the record because, indeed, that measure was spoken about in the course of that election campaign by the gentleman who was then elected Premier. The fundamental justification that the government seems to rely upon is the ministerial expert committee process, and the fact that it has to some degree solicited views by virtue of an abbreviated submissions process. In the course of providing, again, a correction I think directed at Hon Martin Aldridge about facts and figures, the parliamentary secretary identified that only 62 submissions of a total of 184 submissions received explicitly supported the government's policy position to abolish regional representation. One does not have to be a gifted mathematician to identify that that represents only one-third of the views submitted. There was some disputation about what other submissions were actually referring to, but there was not any overwhelming support expressed for the view that regional representation in the upper house should be abolished. In fact, this would indicate that indeed the majority view is either ambivalent or against that proposition.

Although there is some disputation around it, and in light of the fact that the government did not take this to an election and denied that it was on its agenda, why would a referendum on the question not be justified? After a week of frustration, which I can understand at a personal level, the parliamentary secretary asserted that somehow the statement that this is an issue that ethically should be taken to a referendum contradicted the position that the opposition had put. I found that interesting. I refer the parliamentary secretary to his remarks; he said —

I pause to point out that in a referendum, each vote is counted equally. They are not subject to vote weighting. By invoking a referendum, members opposite —

Meaning us —

are essentially embracing the concept of one vote, one value.

I will just hold up there and say that what we are embracing is the concept of electoral responsibility. We are committed to enshrining and upholding democracy. If the government is attempting to introduce a bill that it purports to say its primary purpose is to introduce one vote, one value, why would the government not take its own medicine at the first opportunity? We are giving it that opportunity. If it is consistent with its own proposition, why is it running away from that opportunity? I suspect it is because it would be embarrassing—because it would involve conceding to the public that we cannot always take the Premier at his word. If he tells us that he will not do something seven times in a row, he might change his mind and do it. I suspect that that is the problem.

With that in mind, noting that this is the second occasion that the government has been given the opportunity to take this issue to a referendum, I point out for those of a technical bent that the motion standing in my name at 1/2 on supplementary notice paper 47 has been drafted in consultation with the Parliamentary Counsel's Office, and it has been drafted in such a way to avoid the Legislative Council effectively obliging an appropriation on the Legislative Assembly. It is drafted in this manner for a specific purpose—to keep it within the Legislative Council standing orders. If the government is going to oppose it, it should oppose it because it does not want a referendum—do not try a cute calling it out of order trick. That is all preamble to this: I move —

That the Legislative Assembly be requested to make the following amendment —

Page 2, line 9 — To delete the line and insert —

- (b) the rest of the Act — on the day after the day on which the statement referred to in the *Referendums Act 1983* section 30(3) is published in the *Gazette* in relation to the referendum required by section 2A(2) if that statement evidences that, as regards the whole of the State, the number of votes marked “yes” exceeds the number of votes marked “no”.

*Point of Order*

**Hon MATTHEW SWINBOURN:** I think this amendment is out of order. The proposed amendments will impose a financial burden by requiring expenditure on a proposed referendum. The house is not permitted to amend any bill so as to increase any proposed charge or burden on the people. The prohibition at section 46(3) of the Constitution Acts Amendment Act 1889 is not overcome by a request to the Assembly to amend, pursuant to subsection 46(4) of the Constitution Acts Amendment Act. I ask that you make a ruling on the amendment.

**The DEPUTY CHAIR (Hon Steve Martin):** Thank you, parliamentary secretary. Members, I will need to take some advice.

I have sought some advice. It is unusual that the Parliamentary Counsel's Office did not inform Hon Tjorn Sibma of this advice. It appears that we cannot increase expenditure in this place. Apparently, we cannot request the Legislative Assembly to do so. On that basis, I rule the amendment out of order.

*Committee Resumed*

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 47 amended —**

**Hon TJORN SIBMA:** I have some questions relating to clause 4, particularly driven by the quite helpful explanatory memorandum concerning the amendment made to section 47 of the Constitution Act 1889. The guidance here is that the amendment will be made to section 47 to provide that the Council cannot continue to operate if an election wholly fails or is declared absolutely void. Previously, the Council could continue to operate in circumstances in which an election for a region failed or was void. Although this was in operation in a regions-based electorate, it is not appropriate for a whole-of-state electorate. This amendment provides that the Council cannot continue to operate when the whole state election fails or is void.

I wish to ask a very basic question at the outset. Presently, under what specific set of circumstances would an election wholly fail or be declared absolutely void as it relates to the election of an upper house member?

**Hon Matthew Swinbourn:** Just by way of clarification, under the current act?

**Hon TJORN SIBMA:** Yes.

**Hon MATTHEW SWINBOURN:** An election will be deemed to have wholly failed if no candidate was nominated or no candidate was returned, subject to section 89(1) of the Electoral Act. In that case, a new writ would be issued for a supplementary election. A Council election will be deemed to have wholly failed if a candidate died between nomination and close of polls. The Court of Disputed Returns has the power to declare an election absolutely void in circumstances in which illegal practices were committed in connection with an election. That is currently set out in section 162(3). If an election is declared absolutely void, a new election is to be held in accordance with section 172(1)(c). Where an election is void if a person not qualified is elected under section 76(3)(a) or 76(3)(b) of the Electoral Act, it can be contested in the Court of Disputed Returns. If an election is declared absolutely void, a new election will be held.

**Hon TJORN SIBMA:** Can the parliamentary secretary indicate when such a declaration, either that an election has wholly failed or has been absolutely void, has been made in the context of an election to a lower house seat or a seat in the Legislative Council in recent Western Australian history? I was struggling to find any examples.

**Hon MATTHEW SWINBOURN:** The advice we received from the Electoral Commission is that it was not within the corporate knowledge of anyone there that such a thing has happened. Obviously, to ascertain if it had would require a wider degree of work. I am winging it a bit here, but I suggest that a few people at the commission probably have a lot of corporate knowledge, so I think we can take it on good faith that it is not something that has happened in recent memory.

**Hon TJORN SIBMA:** Under the existing statute—this might be a terminological matter—is a gradation of failure being voided? I ask this question genuinely. Is it possible to declare an election that partially fails or is partially void? The language here seems to be completely absolute. It seems that everything is either successful or legitimate or not.

**Hon MATTHEW SWINBOURN:** I am advised that an election for a region could fail, and that would affect that particular region. Also, a general election could fail overall, which would mean that it would fail for both houses of Parliament. That would require a new general election for both houses of Parliament.

**Hon TJORN SIBMA:** Some of the examples that the parliamentary secretary cited previously would effectively trigger the Electoral Commissioner to declare that an election had wholly failed or was absolutely void.

**Hon Matthew Swinbourn:** In the Court of Disputed Returns.

**Hon TJORN SIBMA:** Yes, sorry, the Court of Disputed Returns does that, in the context in which no candidate was proffered or a candidate died between certain points in time or there were questions about the eligibility of a particular individual who had been voted to sit in the Parliament because of a constitutional invalidity.

**Hon Matthew Swinbourn:** Also illegalities.

**Hon TJORN SIBMA:** Yes. I am reminded of something that occurred in recent Australian federal political history when the Senate ballots for Western Australia were lost somewhere.

**Hon Matthew Swinbourn:** I think they finally found them.

**Hon TJORN SIBMA:** They were in somebody's garage.

Not to be cheeky, but is there capacity under an existing statute for a similar declaration of an election effectively being annulled as a consequence of some logistical or handling failure on behalf of the Western Australian Electoral Commission? I imagine there is but I do not know whether there is.

**Hon MATTHEW SWINBOURN:** Part 5 of the Electoral Act 1907 deals with disputed returns. The member made reference to the Senate in the 2014 federal election, I think. It was obviously conducted under commonwealth electoral laws. If I recall correctly, the federal Electoral Commissioner tried to declare the results for the Senate and an application was made to the federal version of the Court of Disputed Returns. It was petitioned. That is the process that would be available under the state system. Section 157, “Validity of election or return, how to dispute”, sets that out. Section 158 of the Electoral Act states —

Every petition disputing an election or return, in this Part called the petition, shall —

- (1) set out the facts relied on to invalidate the election or return;
- (2) contain a prayer asking for the relief the petitioner claims to be entitled to;
- (3) be signed by a candidate at the election in dispute;
- (4) be attested by 2 witnesses whose occupations and addresses are stated;
- (5) be filed in the Central Office of the Supreme Court within 40 days after the return of the writ.

Section 162 deals with the court’s powers on petition. I will not take members through all those powers because the section is quite long, but it includes, for example, the powers to declare any election absolutely void, to declare any candidate duly elected who was not returned as elected and to declare that any person who was returned as elected was not duly elected. The section goes on to state those sorts of powers. I will not cover each and every one of those powers.

**Hon TJORN SIBMA:** I want to cite the example of the 2014 federal election. I am trying to find an analogue for the substance of what is being discussed here. My recollection is that the Western Australian Senate election needed to be re-run. I will call it the implosion in Western Australia, but it did not affect the election of that Senate overall nor did it impede senators elected in New South Wales, Tasmania, Victoria and Queensland from taking their seats in the chamber. Is my knowledge correct to the best of your knowledge?

**Hon MATTHEW SWINBOURN:** I think so. I do not have advisers here who are experts in federal elections or were involved in that regard, but I think the member is on the general track. I stand to be corrected, as I think the member would, too, if that is not in fact the case. If I remember rightly, it may have been a double dissolution election. I think 12 Western Australian senators had to be elected, which changed things.

**Hon TJORN SIBMA:** I will put a hypothetical so that I understand the operation of the present law. Let us pick my region, the North Metropolitan Region; those people probably deserve a bit more attention. If the Court of Disputed Returns determines that the election of one or more members from that region either wholly failed or can be declared absolutely void for a particular reason, would that affect the legitimacy of the election of members from the East Metropolitan, South Metropolitan and three country regions? Would it necessarily affect the legitimacy of the overall Council election?

**Hon MATTHEW SWINBOURN:** I think it would depend on the circumstances of that particular election, but, obviously, if it is quarantined to the region affected, I think maybe the member’s assertion is a fair one. I think in the circumstances in which an election is declared void in North Metropolitan, it would not necessarily cascade into every other region, although we do not have an example of that.

**Hon TJORN SIBMA:** My understanding is that it is stated more explicitly in the explanatory memorandum. Page 7 states —

Previously —

I imagine that means currently —

the Council could continue to operate in circumstances where an election for a region failed or was void.

That does not seem to be disputed. I make the assertion that to a large degree, even though this is a set of circumstances that does not appear to have occurred in the course of a Western Australian state election—I hope this is never the case, but I was lauded for my capacity to see into the future by Hon Stephen Dawson earlier today on the need to focus on immunisation —

**Hon Stephen Pratt:** Nostradamus!

**Hon TJORN SIBMA:** Well, I did not say it.

**Hon Stephen Dawson:** I didn’t say anything.

**Hon TJORN SIBMA:** There you go—led along!



Would it be a fair assertion to say that the current system of regional representation actually imposes a safeguard that quarantines the fallout of the potential skulduggery or improper, illegal or just unfortunate behaviour of a particular candidate—for example, if a member from the Agricultural Region unfortunately passed away?

**Hon Sandra Carr:** Now, you're killing us off!

**Hon TJORN SIBMA:** I am not. I am sorry; I am not making any accusations and I am not invoking any evil intent. This is not an incantation! My time for incantations has passed; that was during debate on the second reading and the two amendments. Do not worry; you are all safe! My people put paganism to bed probably millennia ago, so you have nothing to fear.

The issue is this: I think there is embedded in the current set of arrangements, constituted as they are, an ability to quarantine the ill. Unfortunately, a consequence of the abolition of regional representation and the move to a whole-of-state electorate model is that if some malfeasance or unfortunate behaviour or some other unfortunate outcome occurs in an isolated pocket of Western Australia, it will imperil or undermine the legitimacy of the election of what will soon be the 37-person chamber of the Legislative Council. I think that even though we have not encountered that risk previously, it might be a risk. I will not dwell on unfortunate recent political history, but we have all experienced members from our own side who might not necessarily tell us the full truth or might not provide their full bona fides. Unfortunate, unpredictable things can happen, but we can count on human failure in some form. My proposition is: was the risk of deconstructing regional representation and implementing a whole-of-state electorate considered in any sort of deep way; and, if so, how does the government propose to mitigate that risk?

**Hon MATTHEW SWINBOURN:** I think there is a bit to unpack with what the member is trying to get at here. I take the member to section 89 of the Electoral Act 1907. Subsection (1) states —

If no candidate is nominated for an election, or if no candidate is returned as elected at an election, the election shall be deemed to have wholly failed, and a new writ shall forthwith be issued for a supplementary election.

Subsection (2) states —

If an insufficient number of candidates is nominated for an election in a region where the relevant number is more than one, or if an insufficient number of candidates is returned —

That is the partial failure because someone was removed because of any number of things —

as elected at such an election, the election shall be deemed to have partially failed, and a new writ shall forthwith be issued for a supplementary election to fill the remaining vacancy or vacancies, as the case may be.

It would not necessarily mean, if there were a partial failure, that everything would fail, even under a whole-of-state model, because we could then have a further election that would result in filling the vacancies in those circumstances. As the member will be aware, we have introduced some measures in relation to the death of candidates. Under the current legislation, that causes an election to wholly fail. We will get to those provisions at clause 88, but in general it makes provision that, if a candidate passes away between nomination and election, it will not cause the failure of the election. I am trying to short-circuit this to get to the point, but the vote would keep being counted as though they had been taken off the ballot. That might not be quite the right language, but I think the member gets the thrust of what I am trying to say.

**Hon MARTIN ALDRIDGE:** This is an interesting line of questioning and I want to try to extend on from Hon Tjorn Sibma's questions on the risk, as small as it may seem, of the election of the Legislative Council failing wholly. What would happen if, after the election, thirty-seven members are sworn in and someone takes a writ to the Supreme Court or, indeed, the High Court, and challenges the validity of this law, and the challenge is upheld? Let us say the court finds, on whatever grounds, that an argument exists—be it on constitutional grounds or technical grounds in respect of the operation of the legislation—that the election is not valid because the law is not valid, and the court upholds that argument. This is not a remote hypothetical; I remind the parliamentary secretary that not all that long ago the validity of a piece of Labor government electoral legislation was challenged and it was taken to the Supreme Court. What would happen in those circumstances?

**Hon MATTHEW SWINBOURN:** I think the member is asking for a legal opinion, so that is not what I am giving him here. This is a general comment about what happens when a court strikes down a law, depending upon the manner in which it is struck down. If it is struck down as a nullity, as though it never existed, the current act would prevail and obviously an election would have to be conducted according to the act as unamended by the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. I think the member might be suggesting that that is what could happen because of the nonexistence of the Legislative Council as a result of changing the laws in relation to how people are elected, but that is not what would happen. The bill, once it has been passed by Parliament, becomes an act. That act would then be struck down and the Electoral Act as it currently stands would continue to exist in its current form. Obviously, there would be consequences flowing from that, and I suspect the court would make consequential orders arising from things like that.

Having said that, it is the same for any other amendments to the Electoral Act since its proclamation in 1907. Anyone could go back and challenge any one of the amending laws and say that they are not constitutional or lawful. The member was obviously referring to what happened back in, I think, the early 2000s, although I do not think that act was ever proclaimed because the legal proceedings happened in the intervening period.

**Hon MARTIN ALDRIDGE:** If there was a failure after the election through some legal challenge, the Electoral Act, the Constitution Act and the Constitution Acts Amendment Act would all exist as they do today. I assume there would be fresh elections, probably for both houses, because I think the government recognises that this bill has an impact on both the Legislative Council and the Legislative Assembly. There would need to be fresh elections and perhaps a reversion to a pre-existing form of boundaries, because the boundaries will be impacted by this bill when it becomes an act and the redistribution process occurs. I do not think these are remote hypotheticals. The types of people who are currently litigating against Western Australia might also want to contest the next state election in some form and may well want to test the validity of the laws that are made.

I am concerned about the way in which this bill has been rushed together, instructed not by an agency of government with special expertise but by the minister's office. It has been rushed together, and committee referrals have been denied on two occasions—once in the other place and once in this place. According to the government, this bill is perfect —

**Hon Dan Caddy:** Have you got a question?

**Hon MARTIN ALDRIDGE:** I have eight minutes and 25 seconds to get to my question. It is not question time.

In the government's view, this bill is perfect and no amendments will be supported. The best legal minds in Western Australia have advised on this bill—from the Ministerial Expert Committee on Electoral Reform to advice from the State Solicitor's Office and the WA Solicitor-General, and others. It is perfect. My concern, parliamentary secretary, is that some of these things may well come unstuck. It is the government's express desire to rush this through the Legislative Council. Noting that there is no rush. I think the government admits that this bill need only pass before the next election for the Legislative Council to convert to 37 members at large, rather than six regions comprising 36 members.

There is still time in our standing orders to have this bill discharged and referred to a standing committee or a select committee. We are about to go into a summer recess when we can pause and can contemplate and ensure that the three acts that we will amend through this bill will not easily be subject to legal challenge. Perhaps we can help the parliamentary secretary obtain the information that he cannot get from the Minister for Electoral Affairs. I think it would be a very dire situation indeed if we had an entire failure of an election for the Legislative Council, as remote as that may seem. If an election were to fail through legal challenge, that would present great difficulty for not only this place, but also the other place. I implore the parliamentary secretary to contemplate seeking advice from his masters and consider supporting a referral of the bill to a committee inquiry.

**Hon TJORN SIBMA:** This is slightly painful and technical —

**Hon Stephen Dawson:** Not as painful for you as it is for us, I can tell you.

**Hon TJORN SIBMA:** I will take that interjection because it was a good one, but the benefit you have is that you win everything. You may as well do it with a smile on your face and if you have to wait another 10 minutes before you get there, so be it. I do not know why you do not look happier more of the time.

**Hon Stephen Dawson:** Who? Me personally?

**Hon TJORN SIBMA:** No, not you. Hon Stephen Dawson is a man of very positive disposition and I wish his sentiment was more broadly shared among his cabinet colleagues. Most of them are happy; they have nothing to worry about for at least another three and a half years. I want to understand something, and I think this is an important point. I hope we do not get to a point in 10 or 15 years when a court goes back over *Hansard* and attempts to divine some sort of clarity or purpose or a theme to the debate. I want to understand whether, through the process of disestablishing regional representation and creating a whole-of-state electorate for the Legislative Council, will we potentially introduce a new risk vector that will impede the capacity of the Council to operate? I am still trying to grapple with that.

The parliamentary secretary made reference, quite helpfully, to the circumstances or amendments that relate to the unfortunate passing of a candidate if they die between nomination and the close of polls, for example. We can probably return to this at clause 54. I hope we will not, but I might use this as the example. Previously it was said that you more or less fish off the list. Would a Council still have the capacity to operate or would it have to come to a grinding halt and would writs need to be issued again for a whole-of-state election for the Legislative Council? I do not think that is likely, but I want to understand the contingencies we might deal with as a consequence of introducing a whole-of-state electorate. I ask because emphasis is placed, at least on page 7 of the explanatory memorandum, on the fact that the amendment provides that the Council cannot continue to operate if a whole-of-state election fails or is voided. My view is that the threshold for determining that seems to have been lessened by the fact we cannot compartmentalise that to a region.

**Hon MATTHEW SWINBOURN:** I bring the member's attention to section 172(2) of the Electoral Act, which states —

The proceedings of the Legislative Council or Legislative Assembly shall not be invalidated by reason of the presence in that House of any person returned under this Act as elected to that House but later subject to a declaration of the Court that —

- (a) he was not duly elected to that House; or
- (b) his election to that House is void or absolutely void.

I think those provisions contemplate the circumstances. If that were every single member, that would not void those decisions. That is the current act and the current provisions.

**Hon MARTIN ALDRIDGE:** If the entire election is not void and it is just that one member's election that is void, rather than just going to a fresh election for that, how would that work? Normally, if a person was not eligible for election, let us say, there would be a casual vacancy and it would be filled by a recount, but what would happen if one person's election was not valid, but it was not significant enough for the entire election to be invalid?

**Hon MATTHEW SWINBOURN:** I think we come back to section 89(2) of the Electoral Act. I will read it again so that I do not misrepresent it —

If an insufficient number of candidates is nominated for a Council election where the relevant number is more than one, or if an insufficient number of candidates is returned as elected at such an election, the election shall be deemed to have partially failed, and a new writ shall forthwith be issued for a supplementary election to fill the remaining vacancy or vacancies, as the case may be.

There would be a supplementary election.

**Hon MARTIN ALDRIDGE:** I see that here. It is a section that has obviously been —

**Hon Matthew Swinbourn:** By way of interjection I was looking at the blue bill and I included the words “a Council election” because that is how the provision will be amended. My apologies if that misled the member.

**Hon MARTIN ALDRIDGE:** I see that here. This section will be amended in a minor way in respect of the definition of the Council no longer being divided by regions. If the Council was, say, a member short or a member was elected invalidly, we would then have a statewide election to fill one vacancy. That is a possibility, is it not?

**Hon MATTHEW SWINBOURN:** Yes.

**Hon MARTIN ALDRIDGE:** If there were a handful of vacancies or we were two or three short, we would then have a fresh ballot of the entire state of Western Australia to fill those one, two or 10 positions.

**Hon MATTHEW SWINBOURN:** Yes, member.

**Clause put and passed.**

**Clause 5 put and passed.**

**Clause 6: Section 5 replaced —**

**Hon MARTIN ALDRIDGE:** Why does the Legislative Council need an additional member of Parliament?

**Hon MATTHEW SWINBOURN:** I think I did cover this in both my second reading speech and my reply, but for the sake of the Committee of the Whole House, I will repeat the government's view. When there are an even number of seats, the vote required to secure the majority of seats is above 50 per cent. Having an odd number of council members will make it more likely for a party that wins a majority of votes to win a majority of seats. In addition, an odd number of seats will deal with the anomaly of the President having only a casting vote at present, and not a deliberative vote. With 35 members voting under our current system, excluding the President, there is no need for a casting vote, because if every eligible member votes or is paired out, the situation does not arise in which there is an even number of members, unless somebody abstains from a vote. Effectively, the President's vote is never used. In my four and a bit years in this chamber, the casting vote has not been used. Other members have been here for longer than I have, but I do not know the last time it was used. Increasing the number of members to 37 will mean that if all members vote, excluding the President, and the vote is equal—18 to 18 votes—the casting vote will now have value. That is our reason for this provision.

**Hon MARTIN ALDRIDGE:** It is interesting to hear the government's view on having a meaningful casting vote because, as far as I can read in the explanatory memorandum, none of that is reflected as the reason for amending the act in this way. Of course, every casting vote is meaningful. The government's issue is that there is not enough of them. I struggle to understand the government's rationale of trying to bring the Presiding Officer into the debates in this chamber. Their job is to preside, not to decide. When they are required to use a casting vote, the convention is that they would typically use it in favour of the status quo, in the same way that a tied vote in Committee of the Whole is exercised when the presiding member of this place does not have a casting vote. Why is it that the government wants to burden the taxpayers of Western Australia with an expense of up to \$1 million per annum, when as far as I can tell there is zero appetite to increase the number of parliamentarians in Western Australia? I would not want to take this to an election.

**Hon Darren West:** It was not that long ago you tried. It was not that long ago you wanted two more in the Assembly.

**Hon MARTIN ALDRIDGE:** I am glad Hon Darren West is still here. What was Hon Darren West's position on that private member's bill at the time?

**Hon Darren West:** It never got to a vote.

**Hon MARTIN ALDRIDGE:** It did. It passed this place, honourable member.

*Point of Order*

**Hon MATTHEW SWINBOURN:** Deputy chair, there seems to be a discussion happening across the chamber. Can I ask that you bring it back to have comments directed through you and that we deal with clause 6?

**The DEPUTY CHAIR (Hon Steve Martin):** You beat me by a few seconds, honourable member. Members, please refer your comments to the chair. I give the call to Hon Martin Aldridge.

*Committee Resumed*

**Hon MARTIN ALDRIDGE:** Thank you, deputy chair. It is always helpful when Hon Darren West provides assistance to me. He reminds me of the relevance to the clause in question, because, if my memory serves me right, he voted against the private member's bill that he referred to. It may well be some homework for me overnight to reflect on the views of the Labor Party not all that long ago. I am not sure that Hon Matthew Swinbourn was a member of this place when that bill was considered, so he will be excused from my homework tonight, but not other members, particularly those members who seek to interject but not contribute to the debate, of course, who may well have contributed if by no other way than voting on that matter. Hon Darren West, that will be something that I will give further attention to overnight. However, my question remains, parliamentary secretary. Why is it that the government seeks to politicise the office of President of the Legislative Council?

**Hon MATTHEW SWINBOURN:** I do not accept that we are politicising the office of President of the Legislative Council. I reject the premise of the member's question—or statement, more like it.

**Hon TJORN SIBMA:** Just so that I can understand the origin of this concept, can the parliamentary secretary direct me to where this appears in the report of the Ministerial Expert Committee on Electoral Reform? Is it referred to in that document?

**Hon MATTHEW SWINBOURN:** The issue of an odd number was certainly discussed in the report and can be found on page 23, I am told. I have been distracted by that and have now forgotten the second part of the member's question. The expert committee discussed it but it did not make a recommendation for an additional member. I am certain that we have made no claim that that arose. I think we have been clear to say that the thirty-seventh member is one of those things that sat outside the recommendations.

**Hon TJORN SIBMA:** Thank you, parliamentary secretary, for refreshing my memory and that of the chamber in relation to it being an issue which was canvassed, but for which no firm recommendation was made. What was the origin of the proposition, if not from the ministerial expert committee membership? Presumably, this is not one of the clauses on which there was consultation with the Electoral Commissioner, even though I would not have expected that to occur. From where did the idea originate?

**Hon MATTHEW SWINBOURN:** I can refer the member only to the comments of the minister in the other place on 12 October 2021 in response to a question from Mia Davies. The minister said —

This matter came out of cabinet and I do not want to discuss the matters that happened in the cabinet room. It was a cabinet decision to go with an uneven number.

I cannot take the member any further than that. I am not a member of cabinet and I am constrained, obviously, by my master, as he has been described on a number of occasions.

**Hon TJORN SIBMA:** I would not describe their relationship that way. Nevertheless, I want to focus on this because I reflect quite seriously on the theme of the argument that the parliamentary secretary has made about the government's management of this bill, particularly in light of his second reading reply speech. I reflect on one of the first passages of the second reading speech read in by the parliamentary secretary. He stated —

The purpose of the bill is to establish a whole-of-state electorate, abolish group voting tickets and introduce optional preferential voting for the Western Australian Legislative Council.

Despite the fact that we disagree quite strenuously with the establishment of a whole-of-state electorate, but have—I might just reinforce this point—supported the government in its endeavours to abolish group voting tickets, I want to reinforce that there is good and there is ill with this bill. I want to try to understand the logical connection between the desire to increase the membership of this chamber by a sum total of one, and the purported reform of introducing electoral equality, and chasing preference harvesters out of the kingdom of Western Australia. I do not see how this particular measure is in any way consistent with or relevant to the purported purpose of the bill. Can the parliamentary secretary explain the relationship to me a little bit?

**Hon MATTHEW SWINBOURN:** My second reading speech is my second reading speech, but I will refer the member to the explanatory memorandum, which states under “General Outline” —

The Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 effects a number of electoral reforms as summarised below.

The first point refers to electoral equality. The second point states —

The number of members in the Council increases from 36 to 37, by amending section 5 of the *Constitution Acts Amendment Act 1899*.

I am not suggesting that the member is saying that we have slipped it in, but the fact that it was not mentioned specifically in my second reading speech does not mean it was not front and centre to what was also tabled with my second reading speech, which is the explanatory memorandum.

**Hon TJORN SIBMA:** I think that was a worthy contribution, parliamentary secretary. Just to clarify, it was not necessarily an accusation, because the reference to —

**Hon Matthew Swinbourn:** I did not take it that way, member.

**Hon TJORN SIBMA:** Okay; thank you. Although it was referred to in the course of the second reading speech, probably at the halfway point, it was not identified earlier in the speech as constituting the primary purpose of the bill. I do not think the parliamentary secretary has made an argument that suggests contrariwise that it is central to the longstanding Labor Party desire for one vote, one value in Western Australia, and nor does it bear any necessary relationship to the abolition of group ticket voting. Nevertheless, I find it an interesting inclusion, particularly in light of the fact that the ministerial expert committee recommended government activity on a range of fronts. In the parliamentary secretary’s very instructive contributions in reply to questions put yesterday, he canvassed that there was a range of other electoral reforms to which the government might give some consideration upon the passage of this bill.

I am struggling to understand the priority afforded to this measure and why it is in this bill, when other reform tasks have been—I will not say kicked down the road, but deprioritised, I suppose, and excluded from inclusion in this particular bill. I want to understand effectively what priority the government is affording to this measure, and whether it is of the view that the changes proposed by way of clause 6 are absolutely integral to fulfilling the government’s mission to introduce electoral equality and optional preferential voting.

**Hon MATTHEW SWINBOURN:** Member, I am not sure that I can take it a lot further from where I left off, given the comments I quoted to the member from the minister in the other place about it being related to a cabinet decision, and his decision not to elaborate further on the deliberations with respect to that. As the member knows, I am not a member of cabinet, so I am not even in a position to do that. In terms of priority, clearly we have prioritised this, because it is in the bill—I think that is plain—as opposed to other things that are not there. If the member wants me to say why we have picked X and not Y, I cannot really get into that kind of thing because, again, of what has been said before. But I will make this general point about the President exercising a vote. The President is a member who is elected by the people. Our desire in one respect of electoral equality is to give effect to the will of the people. Effectively in this Council—it is not necessarily the case in other chambers—our President is not involved in any deliberative way in terms of the vote that the people have given to the President in that role. Obviously, our expectation is that if in the future this bill were to pass and we had a thirty-seventh member, and there were even numbers, and the President were to exercise their casting vote, that the President would respect the conventions of the house.

However, there is a history. I will go through the history of the casting of that vote in this place. The advice that we sought from the very helpful Clerks, of course, is that in the last 20 years or so, the casting vote has been used three times. The President employed a casting vote on 26 May 2005 on the Ningaloo Marine Park (Alteration of Boundaries) Order 2004 disallowance, following a division. Then President Griffiths stated —

Honourable members, this is one of those unusual situations in which the votes are tied. In those circumstances, the President has a casting vote, and in exercising a casting vote the President may, if he so desires, give a reason or reasons for the way in which he votes. I vote with the noes to maintain the status quo.

The question was thus negated.

Prior to that, in 2000, then President Cash made two detailed casting votes. The first was on 10 October 2000, in relation to a division. I do not have the details of what that division was on. The second was on 22 November 2000, also in relation to a division. For that second one, in November 2000, the President actually voted not to maintain the status quo. There was a unique circumstance in that case, because there had been an issue with pairs. Members can obviously refer back to *Hansard* to get the specifics of that, and the reasons. On those three occasions in the last 21 years, two respected the convention, and the third was not in accordance with the convention but was done to respect another convention, which is the pairs convention. It is a rare occurrence here for that to happen, which is the point when we get back to what the member was talking about in terms of electoral equality. There is obviously,

with the thirty-seventh member, the prospect, particularly after a close election, of the President exercising a casting vote, and that could be because the member's side is in the position of government, or our side is in the position of government, so that becomes more realistic. That is just the nature of the numbers. How the President uses that casting vote would obviously, as I say, be subject to the convention in this house.

**Hon NEIL THOMSON:** I come back to page 22 of the expert committee's report. I draw the parliamentary secretary's attention to the discussion we had yesterday about 37 members. I want to focus on why the number 37 was chosen. Assuming the argument for the casting vote of the President on a very tightly run election was critical and therefore an odd number was needed—we do not agree with that, but assuming that is correct—was 35 members considered for this chamber?

**The DEPUTY CHAIR:** Member, noting the time, I will report progress.

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

### **EPILEPSY AWARENESS MONTH**

#### *Statement*

**HON KATE DOUST (South Metropolitan)** [6.22 pm]: Tonight I rise to talk about epilepsy. November is Epilepsy Awareness Month. In October, I organised and attended a briefing with a number of other members with the CEO of Epilepsy WA, Emma Buitendag, who took us through a range of issues. Every one of us in this chamber will know somebody—a work colleague, family member, friend or constituent—who has either been diagnosed with epilepsy at some point in their life or is currently dealing with it. As a number of members in this chamber know, I am a parent of a child with epilepsy. My son was diagnosed at 11 years of age; he is now nearly 24. He has had to deal with a range of issues in that space.

Epilepsy WA is basically funded via donations from community or via membership. It does not receive any other public funding. Given that about one in 25 people will be diagnosed with epilepsy in their lifetime, that over 142 000 people in Australia currently live with epilepsy and about 300 deaths a year are linked to epilepsy, it is a surprise that the organisation does not have a higher profile or a greater funding pool to draw from to provide the very extensive level of services that it currently provides. As it is Epilepsy Awareness Month, I thought it might be timely to talk about some of the things it does and encourage members to engage with the organisation and provide some support, because the support we give will enable Epilepsy WA to provide support to our constituents.

Emma talked about a range of issues with us, including the services currently offered by Epilepsy WA. It offers support groups in a range of areas, both regional and metro. At the moment, because of funding issues, it has had to reduce that, and also because of COVID. It functions with Joondalup and Bunbury and they are quite successful. These groups are very helpful, particularly to young people who are starting to deal with living with epilepsy. They are able to talk in a safe environment about the types of issues they have to deal with.

Epilepsy WA is involved in the epilepsy smart schools program, raising awareness of epilepsy and providing training to staff and teachers about how to deal with it at school. The organisation provides seizure awareness technology. The example that Emma talked to us about was bed mats. It has a range of other technologies—watches and head protection and all sorts of other things that are happening—that provide support and assistance not just to the families but the individuals in terms of monitoring when a potential seizure may occur. There is general community awareness raising. Epilepsy WA offers pathways to other services. When a person is referred to the organisation, it is able to provide them with assistance. Quite often, people will be referred by doctors, including neurologists, and by hospitals. It takes on quite a bit of work.

Epilepsy WA also provides a grief and loss service, and a general information line. It provides training about how to deal with epilepsy and first aid, with face-to-face and online arrangements. It is a statewide service. The organisation assists with care plans for people having to deal with epilepsy. It provides advice on managing risk for people, such as how to deal with epilepsy in the workplace, at home and at school. It has seizure alert technologies and works with a range of neurologists and other doctors so that it is constantly up to date with the latest information and can provide that to their clients.

Most of us are aware that there are different types of seizures. I am sure our colleague Hon Dr Brian Walker is more aware than most. Quite often we hear about tonic-clonic seizures, or, as they used to be called, grand mal seizures, and absence seizures. I know that there is a range of others in between. Particularly for young people, epilepsy is a real struggle. I talked about this a few years ago. A school student with epilepsy may not be able to go to swimming lessons because they do not know what will happen when they are swimming. A young adult may have difficulty getting a driver's licence. My son is still dealing with that, so I am still the taxi service. Thank God for Uber!

They quite often have employment-related issues. When I was a union official doing country runs, a particular employer in Merredin—I will not name the site because I do not know whether they are still around—told me that he really needed to sack a certain person. When I asked why, I was told it was because they had epilepsy. I said, "It doesn't stop them working. Why would you want to do that?" He said, "I don't want to have to deal with a seizure."

That young person was on the brink of losing their job simply because their boss did not like the idea of having somebody on site with a health issue, which, quite frankly, was manageable. For most people, epilepsy is manageable with a variety of medication and by dealing with some of the factors that might activate a seizure, such as sleep, medication issues and a range of other things.

When my son first got a job, he had to sign a separate contract for his employer saying that if he changed his medication or if he had a seizure, he had to advise them and they would take appropriate action. I am not too sure what that would be. He has continued on and is very successful in his area there.

Emma told us something that a number of us who were in the gathering were not aware of. She talked about SUDEP—sudden unexpected death in epilepsy. She gave us a number of examples of children and adults who had passed away in this situation. Of the people who have been found to die from SUDEP, quite often they were healthy and no other reason was found. They die prematurely, but quite often they find that there was a seizure around the time they passed away. This is an issue that a lot of people are probably becoming more aware of and they are trying to work out how to deal with it. That is why those bed mats are important. I understand there is new technology with watches and a range of other things that can help to detect how people are sleeping or how they are travelling, if there is a possibility of a seizure.

As I said earlier, Epilepsy WA survives on donations and membership. It has an annual Purple Day in March every year and a walk to try to raise funds. Epilepsy WA is not in the same financial league as perhaps multiple sclerosis or a number of cancer foundations in terms of pulling dollars, but epilepsy occurs more frequently, considering one in 25 people will be diagnosed throughout their lifetime. It is baffling that epilepsy does not have a higher exposure and greater level of support and that is why I wanted to talk about this tonight; I hope that members might go back to their electorates and promote Epilepsy WA. Emma has provided some written material and images that members can use in newsletters or on Facebook posts to help educate our community and raise awareness about the possibility of providing support to this organisation, and I think that would be a very positive thing for us to do.

This chamber has a very strong link to Epilepsy WA. The very first female member of the Legislative Council, Ruby Hutchison, was the founder of Epilepsy WA. She fought really hard to get it up and going, and so we have that link and I hope that we will continue to ensure that it not only survives, but also thrives into the future to continue to provide a range of very good options.

In 2020, Deloitte Access Economics published a report about the economic burden of epilepsy in Australia. It said that in Western Australia alone, the WA health system spends about \$20.5 million per annum in hospital admissions relating to epilepsy, and \$1.2 billion is the annual burden on Western Australia in a whole variety of ways. Members can see there are some challenges. We have significant numbers throughout the community. Epilepsy is not something that people always talk about as I know from our own experience with our son. People try to get on with their lives, but they do need help, and, over an extended period of time, Epilepsy WA has provided enormous success and I hope that we are able to support it so it can continue. I want to congratulate and thank Emma Buitendag, the CEO of Epilepsy WA, for speaking to us. I congratulate her, her board and her many, many volunteers who continue to provide this very valuable and fantastic service to our community in Western Australia.

### CAMILO BLANCO

#### *Statement*

**HON DAN CADDY (North Metropolitan)** [6.31 pm]: I rise tonight to offer some reflection on things that have been said in this place recently, and to provide some perspective and clarity. Last night, Hon Neil Thomson reflected on a trip to Port Hedland and made some extremely good points. I agree wholeheartedly with him that the vaccination rates in the Pilbara are frightfully low. Thankfully, the McGowan government is doing everything in its power to get those vaccination rates up to where they need to be. He then reflected on homelessness and I think all members recognise the real challenge that homelessness presents in not only the Pilbara, but also the regions, the city and right across the state. Hon Pierre Yang has spoken many times in this place on homelessness. He is passionate about it and is incredibly well informed.

Where the honourable member, in my opinion, went off the rails was in trying to polish the reputation of one of his good friends. Hon Donna Faragher, for whom I have immense respect, has on more than one occasion showed her displeasure in the chamber with those who attempt, in her words, a rewriting of history. Therefore, let us now delve into the character of this member of the Liberal Party whose history has actively been rewritten by his self-proclaimed good friend Hon Neil Thomson. Members, I am referring, of course, to Camilo Blanco.

The mere mention of his name within these walls last night brought forth interjections of disapproval from many members in this chamber. In response to this, Hon Neil Thomson shot back with —

... I think people should reflect on the words they say.

I certainly hope the honourable member is reflecting on his decision to stand in this place and closely associate himself with that man. I say this not because Camilo Blanco is a failed Liberal candidate, not because he failed

spectacularly at his first run for the Town of Port Hedland Council, not even because he was such a disastrously incompetent mayor that he was sacked by the state government—no, member; it goes deeper than this. It goes to the character of the man.

This is a man who could not compete either intellectually or morally with then Mayor of Port Hedland, Miss Kelly Howlett. He took to making videos dressed up as her. He mocked her for her policy work. He mocked the way she spoke and, most abhorrently, he mocked her appearance. For the record, for this chamber, on several occasions I dealt with Mayor Howlett during her tenure as mayor. She was intelligent, she was engaging and she was effective. But let me go back to the treatment she received at the hands of Milo. I remind members that this was done in a video format and posted on YouTube by the honourable member's good friend.

**Hon Neil Thomson:** When he was a member of the Labor Party —

**Hon DAN CADDY:** I am glad you brought that up, member. He was a member of the Labor Party and we expelled him—we got rid of him —

**The PRESIDENT:** Order!

**Hon Neil Thomson** interjected.

**The PRESIDENT:** Order!

**Hon DAN CADDY:** So this was all known to you.

**Hon Neil Thomson** interjected.

**The PRESIDENT:** Order!

**Hon DAN CADDY:** This was all known to you before you allowed him to be a member and before you preselected him.

**The PRESIDENT:** Hon Dan Caddy, order!

**Hon Neil Thomson:** Five years!

**The PRESIDENT:** Order!

When the President calls order, I expect order to prevail over the chamber, including ceasing all interactions. I understand that this is a heated topic and I expect the debate to be carried out in a civil manner. Hon Dan Caddy.

**Hon DAN CADDY:** Thank you, President.

In this video, your good friend, member, dresses as Mayor Howlett in a clown outfit, then dresses her in a Bob Marley outfit and insinuates drug use, and also refers to the deputy mayor at the time as “Deputy Dog”. Member, I could have gone into far more detail. I could have used direct quotes from this, but out of respect and decency towards those in the video that it seeks to mock, ridicule and intimidate, I will not. What is even more distressing here is that despite this well-known side to this man's personality—as the member's interjection pointed out, he was a member of our party and we got rid of him as soon as we knew—despite his contempt for women, he was preselected by the Liberal Party. This is not a rewriting of history; this, President, is fact. This goes to the rotting core of the once proud Liberal Party—a party now controlled by misogynistic powerbrokers who see no issue with pre-selecting this sort of person.

I give credit to the Nationals WA members; they would not have him. He tried. He handed out cards for Brendon Grylls and did everything he could, but the National Party would not have him. But I guess, on reflection, alongside some of the 2021 candidates that the Liberal Party chose, he probably looked pretty normal. But this is a man of no substance, no character and who possesses no moral compass whatsoever. Keep preselecting him because, I tell members, Kevin Michel will eventually retire from old age as the member for Pilbara. But as a party, when you fail to see the folly of your ways, when you refuse to call out these powerbrokers who are systematically destroying your party, when you have new members in this place—I will give the new member the benefit of the doubt, because I am pretty sure if the member was aware of his history, the member may not have made the comments he made—and when, as a party, the Liberal Party, this is where you draw your line in the sand and decide that individuals like this are appropriate for preselection, you are truly lost.

#### *Statement*

**HON NEIL THOMSON (Mining and Pastoral)** [6.37 pm]: I think a little moderation in some of the comments that were made is worthy because I do need to clarify a couple of factors. In stating that Camilo Blanco was my friend, there is no way that I endorse the actions of the video. I ask that people reflect for a moment, as I would like to put my position because certain things have been said. I will just clarify a couple of facts. First, that video was made in 2012 when Camilo Blanco was a member of the Labor Party. He was not dismissed from the Labor Party until he handed out how-to-vote cards for Brendon Grylls in 2017. Therefore, as far as I am aware, this was not the reason for his dismissal. I assume that the Labor Party would have given him some counsel at the time, and I am certainly not going to divulge any discussions that I have had with Milo. People come with a certain history and I,



for one, would offer my advice to people when I feel they are doing inappropriate things. But one thing I do judge Camilo Blanco on is his tireless advocacy for homeless people and that is why I call him my friend. It was a comment made in the sense of what he is: he is a good friend and an advocate for the people of Port Hedland. I understand the outrage and attempts to attack Milo, because he has been constantly challenging the Labor Party's inaction in Port Hedland. I understand it, but we have to look at the history. In 2012, there were some unacceptable actions. In 2017, he was still a member of the Labor Party and eventually became, in his own words, disgruntled or tired with the inaction of the Labor Party in relation to the servicing of Port Hedland. He felt that the vision being offered by the then member for Pilbara, Brendon Grylls, was a much better vision. People reflect and grow. I will always be somebody to reach out to as someone grows and reflects on themselves.

We spoke recently to an elderly homeless person and I shared in this place how good it was that she had been offered a home. Yesterday, she went to that home, but she was abused and racially vilified and felt so unsafe that she chose not to take the home. This is what the action of a Labor-led government does to people over 65 in relation to this matter—to a strong supporter of the Labor Party. It sent her a letter telling her that she has now been taken off the priority waitlist. She is off the waitlist! That person sleeps on the street tonight and all we get is a moralisation from this member, without even thinking of the facts!

**Hon Sue Ellery:** You need to calm down.

**Hon NEIL THOMSON:** You ask why I am upset. It is because of the situation —

**Hon Sue Ellery:** No, I said you need to calm down.

**Hon NEIL THOMSON:** — and the lack of respect for the situation.

Several members interjected.

**The PRESIDENT:** Order!

**Hon NEIL THOMSON:** I will stand by a person who goes out to advocate for somebody who is homeless, vulnerable and has been racially vilified. I will stand by that person.

Several members interjected.

**The PRESIDENT:** Order!

**Hon NEIL THOMSON:** I will stand by that person because I judge a person on their actions today. I would support this government if it took action and dealt with the situation that I raised instead of moralising about somebody who was a member of the Labor Party. Instead of the Labor Party moralising about its inaction for several years, it should actually deal with the situation on the ground and solve the problem by providing this person a home. Then I would not have to get to my feet and raise these very important issues. I will leave it there, members.

### COVID-19 RESPONSE LEGISLATION AMENDMENT (EXTENSION OF EXPIRING PROVISIONS) BILL (NO. 2) 2021

#### *Receipt and First Reading*

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

#### *Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [6.43 pm]: As Australia continues to face an unprecedented emergency with COVID-19, we are back to extend the sunset provisions that provide the state government with the powers to manage the pandemic.

Earlier this year, this house recognised that these provisions continue to be integral to ensuring the safety of the community of Western Australia and provided a six-month extension to 4 January 2022. This house agreed that the COVID response provisions support our emergency management personnel, who continue to do an incredible job on the front line managing the ongoing health crisis. We moved to ensure that the state had access to the necessary powers to continue to manage the COVID-19 pandemic, which still poses a risk to Western Australians. It remains integral that our legislative framework can deal with this emergency, as the threat of COVID-19 continues into the immediate future.

The Delta variant is a serious threat to the community, as we have seen over east. Due to the virulent nature of this strain, Western Australia is under threat of an outbreak and we continue to require the powers to issue directions to protect Western Australia and to limit and reduce the risk of spread.

The government has released the safe transition plan in line with expert health advice. It outlines the state's path forward to ease WA's controlled border for international and interstate travel from all jurisdictions, with testing and vaccination requirements. It provides certainty on how businesses and WA's way of life can continue safely with the introduction of public health and social measures once COVID-19 enters our community. The provisions being extended in this bill are vital to that plan.

The bill before the house will extend the operative provisions of the COVID-19 response amendment acts by a further six months to 4 July 2022. I will now outline the provisions that are subject to the sunset clauses. These are the same as those considered earlier this year. The Emergency Management Amendment (COVID-19 Response) Act 2020, among other things, introduced section 72A into the Emergency Management Act 2005. Section 72A provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency. It includes the ability to direct a person or class of persons to take any action the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers. Over the course of the pandemic, a large number of directions have been made in reliance, or partial reliance, on this section. Those directions include, but are not limited to, current versions of the Contact Register Directions, Controlled Border for Western Australia Directions, Isolation (Diagnosed) Directions, Exposure Site (Western Australia) Directions, Exposure Sites (outside Western Australia) Directions, Quarantine (Undiagnosed) Directions and Presentation for Testing Directions.

Pursuant to sections 2(c) and 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020 and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2021, section 72A will be deleted from the Emergency Management Act 2005 on 4 January 2022. The intent of this sunset clause was to ensure that the section 72A powers were applied only to the circumstances of an appropriate emergency response to the COVID-19 pandemic. On the sunset date, any existing directions that rely solely on section 72A will no longer be valid as there are no transitional provisions to continue the operation of those directions. Further, section 72A will not be able to be relied on for making any new directions. Ensuring that these provisions endure in the act for another six months is vital. Extension of the state of emergency will continue to be based on expert advice from the State Emergency Coordinator and the deliberations of the State Disaster Council. However, it is essential that every tool that has served our state so well to this point remains available to keep us safe in these uncertain times.

The powers under section 72A have been vital to effectively direct the isolation and testing of people arriving in Western Australia and we must have the capability to continue to make such directions. Western Australians are still returning home. Many are returning from countries that are severely impacted by the pandemic. In doing so, it is important that we effectively manage the risk. We are witnessing our own Australian states and territories grappling with community outbreaks of the Delta variant and its devastating impact. In response to these outbreaks, Western Australia has issued directions, which were supported by section 72A powers. We need to be able to respond to outbreaks in other jurisdictions and we require this power to put restrictions into place as required. It is important that, based on the current health advice and Western Australia's susceptibility to a COVID-19 outbreak, we have in place measures to manage our borders and to ensure that appropriate strategies are in place.

The powers under section 72A have supported our border management and the issuing of directed presentation for health testing, isolation and hotel quarantining. They have been and continue to be critical to this strategy. Section 72A powers are also essential for the government's implementation of physical distancing measures, when appropriate to the health advice. It allows for appropriate directions to be made for gatherings and activities. Western Australia currently has an easing of restrictions for social venues, such as theatres, concert halls and cinemas. Moving forward, section 72A powers will be needed to facilitate community-based events in a COVID-safe manner and for the safe movement of people in general, while having the agility to swiftly respond to any need to put in place temporary restrictions as and when required. The powers are also relied on for face-covering directions when necessary. As we move forward and border controls are further eased in line with the safe transition plan and in the event the state of emergency continues, section 72A will continue to be relied on. The powers will be needed to facilitate community-based events in a COVID-safe manner and for the safe movement of people in general, while having the agility to swiftly respond to any need to put in place temporary restrictions.

As outlined to this house last time, one of the key directions using section 72A information-gathering powers is the Contact Register Directions. Contact records and the continued use of the SafeWA app are integral to the state's ability to efficiently respond to and control ongoing pandemic risks. Although the subject of complacency is a concern, the SafeWA app remains the best measure for gathering contact information.

The government's decisions in responding to and managing the COVID-19 pandemic will continue to be based on the best available health advice. COVID-19 directions issued under the Emergency Management Act require the state of emergency to remain in place before the powers can be utilised. Directions relating to contact tracing and quarantine that rely on section 72A are integral in any ongoing scenario in which the state of emergency continues. Section 72A powers ensure that our emergency management personnel have the powers available to continue to help us respond to this pandemic and maintain a responsible and flexible framework that has served the state so well to this point.

I turn now to the Criminal Code Amendment (COVID-19 Response) Act 2020, which amended the Criminal Code to increase the maximum penalties for the offences of serious assault and threats committed in the context of COVID-19. The increased penalties reflect the seriousness of such assaults and threats against public officers, including frontline workers, in the context of the pandemic. Our frontline workers have been outstanding during the

state of emergency. This house has already recognised that these amendments send a strong message of support to these officers for their sustained efforts in such challenging circumstances. As members may recall, the amendments were originally made in response to several concerning reports of people here, across the country and internationally claiming they have COVID-19, deliberately coughing or spitting on, or worse, public officers doing their jobs. This was happening, and is still at risk of occurring, to frontline essential staff who work tirelessly to keep our community safe and to stop the spread of this disease. The increased penalties reflect the seriousness of this unacceptable conduct and conveyed that the government and the Western Australian community do not accept such conduct. The Criminal Code Amendment (COVID-19 Response) Act 2020, as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020 and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2021, has a sunset date of 4 January 2022. Unless extended, the increased maximum penalties for the offences committed in the context of COVID-19 will be deleted.

As we continue to live with COVID-19 and rely so much on our frontline essential staff, it is critical that people who assault or threaten them with COVID-19 can be dealt with appropriately. The bill will extend the operation of the respective sunset clauses under the COVID-19 response amendment acts for a further six months, with a new effective sunset date of 4 July 2022. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available if the state of emergency in respect of the COVID-19 pandemic continues and will ensure that higher penalties remain available for serious assaults and threats against public officers committed in the context of COVID-19.

We are still facing uncertain times. Although Western Australia has been fortunate, it is due to our strong response and ability to manage the pandemic. This bill will help us maximise certainty that we have the tools in place to do everything we can to protect our state, our people and our economy, both with the short-term response to the risk of the Delta variant and for the government's safe transition plan.

It is vital that the bill be passed before Parliament rises for the year, as the sunset date for these provisions is 4 January 2022. The further extension will allow the McGowan government to respond to the challenges of the pandemic in the short term, while vaccination rates increase, and the longer term, as we navigate a way forward. Any gap in these laws in response to the COVID-19 pandemic will potentially present an unacceptable risk to the health, safety and financial security of Western Australians.

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

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

[See paper [866](#).]

Debate adjourned, pursuant to standing orders.

*House adjourned at 6.55 pm*

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