Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Wednesday, 29 August 2018

Legislative Council

Wednesday, 29 August 2018

THE PRESIDENT (Hon Kate Doust) took the chair at 1.00 pm, read prayers and acknowledged country.

INDUSTRIAL HEMP AMENDMENT BILL 2018

Assent

Message from the Lieutenant-Governor and Administrator received and read notifying assent to the bill.

VISITORS — JOY O'BRIEN AND NADIKA CLARK

Statement by President

THE PRESIDENT (Hon Kate Doust): Before we proceed, I want to acknowledge Mrs Joy O'Brien, the wife of our Deputy President, and her daughter Nadika Clark. I welcome them to the chamber today.

CITY OF MELVILLE — BUILDING MATTERS — INQUIRY

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [1.03 pm]: I present a petition with 31 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned are opposed to the conduct and performance of the City of Melville in respect to building related matters associated with Mr Mark McLerie since 2012; matters that have caused Mr McLeire and his family significant loss and unwarranted distress.
>
> Your petitioners therefore respectfully request the Legislative Council to support a Legislative Council inquiry into the conduct and performance of the City of Melville and whether the City of Melville should pay compensation in this matter..
>
> And your petitioners as in duty bound, will ever pray.

[See paper 1688.]

SELECT COMMITTEE ON PERSONAL CHOICE AND COMMUNITY SAFETY

Establishment — Motion

HON AARON STONEHOUSE (South Metropolitan) [1.04 pm]: I move —

(1) A select committee, to be known as the Personal Choice and Community Safety Committee, is established.

(2) The select committee is to inquire into and report on the economic and social impact of measures introduced in Western Australia to restrict personal choice "for the individual's own good", with particular reference to —

  (a) risk-reduction products such as e-cigarettes, e-liquids and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users;

  (b) outdoor recreation such as cycling and aquatic leisure, including any impact on the wellbeing, enjoyment and finances of users and non-users; and

  (c) any other measures introduced to restrict personal choice for individuals as a means of preventing harm to themselves.

(3) The select committee shall consist of five members.

(4) The select committee is to report by no later than 12 months after the committee has been established.

I do not think too many members are unaware of my thoughts on the nanny state; I oppose what I see as its sinister creep into every aspect of our daily lives. Just a few days ago, I took a call from a constituent concerned that her local council was looking to retrospectively ban synthetic turf on verges. Last week, I read about a cyclist being fined for using her mobile phone, and, before that—if members can believe the depths to which we have sunk—a woman pushing a pram was fined for using a mobile phone. Who even knew that that was illegal in the first

place? I certainly did not. While the average voter wants to see resources spent on serious crime, it seems that multi-tasking mums and tots are now a target for Western Australian police. It would be laughable if it was not such a waste of police time.

I do not know how other members feel, but, as far as I am concerned, this sort of pointless interference in our daily lives has to stop. However, it is more than just a question of inconvenient regulations; it is also a question of how much coercion we are willing to accept in our lives, as opposed to how much responsibility we are comfortable assuming for our own safety and wellbeing. If I take a two-minute bike ride down to Coles to buy a pack of smokes, is it the government's role to ensure that I put on a bike helmet before I set off, or should I expect to assess the risk that I am about to take and to decide for myself what precautions are called for? Again, members know where I stand: if it is not going to hurt anybody else, I favour personal choice almost every time. As I have said in this place before, I subscribe to John Stuart Mill's harm principle. He argues —

> "The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others."

But where does that personal choice cross over into a sphere that allows it to adversely impact upon community safety, and how do we strike a balance between those two? The Premier has acknowledged that he would like to see a more relaxed, bohemian attitude around small bars in the city, for example. How do we then strike a balance between the liberty of proprietors to open a bar and the liberty of patrons to relax in and around it with the need to mitigate antisocial behaviour? These are, I would suggest, conversations that we need to have as a community, and where better to start than here in Parliament.

It is that desire to open a conversation, rather than to dictate, that has led me to this motion in favour of a select committee to look into the question of personal choice and community safety. I could have introduced a private member's bill, or a raft of private member's bills, looking to tackle individual instances of what I see as government overreach, but that would be impractical and less than ideal for forming a consensus. I am sure that many members, like most Western Australians, think that the government overreaches in at least one or more aspects of our personal lives. Although we may differ on our preferred level of regulation, I would like to invite members to join me in this discussion of where the balance should be struck between personal choice and community safety.

Members will note that I recently amended the terms of reference for the proposed committee to remove alcohol from its scope. I did not do that to suggest that I am happy with the level of regulation we have currently around alcohol and licensing, but rather as a realisation that we have spent a good deal of parliamentary time in recent months debating the regulation of alcohol in both retail stores and bars. I am also mindful that upon my and other members' insistence, the government was willing to reintroduce the review clause into the Liquor Control Act. That being said, I was especially keen to include in the terms of reference harm-reduction products, such as e-cigarettes, e-liquids and heat-not-burn tobacco products, because these are issues of real public concern at the moment.

I receive daily emails from constituents who are baffled by the laws as they stand and I want to engage with fellow members on those questions. Members may be aware of a recent report from the UK House of Commons Science and Technology Committee that explicitly recommends that smokers who cannot kick the habit should switch to e-cigarettes. This joins the large body of research that shows that using e-cigarettes is less harmful than smoking.

I am also keen to know where members stand on issues such as outdoor recreation. It seems to me that we should be encouraging our kids, families and friends to get out and enjoy the great natural and man-made environments that we have on our doorstep. If we do not use them, we can never hope to encourage tourists to make the most of them either, yet we hem even the most innocuous activities with safeguards and limitations. Recently, calls have been made to enforce the wearing of life jackets on all water vessels, including boats, kayaks, paddleboards and canoes. Due to the recent tragic drowning of a rock fisher, proposals have been renewed for laws that would require anyone fishing from rocks to wear a life jacket. A cyclist riding on a busy street would certainly benefit from wearing a helmet, but does it benefit society to enforce mandatory helmet laws in low-risk areas such as quiet suburban streets or bike paths, especially when such enforcement may discourage bike riding altogether?

Of course, these are all questions of balance. I am keen to see the committee discuss and debate whether we have that balance right. I am also keen to know what people beyond this Parliament think, which is one reason I prefer the select committee model over the more limited private member's bill approach to these questions. The committee will be able to take evidence from interested parties and, to be honest, I cannot think of many who would not be interested in pursuing more personal choice. That being said, as a proponent of freedom and personal choice, the last thing I want is to be prohibitive about the scope with which other members of the committee can participate. Although I hope we will have the time and the willingness to discuss regulations on car modifications, pool fences and more, I acknowledge that other members may have their own ideas, so I have left the final clause in the second section open. After all, this is a conversation and I want to ensure that all members have an opportunity to make their views known.

Personal choice goes hand in hand with personal responsibility. Our willingness to take responsibility for our actions and our safety sits at the heart of our understanding of ourselves as a community. That is why I do not see any of these individual questions as trivial, but rather as symptoms of a more general malaise that threatens the wellbeing of not only individuals, but also our society at large. As such, I think that these issues are eminently worthy of Parliament's consideration and I urge my fellow members to get on board and support this committee for the public good.

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.13 pm]: I indicate that the government will support the establishment of this select committee. I thank Hon Aaron Stonehouse for bringing it to the attention of the house.

Since his election to this place, the honourable member has raised the issues canvassed in the terms of reference he just outlined in a number of different ways, including raising them with individual ministers and other members of the government. We think that this will be a useful opportunity to ventilate and to socialise arguments one way or t'other on some of these issues. I have said both to the honourable member and publicly that there is absolutely no guarantee that the government will necessarily agree with any of the committee's findings. However, it is a useful exercise to put both sides—sometimes there will be more than two sides—of the argument on each of these things.

In the last 24 hours, the establishment of this committee has received a bit of media attention. I have been asked a series of questions about what deals I did to facilitate its establishment. I have done absolutely none! I was not asked for any and I did not offer any. I put that on the record for the purposes of Hansard. No deals were entered into. The only caveat I put on its establishment was that there is no guarantee that the government will commit to any particular outcome of this committee. To the extent that there was any discussion about what might happen, that was it. Otherwise, we are happy to support the establishment of the select committee.

HON RICK MAZZA (Agricultural) [1.14 pm]: I also rise to support this motion put by Hon Aaron Stonehouse. I have to confess that when I first saw it on the notice paper, I thought, "What is this flaky motion by Hon Aaron Stonehouse?" However, as time has gone on I have warmed to it quite a bit. A lot of people in government, particularly executive government, would like to put a microchip in all of us to see what we are doing every day and what we are having for breakfast.

Hon Sue Ellery: Only some of you!

Hon RICK MAZZA: I am lost for words on that one!

It behoves us to take stock now and again to see how far government reaches into our daily lives. The issue of bike helmets and life jackets has been raised. To me, it is commonsense that if a person is going to ride a pushbike, particularly in an area of high traffic, they should wear a helmet. Do we need a law for that? I do not know that we do. As the saying goes, we cannot legislate for stupidity. For a long time police were pulling up people who were not wearing bike helmets. After a while we saw people with bike helmets hanging on the handlebars and not on their heads. Eventually, the police gave up. It is commonsense to wear a bicycle helmet, but I do not know that we need laws around that. The same goes for life jackets. If someone is kayaking on a dam somewhere, they should wear a life jacket. Whether we need to have legislation for that is another thing. I think it is good to take stock of it.

This certainly has received some media attention of late. I heard an interview on radio station 6PR that I thought was a bit hostile. However, on ABC radio today and on Channel Nine I heard that there is a lot of interest in this issue and that people feel we are subjected to laws that may not necessarily make a difference and are an interference in our lives. I support this motion. I think the committee will receive some interest over the next 12 months. If I happen to be on this select committee, I will look forward to hearing the evidence it receives.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [1.17 pm]: I rise to speak for a few minutes on this motion. The Liberal Party will support this motion for the establishment of this committee. As he regularly reminds us, Hon Aaron Stonehouse is a proud libertarian, who believes very strongly in personal choice, which I respect. I also respect the consistency with which he espouses those virtues. Although I sometimes do not agree with him, I respect his right to hold those views. He has certainly been loud and out there with his libertarian philosophy.

I think this is a good opportunity for us to look at whether we are over-regulating. We can all reflect on the good old days when there was parlous little regulation on, for example, riding a bike or going out on a boat or whatever it might be, and we might yearn for those good old days. However, with respect, we have evolved into a very complex society and I think more regulation is probably necessary. Whether we have gone too far is something this committee can look at—that is, whether Big Brother from *1984* has arrived good and well and that we are being told far too much about how we need to get out of bed every morning and get back to bed every night. This committee will provide members with an opportunity to view the sympathies of the community. Perhaps it will agree that we have gone too far with regulation. This will be an opportunity to do that and I once again applaud the honourable member.

Much the same as the Leader of the House, I received a media request today asking whether any deals had been done, which I said was insulting. Most definitely, no deals have been done. I encourage, as I am sure the Leader of the House does, all members to have a say. That is why we are here. Hon Aaron Stonehouse's views on personal choice and his libertarian viewpoints could not have been in any way diminished. As I said, I respect that.

It has nothing to do with whether any deals have been done; I encourage it. I know that a motion is coming up for the Greens on the establishment of a select committee into harm minimisation. I have a bit of sympathy for that and it is something that we will have to consider. That is the whole beauty of this place. As I keep saying, we are a rich tapestry of a whole range of views. Never before have there been as many views in this chamber as there are at the moment, and that provides great diversity in our community, although I am sure a little uncertainty on some occasions for the Leader of the House. Having said that, that is enough from me. We will support the establishment of this committee. I applaud Hon Aaron Stonehouse for the consistency of his views. As I said, there has been some talk behind the Chair about the establishment. I am not whether we are there yet, but the Liberal Party would be very pleased to be represented on that committee and Hon Dr Steve Thomas is very interested. Having said that, the Liberal Party will support this motion

HON ALISON XAMON (North Metropolitan) [1.20 pm]: When I first saw this motion, I was very concerned because of the sheer breadth of what had been proposed. I have to indicate that I was not supportive of the establishment of the committee on the terms in which it had been put forward simply because I could not see a way that the committee would realistically be able to effectively canvass the broad range of issues that had been presented to Parliament to consider being part of the content of this submission. However, I had some conversations with Hon Aaron Stonehouse behind the Chair and I will add that it was not as part of any deal. Like the Leader of the House, no deal has been offered to me nor requested, and it has not been necessary. It is rather amusing that that is where some people's minds immediately go. I had a conversation with the honourable member behind the Chair about the scope of this committee and we talked about what would be useful and what would be of value to this Parliament to consider. I note that since then, Hon Aaron Stonehouse came back with a revised committee terms of reference and I have to say that the Greens are far more amenable to what has been reviewed. That is not because we do not think there might be some merit in talking about the broad range of issues that had been originally suggested, but simply because we did not see that it was practicably going to be implemented in an effective way with the parliamentary committee. As such, I rise to indicate that the Greens are quite comfortable with seeing this particular select committee go forward.

Having said that, I indicate from the outset that I hope that the select committee is able to narrow its focus so that when it chooses those particular issues, a good job can be done on them. A fair bit of media has been put out around this, and it has been suggested that perhaps the terms of reference and the issues that are going to be canvassed will depend on what comes through from public submissions. I am a little concerned about that. It is not usual for a select committee to be established and to basically put it out to the public and say, "Hey, what do you think we should be looking at?" Ordinarily this Parliament, this house, would be putting the parameters around what we deem to be priority areas that need to be investigated. I hope that the committee is able to focus on what it will be looking at.

I want to make a comment about a couple of things. One thing that I am personally really happy to have a select committee investigate is the issue of e-cigarettes, because it is a really timely and vexed issue. The Cancer Council, for example, is clearly concerned because, as we know, tobacco, even if it is not smoked, is still a carcinogen. It is concerned about the appeal of e-cigarettes and activities such as vaping to a new generation of potential nicotine users, and what that means for future health implications. On the other hand, we are hearing directly from long-term smokers that the only way they feel they can get any sort of handle on their nicotine addiction is through the use of e-cigarettes. I personally have friends who have gone through everything. They have tried hypnotism, patches, chewing gum—a plethora of things that are available—and have struggled. When they made the switch to e-cigarettes, they felt that they were able to at least minimise the degree of harm wrought upon their bodies by the insidiousness of tobacco.

When we talk about issues of personal choice, we need to remember that we have an obligation. I believe, and the Greens believe, very strongly, that we always need to think about the potential impacts on children and also the most vulnerable and disadvantaged members of our community. When we talk about, for example, e-cigarettes, as we have noted before in this place—or certainly I have—it is important to recognise that the tobacco industry is very well resourced and it has demonstrated that, frankly, it can be extraordinarily unscrupulous in the methods that it uses to try to attract new people to the addiction of nicotine. I maintain that the government therefore has a very clear role to play on issues of harm minimisation. As I said before, the Greens will always support provisions targeted at making it harder for young people to take up smoking and protecting the community from exposure to second-hand smoke. It will be interesting to hear, through the committee's deliberations, whether it believes that e-cigarettes are therefore likely to lead to more harm or in actual fact will potentially play a role in minimising harm. I hope that when the committee looks at these sorts of issues, it can also look at the importance of adequate funding for things such as health promotion and treatment rather than just restrictions, and that it looks at the

evidence base and to public interest assessments to inform the development of measures aimed at harm minimisation. We also feel quite strongly about communities having the opportunity to have a say. These are the sorts of things that would be well canvassed, particularly in an environment in which extraordinary personal fines can be issued against individuals for the use of e-cigarettes. I understand this is an issue that the Minister for Health is very interested to take a look at. Being informed with a much deeper examination from a parliamentary select committee will be incredibly useful.

Another issue I will touch on that keeps coming up is the issue of bike helmets. The Greens have some quite diverse views within its own membership around this. I note that Greens Mayor, Brad Pettitt, has been on the front foot talking about the need to relax the use of bike helmets, because there has been considerable concern that the use of bike helmets for adults has perhaps served as an inhibitor to people being able to undertake bike riding, particularly as an enjoyable pastime. It is good to hear the comments from members about the need to ensure that there is a difference between whether a person is riding in heavy traffic or simply ambling along a bike path at Rottnest Island, for example. We need to look at the competing public interests. Frankly, it is in the public interest to try to encourage more people to ride bikes. It is good for health, congestion and the community. That is the balance that we need to look at. I make a note about bike helmets. I feel as though we get to afford ourselves a bit of a luxury around this debate. I am old enough to be part of a generation that grew up fanging their bikes all around Belmont and Gosnells. I did that with my little gang of BMX bandits, and we did not wear our bike helmets. In fact, we were horrified at the thought of wearing a stackhat. We thought that was the worst idea in the world. We did not have laws that could have enforced that. In fact, a friend of mine used to put an ice-cream container on his head when he used to do some of his tricks! That was basically his idea of a bike helmet at the time.

I look at my children when they ride their bikes, which is not often because they mainly use public transport, and for them it is second nature. They grew up using a bike helmet. They grew up in an environment in which it was the law and it was expected. There has been a cultural shift over the issue of bike helmets. It is interesting to note the way generational change has occurred with those sorts of safety measures. It was unthinkable to wear a stackhat when I was a child because of the sheer stigma of doing so, but people now just see it as a necessary piece of equipment and as a matter of course, particularly for children. I think that that is a positive thing because brain injury is a serious matter. I remind members that the reason we implemented those sorts of changes is that people involved in accidents sustain serious brain injury, which has lifelong results. If the committee looks at the issue of bike helmets, I hope it gets Headwest in, which is the peak body that deals with people with acquired brain injury. I hope it hears people's stories and looks at the lifelong impact of sustaining a serious brain injury and having to live with that their whole lives. It will meet people who have lost family members and friends and people who are no longer able to work who, had they been wearing a helmet when they had the accident on their bikes, would have been okay. I suppose that this is the balance that we need to look at. Having reached this point with bike helmets, maybe we have the cultural shift we need and people will seriously consider this. Perhaps we have gone too far; maybe we need to allow adults in particular to make up their own mind about whether they make that decision. We also need to remember that when people make those decisions and something bad happens, the community is left to pick up the pieces. The community has to pay for the health supports. I am a big fan of that; indeed, the Greens are supportive of public health measures and think that that is where our tax dollars should be going, but someone has to pick that up. Someone has to pick up the implications of a lifelong disability. It is not just a matter of going, "Hey, let me do what I want. I'm a free agent", because people live within a community and when they make personal choices that negatively impact on other people, perhaps there is a role for regulation and the government to play.

I thought I would make a comment about those two examples. As I have indicated, the Greens are supportive of the establishment of this committee. The Greens will not put forward any members because there are only four of us and we can only do so much work; and, Hon Peter Collier mentioned—it is certainly my hope—that another select committee may be established sometime in the future. We will see how things go. After the committee is established, I encourage it to try to keep its focus relatively succinct so that it does not end up become bigger than *Ben-Hur*. There are some useful discussions to be had about certain elements of the balance between personal responsibility and the role that government plays in community safety standards, so let us have that discussion.

HON CHARLES SMITH (East Metropolitan) [1.33 pm]: I thank Hon Aaron Stonehouse for raising this so-called nanny state issue. I rise to say a few words about the motion and libertarian ideology.

I, too, have some concerns about some instances of excessive government encroachment into our everyday lives. I am very wary of busybody bureaucrats and government overreach impinging on personal freedoms, particularly freedom of speech. There have been numerous examples across the country in recent years of government bodies that ostensibly have been created to defend human rights, seek to prosecute people on spurious grounds and shut down open discourse on important topics. Given these troubling developments, I think it is important that we remain ever vigilant against government overreach. There is certainly a temptation on the left to dramatically increase the size of government and demand compliance with its set of values through legislation and regulation. Yet, looking at this motion, I cannot help but conclude that this is about demonstrating ideological puritanism

more than anything else. With all due respect to Hon Aaron Stonehouse, the notion that we should reduce or totally eliminate the regulations surrounding vaping, smoking, drinking and the use of life jackets in the name of greater personal choice ignores the fact that these activities and behaviours have wider impacts on public health and finances.

On the surface, some of elements of the libertarian ideology espoused by Hon Aaron Stonehouse seem appealing. Who can object to the principles of individual freedom, personal responsibility and the right to hold property, at least not as an ideal? Certainly, we cannot if we make the assumption that all people are rational and act in reasonable ways. The problem is that the real world is hardly rational and people behave in unreasonable ways. It is a shame that only the people who work in frontline services know what I am talking about.

All political philosophies must ultimately confront the real world, and this is where libertarian, Green and Marxist–socialist ideologies fail. Some restrictions and interventions on the personal choices of the individual are inevitable in society and made for the common good. Let us take, for example, the issue of alcohol-related harm. It is well documented that alcohol-related problems compromise individual and social health and wellbeing. The deleterious effects on the individual are numerous, including riskier and more violent behaviour, disease and premature death, loss of enjoyment and a reduction in the quality of life. Much of the burden for these problems is, of course, initially borne by first response and public emergency services, including police, ambulance and hospital emergency staff. But it does not end there. We also need to take into account productivity loss, traffic accidents involving alcohol and the cost to the public health system, the criminal court system, the police, and the cost of child protection and other support services. Further costs are associated with incarcerated individuals who are unable to work and the costs of detoxification and counselling services. The Alcohol Education and Rehabilitation Foundation found that more than one-third of child abuse cases are linked to alcohol. According to a 2010 report entitled, "The societal costs of alcohol misuse in Australia", the total costs of alcohol-related problems to Australia in 2010 was estimated to be $14 billion. We can see that an individual's decision has wider economic and social effects that must be considered when formulating policy. If a person chooses to damage their lungs by smoking, that is, indeed, a personal choice. If that person develops lung cancer or heart disease, they become a burden on their family, the healthcare system and the economy all because they selfishly chose to injure themselves. If a person chooses to destroy his or her health with heavy drinking, yes, that is a personal choice. But when these choices turn into antisocial behaviour, domestic violence or drink-driving, there must be some limits. One of those limits involves restricting availability because it ceases to be a matter of personal enjoyment and becomes a matter of public safety and security. Clearly, no person is an island, as some libertarians tend to believe. We collectively bear the costs associated with the bad and harmful choices made by individuals. Spare a thought for the humble taxpayer who must often pick up the tab associated with poor and irresponsible personal choices. Our hospitals must deploy resources to treat victims of violence, which are often alcohol or drug related, and those who have been injured by a drunk driver. They also have to care for people with serious alcohol and smoking-related illnesses, which diverts resources away from other patients. Unless one wants to abolish all public services, taxation, government, social and communal bonds and countries, it is clear that the libertarian belief in individual choice and autonomy over everything else is impractical and unrealistic. The American commentator Robert Locke has described libertarianism as Marxism of the right. He has argued —

> If Marxism is the delusion that one can run society purely on altruism and collectivism, then libertarianism is the mirror-image delusion that one can run it purely on selfishness and individualism.

In the real world, a successful society needs a degree of both individualism and collectivism to function. The reduction of all goods to individual choices assumes that all goods are individual in nature. However, they are not. Some, like community, national security, a clean environment or a positive culture are inherently collective. We cannot ignore that humans are social animals and have obligations to each other based on communal bonds. The evidence from history itself shows that our species developed in small, close-knit social groups in which cooperation and sharing overrode our individual, competitive self-interests for the sake of the common good. We became intensely interdependent social animals with a sense of empathy towards others, a desire for inclusion and loyalty to the groups we bond with. As Charles Darwin himself pointed out in *The Descent of Man, and Selection in Relation to Sex*, the intrinsic satisfaction we derive from cooperative activities and our concern for having the respect and approval of others all evolved in humankind to temper and constrain our individualistic, selfish impulses. People with conservative views, such as me, have a strong preference for individual freedom, but we also recognise a role for government in smoothing the rough edges of a free society. We also recognise that society exists and we simply cannot do whatever we like without any wider consequence. This concern for general welfare helps to minimise the potential for disruptive, unbeneficial change, while honouring a shared moral commitment to the vulnerable. To quote Roger Scruton —

> Conservatism is not in the business of correcting human nature or shaping it according to some conception of the ideal rational chooser. It attempts to understand how societies work and to make the space required for them to work successfully.

That includes using laws as a disincentive to engage in objectively harmful behaviour. Although it is right to let people enjoy the benefits of their wise choices and suffer the costs of their stupid ones, decent and responsible societies set some limits on both those outcomes to minimise the wider impact.

To conclude, I agree with the honourable member on the importance of smaller government, lower personal taxation and the manifold problems with the welfare state, but I do not support selfishness and utter disregard for social responsibility associated with libertarianism. That is why I do not support the motion to create a select committee designed to view health and safety issues exclusively through the prism of personal choice.

HON COLIN HOLT (South West) [1.42 pm]: I have listened to the debate today. Although I applaud the notion of the motion and I think Hon Aaron Stonehouse clearly articulated his view of the world, I am yet to be convinced of the need to establish a parliamentary committee to look into this. As the motion reads, there is already an inherent bias in the potential issues to be considered. Although there is some tight focus in parts (2)(a) and (b), including inherent bias in looking at risk-reduction products such as e-cigarettes, which are already debatable, part (c) almost opens it up to anything that comes before the committee. Hon Alison Xamon made an effort to focus some of the potential efforts of the committee so that it does not get too dragged away from the issues, but that is not what this motion says. This motion says —

> (c) any other measures introduced to restrict personal choice for individuals as a means of preventing harm to themselves.

My mind immediately goes to seatbelts. Where do we go with that? If that issue came before the committee, the committee would probably be obliged to look into it. I have a real struggle with the pragmatic policy outcomes that such a committee might reach. I do not want to pre-empt what the committee might get to, but not even the membership of the committee is listed in the motion. Who is going to chair it? I would certainly like to know that. I would really like to know whether a member of the government is going to be on the committee.

Hon Stephen Dawson: I can tell you that they are.

Hon COLIN HOLT: It is not in the motion. It is a really useful conduit from the committee to the government and policy making. It is not in the motion. If there has been agreement behind the Chair amongst the parties, I would have thought the mover of the motion could have defined who is going to be the chair and what the membership of the committee will be. My personal belief is that committee work is a really important and useful means for the Parliament to get to the nub of issues. We debate very important motions and establish select committees to look into pertinent issues of the day. I note that there are other motions on notice to establish other committees along these lines, mainly from the opposition and crossbench. We will again judge the importance of these. I think some of them will be incredibly important. We just had a joint select committee report last week about a really important and pragmatic policy setting framework.

Hon Alison Xamon: And the elder abuse committee is very important, too.

Hon COLIN HOLT: The terms of reference of those committees are very defined and give an indication of what is expected for policy settings into the future. I do not see that in this motion.

I can read the will of the house; I think it is going to get through. I just do not believe that at this point in time I can support the motion to establish this select committee. I have no argument with having a debate on the balance between regulation and personal responsibility—I will be the first to talk about that. There is an issue on the south coast around the use of personal flotation devices at the Salmon Holes, which the committee might look into. Education has been used to try to fix that problem, but it has failed. At some point, the balanced case will be that people will have to wear a personal flotation device there, because it impacts on the personal safety of not only those individuals but also every person who has to jump into a boat to rescue them or recover their bodies. That is something else that has to be looked at. The motion would give the committee a very broad scope. At this point, I will not be supporting the establishment of the select committee or this motion.

HON AARON STONEHOUSE (South Metropolitan) [1.46 pm] — in reply: I will briefly address some of the points that were raised during the debate. I obviously have my own ideological bent, but I will be only one member of this committee once it is established. I have left the scope of the committee open-ended to look at other matters. That was somewhat intentional. There are a plethora of what I would consider to be nanny state regulations that are hard to nail down—there are so many of them. Some are small and some are more serious issues. I also expect that members of the committee will bring their own concerns to the inquiry, so I wanted to allow for that. What I suspect will ultimately limit the scope of the inquiry is the time frame. With a 12-month time frame, we will have to be quite selective and discriminatory in what issues we choose to take on. That is what I see will probably restrict the scope of the committee in the end.

In terms of the membership, there were conversations behind the Chair with members of every party. I offered positions to every party in this chamber. The Nationals WA in the end did not want to have a member on this committee, so that position has been offered elsewhere. Once this motion is passed, I will move a subsequent motion without notice to establish the membership of the committee. We will see it then. As far as I know, it is well within the standing orders to move a motion to establish a committee and then to move a motion without notice immediately afterwards to specify the membership of that committee. I do not see any problem with that. Those privy to the conversations behind the Chair are well aware of who will and will not be on the committee. With that, I commend the motion to the house.

Question put and passed.

Membership — Motion

On motion without notice by **Hon Aaron Stonehouse**, resolved —

(1) That the following members be appointed as members to the Select Committee on Personal Choice and Community Safety: Hon Aaron Stonehouse; Hon Dr Sally Talbot; Hon Dr Steve Thomas; Hon Rick Mazza; and Hon Pierre Yang.

(2) That the chair is to be Hon Aaron Stonehouse.

(3) That the deputy chair is to be Hon Dr Sally Talbot.

PAYROLL TAX

Motion

HON ROBIN SCOTT (Mining and Pastoral) [1.49 pm]: I move —

That as an incentive for Western Australians to expand and operate businesses in the productive remote areas of Western Australia, this house calls upon the government of Western Australia to —

(a) halve payroll taxes from 5.5 per cent to 2.75 per cent for businesses with fewer than 100 employees operating in zone B as defined by the Australian Taxation Office in the Australian zone list for Western Australia; and

(b) eliminate payroll tax for businesses with fewer than 100 employees operating in zone A as defined by the Australian Taxation Office in the Australian zone list for Western Australia.

In my 30 years as an electrical contractor, I learnt that payroll tax is not a tax; it is a fine to punish employers who get out of bed early to look for work and dig up contracts to help keep their employees employed. I learnt that a vast number of employers are forced to make commercial decisions about expanding their business based on whether it will put them over the threshold to pay payroll tax, rather than what is right for their customers and employees and the business. The original purpose of payroll tax was created by two acts of Parliament: the Pay-roll Tax Act and the Pay-roll Tax Assessment Act. These two acts levied a tax on wages paid by employers in Australia commencing on 1 July 1941 at the rate of 2.5 per cent on wages. The 2.5 per cent levy applied across the board to every business in Australia. The state purpose of the payroll tax was financing the commonwealth's obligation to pay child endowment. Back then, the commonwealth paid five shillings a week to every carer of more than one child under the age of 16. In 1971, the Parliament transferred this power to tax payrolls to the states and territories. Since 1941, the rate of payroll tax has more than doubled from 2.5 per cent. In Western Australia it is now at 5.5 per cent, subject to discounts and exemptions and a threshold of $850 000 on the annual payroll. This amount in the regions can be reached very quickly. An employer need have only nine employees earning $100 000 and this will put them up for payroll tax.

In Western Australia, as in the other states and territories, the payroll tax is seen by governments as no more or less than an opportunity to maximise government revenue. In Western Australia, the government has not only set out to increase the rate, but also begun the process of removing the increasingly essential training exemption. Once completed, this will be detrimental to Western Australian job holders as they become casually substituted with eastern states workers and those holding 457 visas and temporary skill shortage visas. I am unaware of any study conducted by the Australian government that sets out to resolve outstanding questions about payroll tax. Examples of some of these questions are: What is the effect on employment of imposing a tax on jobs? How many job opportunities are destroyed by each increase in payroll tax? What is the impact upon apprenticeships when their wages are included in the payroll tax? Indicative in the inconsistency in the administration of payroll tax in Western Australia is that an employer is not required to pay payroll tax when they come under the definition of a "charitable body" or a "non-profit organisation", as defined by the Western Australian Pay-roll Tax Assessment Act 2002. Accordingly, in 2012, the WA State Administrative Tribunal—commercial and civil—ruled on a dispute between the WA Commissioner of State Revenue and the Chamber of Commerce and Industry of Western Australia. The CCI sought to claim an exemption on the basis that it operated as a charitable body and a non-profit organisation, as prescribed by the WA Pay-roll Tax Assessment Act 2002. The Commissioner of State Revenue rejected the application. However, on 18 July 2012, the President of the State Administrative Tribunal, Judge Chaney, ruled that the CCI's primary purpose was charitable and that accordingly, it should be exempt from payment of the payroll tax. There is no reason why a charitable or non-profit organisation should be singled out for exemption from the payment of a fine. If the levy of a fine for employing people is wrong for employers who are not trying to make a profit, the levy of a penalty for employing people must be wrong for employers who are trying to make a profit.

My motion is based on the principle that payroll tax is a bad thing for Western Australians and that any concession or alleviation of a bad thing will bring a net benefit to everyone. On that ground alone, honourable members of all parties should feel comfortable about voting for this motion. There is another crucial reason why honourable members should feel comfortable about voting for this motion: the urgent need for decentralisation. Our vast regions

are losing people, jobs and opportunities to the Perth metropolitan area. As a result, this urbanisation undermines Perth's efficiency because every small increase in population compounds the problems of water and electricity supply, road and rail construction, freight transportation, urban population and the cost of living generally. In short, Perth has enough people. There is no benefit from increasing the population of Perth by mass urbanisation. What is the situation outside the Perth metropolitan area? Honourable members know the answer to this very well. In Newman, around one house in every three is empty. It is a similar case in Karratha, Port Hedland and Broome. The number of Legislative Council voters in the Mining and Pastoral Region compared with the whole state in 1996 was 52 240 from a total of 979 162 people. In 2017, there were fewer voters with only 50 564 from a total of 1 348 675. In 21 years, the voting population of the state has increased by 37.7 per cent and the voting population of the Mining and Pastoral Region, the source of so much of the state's prosperity, has declined. Yes, there have been boundary changes, but there is no escaping the fact that we require more people in the Mining and Pastoral Region. We also need more people in the Agricultural Region and the South West Region. We do not need more people in Perth. The growth of the Perth population at the expense of the regions is very much a significant failure on the part of all governments. This is an opportunity for the government of the day to shake loose the shackles of its Perth-centric predecessors by supporting this motion as a genuine and valuable contribution to decentralisation.

Honourable members will likely be aware of what other jurisdictions do. The Victorian government charges a 4.85 per cent payroll tax, but only 3.65 per cent, significantly 1.2 per cent less, for regional employers. South Australia charges 2.5 per cent and 4.95 per cent respectively, depending on total wages. Queensland charges 4.75 per cent and the Northern Territory charges 5.5 per cent but with a $1.5 million threshold. It would be great for Western Australia to hold the position of the Australian jurisdiction with the lowest payroll tax rate. Passing this motion would be a central step in that direction. Ninety-seven per cent of the businesses in Western Australia are classified as small businesses, 75 per cent of which are in the regions.

It is beyond dispute that we need more Western Australians living and working in regional Western Australia. The way to achieve that is to increase the number of businesses in regional Western Australia and to assist in the expansion of the businesses already there. With payroll tax, the government has its hand on a vital lever, which, if carefully and thoughtfully adjusted, can overcome the severe problem of excessive centralisation and deliver massive benefits to the whole state.

If any honourable member representing a non-metropolitan region is contemplating voting on this motion without discussing it with the local chamber of commerce, local businesses and local jobseekers, I urge them to do so. I have addressed this motion with local chambers of commerce, local businesses and jobseekers, and the level of support is very high. With your permission, Madam President, I will read some of the comments. If Customer First Contracting, with 20 employees in Newman, is relieved of payroll tax, Danna Rice expects to make an additional capital investment of $40 000 and hire one additional employee and an additional trainee. Danna Rice writes, according to my notes —

> Payroll for any size business is a huge burden. I can't compete with labour-hire companies as my payroll will always be 5.5% higher than theirs. That money could be better spent providing additional employment opportunities, training days or capital equipment. All of this money going back into the local community and businesses. I can see no benefit to my business, and it's hard enough with all the other fees without this massive amount each month.

Lloyd Douglas runs the Newman Hotel Motel, 1 100 kilometres from Perth. Lloyd describes payroll tax as "an unpopular output". If the Newman Hotel Motel is free from the burden of payroll tax, Lloyd Douglas estimates an additional five per cent increase in capital investment and the employment of additional staff. Deanne Mason estimates that if Chicken Treat in Newman were exempt from payroll tax, she could employ additional workers. Topdrill in Kalgoorlie expects to see an increase in the number of trainees in addition to an increase in capital equipment expenditure. The point I am making is that every honourable member who votes for this motion will deserve to be rewarded by the voters. The electoral reward is more significant for non-metropolitan members.

Honourable members representing the Liberal Party have nothing to lose and everything to gain by supporting this motion. In December 2017, the Liberal Party stuck its head in the noose of a significant credibility problem by supporting the government's unwarranted payroll tax hike. Here is a chance for the Liberals to be seen to be doing the right thing by small business, by jobseekers and by regional Western Australia. I earnestly believe that the honourable members representing the government are concerned about the growth of the metropolitan population. I think that they worry about the empty houses, the empty shops and the unemployed workers in rural and regional Western Australia. I believe that they care about boosting job opportunities for Western Australians. I ask them to please prove me right by supporting this motion, along with other honourable members.

HON RICK MAZZA (Agricultural) [2.03 pm]: I rise to make a few remarks on the motion moved by Hon Robin Scott, which I think is a very good motion. There is no doubt about my opinion on payroll tax, as has been ventilated by me on a few occasions, but unfortunately the state needs the revenue, so it is one of those things that we are stuck with for the time being. Giving concessions to the regions certainly has merit. I note that Tasmania in its 2018 budget has given up to three years' holiday from payroll tax to businesses that move their business to

the regions. It is trying to encourage businesses to move out of the metropolitan areas and into the regions. We often talk about SuperTowns throughout the state; I think there is some federal government commentary going on at the moment about new migrants to Australia having to spend up to five years in a country town. That is all well and good if there is employment, but if there is no employment for them they will not be able to find jobs and they will not be able to stay, and will inevitably end up back in the cities again.

Being able to provide some incentives for people with businesses to move to regional areas by lowering their overheads through reduced payroll tax is a very sound idea. Of course, the quick question is: how are we going to fund it? We have heard promises made by both major federal parties about giving us a floor of 75 cents in the dollar for our GST share. I think the state is in for improved finances over the next few years, and this may be one of the first things that the government could look at—providing genuine incentives to businesses to operate in country Western Australia so that they can provide employment and some economic benefit for those areas, and get people to stay in the regions.

I will not go on about this; I think my position is quite clear. I support the motion and I hope that Hon Robin Scott gets some support from the house for it.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [2.06 pm]: It is my pleasure to rise this afternoon and make some comments to this motion on behalf of the government. I appreciate Hon Robin Scott's membership of this place and his advocacy for regional Western Australia, most particularly the Mining and Pastoral Region—the electorate that I share with him. I know he works hard and is a true voice in this place for the regions, so I congratulate him for that. As much as I would like to support his motion this afternoon, I have to indicate that the government will not be supporting it, and I will outline a number of reasons for that.

Hon Rick Mazza hit the nail on the head in his short but sweet contribution a few minutes ago when he asked: how can we fund it? That is essentially it—how can we fund it? Given the debt we have in Western Australia at the moment and the work we are doing to put the state back on track, we are simply not in a position to reduce payroll taxes at the moment. Hon Rick Mazza mentioned GST and talked about the commitments that both major federal parties have made over the last few days, but the money has not yet started to flow, and it may not start to flow for another couple of years. We are simply not in a position at this stage to give extra support to those businesses in regional Western Australia. If we think about it, support is already being given to small to medium businesses around the state, wherever they are located, through things like the tax-free threshold and the progressive tax scale. I do not believe, and certainly the Treasurer does not believe, that giving only regional businesses further payroll tax concessions is the best use of the limited resource we have at the moment.

Hon Robin Scott mentioned in his contribution that some businesses in regional Western Australia have told him that they would employ more people if such a decrease were to be implemented. The member has only to look at places in our electorate—the goldfields region, for example—where we are told by the business community that there are about 1 000 jobs vacant at the moment. They cannot get workers to actually take jobs.

I thank Hon Jacqui Boydell for bringing this to my attention earlier today. The chief executive officer of the City of Karratha was today quoted in the *Pilbara News* as having said —

> "Karratha today has three times more jobs than Bunbury, it has 10 times more jobs than Midland, and 20 times more jobs than Busselton advertised today,"
>
> …
>
> "We simply don't have enough people to fill the jobs we need.

We already have a substantial number of vacancies in regional Western Australia, such as in Kalgoorlie and Karratha and other places around the state. We simply cannot get people to take those jobs, so saying that we will decrease the payroll tax rate to allow more businesses to employ more people would not help at this stage. I would rather that we focus on getting people in regional Western Australia to fill the existing jobs that are going begging.

Hon Rick Mazza: That may be true in the Mining and Pastoral Region where there's a lot of resource activity, but I think you'll find it's a completely different story in the Agricultural Region. Being able to encourage businesses into those areas, I think, would be of great benefit.

Hon STEPHEN DAWSON: Undoubtedly getting more people to work in the Agricultural Region would be of benefit to that region, but we are about to see a bumper cropping season in that region. We are seeing good land prices and wool at significantly higher prices. I think we are seeing green shoots in the economy around the state. Some areas are more advanced than others are. We will start to see vacant jobs in the Agricultural Region. We look at places such as Moora, which has been raised in this place numerous times; I believe two garages in town are looking for mechanics. Indeed, other communities throughout the wheatbelt and the state have jobs vacant, but people will not move there. People have not taken the opportunities that exist. In the longer term, I have no issue with looking at things such as payroll tax exemptions or other opportunities, but, at this stage, we are simply not in a place financially to do that. I think that because those jobs out there are vacant now, we should focus on them. With those vacant jobs in certain parts of regional Western Australia, we should try to get more people to live in the regions.

To halve the payroll tax is not, in my view, going to get people to move to regional Western Australia. What makes people move to regional Western Australia are quality services. We, as a government, like other governments, spend significant amounts of money on services in regional Western Australia. We have to deal with quality-of-life issues. I use Hedland and Karratha as examples, although I was pleased to see data from the Pilbara Development Commission earlier this week that shows more people are planning to stay in Karratha into the future than were planning to do so a couple of years ago, when many people saw their future elsewhere. We see people in my electorate—for example, in Hedland—decide at some stage in their life, because their kids are getting older or about to go to high school, that they will move their whole family out of regional Western Australia. We have to focus on whether the issue is about lifting the standard of services, such as education in regional communities, or educating people that our regional schools are top quality. I speak very highly of the schools in Hedland and I visit them quite regularly. The primary schools have great principals. The great staff at these schools can give as good an education to the kids there as that which is given to kids at schools in other regional communities and the metropolitan area. Bill Mann, the new principal at Hedland Senior High School, is getting that facility back on track. I am hopeful that he will give parents in the community the confidence to say that they do not need to move their family to Perth for their kids to go to Wesley College or Scotch College or any other school in Perth. People can be confident that they can stay in the community that they love to live in, have grown up in and have spent many years in, because the quality of service in the school is as high as the quality of the schools in the city. Services are vital.

As someone from Ireland who hates the cold, I love regional Western Australia and I can think of nothing better than 40-odd degrees in summer. I love it, but it is not for everybody. Not everybody wants to live above the twenty-sixth parallel. Not everybody appreciates the sunshine and the heat to the extent that I do. I think I must have been a goanna or something like that in a previous life. I love to lay on a rock and enjoy the sunshine, but not everyone does. The north west of Western Australia is not for everybody, because of the weather and costs, but the government can do things like funding key essential services such as health, education, transport and law and order.

I come back to the point that the Treasurer wanted me to draw to Hon Robin Scott's attention. The state relies on limited sources of revenue to help fund key services. If that important revenue base is narrowed, it will narrow the revenue available to fund essential services in regional towns, and at this time we simply cannot afford to do that. Any limited financial benefit that is provided to regional businesses through a payroll tax exemption or concession would ultimately be offset by costs to the recipients of essential services provided in a town. At this time there is simply a finite pool of money and if we were to give it to one group, another would lose out. If we were to give that money to businesses in the current economic climate, we would have to consider reducing services in those communities. As a regional member of Parliament I do not want to see services removed from regional Western Australia. We want services to continue to grow. We want the quality of life of people living in regional communities to get better.

From an equity perspective, providing a payroll tax reduction to regional businesses with fewer than 100 employees, as the motion suggests, would give those businesses an unfair competitive advantage over other businesses that employ people in regional Western Australia and that do pay payroll tax. I am not convinced that a payroll tax exemption will encourage many businesses to move from the metropolitan area to take advantage of this. It might, but I am not convinced that a payroll tax exemption in and of itself would convince them to relocate.

Hon Colin Holt: It therefore would not affect your payroll tax receipts, if no-one moved, and then you should support the motion.

Hon STEPHEN DAWSON: That may well be the contribution the honourable member makes in the debate this afternoon, but I am saying that there is no money at the moment to do that.

The greatest beneficiaries of a payroll tax concession will likely be employers already operating in those areas, so it effectively narrows the tax base for little benefit. Businesses in regional communities are already saying that they would employ more people if they received a tax concession, but I do not think a tax concession will do what the member is suggesting. The CEO the member mentioned did not say that there were thousands of jobs in Karratha, but he did say that there were three times more jobs in Karratha than in Bunbury and 10 times more than in Midland and that he cannot find people to fill those positions. Certainly, senior people in the goldfields with whom I have had conversations have said that there are about 1 000 vacant jobs in the goldfields, and that is without the tax concession that this motion is calling for. I think we should all work together to try to get people to move to the regions. I look at the Kwinana strip and think of the high numbers of young people in particular who are out of work in that region. At the same time I look at the 1 000 vacant jobs in the goldfields. There has to be a way to get some of those people from Kwinana to the goldfields. The member and I know that life in the goldfields is good. It is a great place. I am very fond of it. The beach may be four hours down the road, but there is golf, tennis, basketball, swimming pools and other facilities. Hon Kyle McGinn, who represents that region in this Parliament, would agree that the goldfields is a good place to live. I wish more people from the Kwinana strip and other places with high unemployment would come to regional Western Australia and see and experience it.

I wonder whether we need a roadshow, or something like that, of senior people and businesspeople from the goldfields to go to Kwinana or Rockingham to put on an event, saying, "Hey, we've got all sorts of jobs." As the member knows, the vacant jobs in the goldfields are not only trade related, but also service industry jobs. In fact, probably every kind of job is on offer.

Hon Kyle McGinn: They are looking into that sort of stuff.

Hon STEPHEN DAWSON: I appreciate that interjection, honourable member. It would be good if they did, because I think there is an opportunity in both those communities to capitalise not on those who are less fortunate, but certainly on those who do not have a job at the moment, by getting in front of them and saying, "This is what we're like; this is what's going for you. Come and try it out." I think it would be beneficial.

Getting back to the motion at hand, significant legislative, administrative and system changes would be required to implement the proposed payroll tax concession. This mainly arises from issues associated with defining and identifying regional employees and businesses. I know that the member has gone some way to make it easier to identify who would benefit from it, because in his amended motion he says that it would be for businesses with fewer than 100 employees operating in zone B as defined by the Australian Taxation Office in the Australian zone list for Western Australia. I sought advice from the Treasurer's office about the financial impact of this and the number of businesses it would help and I was told that that information is very difficult to ascertain from Treasury at the moment. I cannot put it on the table and say that it would cost us a billion dollars or whatever because the information is not readily available. I wanted to be helpful to the member, but I am unable to because the information just does not exist.

Although the state government does not support the member's motion, it does not mean that we are not committed to supporting regional development. We have committed to significant investment in regional Western Australia to develop regional economies and also provide more employment opportunities in the regions. As the member would know, without vibrant regional economies, there would be no incentive to start or, indeed, keep a business going in regional areas. In the 2017–18 and 2018–19 budgets we have continued to invest in things like job-creating infrastructure and economy-diversifying initiatives, which I think matter and really make a difference to the regions. We have seen investment. Over the past few days and weeks in this place we have had questions about regional roads and the amount that is being spent on regional roads. Hon Colin Tincknell, who is away from the chamber on urgent parliamentary business, asked a question yesterday about what the record amount was. Over $1 billion extra is being spent on regional roads. Money is being spent on the Karratha–Tom Price road and Marble Bar Road, bearing in mind that we would love to have a few other roads funded. Given that I share the same electorate with Hon Robin Scott, we would love other roads in our electorate to be funded, and hopefully they will get funded as we progress. Certainly, significant money is being spent on roads and regional infrastructure.

We have funded the regional economic development grant scheme. That new scheme will drive economic development in the regions. It is being funded through royalties for regions. Our local content people are now coming onboard in the regional development commissions to ensure that regional businesses get a benefit, and not businesses that have head offices elsewhere but have opened a satellite office in the town and get the work over a local business. I know that Hon Ken Baston is also passionate about this issue and he continues to ask questions about it. We are focusing on those issues.

The other area that we are focusing on is Aboriginal businesses and making sure through our Aboriginal procurement policy that Aboriginal businesses in regional communities are beneficiaries too. We are seeing some great work happening. I use the road to Cape Leveque as an example. I applaud Main Roads WA for what it is doing with regional communities along the Cape Leveque road to ensure that Aboriginal people in those communities benefit from the jobs. That is very good. People in those communities had not been able to access jobs partly because the road was not good enough for them to drive to Broome, but also because the jobs were not there. This work will happen over three years and people will be trained up and given ongoing jobs in those communities.

An area closer to my heart is the Aboriginal ranger program. Again, we are spending a significant amount of money—$20 million over five years—to create these new jobs in regional Western Australia to give Aboriginal people ongoing jobs so that they are connected to country, custom and culture. The first round of funding that we announced in January was about $8 million; 85 new jobs were funded through that round right across regional Western Australia. There were 12 in the South West Aboriginal Land and Sea Council, and some in Esperance, the goldfields, the Murchison, the Pilbara and the Kimberley. Another round will come out very soon. Of the 85 new jobs, over half were filled by females. I am particularly proud about that because the female rangers had not fared well in the previous rounds. Role models are being created in regional communities, and there will be multiple benefits from that. As a minister, I am focused on creating jobs in the regions, as are my colleagues, but, unfortunately, we do not believe that at this stage we can afford what Hon Robin Scott has asked us to do.

With those comments, I again commend the member for his passion and for bringing issues like this to the fore in here. It is always a good debate to be had, but at this stage I cannot support the motion.

HON DR STEVE THOMAS (South West) [2.25 pm]: I thank Hon Robin Scott for moving the motion before the house today. It is with, I guess, a little sadness that I cannot bring myself to support the motion before the house—I will provide some detail on that later. The opposition will not be supporting the motion as presented, and there are a number of reasons for that. I have always been concerned about any potential act of government that picks winners and losers in any particular way. I will talk in a little more detail about payroll tax and how the Labor Party in particular uses it to milk businesses over time. I will make a detailed contribution about the pluses and minuses of attacks on employment and jobs.

The critical issue here is applying a tax in some areas and not others, giving benefit to some areas and not others. That is a little problematic for, I would think, all members. I absolutely understand that the member is looking to stimulate economic growth and development in the mining region. He is to be commended for that; it is a very good intention, and every member should be doing exactly the same thing, including all other members of the house who represent different areas. Unfortunately, all those other members of the house might find themselves negatively impacting on businesses in their areas that then have to compete with businesses in the member's area that have a specific economic advantage. That is very difficult to do. Governments traditionally do very poorly when they pick winners and losers, particularly when it is based on regional areas. There is a long, long history of governments doing exactly that, to the detriment of the taxpayer and ultimately good governance. I will give a little more detail on that in a minute.

Of course, we all recognise that the federal government applies some tax advantages to those living above the twenty-sixth parallel to match or account for the increased cost of living that occurs particularly in those remote areas. I think everybody agrees with that. We accept that the increased cost of living in regional areas can be significant, and that strategy is supported. But that already exists, so there is an advantage to some degree in the tax system for living in those regional areas—not necessarily one that matches the entire additional cost, and I absolutely accept that. But government has to be particularly careful that it does not apply advantage to one area over another.

The most obvious example of that is written into the Australian Constitution. I am sorry, Hon Matthew Swinbourn; you have taken a bit of a beating on the Australian Constitution today, so I will not go into too much detail. When the Australian Constitution was put together by the founding—I almost said "fathers", but that is probably a bit paternalistic and I will not use that term —

Hon Stephen Dawson: Founders!

Hon Dr STEVE THOMAS: The founders—I thank the minister!

When the founders put that document together, it was very important to them that states should not be given an economic advantage over each other. The states eventually found ways to get around that, but let us go back to the original idea in the Constitution, which was that trade between the states could not be impeded and that, from a commonwealth perspective, financial advantage could not be given to one state over another. It did that quite specifically, although, interestingly, and members might remember this from previous speeches on economics I have made, there was an exception granted at the point of Federation. Western Australia was allowed to retain an additional duty because of its lack of capacity to fund the activities in what was a very young and, I guess, very green economy. For years, Western Australia had a little advantage, which was eventually removed. The thrust of the Constitution of Australia states that it is important that one geographical location is not given a financial advantage over another. I think that is a very important principle. I know states rail against that and, in the end, they have found ways around it.

Payroll tax is one of those things in which we did see a differential. If members remember their history, they would know that payroll tax was originally a federal tax. Payroll tax was introduced, I think, in 1941, and until 1971, for a 30-year period, it was a federal tax and applied uniformly over all the states. In 1971, the year before Gough Whitlam became Prime Minister, the payroll tax revenue was transferred to the states, so states then became taxers of payroll. At that point it was still a uniform tax and remained so for three years after that. I think it was uniform at about 2.5 per cent of payroll. Obviously, once there is that freedom in the economic system, there is variation, and of course the first thing that happened after that three years of uniformity is that states tended to apply a differential. Because states are sovereign entities, they can apply taxes as they see fit, and it was not unconstitutional, because it was then a state tax. That occurred in the same way that local governments can apply different rates in different local government areas, and in some cases different rates within local government jurisdictions, because they have authority over that. Payroll tax went from being a very uniform tax to being one with a differential, with an obvious advantage to those low–payroll taxing states. We would think that it would have been to the benefit of all states to keep payroll tax to a minimum to attract business.

We do not see it so much in Australia, but we see it in the international community, where taxes like payroll tax vary, not so much through a legislated value for tax or the amount of the tax, but by granting exemptions for certain companies to come in. We see that everywhere. We see that in the international financial community, with companies being granted millions of dollars of tax relief on the basis that they might move to a low-taxing economy

that might be struggling a little. Of course, certain areas and jurisdictions have made a business out of that—the classic tax-free havens, where certain countries in the world make sure that no tax is paid—and we all know what that does to the bottom line of Australian jurisdictions, both state and federal, with companies basing themselves in the Cayman Islands, for example, or other places where taxation is very, very low. That kind of international competition and the difficulty and damage it does can be reflected at a state and local level.

For that reason, we need to be particularly cautious about choosing a differential taxation regime to give a particular area a financial advantage over every other area in the state, particularly in business. I say that, putting aside the situation in the area above the twenty-sixth parallel, which is slightly different, because it is an income tax offset to account for a cost of living differential. In his motion, the member identified tax relief for companies operating in the zones set by the Australian government as managed by the Australian Taxation Office. I will list them just so members are aware. The zone A differential as defined by the ATO is set for income tax relief. In Western Australia, zone A places include Bidyadanga, Broome, Carnarvon, Dampier, Derby, Goldsworthy, Karratha, Marble Bar, Newman, Pannawonica, Paraburdoo, Port Hedland, Roebourne, Shay Gap, Tom Price and Wittenoom. Zone B comprises Boulder, Kalgoorlie, Esperance, Coolgardie, Kambalda, Leonora, Mullewa, Norseman, Northampton, Ravensthorpe and Southern Cross. In addition, there are a few areas in Western Australia known as special areas. For the sake of completeness, I will run through that list. They are Balladonia, Deakin, Denham, Eucla, Exmouth, Fitzroy Crossing, Halls Creek, Kununurra, Laverton, Leinster, Madura, Meekatharra, Mt Magnet, Onslow, Rawlinna, Turkey Creek, Wiluna and Wyndham. Those areas are obviously by definition remote, or at least highly regional. Kalgoorlie is one of the cities in Western Australia, but it is still considered a fairly remote location.

The question before the chamber today is: should a business in a regional location such as Esperance or Kalgoorlie receive from the state an economic advantage over businesses in other jurisdictions in Western Australia? I think that would be a fairly difficult argument to run, not just from an opposition perspective but, unfortunately for the member who moved the motion, for every member of the chamber outside the Mining and Pastoral Region. I am pleased that the Minister for Environment, who is a member for the Mining and Pastoral Region, is taking a statewide and, I think, sensible approach to this issue. It is obviously easy for members to point to their own electorate and say that it needs to be given a financial advantage to ensure that the businesses in their electorates do well. Therefore, the intent of the motion moved by Hon Robin Scott is absolutely fine. It reflects what Hon Robin Scott is elected to do—that is, look after the interests of the people in his electorate. I do not think anyone in the chamber would condemn the member or have a problem with that. It becomes a problem only when we want to apply the same standards across the board to every other area of the state.

In my view, many of the areas that are included on the list for zone rebates did very well financially during the boom period in Western Australia. I define the boom period as the economic period between about 2003 and 2014. That is not to say that all those areas are still doing well economically. To take iron ore, for example, the current price for iron ore is about $US68 a tonne. At that price, for most iron ore companies, that is well above the cost of production. Some of the larger iron ore companies have a production cost of well under $US20 a tonne. Therefore, a significant income is still being generated in those areas. I will come in a moment to the fly in, fly out component and to where wages might disappear. The current gold price is reasonably strong. The liquefied natural gas industry is starting to move forward. In 2008—10 years ago—I made some mistakes as the then shadow Treasurer in predicting where the economics of the state of Western Australia would end up. In my view, there was always going to be a correction in the iron ore price, and the price of other minerals would come and go a bit. My prediction was that the LNG industry would continue to expand and the price would be at a level that would ensure that the industry remained stimulated, which would be very good for the north west of Western Australia. I acknowledge that I was a little surprised by the size of the shale gas industry that developed in the United States. The increased availability of gas in the United States put a major dampener on the worldwide price of gas, and although the price received by gas producers did not drop significantly, it has certainly remained stagnant, but it is starting to correct itself at the moment. The level of investment in gas production in this state has tapered off a bit. It was based on the major projects that were in train up north, such as the Gorgons of the world, which was a massive $45 billion worth of investment into those industries. New growth in that area was a little limited over that period of boom. Maybe because the iron ore industry was doing so well, the gas industry could not or did not need to compete, so it was a little stagnant for a while. I see, although I hate the expression, green economic shoots. I see significant investment coming in those industries and I think it will be a fairly major economic stimulus for many of those areas that zones A and B apply to.

It is absolutely true, and I am the first to acknowledge it, that not everybody benefits from major economic investments and some people certainly get left behind. In my view, those people are not necessarily going to be picked up by a reduction in payroll tax and supported in a significant way. I think there are a lot of other ways we might support people in those regions, particularly those who struggled a little during the boom period. It is absolutely true that outside some of the major industries, plenty of parts of Western Australia struggled to adapt to the new economic circumstances that we find ourselves in. I guess when I say “new economic circumstances” that is not true; it is a bit like groundhog day. We have gone back to fairly standard, long-term average growth in

most areas—the exception is wages, which I will come to in a minute. For industrial growth and economic growth, we are really back to what our long-term average looks like. Across the state, we are back to a two per cent growth rate. We got used to 10 per cent growth. We got used to economic growth of seven, eight, nine or 10 per cent over time and everybody started to assume that was the new normal. That drove a whole pile of problematic issues. If we look at some of the economic results of that period, particularly in Hon Robin Scott's electorate, people were paying $1 500 a week in rent because everybody was trying to get in on that massive economic bandwagon. Lots of people went north during that period. Fly in, fly out workers in particular, who were not paying those significantly higher rents, came back and bought their first house for cash. Lots of people did remarkably well in that period. There are other things we need to do to support those people who were left behind, in many cases in particularly isolated communities. There are other ways we can stimulate economic growth.

The correction back to two per cent growth did not occur just in the north west. The north west in particular was the driving force of Western Australia's economic growth. Looking at payroll tax in particular, it went from being in the order of $700 million at the beginning of the boom to $3.5 billion a year. There was a fivefold, or 500 per cent, increase in payroll tax collections. Not an enormous amount of that was collected in the driving hub, which is the area the member talked about. A lot of payroll tax was collected by companies that basically centred themselves in Perth and provided services and expertise to areas in the north. The iron ore industry in the north drove that massive expansion. The gold and gas industries continued to tick over. Agriculture probably went backwards, but it is starting to move a little bit now. Tourism probably struggled and went backwards and we hope that can be turned around. It was driven by the iron ore industry and driven by the north west. Support for tourism and the companies that provided support were much more widely distributed. In the south west at this point, pretty much the only significant use of Busselton–Margaret River Regional Airport is for flights to Rio Tinto projects. The airport has had a very good relationship with Rio Tinto to get fly in, fly out workers to major projects. That relationship still exists. The companies that provide services headquartered in the south west and in Perth still contribute to payroll tax. Even though the growth and activity was happening in the north west of Western Australia, payroll tax was being paid and generated across the entire state, particularly in the south west land division of the metropolitan region and the south west. I think we need to be very cautious about saying to some of the smaller of those companies that for economic reasons, they need to be relocated. I think that is the problem with the motion before the house today. As I say, it is very difficult for any member to pick winners and losers in that process. I guess the question we must ask ourselves is: what will happen to a company of under 100 employees in Perth, in any of the metropolitan electorates or in the electorates of those members of the south west who may potentially have to compete with a company that is paying half as much payroll tax if it decides to site itself in the north west, the west or the eastern part of Western Australia?

I was glad to hear the Minister for Environment talk about other things that might drive economic development in those regions and I absolutely agree with him. There are many things we can do. There is a reason people choose a fly in, fly out lifestyle over moving to the regions. We would think it would be obvious that if someone were to be employed long term in a regional or remote area, generally on a very good wage, there would be good reasons to take the family and live locally. That we have such a massive fly in, fly out industry means that, effectively, people are making a deliberate choice rather than having foisted on them that they will live and operate in a certain area. I have apparently just been appointed to a committee to look at government telling people what to do without necessarily their need to be told. I will be interested to see the focus of that committee because I think in some areas we probably do, unfortunately, have to try to legislate for commonsense. But there are probably other areas where government is far too intrusive and does not need to be. This might be one of those examples of who is government to suggest someone needs to have their business in a certain area to perhaps increase economic activity in a town in the north, when they would prefer to be somewhere else? I fully understand that it is important to try to look after regional areas, and I fully understand and support that we can do things to support them without necessarily giving a tax advantage to certain companies.

We can do lots of things to make this better. One of the first things we could do is streamline the approvals process. I have a little trouble when I say that because I have been around long enough now to understand that every government says it will reduce red tape and streamline the approvals process to make it easier for business to be active. I have seen it on both sides of politics for as long as I can remember. I have seen red tape committees. I can remember not too long ago the federal government having a red tape reduction program in place and legislation that was not required was repealed. That was great, except the legislation that is repealed is always the legislation that is no longer doing anything anyway. That is the legislation that is not impinging on business and making sure business cannot prosper; the legislation that is repealed is the bit that nobody uses. That is probably good because it gets taken off the books, but it is not costing business nor is it costing government. It is legislation that is just sitting there. Most of the time, someone has to look for those bits of legislation. That is why red tape committees provide employment because someone in the public service has to find all the legislation that is no longer used. If we do not use it, we do not know it is there. There is all this legislation floating around the place that we never use because we do not even know it exists, and we repeal it and say what jolly good people we are. The reality is that we do not save the community anything, nor do we save business anything by doing that. If we want to, we can

make a genuine attempt to reduce red tape and streamline business approvals so that industry can flourish, which is more important, with a lack of government impediment rather than by government subsidy. We have to be very careful about how we manage that. I am always cautious about suggesting that a government subsidy is a solution to anything. I have seen far too many slush funds being maintained for far too long to know that most of the time, although we get some temporary investment, the investment by business over the long term drives an economy. It is not the investment by the government for the most part—there are some exceptions—that drives long-term economic benefit to the people. Members might call me right wing with that particular approach, and I think that is absolutely accurate and that is why I sit out here on the far right wing of the Liberal Party, appropriately placed. I am not a Keynesian economist. I know that the Minister for Regional Development and I have conflicted over that over time.

Hon Stephen Dawson: You're still one of our favourites though.

Hon Dr STEVE THOMAS: I have absolute respect for the minister. She is probably the second best minister on that side of the house.

Hon Robin Scott: Who's the first?

Hon Dr STEVE THOMAS: The Minister for Environment is obviously the standout performer in the government. He gets the most legislation through with the least fuss.

Hon Nick Goiran: He's the only one who answers any questions.

Hon Dr STEVE THOMAS: He provides answers to questions. Even when he does not necessarily like the answer, he is happy to provide information on the basis that an open and accountable government is a good thing. He will never get preselected now that we have said that about him. He is an excellent fellow and obviously the first minister in the chamber, if not the leader.

In my view, the prospect of subsidising business either with a reduction in taxes or direct subsidies has almost never been effective in the long term. It is a quick sugar hit. I will give members a few examples of that. Let us look at the Australian car industry, for example, which took in billions of dollars of subsidies over a number of years. Where is it today? It does not exist. The only way it would still exist is if it continued to be subsidised. That is a great example of the sugar hit of direct subsidy that in the end does not get anywhere. Imagine if we took those billions of dollars of subsidies and directed them into genuine economic growth. We have to be a little cautious about this. Some parts of government are, by accident, economic investments when they are really social infrastructure. We cannot be absolute with this, particularly in the regions. When the overall economy is so small, a hospital, a school or a police station is a significant investment by government in a fairly small community, even a community the size of Kalgoorlie with a bit over 30 000 people.

Hon Robin Scott: Just under 30 000.

Hon Dr STEVE THOMAS: Is it still a city then? I suppose it is. Even for a city of that size, a high school is a significant proportion of its economic activity. There is a role for government to invest in economic activity that includes providing those vital services, particularly social services. That absolutely exists. Naturally over time—we have seen this throughout the wheatbelt and in the agricultural and mining and pastoral regions—those services tend to get centralised into larger communities just because we need those additional support services for the people who work in those services. An agriculture department worker, a police officer, a nurse or a teacher is more likely to be centralised into those larger areas. We have seen that throughout those areas. The larger towns have tended to hold onto their population and, in some cases, grow whereas the smaller ones have really struggled. Where do we see the biggest impact? It is in those tiny towns for which a business providing 10 jobs is a significant employer. There are things we need to do to support those towns. Payroll tax relief is not the mechanism by which any of those tiny towns will be supported. They need support in other directions. They need to be able to provide the smaller levels of service that can be picked up. There are things that government should be doing better, and that includes removing some of the impediments to business growth that occur under every government.

The Minister for Environment obviously plays a fairly important role in this, because environmental approvals for proposed mines throughout those regional areas come under his jurisdiction. I note with interest a couple of high-pressure ones amongst the banded iron ore areas of Western Australia in which the government has taken, let us say, a very conservative approach; Hon Robin Scott will be well aware of the ones I am talking about. A significant number of jobs would have been developed had those two proposals gone ahead. The government is trying to compensate one of them a bit with some tax relief. I think subsidising through taxes rather than allowing development is joining the wrong agenda. I think the government is taking a significant backward step with that one. I look forward to Hon Robin Scott perhaps making some comments on that process in the not-too-distant future.

There is an opportunity for this government to encourage development in remote areas. Unfortunately, there are somewhat limited development opportunities in remote areas. What will drive the economy in those areas? Where are we going to go with this? The easy one is obviously additional mining. There is a role for government in making that as easy as possible. Some of that will involve the approvals processes and some of it will involve

providing the critical infrastructure that is required for minor players. I will not go into detail on rail access agreements and how they might be used to stimulate some of the smaller producers, but it would be pretty useful to have a more comprehensive plan for how all that could go together so that the minor players can get their product through to a port and out to the open marketplace in a more strategic manner. There are other ways of stimulating that economy.

I would like to raise again a question that I have asked a couple of times in this place. Outside the mining industry, the pastoral industry in the member's electorate needs the capacity to more easily diversify what it does. I understand and recognise that many people have this emotional attachment to running cows and sheep over large areas of land, but the reality is that for many pastoralists—not all of them, but a lot of them—that is their least economic prospect. The capacity for them to more fully engage in tourism by providing accommodation, or to put in irrigated agriculture, would offer far more exciting opportunities for future development than running cattle or sheep, or both. The approvals process for that is still far too onerous. I acknowledge that the government has taken a few steps to make it a little easier; the Minister for Agriculture and Food has gone some way towards improving that. However, in my view the Department of Planning, Lands and Heritage has not improved its processes, and it is still a major player in approving the diversification that does not yet exist in regional areas. We need to hold the government to account and make sure that it is not restricting those industries. That would be a good job for the committee that I find myself on. There are difficulties involved in people setting up something fairly simple, like farmstays, on a pastoral station. Their greatest asset might actually be their environmental credentials, the great sunsets and the redness of the area. All of that may well be a far bigger asset for exploitation than simply the capacity to run cattle and sheep on marginal country.

I see that most of Queensland is now running introduced buffel grass. If the Western Australian industry wants to expand to that level, it is probably going to have to go down a similar path. At this time, buffel grass is still considered a weed in Western Australia. For most weeds in Western Australia, no activity is required and no control measures need to be put in place. Despite the fact that it was the Minister for Environment's birthday about a month ago, I have refrained thus far from bringing him a bunch of arum lilies, although the south west is in full arum lily bloom at the moment! I am very tempted to bring him a nice bouquet to say that they are still there, just in case anybody has forgotten. Of course, they were removed from the list of weeds for which some action is required, so I expect the arum lilies in the south west to be blooming for many years to come.

Hon Dr Sally Talbot: A lot of people still call them death lilies, of course.

Hon Dr STEVE THOMAS: Death lilies—yes, absolutely.

Hon Stephen Dawson: Don't read too much into it. That's not what he's wishing.

Hon Dr STEVE THOMAS: No, no; that is why I did not bring them for this minister. He is a very good minister. However, I sent a bouquet of the same lilies to the Premier once, but he would not eat them!

We have digressed a little, but I think it is a good motion to debate and it brings out some of the issues raised by Hon Robin Scott concerning the economics of the north west in his electorate. I understand that he is looking for something to kickstart that economic growth a little faster and to pick up those communities that have been left behind. I am absolutely certain and I am pleased that the minister raised a number of times in his address the Indigenous communities and how in a lot of cases they have not necessarily been rewarded with the economic growth that has occurred in the north west. They have not necessarily had the capacity to take advantage of that.

The government has put in place some reasonable programs. I am intrigued to see how the Indigenous rangers program championed by the minister proceeds. I think it has the potential to deliver some very good outcomes. Aboriginal people are looking after areas of land to which they have a strong connection, so they have an internal incentive, if you will, to make sure that they look after that land. I wish the minister all the best with that program. I hope that it works. I have no doubt that on occasions it will fail and in some areas it will not work, but I can usually apply that to every government program that has ever existed. That program has enormous capacity to deliver some good. We should bear in mind that it is still government investment and one day we will have to get the private sector a bit more engaged in that process.

Hon Stephen Dawson: Member, just on that, I am. I've had multiple conversations with not only a range of big resource companies, but also the CME, to make sure it's sustainable and make sure those companies are using established ranger groups to do work, whether it's on the periphery of mines, whether it's mine rehabilitation or a range of things. It needs to be sustainable in the long term. We are already seeing some of the new rangers get pilfered by mining companies.

Hon Dr STEVE THOMAS: Excellent work. They are probably getting twice the money they were.

Hon Stephen Dawson: Possibly, and I do not blame them.

Hon Colin Holt: It's part of the transition.

Hon Stephen Dawson: It is part of the transition.

Hon Dr STEVE THOMAS: It absolutely is. The more of that that happens, the better. The joy of government is that we get to start again and start training people afresh. I think that is a great program. When the inevitable failures come up, we as a chamber need to say that not every part of every program works. There is always a part of every program that fails and we should not be frightened of that. The ones that do not work are not the basis on which we want to judge the success of this program. I would be keen to see us progress that. All sides of politics can embrace, and engage in, this program as long as the dynamics of it are set up correctly and the accountability is right. We can all be a part of that. Hopefully, in the not-too-distant future when the minister moves to this side of the chamber, we can see those programs continue to be supported.

Hon Stephen Dawson: I hope it's a long time until I have to sit over there again, member.

Hon Dr STEVE THOMAS: The minister is very optimistic. He is an excellent fellow and he will look quite good over here.

Hon Colin Holt interjected.

Hon Dr STEVE THOMAS: It is the season for coups, so we never know. Anything could happen.

Hon Stephen Dawson: Not in our party.

Hon Dr STEVE THOMAS: We remember the Rudd–Gillard–Rudd days.

There is some excellent intent behind the motion before the house today, and I fully understand that. Unfortunately, it is too difficult for me personally as a member of the south west to suggest that one region of the state should obtain a significant economic advantage in business costs over others. That is not to say that I am purely fixated on the South West Region. The same issue applies to the metropolitan region and other areas of the state that are not on that list. A fair bit of the wheatbelt in the Agricultural Region is not on that list.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair.

Joint Standing Committee on the Corruption and Crime Commission — Seventh Report — "Unfinished business: The Corruption and Crime Commission's response to the Committee's report on Dr Cunningham and Ms Atoms" — Motion

Resumed from 22 August on the following motion moved by Hon Alison Xamon —

That the report be noted.

Consideration Postponed

Hon ALISON XAMON: I move —

That consideration of the seventh report of the Joint Standing Committee on the Corruption and Crime Commission be postponed.

I move this motion because the matter is still before the courts and it would be useful that it be finalised before the chamber considers this report.

Question put and passed.

Joint Select Committee on End of Life Choices — First Report — "My Life, My Choice: The Report of the Joint Select Committee on End of Life Choices"

Resumed from 23 August.

Motion

Hon COLIN HOLT: I move —

That the report be noted.

Consideration Postponed

Hon COLIN HOLT: I was going to allow other members to speak, but if no-one is going to take the opportunity, I move —

That the debate be postponed.

Hon NICK GOIRAN: Before the chamber agrees to the motion moved by Hon Colin Holt, I want to make some comments in support of the motion and some general remarks.

Hon Colin Holt seeks to defer debate on consideration of the Joint Select Committee on End of Life Choices' report, which was tabled less than a week ago. Members might be aware—in fact, I will borrow a copy from my good friend

Hon Donna Faragher—that the committee report is no small piece of work, to say nothing of the minority report, and members might like more time to digest it before they discuss it. However, in the few minutes I have available I would like to flag that I have a motion on the notice paper that is somewhat unusual. It seeks that a motion be passed by this house so that a message can be sent to the other place asking for the release of the minutes of the committee. I want to say two things about that. First, members might quite reasonably ask why I would want to do that and why would I be even interested in doing that; and, second, I want to talk about the custom and practice of the other place when it comes to these matters. I draw to members' attention that this committee was a joint select committee and not a standing committee. If a member of the public or a member of Parliament wants to engage with a committee, they can do that with a standing committee. Nothing stops me from writing to the Standing Committee on Estimates and Financial Operations or the Standing Committee on Public Administration or any standing committee, because they are permanent committees of the house. I, as a member of Parliament, and indeed any constituent, has a permanent capacity to write to those committees and engage with them. The difference, of course, with a select committee—in this instance, a joint select committee—is that there is no capacity to engage with that committee because it ceased to exist once that weighty report was tabled last Thursday. I think there is a distinction between a select committee and a standing committee for that reason.

Secondly, I draw to members' attention that that particular committee was operating under the standing orders of the Legislative Assembly. That was a decision that was agreed to by this house at the time. Nothing in the Legislative Assembly standing orders dictates that a committee must table its minutes; there is no such standing order there. However, I draw to members' attention what I describe as the ordinary custom and practice of the committees of the Legislative Assembly. I will start with the Community Development and Justice Standing Committee. On two occasions in the thirty-ninth Parliament it tabled its minutes. Tabled paper 3490 was tabled on 13 October 2015, which was all the committee's minutes from 15 May 2013 to 24 June 2015. Then tabled paper 4879 was tabled on 17 November, which was the remainder of the committee's minutes from 12 August 2015 to 9 November 2016 for the thirty-ninth Parliament. That is one example of a standing committee of the Legislative Assembly—the Community Development and Justice Standing Committee—that tabled all its minutes in the thirty-ninth Parliament.

Should members think that that might be an aberration, I draw to their attention that in the thirty-eighth Parliament, that committee did exactly the same thing, except that it tabled its minutes on four occasions rather than on two occasions. Tabled paper 1872 was tabled on 24 February, tabled paper 3205 was tabled on 22 March 2011, tabled paper 4532 was tabled on 28 February 2012 and tabled paper 5613 was tabled on 14 December 2012. The Community Development and Justice Standing Committee in the Legislative Assembly in the thirty-eighth and thirty-ninth Parliaments tabled all its minutes. Members might say that that is just one committee of the Legislative Assembly, but I draw to their attention that this is common practice in the other place. For example, the Economics and Industry Standing Committee tabled all its minutes in one hit in the thirty-ninth Parliament. It did that on 17 November 2016 with tabled paper 4880. The seventeenth of November 2016 was a very popular day in the Legislative Assembly because a number of other committees also tabled all their minutes on that day, including the Education and Health Standing Committee, which tabled all its minutes from 15 May 2013 to 12 October 2016, and the Public Accounts Committee, which tabled its minutes from 15 May 2013 to 14 September 2016, and in that case it was tabled paper 4888.

I could go on and on about this, and of course I have unlimited shots of 10 minutes. I could tell members how it is the ordinary custom and practice for committees operating under the Legislative Assembly standing orders to table their minutes. That is simply what I am asking this particular committee to do. I cannot ask the end-of-life choices committee—none of us can ask that committee—because the committee no longer exists; it was dissolved because it was a select committee. As I have been advised by the Clerk of this place, who I understand has also consulted with the Clerk of the other place, this is the only mechanism by which this can be achieved. I just thought that I would outline those things very early in the piece. I recognise that my motion on notice is buried deep on the notice paper in accordance with our practices, because I gave notice of it only last Thursday. I see that my motion on notice is listed sixth, so it will take some time before it eventually finds its way before us. I thought it would be useful to mention that now—in fact, a couple of members have already asked me about the custom and practice of the other place—rather than leave it to us getting to motion 6, and then having people deliberate and wonder what their position is on that issue. I thought it would be useful to mention that at this early stage to give people no doubt many weeks—possibly even many months—to contemplate whether they would like to uphold the custom and practice of the other place, or whether they would like a different, new procedure to apply, for reasons that members will no doubt enlighten me on. Obviously, I am pretty keen for the consistent practice to be adhered to with respect to this committee that operated under Legislative Assembly standing orders.

The only other thing I caution members of this place on is agreeing to a future joint select committee being established under Legislative Assembly standing orders. I have no difficulty whatsoever with the existence and establishment of joint standing and select committees from time to time, but my experience on this committee taught me that there are some fundamental differences between the Legislative Assembly's standing orders and ours. Because I am running out of time, I will give members one example. The draft committee report that is

presented to members under the Legislative Assembly standing orders is actually the committee chair's report. The secretariat prepares a report in accordance with the direction of the chair, not the direction of the committee. That is quite different from how we operate, in that for Legislative Council committees, the secretariat prepares a report for the committee and its members then deliberate on those types of things. Probably more often than not it will not be a big issue, because we deal with things in a bipartisan or tripartisan–type way, but there will be certain committees—I think this is one example—with issues that are particularly difficult and probably divisive. In those cases it might well be better to have the impartiality of a secretariat draft, rather than a draft report being prepared by a chair and members having to deliberate on that, and then right at the eleventh hour, if a member happens not to agree to it, they get a small window of time to prepare a minority report.

The DEPUTY CHAIR (Hon Adele Farina): Members, I am a bit unclear about what the question before the Chair is. My understanding is that the question before the Chair is that the debate on the report be postponed. I think I need to put that, unless Hon Robin Chapple was also seeking to speak in support of the postponement motion, noting the generosity the Chair showed the previous speaker. But if he is not proposing to do that, I really do think we need to put the motion. The motion before the Chair is that consideration of the report be postponed until the next sitting.

Question put and passed.

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

EDUCATION AND CARE SERVICES NATIONAL LAW (WA) AMENDMENT BILL 2018

Second Reading

Resumed from 28 August.

HON TJORN SIBMA (North Metropolitan) [3.20 pm]: I am speaking to this Education and Care Services National Law (WA) Amendment Bill 2018 a little earlier than anticipated, but that is all for the good. I believe when I left off my remarks yesterday evening, I was saying that when I looked at this bill, I looked at it through three distinct but overlapping lenses. The first lens is as a parent—as someone who uses the facilities, organisations or institutions dealt with in this bill. Although not all legislation lends itself to this thinking, as some is abstract or a little obtuse, foremost in my mind is the need to extract the very best legislative outcome for members of this community—for working families. I think this bill deals with that. With some indulgence, I think that is germane to this bill, because we want to give parents a sense of confidence in the family day care centres to which they entrust the care of their children. This was new territory for me and my wife earlier this year, and I have to say that it was probably one of the most wrenching emotional experiences of my adult life.

Hon Sue Ellery: Who cried more?

Hon TJORN SIBMA: I do not think anyone in our family can cover themselves in glory on this!

I must say that thousands upon thousands of years of evolutionary experience has set our cells to a certain degree, and I found it a complete and utter wrench to entrust the care of my child to a stranger in what is really a commercial transaction—to effectively dump young Freddie and run.

Hon Alison Xamon: He was not dumped!

Hon TJORN SIBMA: But that is exactly how it felt.

Integral to all of this is a sense of trust and reassurance. Not every family has a suite of options available to them to choose from, but my wife and I, and the grandparents, were involved in evaluating the various centres and the best option for our son. To a large extent that is what many families go through, and they go through this because the composition, the very fabric and nature, of family life evolves, and it has largely evolved for the good. Both my wife and I work full-time; that is an option that suits us both well, but for many families it is an economic necessity. People facing that situation want to be assured that their child is placed in the very best care. I have to say that this has been a learning experience for me. Before I had to put my child in care, I did not give much consideration to early child care and education as a profession and a calling. I just had not considered it. However, having been a stay-at-home dad before I entered this place, my level of respect and appreciation for the workers—the professionals—in this field cannot be calculated. I must say that they are largely women, and I do not think it will be a surprise to some members in this chamber that they are not particularly well paid for the job they do and the responsibility with which they are entrusted. The people who work in this field are largely self-selected. I have made similar observations about the aged-care and disability services sectors. They are not attracted to these professions by large salaries; they go into these professions as a calling or service. These people need to be supported by way of practice, procedure and policy. Therefore, it is integral to their professional performance that the community give them the respect that they well and truly deserve. One way we can give them that respect is by treating their industry and daily practice seriously, looking at the benchmarks to which they are required to perform, and giving consideration to their particular issues. I also want to acknowledge that next Wednesday, 5 September, is Early Childhood Educators Day. Therefore, it is with some serendipity that we are dealing with this legislation now.

In the brief time I have been involved with this sector in any meaningful way, I have been impressed by the standards that I have seen at our child's childcare centre. I have been impressed with the staff's attention to each individual child's social, emotional and cognitive development. When I walked into the centre to deliver my son on the first day, I was a largely unreconstructed male. I have come out of it a little more refined and sophisticated in my understanding of what goes on. For me, the principal objective was to ensure that my son was in safe hands. I did not give much consideration to the kind of development or structure that he might be given in care. It was good enough for me that he was clothed and fed and treated kindly. However, the level of attention, action and support that he is being given is far more comprehensive than that. That was not a matter to which I had given much consideration. However, these kinds of considerations are, if not explicitly, certainly implicitly, addressed by way of this amendment bill.

I do not think my responses as a parent are too dissimilar from the experiences and expectations of other parents and guardians who place their children in a centre for their care and development. However, that is only one lens through which we can look at this amendment bill. The other lens is the general policy desirability of this amendment bill. I believe that in the main, the amendments proposed in this bill have a strong policy foundation. Realistically, Australia does not have a large domestic market in any industry or service line. Therefore, it is important, and achievable, that we provide a degree of consistency and focus in our expectations of service delivery in this area. Therefore, the concept of a national quality framework that can evolve and is dedicated to continuous improvement and refinement is a sound one. As I mentioned, the decision to place your child or any child in care is one of the most difficult early decisions for new parents to make. They want to ensure that they are putting their child in the very best of care. I was a little frustrated and harried for time in making an objective assessment about where we would put our son, so I acknowledge and support clarification around the certification of excellence in performance and achievement. I will quote from the minister's second reading speech, because I think it is important. It states —

> … strengthening the eligibility criteria for an application for the "excellent" rating as part of implementing the national quality standards. The standards set a benchmark for assessing and rating the performance of education and care services. It is critical that ratings provide accurate and meaningful information about service quality and that the assessment and rating system is sustainable and comparable across services.

I could not agree more with that. I think this is fundamental to the decision-making that any parent or guardian makes. It continues —

> Strengthening eligibility requirements for "excellent" rating: The standards will be complemented by the proposal in the bill to strengthen the eligibility requirements for the excellent rating. The purpose of the excellent rating—the highest possible rating—

We should expect that to be the case —

> is to celebrate highly accomplished practice, innovation and sector leadership in the delivery of education and care to children.

Yes, we should celebrate those things, but they should also be an aspiration to work towards and we should be reassured that when we say something is "excellent" it well and truly is and that excellence in the delivery of service to our children can be expected.

That said, an inner bean counter in me screams for attention and focus. I was somewhat alert to the potential for an additional and unnecessary cost impost to be related to this legislation, but I cannot find one. I do not see increased cost profiles emerging from this and I do not see anything in the way of price increases washing down, through to the parent, which is reassuring. However, there are savings or efficiencies to be gained in the regulatory space from the adoption of the amendments proposed to this bill. It was put to me during the briefing that these are effectively not realised or realisable, necessarily, at the level of the state government and, in particular, at the Department of Communities level. I might seek clarification from the minister when she has the opportunity to advise whether this bill has any consequences on the state budget allocation. I think it is normally under service summary 8, the "Regulation and Support of the Early Education and Care Sector" within the Department of Communities' budget. There does not seem to be much fluctuation in the estimates provided in budget paper No 2, volume 2 of the 2018–19 budget. It is roughly around $13.7 million to $13.8 million. I do not know whether I should see any change in that figure.

Hon Sue Ellery: There is none.

Hon TJORN SIBMA: That is good to be clarified. I wanted to know how that budget line related to this Education and Care Services National Law (WA) Amendment Bill, if at all. I am also interested in the anticipated savings to sector operators themselves. That has not been made clear to me. It might be a minimal amount but I expect there to be some change if an encumbrance is placed on them by their perhaps having to abide by dual regulatory systems. I imagine they are largely consistent with one another but there may be some divergences that

create a bit of frustration and agitation. It is in zeroing in on what is the advantage in this and to whom those advantages accrue that I refer to two documents; one is appendix 1, a letter from Minister Simone McGurk dated 12 July, written to my colleague the Chair of the Standing Committee on Uniform Legislation and Statutes Review. It appears within that committee report. I do not want to traverse the findings of that report and pre-empt the contribution my colleague is likely to make to this, other than to say I have sought to see what is driving the anticipated progress of this bill and what is driving the expectations of the government and the minister for its passage. I will use this opportunity to read into *Hansard* a portion of that letter of 12 July, which goes some way to explaining why we are where we are. It may then lead onto my reflections on this bill as a piece of legislation.

The minister writes —

> The Amendment Bill relates to a national regulatory system for education and care services that has been in place since 2012. One of the major benefits of a national system, particularly in safeguarding the safety, health and wellbeing of children, is the ability to pool relevant licensing, operational and compliance information from all states and territories.
>
> The information system is known as the National Quality Agenda Information Technology System (the National IT System) which is hosted and maintained by the national regulator, the Australian Children's Education and Care Quality Authority.

This has an acronym of ACECQA. "Assequa" might be the most elegant way of putting it together, although the consonants do not really lend themselves to elegance of expression, but there you go! The letter continues —

> The amendments to the National Law that are the subject of the current bill, including changes to information sharing arrangements, commenced in all jurisdictions, except Western Australia, on 1 October 2017.

We are nearly 12 months down the track. To continue —

> Consequently, ACECQA,

It is A-C-E-C-Q-A for Hansard's benefit —

> has been operating two versions of the National IT System —

Hon Sue Ellery: Honourable member, "Asecwa" is what those in the know say.

Hon TJORN SIBMA: "Asecwa"; that is better. It was not Huawei, so we are coming along. There is no prospect of Huawei operating in the system anyway. It continues —

> Consequently, ACECQA has been operating two versions of the National IT System and intends to merge the two systems subject to the passage of the Amendment Bill through the State Parliament.
>
> ACECQA has been working on an indicative timeline of 1 October 2018 to merge the two versions together. If the Bill receives royal assent prior to 1 October 2018, the first commencement provision will apply.

I think the minister is referring to clause 2(b)(ii) of this bill, from memory. I might be wrong, but I think it is largely in the vicinity. The letter continues —

> If this timeline is not met, the merge of the two databases will occur on the first day of the next available month, following Royal Assent and system readiness, for the shutdown of the system to occur and the merge to take place.

The second option, which was inserted as a backup, is in clause 2(b)(ii), which reads —

> if assent day is on or after 1 October 2018 — on a day fixed by proclamation.

I understand all that. There is a system, and a system merger of data needs to take place, and the ACECQA is effectively awaiting the passage of this bill to undertake that system change. I would like some clarity on whether the state government in any way pays a licence fee or service fee to ACECQA to operate a piece of regulatory licence software that is germane only to the Western Australian jurisdiction, and also pays some fee to operate a national system, and whether some cost savings or efficiencies may accrue to the state government as a result of permitting the set of arrangements that would allow for those systems to merge. Nevertheless, it has been my practice as a public servant and as a person working in private enterprise to always be a little wary of having deadlines set for me—this is no disrespect to the hardworking men and women in this sector—by the IT nerds of any organisation, effectively asking me to set my operation and priority around their preferences.

Hon Sue Ellery: They never meet their deadlines.

Hon TJORN SIBMA: That leads me to the next point. I do not intend this to sound hypothetical, but what if we meet this anticipated deadline, and we are still "unserviced" because of an unforeseen technical glitch? Do we lose anything in that process? That might sound trivial, but it is not intended to be so. I cannot help but categorise the undeclared but implied urgency in dealing with this legislation as meeting the requirements and working to the convenience of effectively faceless IT operators based in Canberra. To me, that speaks of the tail wagging the dog.

Nevertheless, I fully comprehend the need to facilitate the transition that requires the passage of this amendment bill, but I want to be reassured about whether commitments have been entered into by the state government to ACECQA. Has a commitment been made to this body that, all things going well, we should meet this deadline? If so, I would like evidence of that commitment to be provided. I would also be interested in the substance of conversations between the minister or the department and the operators of these centres about when they should anticipate these changes, and what remedies there might be if, for example, this happens a month or two months later. What would be the material effect of that? I think they are straightforward questions; there are no traps laid in there. We have a deadline to reach. Why do we have this deadline and what commitments have been entered into that seem to be compelling the attention of this house?

Despite the fact that I reflected on the serendipity of us discussing this amendment bill today, a week out from the national day recognising early childhood educators and the fact that Father's Day is only a few days away, I would like an explanation of why Western Australia is the outlier jurisdiction. Although I recognise that the principal decision driving these amendments and the adoption of the amendments was made by the ministerial council at the end of January last year, why has this bill not been prioritised? This is a complicated bill. I find it strange that we are probably close to 12 months behind the rest of the nation. I thought there would have been ample opportunity to deal with this legislation. I am sure that it has its complications because of its technical and operational focus. Nevertheless, it does not appear to present significant policy or political challenges; the intent is largely sensible.

I want to reaffirm that the Liberal Party supports this bill but I believe that some questions of substance need to be answered. Again, I do not want to steal the thunder of others who might wish to speak to the 115th report of the Standing Committee on Uniform Legislation and Statutes Review other than to draw attention, while I do not mean to trivialise, to a fly in the ointment. Finding 2 of that report, which I will quote and others will no doubt elaborate upon, states —

> The Committee finds that clause 2(b)(ii) —

The one that I mentioned earlier in my contribution —

> of the Education and Care Services National Law (WA) Amendment Bill 2018, in providing that the Executive determines commencement dates, erodes the Western Australian Parliament's sovereignty and law-making powers.

I have not been in this place long but I doubt very much that that committee did not give due consideration to that finding. A number of learned people were on that committee. I would be intrigued to know how the government intends to deal with that not insignificant procedural problem.

HON ALISON XAMON (North Metropolitan) [3.48 pm]: I rise as the lead speaker of the Greens and indicate from the outset that the Greens will be supporting the Education and Care Services National Law (WA) Amendment Bill 2018. I also have a number of questions that I wish to ask during my second reading contribution. It is my hope that the answers to those questions may be given in the minister's reply, in which case, hopefully, there will be no need to go into Committee of the Whole. I thought I would put that on the record from the outset.

This bill will ensure that WA catches up with other Australian jurisdictions to implement reforms to the national quality framework, otherwise known as the NQF. The NQF was implemented in 2012 and reviewed in 2014. Indeed, I stood in this place in 2012 and supported the Education and Care Services National Law (WA) Bill, as it was then, and spoke about that. I expressed some concern about the wages and conditions of childcare workers, in particular. I will say a little more about that in a moment. As I said, the national quality framework was implemented in 2012 and was subsequently reviewed again in 2014. The review identified that the NQF had broad support and appeared to have successfully improved quality—which is what had been hoped when the bill was first introduced—but that there still needed to be better consistency in assessment and ratings, and reduced administration.

In 2017, the Education Council's "Decision Regulation Impact Statement for changes to the National Quality Framework" identified preferred options for changes to the national quality framework. Last year, starting with Victoria, Australian jurisdictions legislated to implement those reforms, and this bill is faithful to the DRIS and the Victorian legislation, which has been the model for the reforms in each jurisdiction.

The changes made include for the highest rating—which is "excellent"—to be made available only to services that are rated as exceeding standards in all areas assessed, which makes sense; tighter provisions relating to family day care services, including where they can operate; a minimum number of coordinators to oversee educators; and improved monitoring. Again, that is another sensible reform. The changes also include repealing the supervisor's certificate process so that providers will now assess staff suitability, overseen by the regulatory authority; and increased use of enforceable undertakings by the regulatory authority as an alternative to suspension or prohibition. I note that only yesterday in this place we were discussing the value of enforceable undertakings as a mechanism for ensuring improvement of services. It also does other things and a fair bit of tidying up, including ensuring

consistency of language; removing duplication; increasing flexibility, such as allowing more than one supervisor to be nominated by a provider; providing more clarity, particularly in situations in which responsibility lies with the commonwealth government as opposed to the state government; increasing effectiveness, such as the power to enter without consent; and allowing flexibility where needed, such as the capacity to waive prescribed information requirements in contexts in which they are not actually needed, or in exceptional circumstances, such as a temporary relocation of a service due to flood or fire, which unfortunately happens.

I want to focus on a couple of the issues. As I have mentioned, one of the provisions included within this legislation relates to enforceable undertakings. The Education and Care Regulatory Unit's "Compliance and Enforcement Framework" is currently published online, and enforceable undertakings are one of the compliance tools available within it. The regulator's acceptance of an enforceable undertaking can be withdrawn at any time, at which point alternative options are reactivated. An enforceable undertaking is really important because it provides flexibility in dealing with contraventions. It is a familiar concept from other legal matters. The Greens have no objection to it in principle, but the DRIS report provides little further information about its use in this context. In the briefing, I asked some questions about it, and it would be really helpful to get the answers on the record. I asked a number of questions about its relationship to the regulator's other compliance tools. I understand that an enforceable undertaking does not preclude the police bringing about criminal proceedings if an offence has been committed, such as assault. It would be good if the minister could, indeed, confirm that this is the case. I also understand that WA would use civil disciplinary proceedings, not an enforceable undertaking, for a one-off, very serious incident, the cause of which has been addressed, such as leaving a child unsupervised. Again, it would be good to have it on the record from the minister that this is the case.

I understand that WA has used an enforceable undertaking once to date. That was when a family day care educator breached a regulation, but said that they were leaving the sector and undertook to refrain from working in the sector. This was on the basis that if they later wished to return, they could apply to have that undertaking withdrawn, upon providing evidence that they had subsequently attended the appropriate training. I understand that another example of when WA might use an enforceable undertaking is for minor noncompliance that does not impact on child safety—that is, by a first offender with an otherwise good compliance record. Again, it would be helpful if the minister could confirm for the record whether my understanding is correct.

I also asked at the briefing about oversight of compliance tool decision-making to ensure that we are not pursuing soft options when a stronger option is potentially more appropriate. I understand that the final decision on whether to take compliance action—and, if so, what kind—is made by the assistant director general informed by the regulatory unit staff. It would be useful if the minister could confirm whether my understanding is correct.

The department also publishes online all enforcement action that it is legally permitted to publish, and it stays online for 24 months. I also understand that noncompliance information is likely to be shared between interstate regulatory authorities. Again, could the minister confirm whether this understanding is correct? I also asked about monitoring to ensure that the terms of an enforceable undertaking are complied with, and I am satisfied that monitoring occurs.

I will make some comments about the disclosure of information under the legislation. Clause 82 sets out that information can be disclosed by the national authority, the regulatory authority, government departments, public authorities or local authorities. For the most part, it seems to be suitably practical and narrow. However, it is also proposed that the information may be disclosed when —

> (a) the disclosure is reasonably necessary to promote the objectives of the national education and care services quality framework;

This seems rather broad, but I understand from the briefing that the intended purpose is to share information to ensure children's safety, health and wellbeing if disclosure is not already covered by the other proposed subsections. For example, it was explained to me that Queensland has shared information on discussions with councils, emergency services, planning bodies and building standards bodies about early childhood education and care services in high-rise buildings. WA has shared information on water hazards in family day care residences. Members would be aware that this has come about because of a tragic incident that occurred in this state. I am hoping that the minister can please confirm for the record that this is the intended meaning of proposed section 271(4)(a).

I will make a few comments about transitional provisions and the "excellent" rating. The bill raises the bar for a service to be rated excellent, which was one of the recommendations that came out of the review. However, the transitional provisions provide that services that are already rated excellent or that have applied for the old excellent rating will not lose it. Potentially this will be quite confusing to parents because effectively it will create two meanings of "excellent" until the transitioned excellent ratings are reassessed in three years, unless they are revoked in the meantime. Can the minister please confirm that WA currently has no services that hold or have applied for the excellent rating under the old regime? If that is the case, the confusion will not arise. Any

WA service with an excellent rating will meet the new criterion of exceeding the national quality standard in all seven quality areas. There are issues associated with the loss of federal funding for compliance assessments. Once again, the federal government is bailing out from its responsibilities. The Parenthood is concerned that recent cuts in federal funding will reduce the state's ability to monitor compliance and, hence, parents' confidence that their children are attending high-quality and safe early learning facilities. I note that in the estimates hearings in the other place on 24 May 2018, Minister McGurk indicated that there is no expectation that this reduction will change the very good service delivery of the early childhood regulatory unit. A month later in estimates on 20 June 2018 in this place, Minister Ellery said that analysis was being undertaken to assess the exact impact on the education and care regulatory unit. I hope that the minister can update the house on the stage that analysis has reached and also on the expected impacts of the regulation. I hope that the reduction in funding does not result in a reduction in the quality of particular services.

I now want to make some comments that replicate what I said in 2012 about the inadequacy of childcare workers' wages. Hon Tjorn Sibma has also commented on this. I raised this matter six years ago when the national scheme was first introduced, but the problem has still not been resolved. Presently, childcare workers earn about $22 an hour. The house will soon be debating the Administration Amendment Bill 2018. It notes that average weekly Australian earnings are $1 632—that is around $43 an hour and is double what childcare workers earn. Wages of childcare workers simply do not reflect the level of responsibility that we rightly expect of them, and they have not done so for far too long. Low wages force childcare workers to take the only action that is left available to them; that is, to withdraw their labour—their internationally recognised right. This continues to cause centres to struggle to get and maintain staff and managers, and workers have undertaken a number of walkouts. All of this is disruptive for children and inconvenient for parents, but most of all it is inconsistent with the whole point of childcare centres—that is, to set children on a strong educational course for life. I do not blame the workers because they are only exercising their rights. They are on appalling wages, but at the same time families cannot necessarily bear to pay more for child care. Child care is a hugely prohibitive cost for far too many families. For many families, childcare costs already are a substantial proportion of their household budgets and they cannot afford them to increase.

The recently published annual statistical report of the HILDA survey—the Household, Income and Labour Dynamics in Australia survey—shows a clear trend in increasing expenditure of families on child care. The median proportion of household income spent on child care increased the most for low-income households. Even for those in high-income households, the increase was substantial. I am talking about a 107 per cent increase from 2002 to 2016 for households in the lowest third of income distribution, a 59 per cent increase for households in the middle third, and a 19 per cent increase for those in the top third—a massive impost on family budgets. It is a real problem balancing the need for affordable and accessible child care and making sure that childcare workers are paid adequately and appropriately. It is difficult to achieve, but we have to keep trying, particularly as we rightfully have high expectations about the standard of qualifications and, indeed, responsibilities of these very important workers.

I want to make some comments about the activity test, which is a federal issue. The federal government's new childcare subsidy is estimated by the Parenthood to make 160 000 families worse off. As I understand the new arrangement, eligibility depends on families meeting a new activity test that requires both parents to work, study or volunteer for at least eight hours a fortnight. Those with a family income of less than $66 958 per annum do not have to meet the activity test, but their subsidised child care per week is reduced from 24 hours to 12.

We know that investment in early childhood education reduces costs associated with poor school attendance and social disengagement in later years. I am concerned that the new federal rules around the childcare subsidy will lead to some of the children who probably most need to access it missing out on early childhood education and care, even though their need for it is at least as great as that of other children. They, too, should have the chance to benefit from the positive, interactive learning that is available in our childcare centres. Extraordinary educational and socialisation opportunities are offered by child care and they help to offer a very smooth transition to formal education.

I note that there have also been media reports of problems with the transition to the new regime, with 32.5 per cent of centre operators saying that the transition went terribly and 34 per cent saying that it went not so well. They are not great numbers. A common theme was the IT problems and not being able to determine the correct subsidy and not being able to invoice families correctly. This is causing delays in the cash flow of childcare centres. I note that in one of the articles, the Australian Childcare Alliance commented that that is making it difficult to determine ongoing viability. Indeed, some centres have already reported that they have had to cut staff hours accordingly.

There are some real challenges and pressures within our childcare system at the moment. I do not think the federal government has done much good in this space and it has not helped the situation at all. But I applaud the work that is being done within the sector itself to try to always strive to ensure the best possible standards in our childcare centres. Childcare centres these days are a far cry from where they were several decades ago. For many children,

it can be an extraordinary opportunity to be exposed to early childhood education. There are some highly skilled, diligent and caring people. We need to ensure that we are providing more support to this area. It is necessary for many new families.

Again, the Greens indicate that we welcome the legislation. It is good to see that we are trying to ensure that we have national consistency. These reforms have been widely consulted on and they are important steps to achieving an even better system.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [4.08 pm]: I rise to make some comments on the Education and Care Services National Law (WA) Amendment Bill 2018 in two capacities: firstly, as the Chair of the Standing Committee on Uniform Legislation and Statutes Review and, secondly, to make a brief comment about the progress that this bill has made to get to this place. Indeed, in my capacity as chair of the standing committee and commenting on the report that was tabled on 14 August, there are two elements that I would like to comment on to inform the house. The first is the Education and Care Services National Law (WA) Amendment Bill 2018 itself. The remit of the Standing Committee on Uniform Legislation and Statutes Review is to consider legislation that falls within standing order 126 to examine whether the bill before Parliament has an impact on the parliamentary sovereignty of this place. In respect of this bill, we considered that matter within the time frame assigned to us under the standing orders and concluded that there was no such impact, except potentially in one respect. I should say that one of the matters we consider as a matter of course is whether there is an intergovernmental or intranational agreement that underpins the bill. The report makes plain that although there was something to that effect for the original legislation passed by this place in, I think, 2011, there is none for this bill. This bill arose out of a review of the Education and Care Services National Law scheme commenced in 2014. An outcome of that review was that these changes—the reforms, if you like—will be incorporated into Western Australian law and given effect by this bill.

In fact, the only element of the bill that may have an impact upon parliamentary sovereignty is clause 2, to which Hon Tjorn Sibma has already made reference. That clause provides that the act will come into operation in two stages. The first is that part 1 of the bill, dealing with preliminary matters like the short title and the commencement, will come into operation on the day it receives royal assent. The rest of the act, if the assent is before 1 October 2018, will come into operation on that date. So far so good. The only part left to the discretion of the executive is if the rest of the act is assented to on or after 1 October 2018, and the government then needs to find a date to proclaim the operation of the rest of the legislation. I note also that the clause does not provide for different parts of the act to come into operation at different times, so it is all or nothing. The advice the committee received on the reasons for the two options contained within clause 2 for the commencement of the bulk of the bill is provided as an appendix to the report. Essentially, that is because it is expected that a database—an IT system—will be merged. If it is successfully merged and Western Australia is able to take advantage of that, the act will take effect from 1 October; otherwise, it will have to take effect from the first of some month chosen by the government as suitable for that purpose. Having said all that, the committee found there was an erosion of parliamentary sovereignty, but concluded that in its view there are acceptable reasons for the commencement clause being structured the way it is.

The other element I will briefly address, because there is a greater exposition of it in the report, is the manner in which this bill came before the committee. Members might recall that at the time the bill was second read in this chamber, the minister advised that in her view the bill was not a uniform legislation bill. At the time, I raised the issue that the manner in which the standing orders are structured provides that certainly the member introducing the bill has to indicate to the chamber whether or not the bill is, in the opinion of the member, a uniform legislation bill within the meaning of the standing orders. If the member says that it is, the bill is automatically referred to the Standing Committee on Uniform Legislation and Statutes Review to be dealt with within its terms of reference, and otherwise to report back within 45 days. However, if the minister or member introducing the bill says that it is not a uniform legislation bill, the situation is very different. Then, of course, the debate would stand adjourned and a member can refer it to the uniform legislation committee if there is a resolution of the house to that effect. If the house orders that, notwithstanding the member's advice, it is a uniform legislation bill, or considers it to be one, it will stand referred.

In this case there was no such resolution of the house. The minister gave some brief reasons for her thinking that it was not a uniform legislation bill, but considered that it should be considered by the committee in any event. That did not fall within the scope of the operation of standing order 126. I should stress that this is not a new development; it picks up on the old processes under standing order 230A before the standing orders were revised in, I think, 2010. Nevertheless, the available mechanism was to have a member refer the bill in accordance with standing order 128.

Debate interrupted, pursuant to standing orders.

[Continued on page 5391.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

CORRUPTION AND CRIME COMMISSION — NORTH METROPOLITAN HEALTH SERVICE — MISCONDUCT — RECORDS

708. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Health:

I refer to the Corruption and Crime Commission report into bribery and corruption in maintenance and service contracts within the North Metropolitan Health Service.

(1) On what date was the chair of the North Metropolitan Health Service board made aware of the Corruption and Crime Commission investigation?

(2) On what date did the chair of the North Metropolitan Health Service board receive an initial copy of the Corruption and Crime Commission report?

(3) On what date was the North Metropolitan Health Service board made aware of the Corruption and Crime Commission investigation?

(4) On what date did the North Metropolitan Health Service board receive an initial copy of the Corruption and Crime Commission report?

(5) On what dates was the North Metropolitan Health Service board briefed on the details of the Corruption and Crime Commission report?

Hon ALANNA CLOHESY replied:

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

(1)–(3) The North Metropolitan Health Service is undertaking a review of records. An answer will be provided to the honourable member on completion of this review.

(4) It was 9 July 2018.

(5) They were 9 July 2018 and 9 August 2018.

NORTH METROPOLITAN HEALTH SERVICE BOARD — MEMBERSHIP

709. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Health:

I refer to recent changes to the North Metropolitan Health Service board.

(1) Will the minister advise the names of board members of the North Metropolitan Health Service who have vacated their position on the board since 17 March 2017, the date they departed and the reason for their departure; and, if not, why not?

(2) Will the minister advise the names of new appointments to the board of the North Metropolitan Health Service since 17 March 2017, the date of their appointment and the length of their appointment term; and, if not, why not?

Hon ALANNA CLOHESY replied:

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

(1)–(2) The information is provided in tabular form, with the name, date of departure and reason for departure. I seek leave to have the response incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(1)

Name	Date of departure	Reason for departure
Assoc. Prof. Rosanna Capolingua	20/06/2018	Resignation
Dr Margaret Anne Crowley	30/06/2018	Term expired
Dr Katherine (Felicity) Anne Jefferies	01/03/2018	Resignation
Ms Michele Mary Kosky	30/06/2018	Term expired
Prof. Rhonda Marriott	28/03/2018	Resignation
Mr Geoffrey Brian Mather	30/06/2018	Term expired
Mr Graham Kenneth McHarrie	30/06/2018	Resignation
Ms Maria Grazia Saraceni	21/06/2018	Resignation
Prof. Bryant Allan Rigbye Stokes	30/06/2018	Resignation
Prof. Simon Charles Bruce Towler	17/07/2017	Term expired
Prof. Grant William Waterer	30/06/2018	Term expired

(2)

Name	Date of appointment	Length of appointment term
The Hon. James (Jim) Andrew McGinty	01/07/2018	2 years
Prof. Selma Alliex	01/07/2018	1 year
Assoc. Prof. Christopher David Etherton-Beer	01/07/2018	2 years
Dr Hilary Jayne Fine	01/07/2018	1 year
Prof. David Alan Forbes	01/09/2018	1 year, 10 months (expiry date 30/06/2020)
Ms Carol Ann Innes	01/07/2018	2 years
Mr Jonathan (Grant) Robinson	01/07/2018	2 years
Ms Rebecca Alison Strom	01/07/2018	2 years

ACTING MAGISTRATES

710. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to my question without notice 688 of 28 August regarding extensions of magistrates' service under the Magistrates Court Act 2004. In each case in which the Attorney General recommended to the Governor an extension of service —

(1) what process did he undertake in considering any such applications before making a recommendation;

(2) did he seek or receive any reports from the Chief Magistrate, and to what effect; and

(3) did he seek or receive information and advice from others; and, if so, from whom and to what effect?

Hon SUE ELLERY replied:

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

(1)–(3) The process of appointing acting magistrates involves consultation with the Chief Magistrate and/or the Solicitor-General, who may at times consult other parties as required.

WESTERN AUSTRALIAN WOMEN'S HEALTH STRATEGY

711. Hon DONNA FARAGHER to the parliamentary secretary representing the Minister for Health:

I refer to the draft Western Australian women's health strategy 2018–2023.

(1) Has the consultation on the draft strategy been completed; and, if yes, when; and, if not, when will it be completed?

(2) Will the minister list the stakeholders who have provided feedback on the draft strategy; and, if not, why not?

(3) When will the final strategy be publicly released?

Hon ALANNA CLOHESY replied:

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

(1)–(3) Initial consultation on the first draft developed by the Women and Newborn Health Service commenced with key stakeholders such as the women's community health organisations, sexual assault resource centres and the peak organisation for women's health in August 2017. This was followed by a period of public consultation between 16 November and 8 December. Statewide policies are developed and released by the Department of Health as the system manager. The Department of Health is undertaking further consultation. An overview of stakeholder engagement will be released once consultation is finalised. Further to the extra work being undertaken by Department of Health, it is understood that a whole-of-government approach to women's policy is proposed to empower all women and girls, including developing a long-term plan to address gender equity and the importance of the status of women. It is intended that a new women's health strategy should be broadly aligned with, and be informed by, this larger body of work to be undertaken. A public release date has not been scheduled.

FOSTER CARE — ABUSE ALLEGATIONS

712. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the minister's answer to my question without notice 690 of 28 August 2018, in which the minister informed the house that on 13 June 2018, the department commenced a carer review into a male foster carer in Newman who has been served with a restraining order.

(1) How many children were in the care of this carer when the review commenced?

(2) How many children are currently in the care of this carer?

Hon SUE ELLERY replied:

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

(1)–(2) The Department of Communities' inquiries are ongoing. The Department of Communities cannot comment on individual cases or reviews that may lead to the identification of individuals. This has the potential to lead to conjecture that may cause conflict in the community. The Department of Communities continues to take the necessary steps to appropriately protect and support children. If any concerns for child safety are raised, they will be investigated, and, if required, acted upon immediately.

DUTIES AMENDMENT (ADDITIONAL DUTY FOR FOREIGN PERSONS) BILL 2018

713. Hon COLIN HOLT to the Leader of the House representing the Premier:

I refer to comments made by the Leader of One Nation in Western Australia on ABC Radio this morning that his party is in negotiations with the government to amend its foreign buyers duty legislation.

(1) Which members of the government have been negotiating with One Nation about proposed amendments to the bill?

(2) On what date did the negotiations first begin?

(3) What amendments have been proposed by One Nation?

(4) Has the government given any indication to One Nation that there is the possibility of keeping Moora Residential College open and reversing the remaining education cuts?

(5) Have any other arrangements been made with One Nation to keep Moora Residential College open; and, if so, will the minister outline the nature of those arrangements?

Hon SUE ELLERY replied:

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

(1)–(5) The government has discussions with all political parties about its legislation and agenda. I do not intend to disclose with whom those discussions take place, when they are held, or what is discussed. If the member has questions about any amendments that may be proposed by One Nation, I suggest he ask One Nation.

JOBS — LNG PROJECTS

714. Hon ROBIN SCOTT to the minister representing the Minister for State Development, Jobs and Trade:

In answering question without notice 698 on Tuesday, 28 August 2018, the minister confirmed that Western Australia's Agent General in London has been instructed to persuade multinational engineering companies to make Perth their southern headquarters, and stated that the government expects both metropolitan and regional Western Australia to benefit from this initiative from the McGowan Labor government. Will the minister explain why the decision has been made to persuade international engineering and logistics companies to set up in Perth instead of encouraging those companies to establish their Southern Hemisphere headquarters in Broome, Port Hedland or Karratha?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

The Premier supports any company establishing their Southern Hemisphere headquarters in the Pilbara or the Kimberley.

POLICE — FIREARMS LICENCE APPLICATIONS

715. Hon RICK MAZZA to the minister representing the Minister for Police:

I refer to my question of Thursday, 23 August 2018 regarding firearms licence applications and a line of questioning by the firearms licensing division around the provision of property letters. Specifically, I asked —

Under which section of the act or regulations are these questions being asked?

The minister's response was, "It is under section 11A of the Firearms Act 1973."

I have carefully read that section of the act and can find absolutely no provision for a line of questioning around the relationship of an applicant to the provider of a property letter.

(1) Can the minister iterate the wording of section 11A(2) of the act or any other subsection that provides for any line of questioning regarding property letters?

(2) Can the minister advise whether all applicants are subject to this line of questioning?

(3) Can the minister advise when this line of questioning was introduced and why?

(4) Given that there is no provision or requirement under either the act or the regulations, under whose authority are these questions being asked?

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) Section 11 of the Firearms Act 1973, "Exercise of Commissioner's discretion", states —

> (1) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that —
>
> (a) to do so would be contrary to section 11A or regulations under section 11B or 11C; or
>
> (b) it is not desirable in the interests of public safety; or
>
> (c) the person is not a fit and proper person to hold the approval, permit, or licence.

Section 11A of the Firearms Act 1973, "Genuine reason required in all cases", states —

> (1) An approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person who, in the Commissioner's opinion, has not been shown to have a genuine reason for acquiring or possessing the firearm or ammunition for which the approval, permit, or licence is sought.
>
> (2) A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if —
>
> (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club; or
>
> (b) it is for use by the person as a member of an organisation approved under this paragraph; or
>
> (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given written permission for that hunting or shooting; or
>
> (d) it is required by the person in the course of the person's occupation; or
>
> (da) in the case of a prescribed paintball gun, it is required by the person to conduct or engage in paintball in accordance with this Act; or
>
> (e) it is to form part of a genuine firearm collection or genuine ammunition collection; or
>
> (f) it is for another approved purpose.
>
> (3) A person does not have a genuine reason for acquiring or possessing a firearm or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a firearm or ammunition but also that the particular kind of firearm or ammunition can be reasonably justified.

When assessing an application for any firearm, the Commissioner of Police, or his delegate, is bound by legislation to ascertain whether a person has a genuine reason to acquire or possess a firearm and that the type of firearm they are acquiring is also reasonably justified. The Commissioner of Police, or his delegate, has wide-ranging powers and thus these powers can be used to satisfy the Commissioner of Police, or his delegate, of the applicant's genuine reason; whether the applicant is a "fit and proper" person; and whether it is in the interests of public safety.

Section 22 of the Firearms Act 1973, "Reviews by SAT", provides a legislative right of appeal to the State Administrative Tribunal when an applicant is aggrieved about the final decision on their application. It states —

> (1) In this section —
>
> ***decision*** includes a restriction, limitation or condition imposed under this Act.
>
> (2) A person aggrieved by a decision made by or on behalf of the Commissioner may apply to the State Administrative Tribunal for a review of the decision.

(2) No. These questions are asked of new—original—firearms applicants or those applicants who are applying for an additional firearm that is of a category for which they are not licensed. There were some occasions in which these questions were asked of firearms owners who were applying for the same category of firearm that they own already. This was not in accordance with instructions or current policy and has since been rectified.

(3) It is the current practice as at 20 August 2018. Proper consideration is given to sections 11, 11A(1), (2) and (3) of the Firearms Act 1973.

(4) The Commissioner of Police, or his delegate, under the wideranging powers, is entitled to ask questions to ascertain the genuine reason for applicants to make an appropriate assessment of a firearms application to meet the genuine reason requirements under sections 11, 11A(1), (2) and (3).

BIODIVERSITY CONSERVATION ACT — DINGO — STATUS

716. Hon ROBIN CHAPPLE to the Minister for Environment:

I hope the minister has some breath left after the last question!

I refer to the biodiversity conservation regulations that will commence on 1 January 2019 regarding the classification of dingoes as not fauna.

(1) Did the department consult with stakeholders?

(2) If yes to (1), which stakeholders were consulted, and where and when did consultations occur?

(3) Is the minister aware that if this reclassification is to go ahead, dingoes will be in the same classification as wild dogs?

(4) Will the minister provide a list of licences or permits currently required to kill dingoes and wild dogs in national parks, fauna reserves and mining leases in WA?

(5) Under the new regulations or reclassification, will the requirement for permits or licences to kill dingoes no longer be required?

(6) What safeguards will the government put in place to protect dingoes in Western Australia?

Hon STEPHEN DAWSON replied:

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

(1) Yes.

(2) There has been consultation with a wide range of stakeholders, including licensees, community groups, peak groups and industry reference groups. The following stakeholders have been provided with briefings and made aware of the fact sheets, including one on dingoes, that were placed on the Department of Biodiversity, Conservation and Attractions website on 3 July 2018. The Pastoralists and Graziers Association had briefings provided on 13 July 2018 and 6 August 2018 in Perth; the Western Australian Farmers Federation had a briefing provided on 23 July 2018 in Perth; the Conservation Council of Western Australia had briefings provided on 17 November 2017 and 1 August 2018 in Perth; the WA Local Government Association had a briefing provided on 25 July 2018 in Perth; the Chamber of Minerals and Energy had briefings provided on 27 June 2018 and 2 August 2018 in Perth; and the Association of Mining and Exploration Companies had a briefing provided on 2 August 2018 in Perth.

(3) When the new classification is introduced, dingoes and wild dogs will retain their current non-protected status that was gazetted in 1984 under the Wildlife Conservation Act 1950.

(4) A licence is not required under the Wildlife Conservation Act.

(5) No change is proposed to the status of dingoes and no licence will be required under the proposed biodiversity conservation regulations.

(6) Western Australia's policy for wild dog management is to control wild dogs, including dingoes, in and near livestock grazing areas in Western Australia. Dingoes may be taken without a licence; however, the Department of Biodiversity, Conservation and Attractions will continue to manage occurrences of the dingo for their cultural and ecological significance on land that it manages.

WILD DOGS — PASTORAL LEASES

717. Hon DIANE EVERS to the Minister for Environment:

(1) Will the minister please advise what action is taken with wild dogs when a pastoral lease is relinquished?

(2) I refer to the Kadji Kadji pastoral lease purchased in 2003, the Lochada pastoral lease purchased in 2000 and the Barnong pastoral lease purchased in 2007. With regard to each of those pastoral leases that were purchased under the Gascoyne–Murchison strategy by the state and commonwealth governments in the years indicated, what action was taken and when was it taken, by the department—that is, the Department of Conservation and Land Management, the Department of Environment, the Department of Parks and Wildlife and now the Department of Biodiversity, Conservation and Attractions—in relation to the management of wild dogs?

(3) In relation to (2), what was the outcome of the actions taken?

(4) Does the government routinely close water supplies on relinquished or purchased pastoral lands?

(5) If yes to (4), what steps does the government take to mitigate the impact on native animals?

Hon STEPHEN DAWSON replied:

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

(1) The Department of Biodiversity, Conservation and Attractions undertakes strategic, coordinated wild dog control on former pastoral lands under its management in partnership with recognised biosecurity groups. DBCA attends recognised biosecurity group meetings to ensure that strategic wild dog control priorities, including DBCA control activities, are discussed and agreed upon. DBCA distributes wild dog baits as part of community wild dog control programs coordinated by RBGs. DBCA also undertakes reactive baiting throughout the year in response to evidence of increased wild dog activity and DBCA staff are trained and authorised to shoot wild dogs on sight. DBCA facilitates access to former pastoral lands by licensed pest management technicians employed by RBGs to carry out wild dog baiting, trapping and shooting.

(2) Since the acquisition of Kadji Kadji, Lochada and Barnong, DBCA has established partnerships with the Central Wheatbelt Biosecurity Association and the Meekatharra Rangelands Biosecurity Association. These partnerships are formalised in a memorandum of understanding established with each biosecurity association. The MOUs provide the framework of agreement for coordinated wild dog control, including on these former pastoral stations. DBCA distributes wild dog baits on these lands twice a year as part of a broader community baiting strategy coordinated by the respective biosecurity associations. DBCA also carries out reactive baiting throughout the year in response to evidence of increased wild dog activity. An average of 9 300 baits are distributed across these areas annually.

(3) Strategic wild dog control priorities undertaken in association with groups such as the Meekatharra Rangelands Biosecurity Association and the Central Wheatbelt Biosecurity Association deliver stronger wild dog management.

(4) In the years following acquisition of pastoral lands, DBCA progressively initiated the closure of some artificial waters on those lands, where these waters were not required for ongoing pest animal control, fire management or other purposes. No active water point closure program is currently in place.

(5) Generally, water points have been progressively closed over several years, typically during mild winter conditions or during periods of widespread surface water availability. This encourages more water-reliant animals to disperse across the landscape as windmills are decommissioned, wells covered and dams either closed or filled in.

CARAVAN PARKS AND CAMPING GROUNDS — FENCING HEIGHT

718. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Local Government:

I refer to my question without notice 682 asked on 23 August this year on section 31 of the Caravan Parks and Camping Grounds Act 1995.

(1) What were the reasons that the applications for exemption to fencing height restrictions of 1.2 metres imposed by the Caravan Parks and Camping Grounds Regulations 1997 in the two cases referred to were rejected?

(2) How exactly were the applications for higher fencing in these cases to the detriment of the public interest?

(3) Given the answer the minister gave last week to part (5) of the question, which asked for the reasons for rejection, was, "It would depend on the circumstances", is the minister embarrassed to have given such a poor and meaningless answer?

The PRESIDENT: Leader of the House, I think you might want to exclude that last part, which is very interesting opinion seeking.

Hon SUE ELLERY replied:

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

(1)–(2) The Caravan Parks and Camping Grounds Regulations 1997 provide that a fence on a site is not to be built higher than 1.2 metres. This is to provide an opportunity for egress in the event of an emergency such as a fire. The two applications referred to were rejected as the applicants failed to provide compelling grounds to exempt them from the requirements of the regulations.

(3) No.

ROYAL GEORGE HOTEL — REDEVELOPMENT

719. Hon SIMON O'BRIEN to the minister representing the Minister for Planning:

I refer to the Royal George Hotel site in East Fremantle.

(1) When did the state government become the owner and/or custodian of the Royal George and in what circumstances?

(2) Subsequently, when was the site sold; to whom; and for what price?

(3) What conditions, if any, were placed on the new owners to limit or define redevelopment options—for example, refurbishment of the old hotel building?

Hon STEPHEN DAWSON replied:

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

(1) In 2015, the National Trust was required to surrender the land back to the state of Western Australia as negotiations between the trust and the proponent were leading to a sale that could not be supported under the previous tenure arrangement.

(2) The site was sold on 12 June 2017, to 34 Duke Street Pty Ltd, for $570 000, plus goods and services tax. The purchase price was determined by the Valuer General and took into consideration the significant conservation works required to be undertaken.

(3) The sale was conditional on the purchaser entering into a binding heritage agreement under the Heritage of Western Australia Act 1990. The heritage agreement details the conservation works required to be completed within three years of the effective dates and provides for ongoing maintenance of the hotel. The hotel is to be restored in conjunction with, or before, any proposed development on the rear of the property and, to ensure this, the Department of Planning, Lands and Heritage registered an absolute caveat on the freehold title.

QUADRIPLEGIC CENTRE — REDEVELOPMENT

720. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Health:

I refer to the state Quadriplegic Centre located in Shenton Park.

(1) Has any decision been reached on the location, construction, time line and design of any proposed new facility?

(2) What consideration has been given to ensuring that any new facility will provide appropriate access for regional clients visiting Perth for treatment and appointments?

(3) What accommodation will be provided in any new facility for regional clients, their carers and family members when visiting Perth for treatment?

Hon ALANNA CLOHESY replied:

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

(1) Accommodation options for the current long-term residents of the Quadriplegic Centre are entirely dependent on the outcome of the personal planning currently being undertaken with residents. Once residents' needs have been identified, the housing solution that best meets those needs will be determined.

(2)–(3) Work is currently being undertaken to identify alternative respite and accommodation options in the metropolitan area that can be utilised by people required to travel to Perth for medical and rehabilitation support. It is planned for these alternative options to be in place by the time the Quadriplegic Centre closes.

POLICE — DOMESTIC VIOLENCE INCIDENT REPORTS

721. Hon CHARLES SMITH to the minister representing the Minister for Police:

(1) Can the minister advise how many domestic violence incident reports were submitted by police in the previous 12 months?

(2) How many DVI reports were linked to an assault offence with an identified person of interest?

(3) How many of those POIs were male and how many were female?

(4) How many children were listed as "victim" in those DVI reports?

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.

It is not possible to provide a response to this question within the required time period. If the honourable member puts the question on notice, I will seek further information from the Western Australia Police Force.

ELECTRIC VEHICLE WORKING GROUP

722. Hon TIM CLIFFORD to the minister representing the Minister for Innovation and ICT:

I refer to the government's electric vehicle working group, which I understand was established in March this year.

(1) What is the scope and purpose of this group?

(2) Does the group have a time frame to achieve its objectives as per its scope, and will the minister please provide details of this time frame?

(3) Will the minister please confirm whether the group's scope includes the investigation of DC fast-charging stations?

(4) Will the minister please provide copies of any reports or minutes emanating from this group to date?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Innovation and ICT has provided the following information.

(1) The purpose of the Western Australian electric vehicle working group is to coordinate and facilitate state government action to deliver outcomes under the Climate Action Roundtable memorandum of understanding—subnational collaboration on electric vehicles. The scope of the working group covers three main workstreams: firstly, taking a coordinated approach to the strategic planning and construction of infrastructure for electric vehicles; secondly, sharing information and seeking alignment of policies to encourage the uptake of electric vehicles, including standards and financial and non-financial incentives; and, thirdly, developing an action plan to increase the share of electric vehicles in fleets.

(2) No. Work plans or actions are being developed for each workstream.

(3) The infrastructure workstream is considering the strategic planning and construction of infrastructure for electric vehicles.

(4) The minutes from each working group meeting are provided to me and to the Minister for Environment and are not publicly available. No reports have been developed by the working group to date. I table a copy of the minutes of the meeting of 5 June 2018 of the WA electric vehicle working group.

[See paper 1690.]

NORTH METROPOLITAN TAFE — STUDENT FEES

723. Hon ALISON XAMON to the Minister for Education and Training:

I refer to student fees for semester 1 2018 at North Metropolitan TAFE.

(1) Were any student fees written off for this period?

(2) If yes to (1) —

(a) how many students' fees were written off;

(b) what was the value of the written-off fees;

(c) why were these fees written off; and

(d) what proportion of these written-off fees were due to difficulties in implementing the short message service?

Hon SUE ELLERY replied:

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

(1) No.

(2) Not applicable.

KIMBERLEY ASPARAGUS — DEVELOPMENT PLAN PERMITS

724. Hon KEN BASTON to the minister representing the Minister for Lands:

I refer to the area of land 23 kilometres east of Broome, currently being developed for horticultural purposes, known as Skuthorpe.

(1) Has the minister or department taken any steps towards making more land available for agriculture in this precinct?

(2) If yes to (1), what are these steps?

(3) If no to (1), why not?

Hon STEPHEN DAWSON replied:

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

(1)–(3) The outcome of the 2015 expression of interest process resulted in all of the available crown land in the Skuthorpe horticultural area being granted.

CORRUPTION AND CRIME COMMISSION — NORTH METROPOLITAN HEALTH SERVICE — PROCUREMENT PRACTICES

725. Hon TJORN SIBMA to the parliamentary secretary representing the Minister for Health:

Reference to a WA Health internal investigation is made within the Corruption and Crime Commission's "Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service".

(1) Who within WA Health undertook the internal investigation into the procurement practices of the NMHS facilities management directorate; and to which executives within NMHS did they provide this report, and when?

(2) When was Dr Russell-Weisz provided this report, and how was it provided to him?

(3) Will the minister seek to make that report public; and, if not, why not?

Hon ALANNA CLOHESY replied:

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

(1) The Department of Health office of the chief procurement officer completed the "North Metropolitan Health Service: Sir Charles Gairdner Hospital Facilities Management Procurement Review" in May 2015. The final copy of this report was provided to Dr Shane Kelly, the then chief executive, North Metropolitan Health Service, on 25 May 2015 by the acting director general, Professor Bryant Stokes.

(2) A review of events and circumstances is currently underway and will be provided to the member on completion.

(3) Legal advice will be sought from the State Solicitor's Office as to whether this in-confidence document may be tabled. The member will be informed of this advice in due course.

WATER — RESIDENTIAL CONSUMPTION

726. Hon PETER COLLIER to the minister representing the Minister for Water:

(1) What is the total number of metropolitan residential water customers that consume greater than 500 kilolitres per annum?

(2) For those customers in part (1), what is the average water consumption?

(3) What is the highest amount of water consumed—in kilolitres—for a metropolitan residential water customer?

Hon ALANNAH MacTIERNAN replied:

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

These numbers will include multi-resident customers, such as strata title arrangements that appear as a single customer for billing purposes. This number will also include customers who have experienced a temporary increase in water usage—for example, due to leaks or for the establishment of a new lawn.

(1) For 2016–17, the number was 39 564.

(2) For 2016–17, it was 679 kilolitres.

(3) It is 9 289 kilolitres.

JOBS —PILBARA

727. Hon COLIN de GRUSSA to the Leader of the House representing the Premier:

I ask this question on behalf of Hon Jacqui Boydell, who is away on urgent parliamentary business.

I refer to the comments made by the chief executive officer of the City of Karratha in the *Pilbara News* today —

> "Karratha today has three times more jobs than Bunbury, it has 10 times more jobs than Midland, and 20 times more jobs than Busselton advertised today,"
>
> …
>
> "We simply don't have enough people to fill the jobs we need.

(1) Does the state government support a Pilbara-based designated area migration agreement?

(2) If no to (1), what is the government doing to ensure businesses in the Pilbara have access to appropriate labour?

(3) What programs has the government put in place to assist people to move their families to the Pilbara for work?

Hon SUE ELLERY replied:

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

(1) As mentioned in the article, not at this stage.

(2)–(3) The McGowan government's priority is to put Western Australians first when it comes to securing jobs in WA and makes no apology for that. Beyond that, we also want the people of the Pilbara to see the benefits from the resources projects that happen there. I also note that one of the pull factors for people moving to a particular region or local government authority is the availability of employment. Assuming that the quoted advertisements are correct, it would appear that the City of Karratha is well positioned to attract new residents who wish to work locally.

GREENPATCH DEVELOPMENT — CHROMIUM-6 — DALYELLUP

728. Hon DIANE EVERS to the Minister for Environment:

I refer to the response by the minister to my question without notice 437 asked on 12 June 2018 regarding the proposed Dalyellup Greenpatch subdivision and the "Environmental Management Plan for Lot 9077".

(1) Has the January 2018 site management plan that the minister referred to in his response been finalised?

(2) If no to (1), when is it expected to be finalised?

(3) If yes to (1), will the minister please table a copy of the report?

(4) If no to (3), why not?

Hon STEPHEN DAWSON replied:

(1) Yes.

(2) Not applicable.

(3) Yes. I table the report "Cristal Pigment Australia Ltd: Former Dalyellup Waste Residue Facility CSA Site Management Plan" January 2018, GHD.

[See paper 1689.]

(4) Not applicable.

ASBESTOS DISEASES COMPENSATION BILL 2013 — REINTRODUCTION

729. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to the Attorney General's answer to my question without notice of 17 May 2017 regarding the McGowan government's intentions concerning asbestos diseases compensation legislation.

(1) When will Labor's Asbestos Diseases Compensation Bill 2013, which reached the Committee of the Whole stage and which the then Labor opposition claimed was important and urgent and had no need for amendment, but lapsed with the prorogation of Parliament, be reintroduced now that the McGowan government has the ability to ensure its swift passage?

(2) Why has the government not reintroduced the bill to date?

(3) Is it because the bill was unsatisfactory; and, if so, in what respects?

Hon SUE ELLERY replied:

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

(1)–(3) The recommendations that came out of the June 2016 Law Reform Commission of Western Australia's "Provisional Damages and Damages for Gratuitous Services: Final Report: Project 106" were referred to the Insurance Commission of Western Australia for economic and financial analysis. The office of the Attorney General received a summary of the economic and financial analysis and associated advice on 15 August 2018. The McGowan government will make a decision on any future reform after consideration of this advice.

ACTING MAGISTRATES

Question without Notice 688 — Correction of Answer

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.07 pm]: I would like to provide a correction to Legislative Council question without notice 688 asked yesterday, 28 August 2018, by Hon Michael Mischin. I refer to the answer given regarding the term of Magistrate Lawrence. The correct answer should read —

> Geoffrey Dudley Lawrence on 6 June 2018 for the period 23 September 2018 to 22 September 2019, both dates inclusive.

On behalf of the Attorney General, I apologise to the house for the error.

HOUSING — RENT COLLECTION — KATAMPUL

Question without Notice 648 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.07 pm]: I would like to provide an answer to Hon Robin Scott's question without notice 648 asked last week on 22 August 2018. I seek leave to have the response incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(1)	Yes. Community Housing Limited delivers a property and tenancy management service to Nambi Village (Katampul) under contract with the Department of Communities which includes the collection of rent
(2)	Rent is charged for eight tenancies in Nambi Village (Katampul) totalling $600 per week.
(3)	Yes. Rent collected is re-invested in the community in the form of maintenance.
(4)	No. This question should be directed to the Minister for Local Government to provide a response.
(5)	None. It is not the responsibility of the Department of Communities or Community Housing Limited to take any action to ensure that the collection of rubbish occurs at Nambi Village (Katampul).

ACTING MAGISTRATES

Question without Notice 688 — Answer Advice

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.08 pm]: I raised this issue about those errors in the answer yesterday so that all those answers would be checked to see whether they could be relied on. I wonder whether the minister can confirm, quite apart from the one I picked up, that the others are correct and can be relied upon.

Hon Sue Ellery: I will have to double-check that.

EDUCATION AND CARE SERVICES NATIONAL LAW (WA) AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.09 pm]: Before the afternoon recess, I think I was observing that the procedures in the standing orders reflect those that had previously been there under standing order 230A of the standing orders before they were revised in about 2010 or 2011. In the event that a bill is not originally referred automatically by reason of the member introducing it and advising the house that it is a uniform legislation bill within the meaning of the standing orders, it can still be referred under standing order 128. That was the manner in which the irregularity had been cured in this particular case. The Standing Committee on Uniform Legislation and Statutes Review considered that to ensure that inasmuch as it could difficulties would not arise in the future. The committee report goes through the processes by which a bill can be referred to the uniform legislation committee and what would be of assistance to the house when a minister advises the house whether a bill is a uniform legislation bill. It also reproduces the substance of a number of past rulings. Ultimately, of course, the question about whether a bill is a uniform legislation bill is one for the chamber to answer, but at paragraphs 4.30 and 4.31 the committee identifies some rulings and the trends that can arise from that. The judgements of the former and current President may assist the chamber in dealing with these matters.

So much for the process involved. I particularly invite the government to consider how the committee has dealt with referral and how in future cases that might assist in avoiding some difficulties the committee has encountered. I should add that since then, a further bill has been referred to the committee. Without pre-empting what the committee will be doing in that regard, that too involved a similar question about whether a bill was a uniform legislation bill or not. In that particular case, the minister who introduced the bill, Hon Alannah MacTiernan, indicated that it was not a uniform legislation bill but signified that the government would seek to refer it to the uniform legislation committee anyway, and gave a reason for that. However, it must be borne in mind that the Standing Committee on Uniform Legislation and Statutes Review has a very narrow remit when considering the bills that are sent to it. Unless there is some change to the standing orders, or its remit is changed in some way by way of an appropriate resolution of this place, a bill that is referred to it can be considered only in the light of its terms of reference, which are set out in part 6 of schedule 1 of the standing orders, so it can look only at the question of any impact upon parliamentary sovereignty and not at a wider consideration of the legislation and its policy or merit or the way it would operate in another regard. If that course of referring a bill under standing order 128 is taken, I suggest, with respect, that consideration be given to what the person referring the bill to the committee wants the committee to do; otherwise, the committee's time will be consumed by dealing with a bill on a very narrow basis, and the house will still have questions about the wider operation of the legislation, which the committee is not instructed or not capable of dealing with. I do not press that point any further at this time.

However, having highlighted the issue, members or perhaps the Standing Committee on Procedure and Privileges may wish to consider whether some tweaking of the standing orders is necessary to make the scope of the committee's functions quite plain. I note in that regard there was a deliberate refinement some years ago of the terms of reference of the Standing Committee on Uniform Legislation and Statutes Review to ensure that it did not stray into areas of policy and other facets of the bill, so that it could meet its time limits expeditiously and operate effectively.

I turn now to one other element of the bill, as I foreshadowed—that is, to comment on its progress to this place. I make the point in light of a letter dated 30 May this year that was sent to me by the minister. Before I get to that, I should put its receipt in some context. This bill was foreshadowed by way of a notice of motion to introduce it into the Legislative Assembly on 15 May. It was introduced and second-read on 16 May. Debate then took place on 19 June, just over a month later. It was disposed of in fairly short order on that day—a number of members spoke on it, but the debate wound up on that day—and it was read a third time and then referred by message in the usual manner to this place. It was received here on 26 June, a second reading speech was delivered and, after the turmoil that I have referred to and discussion, it was referred to the Standing Committee on Uniform Legislation and Statutes Review and the committee tabled its report on 14 August.

Bearing in mind that the second reading speech in the Legislative Assembly was given on 16 May and the bill did not complete its passage, and in fact was not brought on for debate in that place, until 14 June, on 30 May the minister wrote to me, and I will table a copy of the letter for reference. It is addressed to me in my capacity as Deputy Leader of the Opposition in the Legislative Council, and to my post office box for my electorate office. It reads —

> Western Australia has been a signatory to the COAG National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care since 2009. This Agreement ensures the safety, health and wellbeing of children attending education and care services through the provision of high quality early childhood education and care.
>
> The 2014 Review of the National Quality Agenda found that the National Law is functioning effectively, noting some opportunities to reduce red tape for service providers, whilst continuing to improve learning outcomes for young children. The COAG Education Council agreed to all of the Review's recommendations on 31 January 2017.

I make the point at this stage that that was while the previous government was in caretaker mode and a month and a half before the election. But the council agreed to the review's recommendations then. It continues —

> The Education and Care Services National Law Amendment Bill 2017 passed Victorian Parliament on 23 March 2017, and received Royal Assent on Monday, 27 March 2017.

The model bill from which the scheme is drawn for incorporation into Western Australian legislation was quite expeditiously dealt with by the Victorian Parliament within two weeks of the election and less than two months after the COAG agreement. Some considerable work must have been done up until that stage, at least in Victoria and at the commonwealth level, to have legislation passed in that short order and receive royal assent. The letter goes on —

> The amendments have been developed in consultation with all state and territory governments, the Australian Government and the Australian Children's Education and Care Quality Authority (ACECQA). The amended National Law commenced on 1 October 2017 in every state and territory except Western Australia, which has its own corresponding legislation.

Within about six months of its passage, it had been passed in every other jurisdiction and commenced. I reinforce that some considerable work had been done at some level before our government entered into caretaker mode, and, presumably with the imprimatur of the then minister, who I believe was Andrea Mitchell, MLA, agreements were made at the Council of Australian Governments' Education Council level that we would enter into this scheme. But of course, mere agreement presupposes that there has been some significant groundwork undertaken up until then. It would certainly seem that every other state managed to prepare the legislation so that it could come into operation on 1 October 2017.

The minister went on to say —

> On 15 May 2018 I gave Notice of Motion to introduce a Bill into Parliament which gives effect to amendments to the Education and Care Services National Law (WA). On 16 May I delivered the second reading of the Bill 'Education and Care Services National Law (WA) Amendment Bill 2018'.

That was over a year after the amendments came into operation in Victoria, and while other jurisdictions were presumably working towards some legislation that meant they could be part of the scheme—every jurisdiction other than Western Australia—by 1 October 2017. The minister went on to say —

> Until the Amendment Bill is passed by Parliament, services in Western Australia will continue to operate under the previous version of the National Law.

As at the date of the letter, that had been going on for some eight months, yet the bill was introduced only on 15 May, or at least there was notice of its introduction on 15 May. The minister went on to say —

> Urgent passage of the Bill through Parliament is required to minimise the period of inconsistency in the National Law, and fulfil the State's obligations under the National Partnership Agreement on the National Quality Agenda.

That may be right, but, as I say, the bill was introduced into the other place over a year after the amendments came into operation in Victoria, and seven and a half months after the national law amendments had commenced in every other jurisdiction. The minister went on to say —

> Pursuant to Standing Order 126(1), I have received advice that this amendment Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental agreement or multilateral agreement to which the Government of the State is a party. Nor does this Bill introduce a uniform scheme or uniform laws through the Commonwealth. Rather, it amends an existing scheme.
>
> I am writing to seek your support to expedite this Bill through the uniform Legislation Committee process, to ensure these amendments are passed in a timely fashion. I would be happy to meet with you to discuss the Bill and related amendments in further detail to support its passage through the Legislative Council.

For a number of reasons I am a bit surprised at the urgency expressed in the letter, and the need to expedite it through the process and Legislative Council. Firstly, I have mentioned that considerable work appears to have been done before our government went into caretaker mode and before the March 2017 election; such amount of work that enabled Victoria to pass its legislation and have it in operation by 27 March, having received royal assent on that date. Then, over six months later, the national law commenced, so other jurisdictions have managed to get legislation drafted and passed in order to be part of this national scheme, but it took Western Australia until May 2018 before the bill was introduced in the other place. Before it is raised that a new incoming government needs to take some time to settle down and so forth, I entirely understand that, but in my experience an incoming minister also gets briefed on matters of urgency that require attention from the government, and yet nothing appears to have been done in a sufficiently expeditious fashion to try to meet the objective of being part of this scheme by 1 October 2017 or as soon as possible thereafter. A considerable amount of legislation in the other place has been declared urgent by the government in order for it to be dealt with with alacrity, because there has been very little for it to do from time to time down there in the last year. In this particular case, the minister did not appear to seek an order or a resolution of that place that the bill be declared urgent. It took a month before it came on for debate and was passed in the other place, and there was no indication in the minister's second reading speech, as I recall, although the minister may be able to help here, that this bill needed to be expedited in some fashion. It certainly has not been given any significant priority. We have been dealing with other legislation over the last couple of weeks and I can understand that giving some time for the house to consider the committee report is quite proper—I think a week at least—but it is not as though it was on the top of the list for this week to be disposed of as soon as possible. It certainly did not achieve any level of rapid movement in the other place before getting here, in the full knowledge that it would be a bill, notwithstanding the minister's assertions, that it was very likely to be referred to the Standing Committee on Uniform Legislation and Statutes Review to be dealt with within the standing orders in some fashion, or at least allow the committee some time to do its function if it was going to be referred. As it happens, I pointed out in the history of the bill that the minister said it was not dealt with under standing order 128 anyway, but then conceded it should be, and some time was going to be set aside for the committee to do that. I simply want an explanation of why this bill is so urgent that we need to get it passed by 1 October 2018 when there did not seem to have been a race to get it done before 1 October 2017, and why it took so long for the government to bring a bill of this nature before us and have us in line with the national scheme that the government says is critical to the proficient, effective and equitable operation of the COAG national partnership agreement and the legislation that allows it to operate in the state, to eliminate the need for us and other states to operate under different systems. I mentioned I would table the letter from the minister for reference. I seek leave to table the letter.

Leave granted. [See paper 1691.]

Hon MICHAEL MISCHIN: On that note, I conclude my remarks. If the minister is able to assist in the matters that I have raised, I have no reason from my part for the bill to go to the Committee of the Whole, but we will see how we go.

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.30 pm] — in reply: I thank members for their contribution to the debate so far on the Education and Care Services National Law (WA) Amendment Bill 2018. In responding to the issues raised about the content of the bill, I will start with Hon Tjorn Sibma. I appreciate the member's comments on behalf of the childcare industry about the value parents place on the provision of child care. He made the point very well that the recompense for child care and early educators does not match the value and the esteem in which they are held by the community.

Hon Tjorn Sibma asked some specific questions about the provisions of the bill, in particular the "excellent" rating. The assessment and rating of education and care services against the national quality standard is a key feature of the national quality framework. Changes are being sought to the "excellent" rating to ensure that this special rating is reserved for services that can truly demonstrate service leadership across all of the national quality standard. Changes that were made to the national regulations, which commenced on 1 February 2018, including in Western Australia, have increased the complexity of the assessment and rating process. States and territories are working with the national regulator, the Australian Children's Education and Care Quality Authority, to address these issues nationally, and the Education and Care Regulatory Unit is working with Western Australian services on their processes.

In keeping with the intended purpose of the act, the amendment bill provides that an application can be made for the "excellent" rating only if the service holds the prescribed rating levels. It is intended that the regulations will be amended to require a service to be rated "exceeding NQS" in all quality areas in order to be eligible for the "excellent" rating level. As a result of this change, the bill also provides that ACECQA can revoke the "excellent" rating if the regulatory authority advises that the service no longer meets the requirements for the prescribed rating levels.

I come now to training, and the assessment and rating for staff of regulatory authorities. ACECQA provides training to assessment officers in the regulatory authority on the assessment and rating process to ensure consistency in practice. This training is not provided to the education and care sector. The training of new assessment officers, which is typically ongoing for about four months, involves attending a two-part assessment and rating training course run by ACECQA. The course consists of online modules; an intensive four-day, face-to-face session; two-day testing, which participants must pass before they can undertake an assessment; mentoring by a senior assessment officer, during which they participate in at least six assessment and rating visits; and training in report writing and reading the law and regulations, as well as specific knowledge related to the quality areas, such as the cycle of planning, and critical reflection. Every two months, assessment officers must undertake further "drift" testing to remain reliable, as well as complete a certificate IV in government compliance and driver training funded by the Department of Communities. I might come back to that.

I come now to the IT system. Until proposed section 271, which deals with the disclosure of information, is enacted in Western Australia, Western Australia is effectively restricted in how we access information from other jurisdictions that enhances regulatory oversight to improve child safety and education. Once the database is aligned, the functionality will be enhanced for all jurisdictions, with Western Australia essentially completing the picture.

Hon Tjorn Sibma also made reference to the Standing Committee on Uniform Legislation and Statutes Review's 115th report, specifically findings 2 and 3. They state —

> **FINDING 2**
>
> The Committee finds that clause 2(b)(ii) of the Education and Care Services National Law (WA) Amendment Bill 2018, in providing that the Executive determines commencement dates, erodes the Western Australian Parliament's sovereignty and law-making powers.
>
> **FINDING 3**
>
> The Committee finds that there are acceptable reasons for leaving the proclamation of Parts 2, 3 and 4 of the Education and Care Services National Law (WA) Amendment Bill 2018 to be determined by the Executive.

Although the committee made these findings, it did not make any recommendations that the house needs to consider. It is worth noting that finding 2, which is about commencement dates, is probably an issue that the house more broadly needs to consider. I will come back and talk about the committee report when I deal with Hon Michael Mischin's contribution.

Hon Alison Xamon raised a number of issues, which I will go through in roughly the right order. If she did not specifically raise enforceable undertakings in her contribution to the second reading speech, she raised it in the briefing. One of the questions she asked was about whether enforceable undertakings preclude criminal proceedings for an offence that is not a contravention. The response to that is accepting an undertaking prevents the regulatory authority from bringing proceedings for any offence constituted by the alleged contravention in respect of which the undertaking is given. Undertakings would be accepted over contraventions of the national law. This would not prevent police from bringing proceedings for assault or other breaches of the Criminal Code. Hon Alison Xamon asked what sorts of issues would attract an enforceable undertaking versus a suspension, prohibition or criminal proceedings. Western Australia has accepted only one undertaking in six years of the national law being in force. Other jurisdictions may be more likely to use undertakings when they cannot prove a contravention on the criminal standard of proof or if the breach does not appear criminal in its nature, as there is no provision in the national law, only in Western Australian corresponding law, to prosecute breaches of the national law in an administrative tribunal or civil jurisdiction. Western Australia has published its compliance enforcement framework online for anyone to read. For the benefit of the house, I will table a copy. It is titled, "Education and Care: Compliance Enforcement Framework" and was last updated on 20 June 2018.

[See paper 1692.]

Hon SUE ELLERY: It sets out the sanctions that Western Australia might use, and factors it would take into account. There is no set of criteria for undertakings. WA would use civil disciplinary proceedings in cases in which the incident is a one-off and is considered very serious, such as a child leaving the service unsupervised, or being left in a vehicle or a place unsupervised; and in cases in which the issues leading to the incident had been addressed so that the suspension was not called for but where the circumstances called for a serious sanction rather than simply a warning. In similar circumstances, another jurisdiction might accept an undertaking instead of prosecuting, believing the breach was serious but did not call for the significant investment of time and money, and uncertainty, of a result inherent in a criminal prosecution. WA's view is that accepting an undertaking to correct matters that should have been correct in the first place is not a useful sanction. One matter occurred in WA of a prohibition notice being issued to a family day care educator. If the current amendments were in place, an undertaking might have been accepted. The educator wounded her husband with a knife in the presence of her children but not in the presence of children enrolled in her service. There is a likelihood that she was living in circumstances of domestic violence. The prohibition notice prevented her from working in any capacity in education and care. WA could not accept an undertaking as she had not contravened a national law. She was given a time line after which she might apply to have the prohibition notice withdrawn and an expectation that within that time she would have completed specified counselling. Under the amended national law, WA might have accepted an undertaking that she not work in family day care from her home, which would not prevent her from working in centre-based care where she would have had more support and an undertaking that she do the required counselling.

I will give an example of the enforceable undertaking. A family day care educator was found to be in breach of a regulation. At the time, she informed the investigator that she was no longer going to undertake family day care. If she had resigned from the service, there would have been no recourse for offence penalty and the matter would have had to be taken to the Magistrates Court. An enforceable undertaking was made that the educator refrain from providing education and care to children in an education and care service and from being engaged as a supervisor, educator, family day care educator, employee, contractor, staff member or volunteer at an education and care service. The person can apply to have the undertaking withdrawn prior to returning to employment in an education and care service but must provide evidence to the relevant approved provider that she has attended the appropriate training.

Hon Alison Xamon raised a question about oversight of decision-making. Decisions on sanctions are made at various levels in the Department of Communities. The assistant director general makes the final decision on whether to take compliance action and what form of action based on information provided by education and care regulatory unit staff, which may include the director, legal officer, investigators and team leaders. The possibility and benefits or drawbacks of accepting an undertaking or other alternative sanctions are part of the considerations, as noted in the compliance enforcement framework that I have just tabled.

There was a question about what information will be provided to parents and by what means. Although the national law provides that a regulatory authority may publish certain specified enforcement actions, WA's approach is to publish every enforcement action it is permitted to publish on the department's website. The regulatory authority does not have the ability to provide information to parents, nor does it have power under the law to direct a service to provide information to parents.

A question was asked about monitoring of compliance. Any monitoring of the terms of an undertaking would depend entirely on what the person had undertaken to do. For example, if it was to rectify certain matters at a service within a set period of time, WA would schedule a visit to the service after that time to monitor.

A question was asked about disclosure of information. Clause 82 sets out when information can be disclosed by the national authority—regulatory authority, government departments, public authorities or local authorities. Proposed section 271(4) sets out the purposes for which information can be disclosed. The first of these states —

> (a) the disclosure is reasonably necessary to promote the objectives of the national education and care services quality framework.

As this is broad, we were asked what sort of circumstances are envisaged. Section 271(4) is intended to enable regulatory authorities and the national authority to share information, in particular, to ensure the safety, health and wellbeing of children when the sharing of information is not permitted under the other subsections.

The issue of early childhood education care service in high-rise buildings has become increasingly relevant over the past 12 months, particularly in Queensland and New South Wales. Queensland has provided information to other jurisdictions about ongoing discussions with councils, emergency services, planning bodies and building standards bodies to ensure that all jurisdictions have access to information that will enhance the health safety and wellbeing of children. In WA, the regulatory unit has shared information with other public authorities in relation to water hazards in family day care residences for the purposes of enhancing the health, safety and wellbeing of children.

I have a bit more information on Hon Alison Xamon's question about the "excellent" rating. Currently, no services in Western Australia have an excellent rating or have applied for the excellent rating. There was a question about the federal government not renewing the national partnership agreement. That has created some difficulties for the state. The state will be out of pocket approximately $1.4 million per annum. Around $500 000 was allocated to

staff. The regulatory unit will absorb this cost and reprioritise activities away from support to the commonwealth in identifying fraud and towards activities that focus on child safety. The national partnership will expire at the end of this year, and the commonwealth has announced that it will not be renewing it. The cost of the information technology system is $35 000 per annum for WA for the next two years. The commonwealth will fully fund ACECQA for its functions, including the IT system. After this two-year period, it is anticipated that WA and every other jurisdiction will have to pick up the bill.

Hon Tjorn Sibma asked a question about consequential amendments at the very beginning of his comments yesterday. Consequential amendments are proposed to two other acts: the Spent Convictions Act 1988 and the Working with Children (Criminal Record Checking) Act 2004. These amendments are a result of changes to the supervisor's certificate. Where those references appear in those acts, that is no longer appropriate. The consequential amendment to the Spent Convictions Act deletes "a supervisor certificate" from clause 1(5)6A of schedule 1. The effect of the clause remains the same; that is, a person who holds, or is applying for provider approval of, or who will be a person in management control of an education and care service is excluded from the provisions of part 3 of the Spent Convictions Act, and thus must disclose all spent convictions as part of their application. The consequential amendment to the Working with Children (Criminal Record Checking) Act 2004 deletes "a certified supervisor" from section 38(3)(b)(ii), and the effect of the section remains the same and relates to disclosure of information about a nominated supervisor or person with management or control of an education and care service under the Education and Care Services National Law (WA) Act.

I turn now to a couple of issues raised by Hon Michael Mischin that are not related to the provisions of the bill. With reference to the provision of the Standing Committee on Uniform Legislation and Statutes Review report dealing with the government making clear whether a bill fits the criteria, if you like, to be referred to the committee, I have found the committee report very helpful in that sense. I have drawn it to the attention of ministers, and I think I have already read in a speech on a bill from the Attorney General in which we say that we do not believe the bill should be referred, and give the reasons. To take up the views expressed in that committee report, I have asked ministers to make sure that we are clear in second reading speeches. I have found it useful, and I have asked ministers to do that. Members know what that is like—we can ask our colleagues to do it, and sometimes they do it.

Hon Michael Mischin: If you'll take an interjection, thank you for your comments. They will reaffirm to members of the committee that they were doing something right.

Hon SUE ELLERY: It is good for people to feel good; we should celebrate success, and I am happy to do that.

Hon Alanna Clohesy: And reward good behaviour.

Hon SUE ELLERY: And reward good behaviour, as Hon Alanna Clohesy notes.

The other issue that Hon Michael Mischin raised was the timing of this legislation coming before the house. It is probably a combination of two things. Yes, there was a change of government and, despite the fact that certain decisions had been made earlier, it is still the case that when a new government comes to power it can take a while to get new processes in place, but also the difference between WA and other jurisdictions is that other jurisdictions are relying on applied law, so we have corresponding law.

It was the case that our drafting did not commence until after the legislation of the other jurisdictions was in place. The best advice available to me is that it was a combination of those two things. Nevertheless, the bill is now before the house. I am sorry that the Standing Committee on Uniform Legislation and Statutes Review had to spend time considering the bill when, technically, it did not need to. The view that the government took—this was based on my advice to ministers—was that we should err on the side of making sure that we refer rather than not refer and hold up consideration of legislation. I thought that was sound advice. The committee report indicated that there is a better, more efficient way to do it. I have acted on that and, accordingly, have asked my ministerial colleagues to ensure that if they do not believe it fits a reference to uniform legislation, they should spell out the reasons why. Sometimes it is difficult. The purpose of the uniform legislation committee was to take account of what can best be described as template legislation that is adopted out of national agreements. Sometimes we can have generations, if you like, of legislative change that occurs because of a national agreement made way back when. At some point we need to draw a line and ask, "Is this bill still giving effect to that and therefore is it captured?" That is probably a fairly inelegant way to describe it.

In any event, I thank the committee for its advice. I am doing my best to ensure that the government follows that advice. With those comments, I thank members of the house for their contributions and commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Leader of the House)**, and passed.

COURTS LEGISLATION AMENDMENT BILL 2017

Second Reading

Resumed from 6 September 2017.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.52 pm]: The Courts Legislation Amendment Bill 2017 pulls together three rather disparate elements. I will work through them in reverse order because some parts of it are more interesting than others. I will dispose of some of the hanger-on provisions first. The bill essentially deals with three broad areas. Firstly, it seeks to adjust the mandatory age of retirement for magistrates, lifting it from the current 65 years to 70 years of age. I will come to that in a moment. Otherwise, it makes amendments to what the second reading speech describes as two technical matters. One of them is to amend the Civil Judgments Enforcement Act 2004 to specifically provide a power under the act to make regulations that include a power to prescribe fees in respect of the registration of judgements under the commonwealth Service and Execution of Process Act 1992, and otherwise to eliminate what is said to be an outdated and unnecessary provision—section 31 of the Supreme Court Act 1935. That provision provides for the court ordering interest on judgements, awards and the like, but it is said to be redundant. It would be of assistance if the minister could explain a little more as to why that provision is said to be outdated and unnecessary. The second reading speech points out that there is, and I quote —

> … no longer any need for a specific distinction between interest for the loan of money or other contracts and interest in other proceedings for debts and damages.

But it would be helpful, for the record, if the minister were able to expand a little on why that provision is no longer necessary, and what will take its place.

As for the fee provision—the making of regulations that will allow the court to prescribe fees for the registration of judgements—that is a curious matter. I would appreciate some idea of how much has been recovered by way of fees in that respect and whether there has been any move by anyone for a refund of those fees in the interim. I note that the amendment proposed has a retrospective operation, validating the purported collection of that fee in the past, so as to avoid the problem of a refund of what would be relatively small amounts to a vast number of people that we may not even be able to identify nowadays. I would be curious to know how much of a windfall the state of Western Australia has had by way of the collection of those fees to date.

Otherwise, the main area of the bill is to increase the mandatory retirement age for magistrates from 65 to 70 years. This has been an area of discussion for quite some time now. The Magistrates Court Act 2004 provides for the appointment of magistrates. In particular, schedule 1 of that act sets out the qualifications for appointment, the manner in which magistrates are to be appointed, the oath and affirmation of office that magistrates are to take upon being appointed and taking up their commission, conditions of service, and a variety of other elements. It also deals with tenure of office and how magistrates can resign, and their suspension from office, due to either illness or some other reason.

In particular, clause 14 of schedule 1 provides for suspension from office due to substandard performance. That, in combination with clause 15, provides for the removal from office of a magistrate. A rather difficult procedure is prescribed in clause 15, with the Governor having the power upon the address of both houses of Parliament to terminate a magistrate's appointment. I am not sure if that has ever been used or required to be used. I have to say that I am not even quite sure what an "address of both houses of Parliament" means—presumably a resolution of some form. Nevertheless, it is not an easy function.

The qualification to be a magistrate is set out in clause 2(2) of schedule 1 and provides that —

> A person is qualified to be appointed as a magistrate of the Court if he or she —
>
> (a) has had at least 5 years' legal experience; and
>
> (b) is under 65 years of age.

Of course, most magistrates would not be appointed simply on the basis of having had five years' experience. Generally, we are looking at people who, unless they are particularly talented or prodigious and have shown that, have significantly more experience than that. Many magistrates are appointed at an age that is significantly younger than those legal practitioners who would be appointed as judges of the Supreme Court, District Court or indeed the Family Court. There is a likelihood, I would have thought, that many of the magistrates who are currently in service have been in service for considerably longer than judicial officers in other jurisdictions have been. At the moment, judges of the Supreme and District Courts tend to serve a certain time to qualify for their pensions. I again stress that they tend to be appointed later in life than magistrates are appointed, and then depart at around their retirement age. That way, they can maximise their pension entitlements and turn their minds to other things, as long as they do not contravene the requirements of the retirement legislation and the limits on what sort of work they can perform. However, generally, senior judicial officers of the superior courts will serve—my estimate—a significantly shorter time on the bench than magistrates would serve.

This legislation proposes to bring that retirement age in alignment with other courts, and courts in other jurisdictions, where sometimes the retirement age is higher or about the same. In any event, the proposal is that we increase the mandatory retirement age to 70 years. If I understand the manner and the operation of the legislation as it is proposed, after it is passed, those currently serving magistrates who may be approaching the age of 65 years will automatically have their terms and conditions altered to allow them to serve until the age of 70. That will be achieved by way of an amendment to clause 11 of schedule 1, which at present provides, among other reasons —

> (1) A person ceases to be a magistrate —
>
> (a) when he or she reaches 65 years of age;

That, too, will be lifted to 70 years of age. Otherwise, the bill proposes amendments to clause 9 of schedule 1, which deals with acting magistrates, by shortening the provision. At the moment, clause 9(2) of schedule 1 provides —

> (2) If the Governor is of the opinion that the workload of the Court requires the temporary appointment of a magistrate, the Governor may appoint as an acting magistrate —
>
> (a) a person who is qualified under clause 2; or
>
> (b) a magistrate who is about to reach 65 years of age; or
>
> (c) a person who ceased to be a magistrate on reaching 65 years of age and who is under 70 years of age.

The bill proposes to remove those subparagraphs and have clause 9(2) read —

> If the Governor is of the opinion that the workload of the Court requires the temporary appointment of a magistrate, the Governor may appoint as an acting magistrate a person who is qualified under clause 2.

Bringing the mandatory age of retirement for judicial officers into line with each other has been under consideration for quite some time. One of the advantages, perhaps, of an earlier retirement age for magistrates—I simply raise the point as an argument—is that when they serve considerably longer periods on the bench than one would expect from judicial officers in more senior courts, there is the risk that some may become tired, their judgement stale and their interest in the job reduced, and they are simply there occupying a seat. I hope that is not the case, but there is that risk with an extended period of service from a very young age through to the age of 65, let alone to the age of 70. One advantage of a retirement age of 65 is that it may allow a refreshment of the bench by the appointment of new magistrates. In many cases the provisions under clause 9, which seek an extension of term by way of appointment as an acting magistrate, will be exercised by the Attorney General of the day. Generally, the process followed is that one receives a request either directly from the magistrate concerned or indirectly through the Chief Magistrate to extend that magistrate's term by a nominated period. At the moment, that extension would be for up to two years. Upon receipt of an indication of need for the purposes of meeting the workload of the court, which is one of the criteria, and upon receiving no adverse reports on the magistrate's performance, the Attorney General will be inclined to recommend to the Governor that the term be extended. This bill will obviate that need by allowing magistrates as a matter of course to serve to the age of 70. However, I would like to get some feel for the lengths of time magistrates tend to serve—the average and the mean—and the sorts of ages at which they are currently being appointed and how long one might expect a magistrate to serve on the bench. I have asked some questions over the last couple of days to try to get a feel for the manner in which the current Attorney General is dealing with these matters. I presume for the purposes of this argument that the information, apart from the correction that the Leader of the House provided earlier today in question time, is accurate. However, from what he advises, through the leader, there were 13 instances since the election, when he was appointed, in which members of the magistracy have sought an extension of their appointments. He has extended those appointments by varying lengths of time. Some of those appointments, albeit extended, have expired; others extend through to 2019. It seems that with the passage of this legislation, those magistrates' terms will be automatically extended until the mandatory new retirement age, the proposed retirement age, of 70 years of age. It is interesting, so far as the advice that has been received to date, that none of the applications has been rejected. I trust that has been not simply because of the foreshadowing of this legislation, but by the Attorney General properly considering his function and his responsibility to assess the workload in the court and whether the magistrates concerned are still operating at their peak performance. I note that a number of appointments of magistrates over the last 12 to 18 months have supplemented the cadre of magistrates operating in that court. Some indication of the numbers involved and how many magistrates it is thought is the optimum number who ought to be operating in the Magistrates Court would also be of assistance. In addition, how many magistrates who are currently approaching the retirement age and will be preserved there until the age of 70 years would fall under these provisions and what will happen to those who are currently operating under a commission as acting magistrates? It is one thing if they are serving out and they have not yet retired, but there are those who have reached the mandatory retirement age and had their positions extended as acting magistrates. Will they continue to be acting magistrates or is it assumed that they will automatically fall into the magistrates pool where they will

be entitled to remain on the bench until the age of 70? I would like some clarification on how that will operate. I think the house could be usefully informed of the current retirement ages for magistrates in other jurisdictions to see that what is being proposed for Western Australia is not out of kilter with other jurisdictions. Otherwise, I do not have any other issues with the legislation that I require to be clarified.

I note that Hon Alison Xamon has a proposed amendment, and we will come to that in due course. Presumably, if she proposes to pursue that, we will end up in committee. It may be that that period will be relatively short if I can get the information that I seek from the Leader of the House. I look forward to Hon Alison Xamon explaining her proposed amendment and how it will work and the government's response to that. I am a little unclear about the objective. I understand that the government was not inclined to support it when this legislation first came before the house and the supplementary notice paper was submitted, which I think was in October last year. I do not know whether the government's position has changed. My understanding was that one of the reasons the government was not keen on it was that it had not had the opportunity to consult with the judiciary on that change and that no substantial study or review had been undertaken to assess the necessity. I do not know whether the government has taken the opportunity in the last nine months or so to do that inquiry, come to a view on it and consider the merits of the honourable member's proposed amendment. On that note, I look forward to hearing more about it.

HON ALISON XAMON (North Metropolitan) [6.14 pm]: I rise as the lead speaker on behalf of the Greens. I indicate from the outset that we will be supporting the Courts Legislation Amendment Bill 2017, although, as was just alluded to, I have an amendment on the notice paper that I will speak to in a moment.

The bill seeks to do three things. It will make two technical amendments, and the most substantive part is that it will increase the mandatory retirement age of magistrates from 65 to 70 years. The technical amendments appear to be relatively straightforward. The bill will address an anomaly identified in the Civil Judgments Enforcement Act 2004. Part 2 of the bill will correct the current anomaly, whereby the Civil Judgments Enforcement Act 2004 does not specifically authorise the imposition of a fee for registering a judgement in a court under section 105(1) of the Service and Execution of Process Act 1992. My amendment explicitly states that the power under the act to make regulations includes the power to prescribe fees in respect of the registration of judgements under the Service and Execution of Process Act 1992. Importantly, the amendments also provide for the retrospective validation of those fees.

The other technical amendment will amend the Supreme Court Act 1935 to remove an outdated and unnecessary provision. Currently, sections 31 and 32 of the Supreme Court Act 1935 provide for the payment of interest. Section 31 provides for the recovery of interest for the loan of money or other contracts. It stipulates that when the rate of interest has not been previously agreed, the rate of interest recovered must be less than six per cent per annum. Section 32 provides that the court must order interest to be paid in any proceedings for the recovery of money, with the court appropriately given discretion to determine the rate of interest. As there is no longer a need for a specific distinction between the interest for the loan of money or other contracts and interest in other proceedings for debts and damages, this bill will delete section 31. It is appropriate that the court determines the amount of interest, taking into account the circumstances of individual cases and having reference to interest rates set by the Reserve Bank of Australia. I again remind members that the Greens like judicial discretion, so it is pleasing that that principle has been incorporated in this bill.

The third and the most significant amendment will amend the Civil Judgments Enforcement Act 2004, the Magistrates Court Act 2004 and the Supreme Court Act 1935. It will increase the mandatory retirement age for magistrates from 65 to 70 years. The retirement age across jurisdictions other than South Australia is 70 or 72 years. The mandatory retirement age of 70 years for federal judges was introduced by referendum in Australia in 1977, and under section 72 of the Australian Constitution the maximum age for justices of the High Court and any court created by Parliament is 70 years. In 1977, 70 years old probably sounded like a pretty reasonable age, but it could be seen as somewhat arbitrary today. Remember, members, that 40 years ago the average life expectancy for men was less than 70 years. According to the Australian Bureau of Statistics, babies born today have the highest estimated life expectancy ever recorded. In 2015, male life expectancy at birth was just over 80 years, and female life expectancy was 84.5 years. Compulsory retirement ages for judges, although not uncommon, are not controversial. On the one hand, the judiciary as a profession benefits from longevity and wisdom, while on the other hand there is benefit in refreshing and renewing the judiciary. I note that the Organisation for Economic Cooperation and Development encourages the abolition of compulsory retirement ages across all professions. In 2013, the Australian Law Reform Commission noted the symbolic implications of compulsory retirement ages and recommended that the Australian government initiate an independent inquiry into both judicial and quasi-judicial appointments. I recognise the importance and gravity of judicial decision-making and the significant potential repercussions of having people on the bench with a concern that their mental faculties might be deteriorating. We know that rates of deterioration increase significantly with age, but I also point out that the jury disqualification age was recently raised to 75 years in this state, so this inconsistency seems quite illogical.

Debate adjourned, pursuant to standing orders.

OCCUPATIONAL SAFETY AND HEALTH AMENDMENT BILL 2017 — COMMITTEE OF THE WHOLE — MINISTER FOR REGIONAL DEVELOPMENT

Statement

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [6.21 pm]: I am reluctant to rise on this matter, but it is of some concern to me. It arises out of yesterday's debate in the Committee of the Whole on the Occupational Safety and Health Amendment Bill 2017. It highlights to me a concern about the reliability of some of the information being presented by Hon Alannah MacTiernan, representing the minister. I stress that I can work only from the uncorrected *Hansard*, but it accords with the sequence of events that I recall. At one point there was debate about an employer being subject to a penalty for an incident in the workplace. In the following exchange, I asked —

> **Hon MICHAEL MISCHIN**: What was the penalty range for the example the minister cited, and what is it intended to extend the penalty range to?
>
> **Hon ALANNAH MacTIERNAN**: I think the one I was referring to was Round Table Roofing. The penalty imposed was $70 000. The existing maximum is $400 000; the proposed maximum is $180 000.
>
> **Hon Michael Mischin**: Sorry? So the proposed maximum will be less than the current maximum?
>
> **Hon ALANNAH MacTIERNAN**: No; the existing maximum is $400 000, and the proposed maximum is $1.8 million.
>
> **Hon Michael Mischin**: Oh, $1.8 million.
>
> **Hon ALANNAH MacTIERNAN**: Yes.

Then we went around a few other issues and, finally, I again mentioned the $1.8 million and whether it would make much of a difference to the penalty in that case. We then got back on to the subject and she mentioned the case of a maximum fine of $400 000; the fine issued was $160 000 and the proposal was to increase the maximum to $2 million. I went on to ask —

> **Hon MICHAEL MISCHIN**: Just so that I can understand, is it the government's argument that by increasing the maximum penalty from $400 000 to $1.8 million —

She interrupted to say —

> **Hon Alannah MacTiernan**: No; I think I said $2 million.

I went back to the recollection and said —

> **Hon MICHAEL MISCHIN**: I thought it was $1.8 million. The minister said originally $180 000, and she then said $1.8 million. Is the minister now telling me it is $2 million?
>
> **Hon Alannah MacTiernan**: I have no recollection of saying $1.8 million. I said the fine was $160 000, and the maximum penalty was $400 000. We are changing that maximum penalty to $2 million.

We went on to a number of other things and then I went back to the matter, with two examples involving employers. I said —

> One had a current penalty of $400 000 that is going to be increased to $2 million, and I think she also said something about a penalty of $400 000 that was going to be increased to $1.8 million but she says that she cannot recall having mentioned $1.8 million.

After a few more exchanges, the minister said —

> The member must have read the $1.8 million from this chart, which I presume he has, because I do not think I said it.

I then said —

> That is where the $1.8 million must have come from, minister.

The minister said —

> That is right, but it did not come from me; I was not reading off this chart.

To which I responded —

> I distinctly heard the minister at one stage say $180 000, then she changed it to $1.8 million; anyway, that is beside the point. That is another example.

We then moved off that, because obviously we were not going to get any consensus on that idea.

My concern is that my recollection, which seems to have been picked up in *Hansard*, is that there was mention of increasing a penalty from the current maximum of $400 000 to something with a "1" and an "8" in it. I was told,

firstly, that it was $180 000. I was then told it was $1.8 million. When I went back to the subject, I was told that I must have been hearing things, because that was never mentioned by the minister. That causes me to question the reliability of what the minister has said. I do not know how much of that I can rely on.

That is reinforced by another comment later on when I dealt with the commencement clause of the legislation. I set out that clause 2 would have the effect that part 1 of the act would come into operation on the day on which the act receives the royal assent, and the rest of the act would come into operation on a date or dates to be fixed by proclamation. When I asked why that was the case, the minister launched into the following —

> This is the standard provision. I understand that it reflects the necessity to make regulations.

The minister then backtracked and said —

> I am sorry. It appears that no regulations will come into play.

That causes me to wonder whether the minister is simply saying things, or whether there is reflection and analysis of what is before the minister and what is in the bill. It is plain from reading the bill that it does not contain a regulation-making provision, and there is no suggestion of that in either the explanatory memorandum or the second reading speech.

I raise this matter because I was left in significant doubt about whether I had misheard the exchange that took place. I find that my recollection was correct. I accept that we all make mistakes and misspeak from time to time. However, it concerns me if in a debate as important as Committee of the Whole, during which we drill into the details of legislation, the chamber is given supposed assistance that it cannot rely upon. That debate can be tedious for both the people asking questions and those answering them. However, it is helpful to know that we can rely on the information that is imparted. It suggests a lack of care by the minister in trying to assist the chamber and the Parliament in coming to grips with making laws for this state if we extract a piece of information only to find that it disappears like fairy floss when we try to tease it out, or if comments about how a certain provision is necessary because regulations need to be passed are then acknowledged almost immediately as a nonsense, because no regulations are involved.

JOBS — LNG PROJECTS

Statement

HON ROBIN SCOTT (Mining and Pastoral) [6.28 pm]: Today I asked question without notice 714 to the Minister for Regional Development representing the Minister for State Development, Jobs and Trade about encouraging international engineering companies to set up on the North West Shelf. I want to thank the Minister for Regional Development for passing on the answer from the Premier; Minister for State Development, Jobs and Trade. The minister's answer was fine; I accept the minister's answer. The answer was that the Premier supports and encourages any large companies setting up in the Pilbara and the Kimberley. However, I was not asking for support; I was asking whether the Agent General in London could make a point of encouraging these companies to come to the Pilbara or the Kimberley because that is where the action is. The gas companies that are up there at the moment have contracts running for more than 40 years. Many international companies would come here. Unfortunately, the federal government did not get its company tax cuts through, which will be another hurdle for any company to come to Western Australia. At the moment, it is only lunchtime over in London. The Premier could make a phone call to tell the Agent General to get onto these companies, tell them about the 40-year contracts and encourage them to come to the coalface or, in this case, the gas fields. I can just picture the vacant houses in Broome, Karratha and Port Hedland filling up or, even better, if these companies come here long term, they will build their own workshops and offices. It would be good for the whole region.

House adjourned at 6.30 pm

QUESTION ON NOTICE

Questions and answers are as supplied to Hansard.

MINES AND PETROLEUM — HAWTHORN RESOURCES — PINJIN STATION

1417. Hon Robin Chapple to the minister representing the Minister for Mines and Petroleum:

I refer to Department of Mines and Petroleum (DMP) specific advice given to the Appeals Convenor and Minister for the Environment report/decision dated January 2016, concerning potential clearing impacts of dust, noise being generated from Hawthorn Resources about the proximity of clearing in relation to the homestead and amenity impacts on Pinjin Station well before the Mining proposal was lodged with the department seeking approval with a document dated 26 November 2015, and I ask:

(a) in its advice to the Appeals Convenor is it correct that the DMP acknowledged that the approved clearing footprint included the Pinjin Homestead and associated infrastructure;

(b) if no to (a), what is specifically correct in relation to this advice provided to the Appeals Convenor and Minister for the Environment;

(c) is it correct that the Appeals Convenor report in part states 'Additionally DMP advised that the applicant is required to comply with section (20)(5) of the Mining Act and that any non compliance will be deemed a breach of condition which may result in a penalty being imposed or the tenement forfeited';

(d) if no to (c), can the Minister quote the specific text of what was in the Appeals Convenor report/decision;

(e) can the Minister explain how a penalty can be imposed or the tenement be forfeited for a failure to comply with section 20(5) of the *Mining Act 1978*; and

(f) if no to (e), why not?

Hon Alannah MacTiernan replied:

(a) Yes.

(b) Not applicable.

(c) Yes.

(d) Not applicable.

(e) The advice previously provided by the Department of Mines and Petroleum to the Appeals Convenor was incorrect. Section 20(5) of the Mining Act does not include any breach provisions, and hence cannot be considered a breach of tenement conditions. While it is the case the failure to comply with section 20(5) may constitute an offence under other sections of the Mining Act, which can result in penalties being imposed, Section 20(5) of the Mining Act does not link to the tenement condition breach provisions within the Act, and hence cannot be in itself considered a breach of tenement conditions.

(f) Not applicable.

_____