



# Parliamentary Debates

(HANSARD)

FORTIETH PARLIAMENT  
FIRST SESSION  
2020

LEGISLATIVE ASSEMBLY

Tuesday, 3 November 2020

# Legislative Assembly

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**THE SPEAKER (Mr P.B. Watson)** took the chair at 2.00 pm, acknowledged country and read prayers.

## ASSEMBLY CHAMBER — SEATING ARRANGEMENTS

*Statement by Speaker*

**THE SPEAKER (Mr P.B. Watson)** [2.02 pm]: Welcome back! The full group is here today. I would also like to welcome back my son and his wife, who have just come back from Barcelona. They are in isolation, watching this today.

**Mr Z.R.F. Kirkup**: Is there nothing better to watch on TV?

**The SPEAKER**: They are watching on TV; are they not lucky that they do not have to be here!

I have a Speaker's statement about the sitting arrangements.

I would like to welcome everyone back; I have already done that.

Following advice that I received last week from Dr Andrew Robertson, Western Australia's Chief Health Officer, and after consultation with the party leaders, the Assembly has returned to normal seating arrangements in the chamber for the remainder of the sittings. This means that all members can sit in their allocated seats and will be able to speak from their seats again, with Hansard returning to the floor of the chamber. The Speaker, Deputy Speaker and Acting Speakers will sit at the clerks' table during the consideration in detail stage of bills.

Divisions will continue to be run as they have over the past couple of months, with members entering behind the Speaker's chair and filing past the clerks at the table to be counted, as this has proven to be a popular method of voting. Chamber doors will remain open for the time being, as well as the Bar of the house during sitting. Current hygiene measures will remain in place, including the provision of hand sanitizers at each of the entrances to the chamber.

In terms of water service, I am happy for members to continue to bring their own water bottles into the chamber or help themselves to paper cups and water left at the back of the chamber.

The Speaker's gallery remains open for advisers and members' guests, but social distancing is still to be observed. The public gallery will remain closed at this stage, with the exception of guests attending the Assembly for condolence motions or valedictory speeches.

For members' information, I table a copy of my letter to the Chief Health Officer and his response.

[See paper [3934](#).]

## FUTURE HEALTH RESEARCH AND INNOVATION FUND STRATEGY

*Statement by Minister for Health*

**MR R.H. COOK (Kwinana — Minister for Health)** [2.04 pm]: I rise to announce the tabling of the "WA Future Health Research and Innovation Fund Strategy 2020-2022". The FHRI fund is the centrepiece of our government's commitment to driving health and medical research and innovation in Western Australia at a time when the significance of these fields has never been greater. Interest earned on Western Australia's Future Fund, our state's sovereign wealth fund, provides a secure, long-term source of funding to support high-calibre local health and medical research, innovation and commercialisation initiatives. Through these initiatives, the FHRI fund is intended to advance the health and prosperity of all Western Australians and the sustainability of the health system, and advance the state's standing as a leading centre for health and medical research, innovation and commercialisation. The strategy sets the vision for the fund and is the culmination of substantial consultation over the past two years. It will support the pursuit of strategic objectives and realise a vision on which our brightest and most innovative minds can build.

The release of the strategy coincides with the recent announcement of the fund's advisory council. Chaired by HBF CEO, John Van Der Wielen, other eminent members include Dr Glenn Begley, CEO, BioCurate; Mr Kane Blackman, community representative; Professor Sandra Eades, Dean of Medicine, Curtin University; Ms Dale Fisher, CEO, Silver Chain Group, Adjunct Professor at Monash and Swinburne universities; Professor Christina Mitchell, AO, Executive Dean of the Faculty of Medicine, Nursing and Health Sciences, Monash University; Mrs Vicki O'Donnell, CEO, Kimberley Aboriginal Medical Services Ltd; Dr D.J. Russell-Weisz, director general, Department of Health, who is a non-voting member; and Mr Richard Sellers, acting director general, Department of Jobs, Tourism, Science and Innovation, who is also a non-voting member.

This inaugural FHRI fund strategy has been developed by the Department of Health, in consultation with stakeholders. Future strategies will be developed by the advisory council. The FHRI fund's enabling legislation commenced in

June this year, but the appointment of the advisory council and release of the strategy mark the practical starting point for FHRI fund activities and a new era for health and medical research, innovation and commercialisation in Western Australia.

I now table the strategy.

[See paper [3935](#).]

### **BUSHFIRE SEASON — STRIKE FORCE VULCAN**

*Statement by Minister for Police*

**MRS M.H. ROBERTS (Midland — Minister for Police)** [2.06 pm]: Last year's summer had some of the most terrible bushfires that this country has ever seen. In Western Australia, fires burned for days around Seabird, Geraldton, Collie and Yanchep. Summer is here again.

We know that readiness for the bushfire season is a key to the successful preservation of lives and property. A significant portion of that readiness is provided through the work of Strike Force Vulcan. This is a dedicated team led by senior detectives from the Western Australia Police Force arson squad in close collaboration with the Department of Fire and Emergency Services and the Department of Biodiversity, Conservation and Attractions. Its task, every year, is to both prevent bushfires and investigate arson. This year, Strike Force Vulcan, in recognition of the changing climate and heightened fire risk, will be prolonged to run for six months, commencing on 1 November 2020 and continuing until 30 April 2021. Strike Force Vulcan identifies and monitors arsonists, provides high visibility patrols and delivers a rapid investigative response to deliberately lit bushfires. It investigates suspicious bushfire activity across the entire state of Western Australia. Numerous overt and covert strategies are used to identify and apprehend arsonists, including covert cameras and surveillance. Rewards of up to \$50 000 are also available for information that leads to the identification and conviction of an arsonist. During the 2019–20 bushfire season, Strike Force Vulcan investigators charged 24 people with bushfire-related offences. Only last week, police charged a 32-year-old man with allegedly setting a number of fires recently in Kings Park, Bold Park and Innaloo.

Western Australians should not fear the summer. We know what bushfires can do—the terrible damage that they wreak in communities, lives, homes, businesses, animal habitats and on wildlife. Bushfires not only affect the community, but also can kill animals and destroy their habitats. We must do all that we can to be ready so that, just as we have stepped up to the challenge of COVID-19, we can continue to keep our community safe.

### **OFFICE OF MULTICULTURAL INTERESTS — COMMUNITY CAPITAL WORKS FUND**

*Statement by Minister for Citizenship and Multicultural Interests*

**MR P. PAPALIA (Warnbro — Minister for Citizenship and Multicultural Interests)** [2.09 pm]: I am pleased to inform the house that in recognition of significant contributions of Western Australians from culturally and linguistically diverse—CALD—backgrounds, the McGowan government's 2020–21 budget includes funding for a community capital works fund for premises owned by CALD community associations, which will improve community facilities and provide opportunities for business in Western Australia.

With the allocation of \$3 million, the newly established community capital works fund will help the Western Australian community to recover from the economic impact of COVID-19. The fund will be administered by the Office of Multicultural Interests and will be available to CALD community associations or community service organisations that were established to provide services for CALD communities. Grants of up to \$250 000 will assist CALD community associations to improve their facilities and therefore enhance their services to their members and the community. The funding will create immediate opportunities for local businesses, including, among others, architects, engineers, construction trades and manufacturers. Eligible CALD community associations will be able to apply for grants to support projects that maintain, refurbish or extend their existing facilities. The funding program will be offered as a single round with specific eligibility and assessment criteria. These facilities are not just buildings; they are thriving hubs of activity that are often the heart of a community. These are places where communities come together, connect with each other, and where a sense of place and belonging is fostered.

I am sure that the house will agree that it is essential that our community groups have well-equipped facilities so that they can deliver important cultural, social and welfare activities to their members. I urge members to ensure that they pass on this information to CALD community associations and service providers in their electorates and encourage them to apply if they meet the eligibility criteria. Details of the community capital works fund, as well as guidelines and application forms, are available from the Office of Multicultural Interests website at [www.omi.wa.gov.au](http://www.omi.wa.gov.au).

### **CHILDREN'S WEEK**

*Statement by Minister for Community Services*

**MS S.F. McGURK (Fremantle — Minister for Community Services)** [2.11 pm]: I rise today to inform the house about Children's Week, which I had the pleasure of recently opening at the family fun day at Whiteman Park. Children's Week is a national annual event held around the fourth Wednesday in October. It is dedicated to celebrating children, promoting the Convention on the Rights of the Child as proclaimed by the United Nations in 1954 and reminding us of our responsibility to advocate for children as citizens.

In Western Australia, Meerilinga has been the convenor of Children's Week since 1985. The theme for this year's celebrations was "Children have the right to choose their own friends and safely connect with others". Given the challenges faced by the Western Australian community this year, it was encouraging to see so many children and families connect with each other at the family fun day. Children's Week encourages children to learn through play and increase community awareness of the rights and needs of children.

This year, a partnership with Nature Play WA saw the launch of the nature play trails digital scavenger hunt. This free app, which is available until this Sunday, encourages families to explore and discover the great outdoors while solving quizzes and challenges along the way. Close to 20 events were held around regional Western Australia, which were funded through grants from Meerilinga thanks to the support of the Department of Communities. These events ranged from a town pool day in Exmouth to a teddy bear picnic and garden day at Wandering Community Centre to the children's takeover of Greenough Museum and Gardens.

On behalf of the McGowan Labor government, I thank Meerilinga for once again hosting Children's Week and acknowledge and celebrate every child across our state.

### QUESTIONS WITHOUT NOTICE

**The SPEAKER:** Members, it is question time. Do you have any questions? Member for Mount Lawley.

Several members interjected.

**The SPEAKER:** Members!

Several members interjected.

**The SPEAKER:** Members! I know that it is Melbourne Cup Day and there is a lot of excitement, but I am sure that the Liberal Party will get the next question.

### CORONAVIRUS — INTERSTATE BORDER RESTRICTIONS

#### 817. Mr S.A. MILLMAN to the Premier:

I refer to Western Australia's world-leading response to the COVID-19 pandemic, which has kept our state safe and strong. Can the Premier outline to the house what this government's decision to cautiously transition from a hard border to a controlled border will mean to Western Australia?

#### Mr M. McGOWAN replied:

I thank member for Mount Lawley for the question and for his enthusiasm for the Parliament, which some people might want to emulate.

Without doubt, the hard border has kept Western Australia safe and strong. For 206 days now, Western Australia has had not one case of community transmission of COVID-19. This is a great achievement, and all Western Australians can be proud for participating and assisting the government in what we had to do over the course of those 206 days. We have turned Western Australia into an island within an island and our strategy has worked. The hard border was put in place to protect the health of all Western Australians. We have maintained a cautious, considered and careful approach based upon the expert health advice that we have received. Based on that health advice and the rates of local infection in the eastern states—Victoria has now had four days of zero COVID cases—we can now safely transition from the hard border to a new controlled interstate border.

The existing hard border exemption system will be removed and replaced with a controlled interstate border regime that is based on an updated nationwide health-based threshold. Based on the health advice, which I will table, certain rules will be in place for states and territories depending on their individual level of risk. From 14 November, it is expected that those coming from states or territories deemed very low risk—that is, with no local COVID cases in 28 days—will be permitted to enter WA if they comply with the following: all Perth Airport arrivals will undergo a health screening and temperature test and they will need to be prepared to take undertake COVID-19 testing at a new Perth Airport COVID clinic; we will ensure that there is a G2G PASS declaration for all people to identify the jurisdictions they have been in, and everyone will get a reminder over the course of the first week to get a health check if they are unwell. That applies to the very low risk states and territories—that is, South Australia, Northern Territory, Queensland, Tasmania and the Australian Capital Territory.

On the other hand, New South Wales and Victoria are deemed low risk. Travellers from those states will be required to do the following: self-quarantine for 14 days in suitable premises, as they do now; present for COVID-19 testing on the eleventh day, as they do now; and take a COVID-19 test at the Perth Airport COVID clinic if it is deemed necessary. The conditions on people from New South Wales and Victoria, which comprises 60 per cent of the nation's population, are identical to what is in place under the hard border. However, when Victoria and New South Wales reach 28 days of no local cases, we will consider moving them into the other category.

I want to be really clear that we will have no hesitation in reintroducing the hard border or delaying the implementation of the controlled border if the health advice indicates that is what we need to do to protect Western Australians.

November 14 is still a week and a half away. If there is evidence that we need to delay the implementation of the controlled border, particularly for New South Wales and Victoria, that is what we will do. I urge all Western Australians to continue to take personal responsibility by not going to work or go out if they are sick and to engage in good hygiene.

I want to comment on one final thing. We have lawyers who have gone to Canberra to be in the High Court today to participate in Mr Clive Palmer's legal action against the state of Western Australia. Everything that we have done in relation to putting in place borders has been to protect the health of Western Australians, and the measures that we put in place have worked. They have worked spectacularly well; other states and countries around the world wish they had the same outcomes as Western Australia. I say to Mr Palmer: you are a menace to the health of all Western Australians and you are a menace to the health of all Australians. Mr Palmer's conduct in this and everything he does is, frankly, disgraceful and disgusting. Mr Palmer wants to take away not only the health, but also the wealth of all Western Australians. I say this about Mr Palmer: he is a clear and present danger to this country and to this state. I think he is a disgrace to the nation and an embarrassment to Queensland.

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

Several members interjected.

**The SPEAKER:** It was 50–50 but I will go with you, member for Dawesville!

#### AMBULANCE RAMPING

**818. Mr Z.R.F. KIRKUP to the Premier:**

I look forward to government members cheering me every time I get on my feet!

Can the Premier explain why Western Australian hospitals have record ambulance ramping two weeks away from opening up to a travel bubble, and why has this issue not been addressed after nine months of this pandemic?

Several members interjected.

**The SPEAKER:** Members!

**Mr M. McGOWAN replied:**

Just so that the member understands, the premise of his question is incorrect. The government will still insist upon a controlled interstate border between Western Australia and the other states. Bar the hard border, it is something that is unprecedented in the last 100 years in this country. If we had even suggested this measure a year ago, people would have said that it was a preposterous and ridiculous suggestion. The controlled border will continue in place.

When it comes to the situation in our hospitals, our hospitals are first rate. Our health staff are world class and our hospitals are world class here in Western Australia. Our emergency departments are the best-performing EDs, as independently assessed, of anywhere in the country. However, when it comes to the issues that we are currently dealing with a few factors are involved. Firstly, we had around three months of very little or no elective surgery being conducted in our hospitals in Western Australia. A major catch-up is now going on. We have had to catch up and process elective surgery at above 100 per cent of the normal rate.

Several members interjected.

**The SPEAKER:** Members!

**Mr M. McGOWAN:** That fills beds in our hospitals, which obviously causes some delays in getting people from emergency departments into hospital beds. If members think about that, it makes logical sense. Secondly, we have to stream people when they come into emergency departments into two categories: respiratory and non-respiratory. That is a COVID-19 response measure. It is causing some delays in our emergency departments. Thirdly, the advice from the director general of Health that I received today is that mental health issues have significantly increased. There may be a range of reasons for that and it is something that we are attempting to get to the bottom of, but the increase in mental health issues creates some issues in emergency departments, as you can imagine, Mr Speaker. Obviously, ambulance availability is affected by the cleaning regime, which is a COVID safety measure that we have put in place. The government has put in place hospital liaison managers in a range of hospitals to deal with these issues. The pandemic has created ongoing consequences and issues that the government is currently dealing with.

#### AMBULANCE RAMPING

**819. Mr Z.R.F. KIRKUP to the Premier:**

I have a supplementary question. Why is it now that a different streaming process, mental health admissions, elective surgery and ambulance ramping is contributing to this problem, when one month ago the Premier said that it was only ambulance COVID-19 cleaning that was an issue for these record levels of ambulance ramping in our state?

**Mr M. McGOWAN replied:**

Clearly, COVID safety measures are in place across the state. One measure is that we clean out our ambulances every time they have transported a patient. When the member thinks about that and compares that with what may have been in place before, it is going to create a delay in terms of ambulance availability. It just makes logical sense. The

other point that I raised, which is the new way of managing people who come into emergency departments based upon their respiratory condition, will also create delays, as will the elective surgery catch-up. We basically stopped the vast majority of elective surgery for months on end; it was unprecedented. It is not as though all that surgery has suddenly gone away. We actually have to deal with it. Many people are now dealing with it and we are running at above 100 per cent of our capacity when it comes to dealing with elective surgery. That fills beds in the hospitals and makes it more difficult for people to transfer from an emergency department into a hospital bed. That is a consequence of COVID. It was not something that the government did; it is a consequence of us dealing with COVID. We are doing our best in difficult circumstances to manage the situation. Our position has been consistent the whole way along. We want to keep Western Australians safe and healthy. Everything we have done from the beginning of the COVID pandemic until now has been directed towards that.

#### CORONAVIRUS — GOVERNMENT RESPONSE

##### **820. Ms S.E. WINTON to the Minister for Health:**

I refer to the McGowan Labor government's efforts to keep Western Australia safe and strong. Can the minister outline to the house what measures this government is taking to ensure that Western Australia continues to be well prepared to respond to any outbreaks of COVID-19?

##### **Mr R.H. COOK replied:**

I thank the member for the question. Before I answer the question, when the Premier gave his answer on moving from hard borders to controlled borders, he wished to table the Chief Health Officer's advice. I now do so on his behalf.

[See paper [3936](#).]

**Mr R.H. COOK:** The McGowan government is committed to keeping Western Australians safe so that we can keep our economy strong. Regardless of the stage of the process, it has always been the same game around testing, tracing, isolating, and making sure that we have all these systems in place to ensure that Western Australians are kept safe. Our hard border policy has allowed us time to prepare for any future outbreaks of the virus in Western Australia.

I want to talk about a few of the initiatives that we have undertaken recently, which may be of interest to members of Parliament. The preparations include the customisation of the Emergency WA platform for COVID-19 alerts; innovation funding of \$500 000 to pilot new COVID-screening technology; and a wastewater testing program for COVID-19. Last weekend, the Minister for Emergency Services and I announced an adaptation of the Department of Fire and Emergency Services' Emergency WA website platform for future community COVID-19 alerts and warnings. The platform has utilised Emergency WA's map-based display, which provides vital information to help people impacted in areas to make informed decisions about their safety. We are obviously used to seeing it used during cyclones, bushfires and other disasters. The platform can now be used to provide geographically targeted information for communities affected by a localised outbreak of COVID-19. There exists a high level of awareness of it in the community, so we think that this will be an important tool for making sure that we can keep people informed. As part of the customisation, a human pandemic icon has been created to identify alerts and warnings specific to COVID-19. If required, the Department of Health has also investigated the use of, and access to, the national emergency alert telephone warning system, which delivers emergency messages to fixed phone lines and mobile phones in a defined area. As many members would know, this is used by DFES when there is a direct and imminent threat to lives and properties.

Recently, I was very pleased to announce some innovation funding for a local start-up company's bid to develop a platform that supports rapid, low-cost and large-scale COVID-19 screening. This company has been given a boost thanks to the new \$500 000 innovation funding by the McGowan government. The WA start-up Avicena Systems is behind the venture that uses saliva samples and promises to deliver a more efficient alternative to the current COVID screening system. The platform is designed to provide portable, scalable screening with rapid throughput that will enable the processing of up to 5 000 samples an hour. If we can get this technology landed, it will be a game changer to make sure that we can screen significant levels of people, particularly those coming through airports and other areas that involve travelling members of the public. An evaluation program to expand the polymerase chain reaction testing to the state's sewerage network was announced in September and has been underway since. The first samples to be tested were collected by the Water Corporation from metropolitan wastewater treatment plants in April this year. PathWest has validated the testing methods and has begun testing the stored samples. All stored samples will be tested by the end of this week. The pilot program will also consist of two distinct projects, the first of which will be to test historical samples collected by the Water Corporation. The second project will test prospective samples from quarantine hotels in which the sampling can be matched to the times when we know that COVID cases are staying at the hotels. This will take place from 9 November. This is important work that will help us to understand, as our wastewater testing regime goes forward, what it means for the community and how we can continue to be informed by this wide range of testing that goes on in conjunction with the symptomatic testing of around 15 000 people a week. This is fantastic work by the Department of Health to make sure that we continue to be vigilant, continue to be safe and can keep Western Australians safe into the future.

## SYNERGY — UNION OFFICIALS — SALARIES

**821. Mr D.C. NALDER to the Premier:**

Can the Premier explain how union officials in Synergy with a base salary of \$145 000 can end up with a final salary of \$360 000, and can the Premier confirm that this massive increase would mean that they are either receiving double time for every working hour or are operating long and dangerous hours or a combination of both?

**Mr M. McGOWAN replied:**

The premise of the member's question, like so many opposition questions, is wrong. There are no union officials at Synergy who are being paid money. Once again, the opposition does not know what it is talking about.

## SYNERGY — UNION OFFICIALS — SALARIES

**822. Mr D.C. NALDER to the Premier:**

I have a supplementary question. Would the Premier care to explain the overtime arrangements at Synergy?

**Mr M. McGOWAN replied:**

That is a completely different question. Today in question time, in the last three sitting weeks of this term of government, the opposition missed its question, and then both its first and second questions have had false premises. That is how the opposition is going.

Several members interjected.

**The SPEAKER:** Members!

**Mr M. McGOWAN:** Bear in mind that I have been here a long time. On the first day of the first week of the final group of sittings, the Liberal Party has chosen not to move a matter of public interest motion. It does not have anything to talk about! This is the opposition. This is the Liberal Party of today.

**Mr W.R. Marmion:** It's the National Party's turn.

**Mr M. McGOWAN:** And then they blame the National Party, Mr Speaker! I know that the National Party is responsible for lots of things that have gone wrong, but I think it is a bit rich of the Liberal Party, in the final three weeks of sitting, not to be able to sort itself out.

I make this point to the member for Bateman. He was a minister in the last government for a fleeting period, before he challenged the leader who put him in there. Be that as it may, the arrangements for overtime at Synergy are identical to the arrangements that were in place during the eight and a half years of the last government.

BUURABALAYJI THALANYJI ABORIGINAL CORPORATION —  
MATTHEW SLACK — LABOR PARTY DONATION

**823. Mr V.A. CATANIA to the Premier:**

I refer to the Premier's answer to my question on Tuesday, 18 February 2020, in which he stated —

Whatever corporation they might be or whatever background they might have, they are eligible to donate to a political party. As long as the law has been complied with ...

Given that the Buurabalayji Thalanyji Aboriginal Corporation is a charitable trust and, under the law, is not permitted to donate to a political party, why did the Labor Party accept \$60 000 in donations?

**Mr M. McGOWAN replied:**

I answered all these questions. I note that the Nationals WA sought donations from this organisation as well.

**Mr V.A. Catania:** Not at all.

**Mr M. McGOWAN:** Maybe the member was not told. Maybe the Leader of the Nationals WA does not trust him at times.

**Mr V.A. Catania** interjected.

**The SPEAKER:** Member for North West Central!

**Mr M. McGOWAN:** Maybe the member's undermining of his leader means that he is not in the loop. Maybe his branch stacking and forcing people out of the Parliament from the other house means that he is not in the loop. Maybe the fact that he has brought in practices to the National Party that the National Party does not like, and the fact that he is out there branch stacking and forcing people out of the upper house means that they are not bringing him into their conversions.

**Mr V.A. Catania:** Answer the question!

**Mr M. McGOWAN:** I have answered all these questions. Aboriginal people have the right to self-determination. That is something we believe in.

BUURABALAYJI THALANYJI ABORIGINAL CORPORATION —  
MATTHEW SLACK — LABOR PARTY DONATION

**824. Mr V.A. CATANIA to the Premier:**

I have a supplementary question. Has the Premier taken up this matter with the state secretary of his party, and when will he return the \$60 000 in donations?

**Mr D.R. Michael** interjected

**The SPEAKER:** Member for Balcatta, I call you to order for the first time.

**Mr M. McGOWAN replied:**

I have answered all these questions before. Aboriginal organisations and Aboriginal people are, like anyone else, able to participate in the political process.

**Mr V.A. Catania:** It's a charitable trust.

**The SPEAKER:** Member for North West Central, you have had two goes.

**Mr M. McGOWAN:** I note that over the break, the National Party had people marching around at events and doing Hitler salutes. The sort of forces aligned to the member for North West Central that are taking over the gentler aspects of the National Party mean that we should all be very, very worried about the future of that party.

WESTERN POWER, HORIZON POWER AND SYNERGY —  
PRIVATISATION AND DEREGULATION POLICIES

**825. Mr D.R. MICHAEL to the Minister for Energy:**

I refer to the commitment that the McGowan Labor government made to the people of Western Australia that it would stop the Liberal Party from privatising Western Power and keep it in public hands. Can the minister outline to the house what has been the impact in the eastern states of failed privatisation and deregulation policies, and can the minister advise the house what would happen in WA if this government adopted such policies?

**Mr W.J. JOHNSTON replied:**

What an excellent question from an excellent member of Parliament! It is interesting that when the electricity system in Victoria was privatised and deregulated, prices went up by 200 per cent. That is what happened.

**Mr D.C. Nalder:** And what have they done?

**Mr W.J. JOHNSTON:** The member for Bateman called out, "What have they done since?" It does not matter. Prices doubled.

**Mr D.C. Nalder** interjected

**The SPEAKER:** Member for Bateman!

**Mr W.J. JOHNSTON:** Prices have not fallen in Victoria. They have not continued to rise, but that does not mean that they have fallen. This is a failed policy. The policy proposed on Sunday by the Liberal Party is privatisation by stealth. What the Liberal Party is intending to do is to give away Synergy's profits and keep its losses. That is what the Liberal Party is proposing to do.

**Mr D.T. Redman** interjected

**The SPEAKER:** Member for Warren–Blackwood, I call you to order for the first time.

**Mr W.J. JOHNSTON:** I tell members what: yesterday on radio, Mr Gareth Parker asked the shadow minister how much he thought electricity prices would come down. What did the member for Bateman say? He said —

Oh, you know, that's ... that's a bit of a, you know, multi-million dollar question.

The member cannot even tell us what his policy would achieve! Everybody should remember that every dollar would need to be topped up by taxpayers, because this policy would increase the losses by Synergy and taxpayers would have to put in money to keep Synergy whole.

**Mr D.C. Nalder** interjected.

**The SPEAKER:** Member for Bateman, I call you to order for the first time.

**Mr W.J. JOHNSTON:** The member quoted Tasmania. Ninety-seven per cent of residents in Tasmania still buy their electricity from the government.

**Mr D.T. Redman** interjected.

**The SPEAKER:** Member for Warren–Blackwood, I heard you the first time and I heard you the second time, so I call you to order again.

**Mr W.J. JOHNSTON:** It is ridiculous to compare Western Australia with Tasmania. If we compare Western Australia with South Australia, guess what? Prices are more expensive there. That is where it has been privatised. Let us

look at Tasmania. This is what the member wants us to look at. This is a map of Tasmania. Members can see that it is a distance of 330 kilometres to the north west coast, 240 kilometres to the north east coast and 150 kilometres to the west. That is the size of Tasmania. We can translate that onto a map of Western Australia. It goes out to York, does not even get to Geraldton—it goes just past Dongara—and does not even get to Manjimup. We can look at it on a bigger map. Of course it is easy to provide cheap electricity to a tiny little grid that uses hydropower. Everybody could run a system like that. If the Liberal Party is saying that it is going to abandon regional customers, of course there will be cheaper electricity. We know that this is not a policy for Western Australia; this is a policy for a small state like Tasmania. South Australia, which is comparable with Western Australia, has higher electricity prices. Tasmania does not even have competition. Ninety-seven per cent of consumers in Tasmania continue to buy electricity from the government entity. There has been no genuine competition in Tasmania. I remind people how big the south west interconnected system is. It is 830 kilometres north to south and 750 kilometres east to west. That is before we count Horizon Power.

The opposition's policy is a risk to all consumers, but mostly it is a risk to regional consumers. This is the challenge for the National Party. Where does it stand? Does it stand with the uniform tariff policy, which states that no matter where someone lives in the state, who they are, what their name is or who their friends are, they pay the same price for electricity, or does the National Party agree with the Leader of the Opposition, who wants prices to be cheaper in the metropolitan area than in country areas?

#### HOMELESSNESS — RENT INCREASES AND EVICTIONS

##### 826. Mr A. KRSTICEVIC to the Premier:

I refer to the homelessness crisis overseen by the government's incompetent Minister for Community Services and the government's decision to secretly sell off over 1 000 public houses. Given the extremely low rental vacancy rate in Western Australia, can the Premier confirm that the homelessness crisis will get worse when the freeze on rent increases and evictions is lifted and a large number of poor and vulnerable people will be forced onto the streets?

##### Mr M. McGOWAN replied:

Seriously, this member has outdone himself again. We have an outstanding Minister for Community Services; Women's Interests in the member for Fremantle, who does a terrific job in a difficult portfolio.

##### Mrs L.M. Harvey interjected.

**Mr M. McGOWAN:** The nastiness and the bile from the Liberal Party is ongoing. It is being whispered across the chamber, as per normal.

Clearly, it is a difficult portfolio and there are lots of issues to deal with. We are ensuring that there is a massive increase in the supply of housing for Western Australians. The figures that have come out in the last few months show that there is more residential housing construction per capita in Western Australia than in any other state in the country by a long, long way. Under this government, more people are getting and owning their own homes than in any other state in Australia. We kept Keystart operating in the way that it has traditionally operated to allow for that and we have put in place grants, in conjunction with the commonwealth government, to allow more people to build their own homes. We have worked very cooperatively with the commonwealth government, and I urge it to continue its \$25 000 grant, as the state government is continuing its \$25 000 grant, through to the end of next year, to allow more people to build their own home. The way governments generally deal with these sorts of issues is to secure more housing supply—more people in their own house—to deal with people moving out of rentals. That is what we are doing. Members would probably find that a great many of the people building houses are currently renting properties and they will move into those other properties in due course.

In terms of Homeswest, obviously we had to deal with some longstanding issues—whether it was Brownlie Towers, the flats on Stirling Street or the hundreds upon hundreds of dilapidated properties that needed to be demolished. The government had to deal with that because it had never been dealt with before. I do not know whether members opposite ever went to or saw those places. If they did, they would know it was something that had to be dealt with. We have dealt with that. We are putting in place combined programs worth around \$800 million of additional spend in both public housing and the program for people to build their own home.

I might note that the housing market and the housing industry in Western Australia are going extraordinarily well. If any members opposite ever talk to members of the housing industry or people involved in housing construction—I note they do not attend industry events or functions anymore—they would know that they are incredibly impressed and incredibly optimistic about the market as it currently stands and the number of people getting into their own home.

#### HOMELESSNESS — RENT INCREASES AND EVICTIONS

##### 827. Mr A. KRSTICEVIC to the Premier:

I have a supplementary question. Can the Premier confirm that his government has absolutely no meaningful response to the short-term housing crisis crippling Perth, and that we are going to see an explosion of tent cities in Western Australia?

**Mr M. McGOWAN replied:**

The member does not listen to anything and he is incapable of learning. I just explained to the member the situation as it currently stands in Western Australia.

**Mr A. Krsticevic** interjected.

**The SPEAKER:** Member for Carine!

**Mr M. McGOWAN:** I note that the member was trying to force people in Homeswest properties out of his electorate. He was going and buying them himself, as it turns out, to force them out of his electorate. What was he doing? He was using inside information to get Homeswest tenants out of his electorate.

**Mr A. Krsticevic** interjected.

**The SPEAKER:** Member for Carine, I call you to order for the first time.

**Mr M. McGOWAN:** He was working with the then Minister for Housing, Troy Buswell, on these issues when he was in government.

**Mr A. Krsticevic** interjected.

**The SPEAKER:** Member for Carine, I call you to order for the second time.

**Mr M. McGOWAN:** The member cannot come in here with complaints when he was trying to get them out of his electorate.

**Mr A. Krsticevic** interjected.

**The SPEAKER:** Member for Carine, I call you to order for the third time.

**Mr M. McGOWAN:** The government is putting in place an \$800 million program and two Common Ground facilities. We are working constructively with the City of Perth, agencies are working constructively, we have \$100 million dedicated to homelessness issues across Western Australia and we have the biggest housing construction boom of any state in Australia. Who hates it? The Liberal Party hates it.

## STATE ECONOMY

**828. Ms M.M. QUIRK to the Treasurer:**

I refer to the McGowan Labor government's strong response to the economic impacts of COVID-19. Can the Treasurer advise the house on the assessment by global credit rating agencies of the government's efforts to keep Western Australia safe and strong, and, furthermore, outline to the house the assessment by credit rating agencies of this government's record of strong financial management?

**Mr B.S. WYATT replied:**

I thank the member for Girrawheen for that quite outstanding question. Those who follow these things closely, as I do, would have seen on 29 October, just last week, that both Moody's Investors Service and Standard and Poor's released their update on Western Australia's credit rating post-budget. Before I reflect upon what they said, I thought I might reflect upon what they were saying in the lead-up to the demise of the former Liberal-National government, when we were losing our credit rating, from memory, almost on a weekly basis. They described the former Liberal-National government as "lacking political will to make difficult decisions", a "failure to constrain spending growth"—as it is ticking over into the multiple billions thus far in the event that the Liberal Party is elected, that is something the ratings agencies will be paying close attention to—and, in particular, "an unwillingness to address long-term structural issues, leading to its deteriorating budgetary performance". That is what we had to deal with, colleagues, when we came into government in 2017.

I was very pleased to see a couple of comments in response to our budget, which I think has been received very well in the community. Firstly, from Moody's on the economy —

The early easing of restrictions in the state, given the low number of cases, and the strong mining sector have underpinned Western Australia's rapid economic recovery past the initial lockdown phase.

This is an important point to note —

We expect that the state's economy will continue to outperform its Australian peers over the next two-to-three years, augmented by the solid business investment projections and State government's stimulus measures.

The Premier referred a minute ago to our stimulus around the construction sector. It is going gangbusters, and we are seeing very strong spillover impacts into the established market as well. It is going very, very well as a result. I will also quote Standard and Poor's —

We believe Western Australia's financial management has improved in recent years. The current government has displayed a track record of robust cost control since its election. We expect this discipline to continue in the lead-up to, and beyond, the next election.

S&P has a view on who is going to win the next election! The document continues —

Supporting the state's management is the institutional framework within which all Australian states and territories operate. We consider this framework to be one of the strongest and most predictable for subsovereign governments globally.

This is an astounding result for Western Australia. As the Premier said, the only group I can find that despises this result is the WA Liberals. At every turn, with every good dataset, we see an outstanding outcome and an outstanding response from Western Australians coming out from the restrictions that we had to impose to fight the coronavirus. The point I want to make and emphasise was made by Moody's and Standard and Poor's: in all of this, we still have to have strong financial management. We cannot do what the WA Liberals demand: spend without restraint. We cannot do that. We will not get away with spending without restraint. Currently, in the lead-up to this election, the Liberals are clocking over about \$4 billion or \$5 billion in commitments. We will release those shortly.

**Dr D.J. Honey** interjected.

**The SPEAKER:** Member for Cottesloe!

**Mr B.S. WYATT:** I am surprised that the shadow Minister for Energy; Treasurer does not understand the impact on the balance sheet of the decision he announced on the weekend. Thankfully, we will be advising Parliament very shortly about the impact on the balance sheet of the Leader of the Opposition's announcement on the weekend. Ultimately, although members opposite announced that they do not have the slightest idea what the impact will be on energy policy, I can certainly tell them what it will do to the balance sheet, and it is in the hundreds of millions of dollars. The reality is that Western Australia's economy is doing the best of all the states in the nation and our finances are strong and robust because of the efforts of this government after the dismal failure of the former government. I know, again, when they see the WA Liberal Party bumbling around on TV, they pose the question, "Are you going to risk them?" I suspect I know that answer.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION —

"PRIVATE PROPERTY RIGHTS: THE NEED FOR DISCLOSURE AND FAIR COMPENSATION"

**829. Mr D.T. REDMAN to the Minister for Water:**

I refer to the recent report of the Legislative Council committee chaired by Hon Adele Farina into property rights that gives a damning assessment of the minister's agency's management of spring rights in the Manjimup and Pemberton districts.

- (1) How does the minister account for the significant inconsistencies in advice to farmers about spring rights?
- (2) Does he accept that this is creating significant unrest in the farming community over what is a clear legislative right?
- (3) What is he going to do about it?

**Mr D.J. KELLY replied:**

I thank the member for the question.

- (1)–(3) One of the things that I have noticed about the member during this period in opposition is that he constantly raises with me complaints about policies that were in place when he was not only in government, but also Minister for Water. He constantly writes me letters saying that his constituents had a dealing with my department and they are unhappy about X, Y and Z in water policy and asking me what I am going to do about it. I have to write back to the member and say that the policy that the department applies is the policy that he applied as Minister for Water. I hope he informs his constituents that the issue that they are complaining about was in fact his policy when he was minister. That is his pattern.

The issue of spring rights is complicated at times, depending on the circumstances of the particular farm and the assessment that is made by the department about whether or not water that is present on a property is in fact a spring right. The advice I am given is that that is a complicated policy that has to be assessed in every circumstance. The member writes me letters asking why this person is not entitled to access water based on spring rights. Some people raised that issue before the parliamentary inquiry. I get advice from the department that says that it applies that policy in exactly the same way as it has been for many years, including when the member was the minister. Sometimes when that policy is applied, the applicant gets the water that they are looking for; sometimes they do not. As a result, sometimes people are happy; sometimes people are not. My understanding is that that issue has been applied by the department consistently during this government, as it was during the member's term in government, including when he was the minister.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION —

"PRIVATE PROPERTY RIGHTS: THE NEED FOR DISCLOSURE AND FAIR COMPENSATION"

**830. Mr D.T. REDMAN to the Minister for Water:**

I have a supplementary question. Will the minister undertake to table the government response to the upper house committee report before the end of the parliamentary year, which is in fact when it is due?

**Mr D.J. KELLY replied:**

We will provide a report to that committee in due course, as is the normal practice of government.

## PUBLIC TRANSPORT INFRASTRUCTURE

**831. Ms J.J. SHAW to the Minister for Transport:**

I refer to the McGowan Labor government's efforts in keeping the WA economy safe and strong through its record investment in major transport infrastructure.

- (1) Can the minister update the house on the construction underway to deliver the Metronet Morley–Ellenbrook line?
- (2) Can the minister outline to the house how this, along with the Tonkin gap project, supports local businesses and creates more local jobs?

**Ms R. SAFFIOTI replied:**

I thank the member for Swan Hills for her question and her support for this very significant project.

- (1)–(2) Yesterday, I joined the Premier and the members for Morley and Maylands as construction started on the Tonkin gap project. This project has two parts: facilitating works for the Morley–Ellenbrook rail line and the widening of Tonkin Highway and construction of new bridges to reduce congestion and address one of the top bottlenecks in the metropolitan area, Tonkin Highway through Bayswater. As I said, groundworks are now underway. Yesterday, we did the first concrete pour.

**Mr D.J. Kelly:** Is it terrazzo?

**Ms R. SAFFIOTI:** I am slightly stereotyped by racism, but I will let that wash off and talk about the fact that we were in the median strip of Tonkin Highway while concrete was being poured. Workers were happy to be working on the Morley–Ellenbrook project. It is a major achievement.

Several members interjected.

**The SPEAKER:** Members on my left, I did not hear anything funny then. I do not know what you were laughing at.

**Ms R. SAFFIOTI:** The Morley–Ellenbrook rail line is a major commitment that we made. Of course, the Liberal Party lied to the people of Western Australia about that project not once, but twice. It is probably worthwhile going through some of the top quotes from the Liberal Party about this project since 2017. In May 2017, the Leader of the Opposition said that the Ellenbrook railway line would not be funded by Infrastructure Australia and that the project did not stack up. In 2018, she also said —

... it is likely that an independent panel of experts would have a look at the rail line to Ellenbrook and say, "Actually we don't need that until 2031 ..."

In 2018, the member for Bateman said —

But I can tell members now that the Ellenbrook line does not add up.

The member for Riverton said, "I have said do not commit funding to Ellenbrook."

**Mr D.C. Nalder** interjected.

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

**Ms R. SAFFIOTI:** The member for Riverton said that it would take a genius to come up with a business case to support that.

Several members interjected.

**The SPEAKER:** Members!

**Ms R. SAFFIOTI:** There we were yesterday with workers on site pouring concrete to support the bridge structures for the Ellenbrook rail line. I got feedback at the two construction industry dinners that I have been to over the past couple of weeks. I do not know where the Liberal Party was. A lot of companies out there are getting work and supporting thousands of jobs across Western Australia. They say, "Thank you for giving us secure jobs in Western Australia and a pipeline of work." They are out there delivering. There is a record amount of infrastructure. That is the feedback that we get wherever we go.

**Ms L. Mettam** interjected.

**The SPEAKER:** Member for Vasse, I call you to order for the first time.

**Ms R. SAFFIOTI:** During the estimates hearing, the member for Vasse asked what is the estimated total cost of these projects. I said that it is in the asset investment program in budget paper No 2. She said no and asked me to provide it as supplementary information. I said, "Member for Vasse, pick up the budget papers; it is there." She said no and asked me to provide it by way of supplementary information. She did not understand that the cost of the projects is in budget paper No 2. She did not understand that it is on the asset investment page. She kept referring to a summary page in budget paper No 3. It was one of the worst performances I have ever seen.

**Ms L. Mettam:** Bring the mirror in.

**The SPEAKER:** Member for Vasse, I call you to order for the second time.

**Ms R. SAFFIOTI:** They are nasty, nasty comments. During estimates, she did not know where to find Metronet in the budget papers. It was the worst and most embarrassing performance I have ever seen. As I said during estimates, I am happy to answer questions from the opposition, but I am not going to run a budget workshop during estimates just so they can learn how to ask a question.

#### WATER CORPORATION — FEES AND CHARGES

##### **832. Dr D.J. HONEY to the Minister for Water:**

As part of the budget, why has the minister not addressed Labor's water tax of \$400 a year on metropolitan households?

**Ms S. Winton** interjected.

**The SPEAKER:** Member for Wanneroo, I call you to order for the first time.

##### **Mr D.J. KELLY replied:**

I thank the member for the question. A bit earlier in question time, the Treasurer gave an answer to a question and he said that he was going to release some costings of what the other side's policies would cost the budget. It immediately came to mind: I hope the Treasurer has included a costing on the Liberal Party's promise to reduce water bills for every Western Australian by \$400, because that is the implication of the member's question. He has been banging on and claiming that we are overcharging by \$400 per customer. There are about a million residential Water Corporation customers in the state. Treasurer, what is \$400 times a million? I think that is about \$400 million. It is \$400 million—pause—per year! Across the forward estimates, according to the comment the member just made, that is \$1.6 billion. Member for Cottesloe, I just hope that the Treasurer has been listening to this answer and he will include that when he releases the cost of the Liberal Party's commitment to Parliament. What the member for Cottesloe does not understand is that cost reflectivity for the Water Corporation is not 100 per cent. His claim that we are overcharging Western Australian customers is just not right. Cost reflectivity across the business is not 100 per cent.

What would happen to the budget under the Liberal Party if it followed through with the intent of the member's question—that is, \$1.6 billion across the forward estimates? It would also threaten the fact that regardless of where someone lived in Western Australia, whether it be in Kununurra, Esperance or Cottesloe, they would pay the same amount for up to 300 kilolitres of water. If the Liberal Party ever implemented the policies it is talking about, that would threaten the uniform tariff price for water in regional WA. In this year's budget, we actually reduced the cost of water.

**Dr D.J. Honey:** No, you did not.

**Mr D.J. KELLY:** The member for Cottesloe said no, we did not. Again, I think the cost of water, including wastewater, is about \$27. The water contribution of the household model went down by about \$27; I will check the figure. But this year, water charges have gone down. Even I am surprised that the member for Cottesloe does not know that.

#### WATER CORPORATION — FEES AND CHARGES

##### **833. Dr D.J. HONEY to the Minister for Water:**

I have a supplementary question.

**Ms S. Winton:** Give it another crack!

**Dr D.J. HONEY:** I will.

**The SPEAKER:** Member for Wanneroo, I call you to order for the third time.

**Dr D.J. HONEY:** When is the minister going to stop hurting Western Australian families with his \$400 tax on metropolitan households instead of his plan for 2.5 per cent year-on-year increases in the future?

##### **Mr D.J. KELLY replied:**

Member for Cottesloe, is it your policy to reduce water charges by \$400 for each family? Is that your policy?

**Dr D.J. Honey:** I asked you the question!

**Mr D.J. KELLY:** Is that your policy?

Several members interjected.

**The SPEAKER:** Members on my left! Members!

**Mr D.J. KELLY:** Leader of the Opposition, is that your policy—to reduce water charges by \$400 per family in WA?

**Mrs L.M. Harvey:** You have no answer.

**Mr D.J. KELLY:** I am asking you. The member for Cottesloe is the shadow spokesperson for water. He is claiming we are overcharging by \$400.

**The SPEAKER:** Minister, through the Chair, please.

**Mr D.J. KELLY:** Member for Cottesloe, is it your policy that you will reduce water charges by \$400?

**Dr D.J. Honey:** Answer the question. You are putting up charges.

**Mr D.J. KELLY:** You talk about the hardship that we are creating, or you claim we are creating, but the previous government cut off the water to 2 500 families every year because they could not pay their bills. I repeat: 2 500 families every year were getting their water turned off because they could not pay their bills. When we came into government, we asked the Water Corporation to change the way it dealt with families who were finding it difficult to pay their water bills. We have now reduced that number by over 60 per cent. We have introduced a raft of measures to make it easier for people to pay their water bills. Our track record is so much better than yours ever was and ever will be.

**The SPEAKER:** That is the end of question time.

#### LEGISLATIVE ASSEMBLY ESTIMATES COMMITTEE A

##### *Correction of Answer — Division 44*

**MR B.S. WYATT (Victoria Park — Minister for Aboriginal Affairs)** [3.04 pm]: In accordance with standing order 82A, I advise the house, in my capacity as Minister for Aboriginal Affairs, that on 21 October 2020, in Estimates Committee A, “Division 44: Planning, Lands and Heritage — Services 2 and 4, Aboriginal Affairs”, the assistant director general of the Department of Planning, Lands and Heritage advised —

The Buurabalayji Thalanyji Aboriginal Corporation settlement at Onslow, for example, is an ongoing \$1.8 million a year to settle that.

The assistant director general advises that the \$1.8 million per year is related to the Anketell–Ngarluma agreement in the Pilbara, not Buurabalayji Thalanyji Aboriginal Corporation.

#### LEGISLATIVE ASSEMBLY ESTIMATES COMMITTEE B

##### *Correction of Answer — Division 26*

**MR P. PAPALIA (Warnbro — Minister for Tourism)** [3.04 pm]: I rise under standing order 82A to make the following corrections to information provided during Estimates Committee B on division 26 on 21 October 2020.

(1) At *Hansard* page E344, I stated —

North Harrisdale will become the third school the McGowan government has opened in the Jandakot electorate ...

In fact, North Harrisdale Primary School will become the second school the McGowan government has opened in the Jandakot electorate.

(2) On the same page, I stated —

The government has invested \$466.2 million in 2020–21 to build new schools ...

In fact, the government will invest \$456.2 million in 2020–21 to build new schools.

(3) At page E347, the record states —

... there was very wideranging consultation around the two schools, and that is still under consideration.

In fact, there was an internal study of student enrolment projections conducted around the two schools.

(4) In response to a question from the member for Roe about the number of exclusions in 2020, on page E353, I advised that as at 16 October 2020 there had been 54 exclusions; in fact, there had been 45 exclusions as at 16 October 2020.

(5) In response to the member for Roe’s question about how much funding had been allocated to the re-established directorate of agricultural education, at page E354, I advised —

It is one FTE as far as the directorate goes.

In fact, two FTE appointments have already been made and a further two appointments are anticipated by the beginning of the 2021 school year.

I table a record of the corrections.

[See paper [3937](#).]

#### LEGISLATIVE ASSEMBLY ESTIMATES COMMITTEE B

##### *Racing and Wagering Western Australia — Supplementary Information*

**MR P. PAPALIA (Warnbro — Minister for Racing and Gaming)** [3.06 pm]: I rise under standing order 82A to provide additional detail to information that I provided to Estimates Committee B on Tuesday, 20 October, under Racing and Wagering Western Australia. In response to the member for Churchlands’ question regarding the grants

distributed to Racing and Wagering Western Australia through the Department of Local Government, Sport and Cultural Industries, I indicated that this was related to the introduction of the point-of-consumption tax. However, I would like to clarify that these grants were specifically for the VIP tax concession rebate scheme and the goods and services tax rebate, which ceased upon the introduction of the point-of-consumption tax that was introduced on 1 January 2019.

**PAY-ROLL TAX RELIEF (COVID-19 RESPONSE) AMENDMENT BILL 2020**

*Returned*

Bill returned from the Council without amendment.

**MAIN ROADS WESTERN AUSTRALIA — SIGNAGE**

*Petition*

**MR V.A. CATANIA (North West Central)** [3.07 pm]: I have a petition that has been certified by the clerks. It is signed by 41 petitioners and is couched in the following terms —

**Mr D.J. Kelly:** Are they real people?

**Mr V.A. CATANIA:** It is not your Labor Party memberships! It states —

To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

Several members interjected.

**The SPEAKER:** Members! Start again.

**Mr V.A. CATANIA:** The petition states —

To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

**Petition Into Road Signage In Western Australia**

We, the undersigned, are concerned about road signage requirements being upheld and adhered to, creating unsafe road conditions, particularly in regional and remote WA. We therefore ask the Legislative Assembly to examine the following concerns by the way of a bi-partisan parliamentary committee, including but not limited to the following:

- Ensuring that Main Roads WA policies and procedures regarding road signage are adhered to, no matter how remote the road,
- Ensuring that adequate warning is provided leading into road works or any changed road conditions,
- Reviewing Main Roads WA procedures for work undertaken by Main Roads WA and its contractors to ensure road signage is safe and adequate,
- Recommending changes and amendments to Main Roads WA procedures to ensure safe signage practices particularly in regional areas.

[See petition 193.]

**BUURABALAYJI THALANYJI ABORIGINAL CORPORATION —  
MATTHEW SLACK — LABOR PARTY DONATION**

*Standing Orders Suspension — Motion*

**MR V.A. CATANIA (North West Central)** [3.10 pm] — without notice: I move —

That so much of standing orders be suspended as is necessary to enable the following motion to be debated forthwith —

That this house calls on the Premier, Leader of the WA Labor Party, to acknowledge the party has inappropriately accepted donations from a charitable trust and to instruct the return of \$60 000 to members of the Buurabalayji Thalanyji Aboriginal Corporation.

*Standing Orders Suspension — Amendment to Motion*

**MR D.A. TEMPLEMAN (Mandurah — Leader of the House)** [3.10 pm]: The Nationals WA had an opportunity to move that a matter of public interest be debated today, but it did not take that up. The opposition has been slow today; it cannot even ask questions on time. I move —

To insert after “forthwith” the following —

, subject to the debate being limited to 10 minutes for government members and 10 minutes for non-government members

Amendment put and passed.

*Standing Orders Suspension — Motion, as Amended*

**The SPEAKER:** Members, as this is a motion without notice to suspend standing orders, it will need the support of an absolute majority for it to proceed. If I hear a dissentient voice, I will be required to divide the Assembly.

Question put and passed with an absolute majority.

*Motion*

**MR V.A. CATANIA (North West Central)** [3.11 pm]: I move the motion.

The reason this is a matter of urgency and why I moved to suspend standing orders relates to the question I asked the Premier on Tuesday, 18 February 2020 relating to the Buurabalayji Thalanyji Aboriginal Corporation, which stated —

Considering several of the Premier's ministers knew of the allegations levelled against the former CEO of the Buurabalayji Thalanyji Aboriginal Corporation, will the Premier, as leader of WA Labor, request that his party and the federal Labor Party return the \$60 000 that we know about in donations made by BTAC; and, if not, why not?

The Premier's response on Tuesday, 18 February 2020 was —

Whatever corporation they might be or whatever background they might have, they are eligible to donate to a political party. As long as the law has been complied with, all political parties, as I understand it, accept donations. If the member has any questions in relation to that, I urge him to take them up with the state secretary of the party.

We have since found out that the Buurabalayji Thalanyji Aboriginal Corporation is a charitable trust. I will read out what a charitable trust can and cannot do. The Australian Charities and Not-for-Profits Commission states —

... it is not okay for a charity to:

...

- have a purpose to promote or oppose a political party or a candidate for political office.

The issues relating to Thalanyji and the actions of the Labor Party and the minister who dealt with those issues has been highlighted because the matters concerning the former CEO of the organisation, which was put into administration, are now coming out. For those members who may have forgotten, I brought to the attention of the house the behaviour of the CEO, which cost BTAC millions of dollars. It was inappropriate for a CEO of the Aboriginal organisation to spend money on overseas and interstate travel and to buy all sorts of goods—money that should have been used for members of the Buurabalayji Thalanyji Aboriginal Corporation.

When we did some digging around on the organisation, which subsequently went into administration, we brought to light the fact that quite a bit of money was donated to the Labor Party. A charitable trust—a not for profit—donated to the Labor Party! Who would have thought! We saw emails that had been sent to the Minister for Aboriginal Affairs, the Attorney General, the Premier and other Labor members of Parliament, and nothing was done. Concerns were raised about the \$60 000 worth of donations and we saw photos of the former CEO, Matthew Slack, arm in arm with Bill Shorten and the Premier, Mark McGowan, talking about being at a dinner with the Minister for Aboriginal Affairs; Treasurer, Hon Ben Wyatt. Here we have a charitable trust that has made donations. Surely questions should have been raised. Why was the former CEO paid to be at that dinner, paid for by a charitable organisation—the Buurabalayji Thalanyji Aboriginal corporation? Surely the Treasurer; Minister for Aboriginal Affairs, who also happens to be a lawyer, should know that a charitable trust cannot donate to a political party. He should be well versed in what an Aboriginal organisation, particularly a charitable trust, can and cannot do.

The reason that I have brought this matter to the house yet again is to ensure that the people of the Buurabalayji Thalanyji Aboriginal Corporation get their money back. I have met with the CEO of the Buurabalayji Thalanyji Aboriginal Corporation. The Labor Party should expect a letter from that corporation requesting that the money be given back to its members. As I said in this house, that money was not allowed to assist members of the Buurabalayji Thalanyji Aboriginal Corporation to help sick children from needed medical assistance. They were not allowed to help them receive medical assistance in a financial sense, as its application to do so was rejected. This organisation has been put into administration and has had to sell its assets because of the financial mess that Thalanyji was left in by the previous CEO.

I asked a question about this matter to the Minister for Aboriginal Affairs. I also moved a motion to suspend standing orders on Tuesday, 18 February, which stated —

That this house calls upon the Premier, Leader of the Labor Party, to formally request WA Labor and the federal Labor Party pay back the \$60 000 in donations made by the Buurabalayji Thalanyji Aboriginal Corporation's former chief executive officer.

I received a response from the Minister for Aboriginal Affairs, who should have known that as a charitable trust it is not able to donate for political purposes. I stated —

“WORKING TOGETHER FOR A BETTER FUTURE”

Labor Party Cabinet Dinner—14<sup>th</sup> June 2018

BTAC Directors and Guests were personally invited by Hon. Premier Mark McGowan and Aboriginal Affairs Minister Ben Wyatt, to attend a Labor Cabinet dinner. It was a great opportunity to showcase the Thalanyji Pastoral Company —

It has been put on the market because it cannot afford to keep it —

cultural issues and caring for country.

...

Nice evening at WA Labour Cabinet Dinner—lucky enough to be seated with Premier Mark McGowan.

That is a post from one of the directors, and another director is having a photo with Bill Shorten. Here is another post —

Thalanyji CEO, Matthew Slack, sat down with the Leader of the Federal Opposition, Bill Shorten, to have a candid discussion about the issues facing the Indigenous community and in particular our Thalanyji People.

It goes on. This was highlighted to the Minister for Aboriginal Affairs, as emails were sent to him directly by Frances Hayes, a member of the organisation, and did not get a response. On Tuesday, 18 February 2020, the minister said —

The audacity and hypocrisy from the member for North West Central is outrageous. How far does this go? I, for one, want to see Aboriginal people and their organisations front and centre in the political process. Guess what? Members are going to see more of it. As Aboriginal organisations muscle up, as they become more corporately aware, as they get bigger and own more assets, they are going to also want to be stronger advocates that influence the political process. Why should it just be oil, gas, miners, law firms and banks? Why only them?

That was his response! No-one is doubting that Aboriginal organisations should muscle up to political organisations, but charitable trusts are not allowed to donate to political organisations. We have to question the motive when the person who was donating had question marks over the validity of him being a CEO, with a potentially fraudulent CV. Combine that with the amount of money that was spent overseas and interstate on dinners and flights when millions and millions of dollars have gone missing, gone to lawyers, and prevented members from being able to vote. Members have taken legal action against members, putting members against members. All that was highlighted by the administrator and we are now seeing a charitable organisation, Thalanyji Aboriginal Corporation, do this. If the minister or the Premier did not know that it is a charitable organisation, I have now highlighted that it is. I expect the Labor Party to hand back that \$60 000, or whatever the amount is, to ensure it goes back to its members. That is why I have moved this motion. That is why it is important that the Labor Party stand up and say, “We made a mistake. Let’s move on and give back that money.” What that organisation did is unlawful, which is why I ask for the money to be given back. Be proactive, Labor, and make sure that that money goes back to its members who desperately need it because they have been ripped off by a crook.

**MR B.S. WYATT (Victoria Park — Minister for Aboriginal Affairs)** [3.21 pm]: As the member outlined, we debated this at some length in February this year. I do not intend to go through the speech that I previously made in this place, but the member for North West Central quite accurately quoted something that I intend to say again in the next 10 minutes. The way I understand the member’s argument is that the Buurabalayji Thalanyji Aboriginal Corporation—otherwise known as BTAC—because it is a charitable trust, unsurprisingly, I suspect, the money should be given back. The member quoted the legal purpose for a charitable trust. I am not the Attorney General; I am not going to get into a fight over a purpose versus a donation because I think we will find that organisations like Mineralogy and others use charitable trusts to manage their assets, and money goes in and out of them. Is it the position of the National Party that money coming into a political party through a charitable trust needs to be returned? Is that the position? Who is the deputy leader of the National Party—the member for Warren—Blackwood? This is an interesting point because an element of moral retrospectivity is now being approached by the National Party, and I intend to do the same thing in just a minute, you will be pleased to know, Madam Acting Speaker. If indeed, as the member alleged, the new CEO will be writing to the state secretary of the Labor Party, that is good. I will leave it to the state secretary of the Labor Party to deal with that correspondence.

I want to be very clear. The member for North West Central clearly had a problem and a fraught relationship with the former CEO. To be honest, that was probably well warranted. We have seen, and the member has referred to, the money spent by that former CEO on a range of things. We have seen that play out in the media. It was clearly

inappropriate. Whether it results in any charges is not ultimately a matter for this place to decide. Because the member had a fraught relationship with the former CEO does not mean that an Aboriginal group cannot be involved in the political process. I will say it again: get ready for more Aboriginal groups donating to political parties of all political persuasions and being part of the political process. This is something that I support wholeheartedly.

BTAC is a very significant organisation, representing the Thalanyji people in a very important part of Western Australia. It has a very significant relationship with Chevron in particular, but also the state government and other groups. I suspect it is very close to coming out of administration, thankfully. I hope it will return to strength. Asset sales are going on, including through pastoral leases, and I think some other assets are being sold. I look forward to BTAC returning to strength and I look forward to it being part of the political process as well. I welcome that. I celebrate that. I do not have moral equivalencies of “Aboriginal people, this is your place down here. Other organisations, that’s your place up here.” Aboriginal people have fought for a long time to get access to the political system. As we all know—let us call it as it is—we do not have fully funded public funding of our political system. The National Party, the Liberal Party, the Labor Party and the Greens have fundraisers. We are all aware of that. That is why, for example, the National Party accepted so much money from Mineralogy Pty Ltd. That is why Hon Martin Aldridge, in 2011, accepted over \$200 000 from Mineralogy Pty Ltd. I note that applying the same moral equivalency —

*Point of Order*

**Mr V.A. CATANIA:** My motion relates specifically to charitable trusts and their inability to donate to political organisations. This is not about being Aboriginal or a mining company. It is about a charitable trust giving a donation when it should not have given a donation.

**The ACTING SPEAKER (Ms M.M. Quirk):** There is no point of order.

*Debate Resumed*

**Mr B.S. WYATT:** Would the member for North West Central be surprised if Mineralogy was donating to the National Party through a charitable trust? I find it interesting from this hypocrite across the place that as he goes after Aboriginal groups donating to and being part of the political process, he is happy to accept over \$200 000 from the bloke who is attacking Western Australia at every point. Under the state agreement that Mineralogy Pty Ltd has with the state government, it is required to put money into the advancement of Aboriginal people in Western Australia. Do members know how much money has gone into that? It is not one cent! I want to know whether the National Party is going to put \$201 000 of the money it accepted from Clive Palmer into that fund of money for Aboriginal people. If it is not going to, the member is a hypocrite!

**The ACTING SPEAKER:** Minister!

**Mr B.S. WYATT:** I withdraw that. If the member is not willing to do that, he should reflect on the words that he carried on about earlier. That is the reality. The National Party comes in here—actually, to be fair, it is not the National Party; it is only the member for North West Central—with a view around Aboriginal people and their role in the political system. The member came in here and said that it is all about a charitable trust, but when I posed the question about whether he would be surprised to learn that Mineralogy donated to the National Party through a charitable trust, I got silence. He does not care. It was money into his welcoming arms from Clive Palmer—the man who is now challenging the Western Australian border and the wealth of Western Australians. That is the reality.

What is going on with all of this is an underlying personality dispute between the member for North West Central and the former CEO. It seems fairly clear that the former CEO’s behaviour at BTAC has been found wanting. We have all read the media reports. Does that therefore mean that BTAC or any other Aboriginal organisation, as they develop wealth, aspirations and political activism, should be excluded from political fundraisers?

**Mr V.A. Catania** interjected.

**The ACTING SPEAKER:** Member for North West Central!

**Mr B.S. WYATT:** I did not utter a word during the member’s contribution. Sit there and listen. Does that mean they should be excluded? Of course it does not. I want to emphasise this point again, member for North West Central: get ready to see more of it! This is going to make the member for North West Central feel uncomfortable; he is going to see more Aboriginal organisations in the political system. He is going to see more of them. They may well support the National Party, the WA Liberals, the Labor Party or the Greens—who knows? But I welcome that! I welcome that more than I welcome the \$201 000 that the National Party took from Clive Palmer. Clive Palmer has not donated one cent to the Aboriginal people that his state agreement requires him to, yet he donated hundreds of thousands of dollars to the National Party, but apparently that is all okay. I can only reflect, but some unkind people may call that hypocrisy. I will conclude by making this point because we had this fight in here back in February. The reality is this: if the new chief executive officer writes to the state secretary, the state secretary will no doubt respond in due course. Members are going to see more of it. They should get ready for it. They should gird their loins to see Aboriginal people front and centre at their fundraisers. That will make some people, such as the member for North West Central, uncomfortable, but I suspect that most of us will welcome it, and that is why I oppose this motion.

*Division*

Question put and a division taken, the Acting Speaker (Ms M.M. Quirk) casting her vote with the noes, with the following result —

## Ayes (17)

Mr I.C. Blayney	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr P.J. Rundle
Mr V.A. Catania	Mr S.K. L'Estrange	Dr M.D. Nahan	Mr A. Krsticevic ( <i>Teller</i> )
Mrs L.M. Harvey	Mr R.S. Love	Mr D.C. Nalder	
Dr D.J. Honey	Mr W.R. Marmion	Mr K.M. O'Donnell	
Mr P.A. Katsambanis	Mr J.E. McGrath	Mr D.T. Redman	

## Noes (33)

Dr A.D. Buti	Mr D.J. Kelly	Mr S.J. Price	Mr D.A. Templeman
Mr J.N. Carey	Mr F.M. Logan	Mr D.T. Punch	Mr P.C. Tinley
Mrs R.M.J. Clarke	Mr M. McGowan	Mr J.R. Quigley	Mr R.R. Whitby
Mr R.H. Cook	Ms S.F. McGurk	Ms M.M. Quirk	Ms S.E. Winton
Ms J. Farrer	Mr K.J.J. Michel	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr M.J. Folkard	Mr S.A. Millman	Ms C.M. Rowe	Mr D.R. Michael ( <i>Teller</i> )
Ms J.M. Freeman	Mr M.P. Murray	Ms R. Saffioti	
Ms E.L. Hamilton	Mrs L.M. O'Malley	Ms J.J. Shaw	
Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire	

## Pairs

Ms M.J. Davies	Ms L.L. Baker
Mrs A.K. Hayden	Ms A. Sanderson

Question thus negatived.

**PAPERS TABLED**

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

**“CHILD AND ADOLESCENT HEALTH SERVICE 2018–2019 ANNUAL REPORT”***Correction — Statement by Acting Speaker*

**THE ACTING SPEAKER (Ms M.M. Quirk)** [3.36 pm]: Members, I have received a letter from the Minister for Health requesting that an erratum be added to the “Child and Adolescent Health Service 2018–2019 Annual Report”, which was tabled on 26 September 2019. The erratum addresses an error to an infographic on page 35 about the number of children and students receiving vaccinations. Under the provisions of standing order 156, I authorise the necessary corrections to be attached to the tabled paper.

[See paper [3938](#).]

**STATE ECONOMY — GOVERNMENT POLICIES****HOUSING SECTOR****DROUGHT — SOUTHERN RANGELANDS***Removal of Order — Statement by Acting Speaker*

**THE ACTING SPEAKER (Ms M.M. Quirk)** [3.37 pm]: I inform members that in accordance with standing order 144A, private members' business orders of the day 1 to 3, which appeared in the last notice paper as “McGowan Labor Government Fiscal Policies”, “Western Australia's Housing Sector” and “Southern Rangelands Drought Response” have not been debated for more than 12 calendar months and have been removed from the notice paper.

**McGOWAN GOVERNMENT — SERVICE DELIVERY AND MAJOR PROJECT CONSTRUCTION***Notice of Motion*

**Mrs L.M. Harvey (Leader of the Opposition)** gave notice that at the next sitting of the house she would move —

That this house condemns the WA Labor government for its failures in service delivery and major project construction in its four years of government.

**APPROPRIATION (RECURRENT 2020–21) BILL 2020****APPROPRIATION (CAPITAL 2020–21) BILL 2020***Estimates Committees A and B Reports and Minutes — Presentation*

**MS J.M. FREEMAN (Mirrabooka)** [3.38 pm]: I rise on behalf of the Deputy Speaker to present to the Legislative Assembly the reports and minutes from Estimates Committees A and B.

[See papers [3939](#) and [3940](#).]

*Estimates Committee A Report — Adoption*

**The ACTING SPEAKER (Ms M.M. Quirk):** The question is —

That the report of Estimates Committee A be adopted.

**MS J.M. FREEMAN (Mirrabooka)** [3.39 pm]: I rise to say a few words. There is a saying in this place that the estimates hearings are for the opposition and that endeavoured effort and research will result in questions that deliver for the opposition. We have some statistics that demonstrate the opportunity that was given. In total, 930 questions were asked. The opposition asked 246 questions and 644 further questions. The government asked 34 questions and six further questions. That means that the opposition asked 96 per cent of the questions while the government asked four per cent. Estimates Committee A sat over three days from 9.00 am to 10.00 pm. I will get to Estimates Committee B's statistics in a moment. On Tuesday, Estimates Committee A sat for 10 hours and 50 minutes, on Wednesday it sat for 10 hours and 33 minutes and on Thursday it sat for 10 hours and 36 minutes. The examination took place over a total of 31 hours and 59 minutes. It is very unusual for this house to sit for such long periods of time over three days—basically from 9.00 am to 10.00 pm—and Parliament needs to be congratulated for managing the logistics behind that. Estimates Committee A had 29 supplementary information requests—A1 to A29—and all supplementary information answers have now been received.

While on my feet, I particularly want to thank the parliamentary research officer Alice Jones, who is relieving the Speaker's assistant, for her very hard work on the Chair roster and for coping with the many changes to ensure that the Chairs were in their place to commence the estimates hearings and ensure that they continued. As one could imagine, there are many demands on people's time during the estimates process, particularly given that it was held towards the end of this year, which is unusual. Alice's work in coordinating the roster is really valued, as was the work of the Deputy Speaker, the member for Maylands, Lisa Baker. I want to note their great work.

I want to thank all the Chairs for their work. It is an interesting task being a Chair. I want to thank the members and the ministers also. On the whole, things went very smoothly. I particularly thank the clerks for their good and impartial advice over that time and the work that they did. It was very important. I want to place on record our appreciation and our regard for the public sector advisers who came into these chambers to assist the ministers to give full and relevant answers to the questions. They do a lot of work in preparation for the estimates committee. If any of the questions are referred to one of the public sector officers to answer, one can almost see the pleasure that they get from being able to give a good and concise answer that reveals the facts of what is in the budget and the good work that their agency is doing. Their effort and care is very much appreciated.

The arrangements for Estimates Committee B to be held in the Legislative Assembly committee rooms were not ideal. I had the experience of being a Chair in both the chamber and the committee room. From the point of view of chairing, it is a much easier process to chair in this place. I have often thought that this is an adversarial environment because we are so separated from each other, but the close confines in which Estimates Committee B was held made it difficult in particular to seat the advisers at the table to assist their minister.

I will just go through Estimate Committee B's statistics —

**The ACTING SPEAKER (Ms M.M. Quirk):** Member, as I understand it, we need to adopt the Estimates Committee A report first.

**Ms J.M. FREEMAN:** I could speak on Estimates Committee B and then I will not stand again if Madam Acting Speaker would like me to—but, yes, we can adopt the report on Estimates Committee A and then I will talk about the statistics for Estimates Committee B.

**The ACTING SPEAKER:** The question is that Estimates Committee A be adopted.

**MR D.R. MICHAEL (Balcatta)** [3.44 pm]: As members may remember, it is traditional at this time for the government Whip to give a highlight package of what happened during the estimates process. As a result of the COVID-19 pandemic this year, estimates has been a little different with the committees being held in here and in the committee rooms across the way. Everything has been a little different and the process has been held in an unusual time of the year. This all started with the estimates management committee meeting, which lasted for a whole 45 seconds. I know that it was the first estimates management committee meeting that the members for Roe and Dawesville attended. I assume that the member for Carine attended one when he was government Whip.

**Mr A. Krsticevic:** Many, many.

**Mr D.R. MICHAEL:** That is right, the member has attended one before—or maybe not! It took us 45 seconds to agree on the timetable. Members might like to know that there was a slight panic at the end of that committee meeting when the Leader of the House was unable to open the Clerk's door. When members could not get out of the office, all their eyes widened at the thought of possibly not getting to the dining room for lunch.

I will move on to estimates week. Usually this is Christmas for the opposition, but like the last three years, again, Santa did not appear down the chimney. Here are some of the highlights of the week to save members from wading through the pages of the opposition stealing dorothy dixers from the government. On the first day in this chamber, we started off with the Parliamentary Services Department, which I took a keen interest in. There were some

very good questions from the members for Scarborough and Dawesville on the Parliament's website project and a Trojan breach on the Parliament's server. A Trojan attack, especially for a government institution, is obviously a very scary thing, but I suppose the good news is that given the way that Parliament's databases, website and intranet are organised, artificial intelligence would have to get to a technological singularity before anyone could make any sort of sense out of the information!

**Mr Z.R.F. Kirkup** interjected.

**Mr D.R. MICHAEL:** I thought that the member for Dawesville would like that. While I am talking about the member for Dawesville, he also found out about an unfunded plan to refurbish members' offices at around \$10 000 a pop in this building—obviously they are not going to Ikea. There were some probing questions about the septic tank bollards. Who would have thought that school buses may not have been able to get through! I was surprised that there were no questions on the Parliament's top-notch wi-fi system. Perhaps next year that will happen when the seemingly unlimited supply of asphalt has run out around the building.

We then had the division on the Governor's Establishment. Usually the government advisers for this division have to sit around all day only to have their appropriation waived through at the end of the day. But for the second year in a row, there were lots of questions on this division—some of which were on budgets from two years ago, which I know caused a little bit of trouble in the committee—on the staffing and maintenance of Government House. They were almost nasty questions. I know that there are some closet republicans on the opposite side and, again, I look forward to them joining the Australian Republic Movement—[republic.org.au](http://republic.org.au).

At one point during the division on defence and tourism, the member for Swan Hills had to defend herself as not having anarchist tendencies as the committee did get a little crazy a few times. I will give special mention here to the Chairs. She knows. The Minister for Defence Issues is not here, but the members for Mirrabooka and Warnbro had their passion for meeting procedures on full display and got more media —

**Mr V.A. Catania:** Is that what you call it?

**Mr D.R. MICHAEL:** Thanks to the member for North West Central, they both got more media from a friendly exchange of views than the opposition got in the entire week.

The division on local government was pretty subdued this year compared with previous years when the minister had to deal with the blistering attack from the member for Carine. I do not know whether the minister has read *Hansard* yet, but it was unable to record him on several occasions when he is normally reasonably boisterous and sometimes lyrical. The minister is recorded a couple of times in *Hansard* as being inaudible, which is very subdued for the minister.

**Mr D.A. Templeman:** I have been hiding something.

**Mr D.R. MICHAEL:** There was an exception a little later on when the minister told the committee that there was to be one more question and then the Chair, the member for Girrawheen, asked him who had died and made him the Chair!

I note that the member for Moore and the member for Nedlands spent quite some time on issues around the very excellent puppy farming legislation. Given the shameful view of both parties to not support that legislation, I found it a little odd that they spent a lot of time on it in estimates.

On Wednesday, there was again not much excitement. I note that in the examination of the Treasurer's portfolios, through no fault of the Treasurer, who gave complete answers and waved off government members from asking any questions of him, the members for Bateman and Riverton quite frequently descended into more of a chat or discussion with the Treasurer, which ate up valuable minutes. Quite often, there were more words used in the questions than in the answers from the Treasurer, which I found very interesting.

Over the road in committee B, the Minister for Child Protection showed great patience and restraint in dealing with the member for Carine, who constantly interrupted her answers. That is nothing new. Very late in the night, the opposition again showed its lack of interest in TAFE by leaving only 15 minutes for questions.

I make particular mention of the Chair at the time, who I am pretty sure was the member for Wanneroo, for suspending the committee for a five-minute comfort break, which was recorded in *Hansard* as going from 11.01 am to 11.17 am—well done, member for Wanneroo!

On Thursday in this chamber, the always impressive Minister for Transport dealt with the nasty opposition and their lack of ability to read the budget. I do like the member for Vasse, but she is going to get a couple of mentions here. She was meant to still be Whip with me, but she is not anymore. As we heard in question time today, the member for Vasse asked several times for supplementary information on Metronet to be provided, when that information was actually contained in budget paper No 3. I was getting concerned that the minister might just photocopy a page of the budget and submit it as supplementary information!

I also noted that, very strangely, there were several mentions of Hugh Jones in that day's estimates, which I thought was very odd. I know he is working very hard for the people of Darling Range. We, like many local residents, look forward to him joining us in this place.

The member for Vasse also got a little confused between the automatic train control project and the radio systems replacement project, which caused a bit of consternation in the committee. The minister had to state where these projects were listed in the budget papers. As we heard again today, the minister will answer questions but she will not teach members how to read budget papers.

There were a lot more minor tiffs and stuff-ups, but none worthy of mention here today.

On a serious note, I have a couple of thank-yous, just to follow on from the member for Mirrabooka. I thank Rebecca Neilson and her team for coordinating the timetable, which is a complicated game of Tetris. I thank the Deputy Speaker and all Chairs for their patience and long hours. Obviously, I thank Parliament staff in the chamber and the building. I thank Hansard staff, who effectively had to deal with a third chamber for that week, given that the upper house was sitting. I thank ministers and their staff. I also thank opposition members and the LOOP staff for their research, briefing notes and drafting of questions. That is something I did for many years, so I obviously know the hard work that goes into that for both governments and oppositions. To the Leader of the House, the manager of opposition business and both opposition Whips, thank you for your cooperation. Finally, I thank my whip assistant, Benedict Xavier Coates, for out-spreadsheeting me in coordinating the backbench rosters. I did not think that anyone could ever do that, but he did, so thank you.

**MR D.A. TEMPLEMAN (Mandurah — Leader of the House)** [3.53 pm]: I take the opportunity, as Leader of the House, to make some very brief comments on the report of the estimates committees. Obviously, I look forward every year to the meeting of the high-powered committee that sets up the estimates committees, as we gather in the Clerk's office to ensure the smooth operation of estimates. These were the nineteenth estimates committees that I have been involved in. I have been involved in various forms, both as opposition Whip and government Whip, as minister and as an Acting Speaker. I think I have served every role there is, except for Hansard, and I would be useless at that!

Estimates this year was an interesting experience because, of course, the COVID-19 pandemic interfered with the normal budget process, which would have been delivered in May and we would have had estimates in May. I appreciate the forbearance of members with committee B being held in the parliamentary committee rooms, because that did cause some challenges. We also had to appropriately social distance along COVID lines in that place.

I have been a keen observer of estimates for the period that I have been in this place. One thing that I think is important is the statistics that the member for Mirrabooka highlighted. I do not think I have heard a similar statistic before—that 96 per cent of questions were asked by the opposition. From memory, that is one of the highest levels in my time here and I think it demonstrates very clearly that the opposition had very much the run of the field in being able to ask questions. I will let other people judge whether they hit their target! It was interesting to note that the most exciting and newsworthy item was in fact two government members enjoying some banter.

I will highlight the important job of the Whips. I am very proud of the member for Balcatta for his role as Whip. I know we have had changes to the opposition Whip over the four years. The role of Whip is very important, as they ensure that the committees are able to function effectively, with the appropriate number of members to form a quorum. That is, indeed, very important. I congratulate all involved. I also wish to mirror the comments of the member for Balcatta about Rebecca Neilson, who does a tremendous job in supporting me, as Leader of the House, in putting together the timetables for both the committees and ensuring that the resourcing and membership of those committees is delivered in a timely way. The contribution of members in the committees is very much appreciated.

**MR Z.R.F. KIRKUP (Dawesville)** [3.56 pm]: I rise on behalf of the opposition, in my capacity as manager of opposition business, to speak to the report that has been tabled by the member for Mirrabooka. The member for Mirrabooka may say that estimates is the time for the opposition to ask questions, but I can tell her now that it is not a time for the opposition to get answers from the government! Whilst a significant number of questions were asked—1 753 in total—and 96 per cent of the questions asked in estimates committee A were asked by the opposition, I suggest that we did not get a similar level of fulsome answers from government members and those who occupy the treasury bench.

The estimates process is always an extraordinary time for oppositions to inquire and ask questions about how the government is going with its finances and other matters. It is also a good time to judge the calibre of ministers who present the answers. More often than not, we find that ministers who have no or little capacity typically refer and try to get many more dorothy dixers through than those who have capacity. It is a credit to the Treasurer that whilst there were undoubtedly dorothys prepared for his team, he waved them off and let the government bear the full brunt from the opposition, rather than getting a rest break from some members of his own team. I think some members have continued to operate in a similar way.

**Mr V.A. Catania:** The Minister for Sport and Recreation did the same.

**Mr P.J. Rundle:** He's sound asleep!

**Mr V.A. Catania:** Wake up! I'm complimenting you.

**Mr Z.R.F. KIRKUP:** Minister, you are about to get a rare compliment from the member for North West Central.

**Mr V.A. Catania:** I just said that you were very good; you took all those questions.

**Mr Z.R.F. KIRKUP:** There we go!

**Mr M.P. Murray:** I would like to make a comment about someone else who could not read the budget, but I will leave it at that. And someone walked out very early.

**Mr Z.R.F. KIRKUP:** I had the opportunity to ask questions of the Premier, the Deputy Premier and the Treasurer in his capacity as Minister for Aboriginal Affairs, and I spent some time with the member for Vasse and the member for Darling Range in the Minister for Transport's estimates, because I often find that how the minister responds to questions is quite instructive. At times, she gives some interesting responses to the member for Vasse in particular. Nonetheless, I think it is a reflection of our capacity as the opposition to ask so many questions. That speaks to the strength of the team here in the Liberal and National Parties. Of course, we are a very small team on this side of the house.

**Ms S.E. Winton:** It will only get smaller.

**Mr Z.R.F. KIRKUP:** Indeed, member for Wanneroo; this side of the house will get smaller when she loses her seat!

I think we will see a reduction in the number of government members occupying seats on this side of the house, because that will not happen. We will not see the member for Wanneroo here again. I am sorry, but that was her last estimates hearings. She chaired relatively well, for whatever it is worth. The reduced size of the opposition team made it difficult, but I wish to compliment the member for Carine who, in his capacity as opposition Whip, made sure that each opposition member served a minimum number of hours and ensured that across the board we were all doing the heavy lifting.

Undoubtedly, the COVID arrangements made it very difficult. The member for Balcatta raised the issue that the third chamber was a difficult operation. I hope it will not be repeated in the future. Although I spent only a small amount of time in committee B, filling in for the member for Carine whilst he was at a meeting, I found it a particularly difficult place. It is ironic that the chamber was set up to ensure maximum social distancing for committee A, but evidently COVID-19 posed no risk to committee B, because everyone was stacked in together in the Assembly offices. I saw better social distancing at the Hot Dub concert than in committee B. Nonetheless, we found ourselves —

**Mr P.A. Katsambanis:** Which concert?

**Mr Z.R.F. KIRKUP:** The Hot Dub Time Machine. It was a recent festival, member for Hillarys.

[Interruption.]

**Mr Z.R.F. KIRKUP:** I suspect that is the minister's phone.

I note, as other members have reflected, in committee B the government's least popular minister teed off against the government's most effective Chair, in my friend the member for Mirrabooka. I would like to compliment the member for Mirrabooka on her continued capacity to chair hearings. I find that when she is in the chair, we whip through questions expeditiously. Even when members might miss the call, she moves on. It is not the same sense of generosity we might otherwise see from the Speaker. I appreciate her continued stewardship of estimates hearings A and B. I thank all Chairs who did so.

**Mr V.A. Catania:** She'll make a great Speaker one day.

**Mr Z.R.F. KIRKUP:** I suspect she would make an outstanding Speaker, member for North West Central.

Outside of that, I would like to follow on from the government Whip in thanking Rebecca Neilson and her team at the Department of the Premier and Cabinet for their work on the aptly called "puzzle" of putting together our estimate hearings schedule. I would like to thank Blair Stratton in the Leader of the Opposition's office for his similar support to the opposition Whip and me. I again thank the member for Carine for his continued support and all members of the Liberal Party team for continuing to do quite a bit of work to ensure that we hold this government to account. I thank the Chairs—I have already reflected on the member for Mirrabooka's contribution—and all who helped and contributed. Indeed, I think the member for Vasse was the only opposition Chair during the estimates hearings.

Several members interjected.

**Mr Z.R.F. KIRKUP:** I stand corrected; it was the member for Vasse and the member for Geraldton.

**Ms L. Mettam:** Probably not the member for Vasse.

**Mr Z.R.F. KIRKUP:** Just the member for Geraldton. The member for Vasse makes such an impression on me that I assume she is everywhere. With that, I will finish my contribution, but not before thanking the Clerk, Deputy Clerk and all the support team in the chamber and the bills and papers office, who continue to do great work, even when being disparaged by a minister in committee B. I think they do a great job and we are very lucky to have their support. With that, I commend the report presented in this house by the member for Mirrabooka.

**MR P.J. RUNDLE (Roe)** [4.03 pm]: On behalf of the Nationals WA, I would like to make some brief comments about the member for Mirrabooka. I think the Mexican stand-off between the member for Mirrabooka and the Minister for Tourism was an outstanding early highlight of the estimates process. Our member for North West Central was thrown into the unlikely role of peacemaker. As I said, that was an early highlight. I was a bit concerned today that the member for Warnbro had a long list of education questions and that we would need to recommence activities.

On behalf of the Nationals, I would like to thank Bec Neilson for the early work done on the timetable and the like. It is quite a complex arrangement and she did an excellent job. I would like to thank our parliamentary officers, public sector advisers, clerks, Hansard and everyone who was involved. They were long nights. I would like to thank the Chairs and our LOOP staff who did a great job. Obviously, another highlight was the reduced number of dorothy dixers this year. That was excellent and it enabled the opposition to have a bit more time to question some of the ministers. I think that is a move in the right direction. I also thank my Nationals team. We are a small team, but we attended all the committee hearings. Well done, team. I thank all involved.

**MR A. KRSTICEVIC (Carine)** [4.05 pm]: It would be inappropriate for me, as opposition Whip, not to say a few words. I am not sure how many members were called during the estimates process; maybe the member for Mirrabooka could shed some light on that.

**Ms J.M. Freeman**: I don't think I called anyone, member for Carine. If you got called, you got called by other Chairs.

**Mr A. KRSTICEVIC**: I was just wondering whether that was recorded statistically anywhere. Now that the member for Mirrabooka has spoken up, I would obviously like to thank her for the great work she did chairing the hearings. The day after the incident with the Minister for Tourism, I was leaving an estimates hearing and the Minister for Tourism was coming in to represent the Minister for Education and Training, I think. Of course, I saw that the member for Mirrabooka was in the chair and thought, "I'm not leaving." I hung around for another five minutes to see how the session started and whether things were going to fire up again, but they did not. I think that the Minister for Tourism knew that he had bitten off too much to chew the day before and decided to pull back. I think that was a very smart decision.

I would like to acknowledge the great work of the members of the opposition and the difficulty of a small team trying to fill a large number of hours of hearings. I can honestly say that not one complaint or issue was raised with me about the scheduling of the estimates hearings and the number of hours given for each portfolio. People were backing each other up when they had to go across the road from committee A to committee B. I was concerned at one stage because a number of members had to cross over during sessions, but it all worked smoothly in the end.

The opposition asked 94 per cent of questions in committee A and I think 97 per cent in committee B. I spent most of my time in committee B. I did not feel that I got 97 per cent of the questions, but that was probably just the sessions I was in. I want to acknowledge the parliamentary secretary and ministers I was in sessions with. I spent some time with the member for Baldvis and we had some robust discussions on domestic violence and other such issues. I think he did a great job to answer the questions asked of him. He was probably the best of the three.

**Mr Z.R.F. Kirkup**: Who?

**Mr A. KRSTICEVIC**: The member for Baldvis was probably the best of the three that I was with. The Minister for Housing was second. I think he did a very good job as well. Then, obviously, unfortunately, the Minister for Community Services came a long way back in third place, but I did not expect anything different from those three situations.

Obviously, it was difficult trying to get answers. I noticed that the ministers in the sessions that I was in were not very keen to take supplementary questions. As a matter of fact, they very much avoided them and encouraged us to lodge questions on notice. Of course, with the amount of time it takes to process a question on notice, none would have been answered during this term of Parliament; they would have just disappeared off the system. It was a bit disappointing that questions were batted away when answers could have been given.

During the hearing with the Minister for Housing, the minister answered my questions that came under the portfolio of the Minister for Community Services. It was great that he went into uncharted territory in some respects. He was also able to clarify the smoke and mirrors that the Minister for Community Services has put up on some issues. It was great to get more information ultimately. I found it to be a successful process in that respect.

Obviously, I want to thank the parliamentary staff and all the advisers. Sometimes the situation they find themselves in can be a little difficult for them. Ultimately, a lot of useful information was gathered through that process, albeit members of the government may not have picked up on some of that. I thank everybody again and I look forward to being involved in the estimates process from the government benches after the next election.

Question put and passed.

*Estimates Committee B Report — Adoption*

**The ACTING SPEAKER (Ms M.M. Quirk)**: The question is —

That the report of Estimates Committee B be adopted.

**MS J.M. FREEMAN (Mirrabooka)** [4.11 pm]: I will quickly go through the Estimates Committee B statistics. A total of 823 questions were asked. The opposition asked 145 questions and 631 further questions. The government asked 40 questions and seven further questions. The opposition asked 94 per cent of the questions and the government asked six per cent. Estimates were examined in committee B over three days from 9.00 am to 10.00 pm. Examination took place over a total of 31 hours and 53 minutes. Committee B had 16 supplementary information requests—B1 to B16. All supplementary information for committee B was received by the due date.

**MR W.R. MARMION (Nedlands — Deputy Leader of the Opposition)** [4.12 pm]: I will not speak for very long. I was across the road for all my sessions in Estimates Committee B, but I think it probably would have been better in this chamber. I want to make a brief comment. I think the Parliamentary Secretary to the Minister for Environment did quite a good job. If he did not know the answers, he referred the questions to his advisers. I thought that was a good way to handle the situation. I will not give him a mark out of 10, but it would probably be a higher mark than those of the other ministers in my sessions.

I asked some questions of the Minister for Local Government; Heritage and I got the supplementary information by the due date. I have gone through that information and they were quite comprehensive answers by the department, so I am pleased with that outcome.

I must say that I was a bit disappointed with the Minister for Water. His approach was to try to answer every question himself, even if he did not know the answer and the departmental officers might have been able to provide it.

**Mr P.J. Rundle** interjected.

**Mr W.R. MARMION:** That is right. He did not give them permission to answer the question. I tested the minister on a very simple question about the gegalitre take for the West Canning Basin aquifer. I had a rough idea of the answer, but the take might have increased since I was Minister for Water. He thought it was a silly question to ask. I asked whether it was 10, 20, 30 or 50 gegalitres now. I said that maybe the minister could ask the director general whether he could answer the question. As it turned out, the minister eventually did that, and the director general was a little embarrassed because he did not know the answer. I give credit to the director general, Mike Rowe, because when I was at the W.S. Lonnie Awards on Monday with the member for Maylands, the director general, who chaired the awards, said that the answer was 50 gegalitres and apologised for not knowing the answer during the estimates hearing. I just wanted to highlight that.

Acting Speaker (Ms M.M. Quirk), you were the Chair of one of the sessions and I thought you did a rather good job considering what I had seen on TV the day before. I agree with you; I think the environment was not conducive to chairing the hearings in a strong manner; the hearings were a bit less formal and were harder for Chairs to control. I think you did a tremendous job of making sure that ministers tried to answer the questions and did not give answers that were too lengthy.

In all, I was happy that I got answers to most of my supplementary questions. Again, the Minister for Water had suggested that I put the questions on notice, even though we all knew that there was no time to get the answers back. How do we improve the process? That is a good question to delve into. It was a very simple question and had nothing to do with policy but was about dollars and cents, so I do not see why the minister could not have asked the chief financial officer or the director general to provide the answer.

Question put and passed.

### APPROPRIATION (RECURRENT 2020–21) BILL 2020

#### *Third Reading*

**MR B.S. WYATT (Victoria Park — Treasurer)** [4.15 pm]: I move —

That the bill be now read a third time.

**MR D.T. REDMAN (Warren–Blackwood)** [4.15 pm]: Unfortunately, I did not get a chance to talk on the second reading of this bill. I took the advice of very senior people in this place that if I had flu-like symptoms, I should probably stay away, which I did. I took the very poor advice of my wife to get a COVID test. I would not recommend that to anybody! Members will be pleased to know that I did a straight four-and-a-half-hour drive from Armadale to where I live in Denmark without getting out of the car—otherwise, I would have been breaking the law—and we holed up until we got the negative result the next day.

This is a chance to put on the record an issue that I have been pursuing with the Minister for Emergency Services.

**The ACTING SPEAKER (Ms J.M. Freeman):** Of course you know, member for Warren–Blackwood, that this is the third reading and you are not supposed to raise new issues, but I will take into account that you were not able to speak on the second reading.

**Mr D.T. REDMAN:** Under the special COVID arrangements, I appreciate your leniency, Acting Speaker.

**The ACTING SPEAKER:** I would sit you down normally!

**Mr D.T. REDMAN:** As members in this place will know, I have been raising with the Minister for Emergency Services, who I have loosely called the minister for gagging volunteers, his and his agency's introduction of a mandatory code of conduct that all volunteers who come under the Department of Fire and Emergency Services are required to sign up to. As I have highlighted, the change that the minister and his agency made in the code of conduct, which volunteers are required to be signatories to, means that they must not talk to a member of state or federal Parliament about department business.

I will remind the house what "department business" means. I asked the minister a question on notice that he answered on 15 September this year. According to the minister's response, the following items come under department business: facility upgrades; safety issues with either facilities or operations of an emergency response; organisational culture within the workplace of an emergency response event; organisational structures involving interaction between career employees and volunteers; bullying matters arising from interaction of career staff and volunteers; expense of emergency services levy funds; and expense of government funds on emergency services. I thought that it was more than reasonable for a member of the public who is a volunteer under one of those organisations to raise pretty much any of those issues with members of Parliament. Members of Parliament are the last port of call; indeed, that is one of the reasons we are here—to raise issues that those people cannot get any other resolution to.

In answering one of the parts of the question, I teased out from the minister that his office had made a complaint about the reporting of one of the aspects of this code of conduct by ABC Great Southern. I made a freedom of information request about that and now I have a copy of the complaint that was written to the ABC. I might add that it is five pages of what I would loosely call diatribe. It was a formal complaint to the ABC about reports on the 7.00 pm news and radio news bulletins on 5 and 6 July about what was described by Nationals MP Terry Redman—me—as the supposed gag order on volunteer and career emergency services personnel. That is what the complaint was about.

I will walk members through the complaint. I am happy to table it because I think it would be interesting for the public record. This is public knowledge; it was provided under freedom of information. The complaint came from Ryan Emery, who is the media adviser for the Minister for Emergency Services. It refers to a particular news bulletin that was done by a particular journalist. I am not going to mention the journalist's name, but essentially the journalist is the target of the complaint about the ABC's reporting. These points were raised amongst all the commentary. It looks as though the complaint was written either very late at night or maybe after a couple of reds because it goes through a lot of points. I am going to highlight a few points and will quote directly from the complaint. It states —

The code does not prevent volunteers speaking to politicians about general matters such as new fire appliances, training, etc so long as it's not confidential ...

I think a code of practice means that volunteers should not pass on confidential information to people who should not be told it. That is understood. He said that it is okay for volunteers to talk to politicians about new fire appliances and training, but apparently they are not allowed to talk about facility upgrades. Apparently they are not allowed to talk about the spending of government funds on emergency services, but it is okay, apparently, to talk about new fire appliances. I can understand why there might be a bit of confusion.

He took two pages of this five-page complaint to highlight the fact that one of the people who responded in the TV bulletin was a former MP. I am happy to name the person, because I think his name was mentioned—Ian Osborne, a member of the Liberal Party, who I think finished up in 2001. The minister's media adviser made the link that an ex-MP, from nearly 20 years ago, was drawing on a significant relationship, and was enough to say that there was bias. This article claims that there was reporting bias. I again quote from the complaint —

ABC Great Southern reporter ... has appeared, once more, to demonstrate a bias and agenda with his reporting on WA's Department of Fire and Emergency Services.

Two pages refer to the fact that this ex-MP was one of the people quoted. I want to talk about who was mentioned in the news article. Clearly, as a Nationals MP, I went low enough to raise the fact that there is a gag order on volunteers. Also mentioned was of course the Minister for Emergency Services, Fran Logan; the president of the Volunteer Fire and Rescue Services Association of WA, Paul du Boulay; the president of Volunteer Marine Rescue Western Australia, Jeff Howe; Greg Cook from the State Emergency Service Volunteers Association of WA; veteran volunteer bush fire fighter Ian Osborne; and DFES commissioner, Darren Klemm. There was the commissioner, the minister, the heads of various associations, one volunteer, and a Nationals MP. That was hardly the basis for a two-page complaint highlighting the relationship that I might or might not have with an ex-MP!

I again quote the complaint, which states that the journalist —

... did also not report the many internal and external avenues to raise any issues including whistleblower legislation, WorkSafe, and the WA Ombudsman.

I raised this issue in the media to get a bit of media traction. The complaint suggested that in response, the ABC should have given all the options for how a volunteer might raise various issues, including through the WA Ombudsman, WorkSafe and whistleblower legislation. I can imagine that might have been dismissed as a bit farcical. I say again that this must have been written late at night. I continue quoting —

In covering this story, —

Such and such reporter —

reported claims, hearsay and speculation as facts with no attribution to sources while ignoring evidence that directly contradicted the claims made.

There was reference to Ian Osborne being a volunteer and that maybe he should not have been the person to talk to because he was an ex-MP who had some links to the conservative side of politics. I again quote —

Redman's state electorate of Warren-Blackwood covers the town of Denmark (30 minutes from the ABC in Albany).

This is referring to me —

He lives in Denmark, is a local business operator and was principal of the local agriculture college.

Some sort of link was made about both the volunteer and me living 30 minutes away from the ABC in Albany and in the local district. Somehow that link meant there were some issues!

He gave a massive spray, over two pages, that a former member of Parliament should not have been used as a sample volunteer in raising an issue described by the complainant as "irrelevant, false and deliberately disingenuous". That was when he gave his opinion on the DFES code of conduct.

The complainant went on to say —

There is nothing in the code that prohibits volunteers from speaking to politicians.

It only prohibits them from discussing confidential departmental matters.

That is not the case. I would have thought that DFES facility upgrades were highly public matters. If he considers the spending of government funds on DFES facilities as being highly confidential, this government is trying to hide something. Again, this was a massive spray that was trying to put some pressure on a journalist to go easy on what I think is a massive shortcoming of the agency.

The journalist's article also referred to 7 000 emergency volunteers across WA. My understanding is that about 7 500 emergency services volunteers come under DFES and therefore this code of conduct applies to them. I quote again —

He tries to break it down: "The SES, Marine Rescue, Fire and Rescue as well as emergency volunteers."

Who are these "emergency volunteers" he keeps referring to?

If you include the bushfire fighters there are about 24,000 "emergency SERVICES volunteers".

When he refers to 24 000 or 25 000 volunteers, that would include all the local government volunteers. He gave a spray about the journalist saying there are over 7 000 volunteers. The journalist is quite right. That is my understanding of how he responded.

I quote again from the complainant —

Yet the story then includes comments from those that Redman purports to speak on behalf of not saying anything remotely like what has been claimed.

He said the journalist reported that —

"The Code of Conduct was circulated late last month and sparked a reaction from volunteers to their local MPs, prompting questions in the WA Parliament Lower House from Nationals MP Terry Redman."

He then asked —

Where is the evidence of this "reaction"? What volunteers?

Clearly, he has scared the volunteers off, and it does not surprise me. I know for a fact that a whole range of volunteers were approached about this but did not want to talk because of the code of conduct. We know also, from subsequent questions in Parliament, that after the four-week period to complete the course, fewer than 20 per cent of the volunteers who should have completed it did complete it. By the sounds of it, they are voting with their feet.

The complaint goes on to say —

It's unbelievable this gets past the sub-editors or is even written in the first place.

This is journalism 101 and breaches countless parts of the ABC charter and editorial policy.

That would be a solid story if volunteers were actually complaining about the update to the code.

What happens if the code states that volunteers cannot talk to members of Parliament or members of the media? They are probably not going to do it through fear of retribution. If those sorts of gag orders are put in the code, that is the response they will get. Do not complain that it would have been a good story had someone stumped up! The government fired a shot across the bow when it said, “We don’t want you talking to those guys because it might expose something we don’t want to see exposed.” The complaint goes on to state —

The only parties interviewed in this are two opposition politicians, —

I might add that one finished in 2001 —

yet only one has been declared, and three associations.

I mentioned who had responded in the news reports. The complaint goes on to say —

All this story serves to do is create false division, blur the truth, and feed into an opposition narrative that has now been given credence because it was on the ABC and has the potential to become a self-fulfilling prophecy.

...

No public interest test has been made here or any assessment about the credibility of the protagonist sources.

The fundamentals of journalism and the heart of the ABC charter are once again disregarded by ... as he continues on what appears to be an ongoing and unjustified attack on DFES.

... only gets some brief lines at the bottom of the online story. Nothing higher to balance these egregious claims that have no evidence.

This story serves to undermine and politicise emergency services, which ironically is the opposite of what the code of conduct was put in place to do.

I repeat —

This story serves to undermine and politicise emergency services ...

The Labor government introduced the code of conduct so that volunteers could not talk to politicians. That politicises our emergency services. I know that the code applies to career staff, but I add that it also applies to volunteers. No other government agency places such a constraint on people talking to anybody.

The document continues —

The ABC, which is involved in emergency broadcasting, has a responsibility to avoid this politicisation.

Thank you.

Regards, Ryan Emery, media adviser for WA Emergency Services Minister Francis Logan.

I put that on the record. I will give the document to Hansard, so they can pick up that commentary.

I highlight the point that the complaint is a spray at the ABC to scare journalists from writing an accurate story about the government putting a gag order on volunteers in this state. If anything is going to suppress the responsibility that we put on volunteers to respond to those emergency issues, this is exactly that. Why should members of Parliament not be in a position to receive commentary from our volunteers if they feel they have been badly served?

**MR D.C. NALDER (Bateman)** [4.30 pm]: I rise to round off the whole budget process. I want to open my remarks on the Appropriation (Recurrent 2020–21) Bill 2020 by saying that the completely strange and unreal set of circumstances that we found ourselves in this year made things somewhat difficult for the opposition, as we did not have access to the financial statements until three months after the financial year had started. That was no fault of the government; it was just a result of the circumstances that the world found itself in. I will summarise some concerns I have about the financials presented by the state government. I know that the Treasurer would not argue with this point, but the state has been very fortunate with the iron ore situation and the GST payments. The government has been quite lucky with what it has been presented with. If the former government had the same sort of luck in 2015–16, it would have fundamentally changed the financial position of the state at the time. It is fascinating that the former government is credited with ruining the state’s finances whereas the GST and the price of iron ore have fundamentally changed the financial position of Western Australia moving forward and that hardly gets any acknowledgement from the government.

The manipulation of the data to deliver some of the surplus outcomes moving forward is of concern, as is seeing \$921 million transferred from public corporations from the previous year into this financial year, accounting for roughly 75 per cent of the budget surplus. There was no justification for the government to do that other than to understate the financial performance last year and make it look like COVID-19 was impacting on the expected budget surplus from the midyear result, yet we know that is not the case.

I have some concerns about some other things in the budget. I am really worried about how the government is manipulating organisations such as Lotterywest, which was specifically set up to support charitable organisations in Western Australia. I am worried about the political influence over such an organisation.

My final point relates to the sustainability of the financial outcomes. I know that the budget surplus looks a bit lower because it forecasts a drop in the price of iron ore, but I am really worried about what the government will do if China opens up its market to Africa and how what is happening with Brazil will impact on the price of iron ore. I couple that concern with my concern that the government is not necessarily doing enough, in my view, for the economy moving forward. I do not believe that we are doing enough economically for the longer term given that the government is still forecasting an unemployment rate of six per cent at the end of the forward estimates, particularly given that the rate was under six per cent at the start of this financial year before the COVID outbreak. The focus has been more on the short-term issues that Western Australia faces. I understand that some of that is required from a COVID perspective, but I also believe that some of it is more political for the government at this time.

For those reasons, I feel that this has been a lucky budget. It has some elements of manipulation or is misleading in some respects, and the government has probably missed the opportunity to lay further foundations for the future success and prosperity of Western Australia.

**MR B.S. WYATT (Victoria Park — Treasurer)** [4.34 pm] — in reply: I thank all members for their contributions on the Appropriation (Recurrent 2020–21) Bill 2020, and particularly the member for Warren–Blackwood, who effectively gave a speech related to the second reading. He was unwell during the second reading debate so we all gave him some flexibility during his contribution this afternoon.

I would like to make a couple of points about the debate. As I have pointed out a number of times, budgets are fixed at a point in time. A lot of work goes into a budget—this one has had more work than any other. From memory, 30 Expenditure Review Committee meetings led to this budget. To give members an idea, effectively two and a half budget processes went into this one. We were well into the ERC process when the budget was delayed until October, so there was a round of ERC meetings to deal with the restrictions we imposed to fight COVID and then we went back to the more normal ERC budget meetings.

By way of an aside, I thank the Parliament, because we brought in a supply bill and a range of unusual authorities to approve expenditure, bearing in mind that under the Financial Management Act 2006, we had the authority to spend money only through to the end of August. I sought a large amount of supply—effectively, a Treasurer’s advance authorisation—which the opposition supported, simply because at the time I could not pick what the revenue estimates were going to do. I want to reflect on the advice I received from Treasury in May. I had asked Treasury to effectively give me its best guess about the impact of the restrictions that had been imposed across Australia, and indeed around the world, and what that was likely to do to the WA economy, and therefore the WA revenue base. The predictions were diabolical early on. The figures were terrifying, both in terms of the economic contraction and what we thought that might do to the unemployment rate and all the revenue sources of the state, not just the GST pool, which seems to get the majority focus but is not the biggest component of our revenue source. It was a frightening figure. Thankfully, Australia has done very well, with Western Australia leading in that regard. We now have strong data. Indeed, in the property space, we have very strong data around transactions in lending and building approvals, particularly in the established market, and property-related taxes are holding up much better than we expected. We are in a very fortunate position in Western Australia.

The member for Bateman reflected on the price of iron ore, which is still surprisingly high. Of course, the budget is not predicated on that, nor are the forward estimates. We would never do that, because the one thing we know is that it can trade across a huge spectrum in a very short period of time. Earlier this year, from memory, it moved up 30 per cent, thankfully, in about a seven-day period. But of course we have seen it move with just as much speed in the opposite direction. We need to be very careful in Western Australia to ensure that we do not base a budget or a forward estimates assumption around an iron ore price that is clearly not sustainable. Supply and demand will clearly drive that in due course.

We are nearing the completion of my fourth budget. I really enjoy the budget estimates period. In my four budgets, I have not had a question from a government member, and I am very determined to keep it that way. As a result, we have had fairly good conversations. In particular, the members for Bateman and Riverton have always had fairly wideranging conversations during estimates. I usually learn something from the Under Treasurer or the CEO of the Western Australian Treasury Corporation, whoever it happens to be at the time. That was the case this time, more so than ever before, because there has been, and will continue to be, reflections from members of Parliament in this place around what is happening globally.

We will be impacted, for example, by the latest restrictions that were imposed in the United Kingdom. I am not entirely certain how, but we will be impacted by them somehow. Although we have extraordinary COVID figures in Western Australia and Australia, the global situation will continue to impact us here. Although we are generally a trading nation with Asia—we all know the China story, but Asia more broadly—a lot of investment comes into Western Australia from places like the United States and the United Kingdom. We are not entirely certain how that investment is going to be disrupted. Of course, tomorrow, there is an election in the United States, which will obviously have an impact over the next four years as well. Entirely how it will impact us is probably as certain as the budget.

I will conclude by making the point that we are in an incredible situation in Western Australia. I am hugely optimistic because of what we have proven ourselves capable of doing in Western Australia and Australia—our federation

worked. Even with the second wave in Victoria, at any point of comparison with any place on the planet, it has been extraordinary to see it defeat the second wave. Our federation worked. At the state and commonwealth levels, we have a strong balance sheet. I know there is lots of debate around that, but we do, at a state and federal level, have a strong balance sheet. Even today we heard the decision by the Reserve Bank of Australia to lower interest rates to 0.1 per cent and to keep interest rates at that level until inflation is in the range of two to three per cent. That may well be another two to three years. Who knows where the next two years will take us? I made the point in here that I suspect the next two years will be the main period of uncertainty, but, as all state budgets roll out over the rest of November, we are going to see every Australian government doing the same thing as we are; that is, entering very heavily into a large asset spend, funded by a state balance sheet and supported by the commonwealth balance sheet, at the same time as the commonwealth starts to exit its broader social or welfare supports. We will see governments around the planet doing something very similar. The next two years are going to be an interesting time when we have very small amounts of inflation and very low interest rates, and, as a result, I suspect the global competition for skilled labour is going to increase, not just in Australia—state versus state—but globally.

The fight for skilled labour is perhaps going to be one of the defining features of the next few years. Australia and Western Australia are incredibly well placed to attract the skilled labour force that we are going to need because, as I said, the structures that we have in place have proven themselves incredibly well during this time. Our health system has also proven itself incredibly well and, as a result, the next few years in Western Australia are going to be exciting, with or without a vaccine. As a nation, and as a planet, we will understand the virus more as treatment gets better and we will understand better how to go about our normal life. Clearly, around the world, we are seeing some fairly severe second and third waves and some severe reactions to them, which of course will impact us all.

I thank all members. I sat through all the responses to my budget speech, I think! It is the agony and the ecstasy. I prefer the ecstasy, to be honest. The opposition's savage, unfair complaints about the budget were the agony and the much more astute, clear-eyed reactions to the budget from government members were the ecstasy. I prefer the ecstasy to the agony, but that is the nature of our political system. I thank all members. I am relieved that this budget, which seemed to never, ever end, is nearly through this place. I particularly thank members for the budget estimates period, because that is when the budget's rigour is really put to the test. In light of the fact that the midyear review has already started, I look forward to the midyear review next month. With that, I will take my seat.

Question put and passed.

Bill read a third time and transmitted to the Council.

#### **APPROPRIATION (CAPITAL 2020–21) BILL 2020**

##### *Third Reading*

Bill read a third time, on motion by **Mr B.S. Wyatt (Treasurer)**, and transmitted to the Council.

#### **WORK HEALTH AND SAFETY BILL 2019**

##### *Returned*

Bill returned from the Council with amendments.

##### *As to Consideration in Detail*

On motion by **Mr W.J. Johnston (Minister for Industrial Relations)**, resolved —

That the Council's amendments be considered in detail forthwith.

##### *Council's Amendments — Consideration in Detail*

The amendments made by the Council were as follows —

No 1

Clause 2, page 2, line 8 — To insert after "Royal Assent;" —  
*(assent day)*

No 2

Clause 2, page 2, after line 8 — To insert —  
(aa) Part 14, other than Divisions 1 to 3 — on the day after assent day;

No 3

Clause 2, page 2, after line 9 — To insert —  
(2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on assent day, this Act is repealed on the day after that period ends.

No 4

Clause 4, page 7, lines 11 and 12 — To delete the lines and substitute —  
*industrial manslaughter* — see section 30A;

No 5

Clause 5, page 12, after line 15 — To insert —

(7A) A strata company that is responsible for any common areas used only for residential purposes may be taken not to be a person conducting a business or undertaking in relation to those premises.

(7B) Subsection (7A) does not apply if the strata company engages any worker as an employee.

No 6

Clause 5, page 12, after line 16 — To insert —

***strata company*** means a body corporate established under section 14 of the *Strata Titles Act 1985* on registration of a strata titles scheme;

No 7

Clause 12A, page 15, lines 4 to 9 — To delete the clause.

No 8

Clause 12B, page 15, line 21 — To delete the line.

No 9

Clause 30, page 34, after line 26 — To insert —

***serious harm***, in relation to an individual, means an illness or injury that —

(a) endangers, or is likely to endanger, the individual's life; or

(b) results, or is likely to result, in permanent injury or harm to the individual's health.

No 10

Clause 30A, page 35, line 3 — To insert after “crime” —

***(industrial manslaughter)***

No 11

Clause 30A, page 35, line 12 — To insert after “of” —

, or serious harm to,

No 12

Clause 30A, page 35, line 19 — To delete “an offence under section 30B(1).” and substitute — a Category 1 offence, a Category 2 offence or a Category 3 offence.

No 13

Clause 30A, page 35, line 20 — To insert after “crime” —

***(industrial manslaughter)***

No 14

Clause 30A, page 36, line 7 — To insert after “of” —

, or serious harm to,

No 15

Clause 30A, page 36, line 12 — To delete “an offence under section 30B(3).” and substitute — a Category 1 offence, a Category 2 offence or a Category 3 offence.

No 16

Clause 30B, page 36, line 13 to page 37, line 10 — To delete the clause.

No 17

Clause 31, page 37, line 17 — To delete “serious harm to” and substitute —

the death of, or serious harm to,

No 18

Clause 32, page 38, line 16 — To delete “a Category 2 offence” and substitute — an offence (a ***Category 2 offence***)

No 19

Clause 33, page 39, line 2 — To delete “a Category 3 offence” and substitute — an offence (a ***Category 3 offence***)

No 20

Clause 216, page 143, line 11 — To delete “an industrial manslaughter offence” and substitute —  
industrial manslaughter

No 21

Clause 223, page 146, after line 9, the Table after item 5 — To insert —

5A.	Section 155A(6)(b) (decision to withhold approval of legal practitioner on other reasonable grounds)	The witness.
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No 22

Clause 230, page 159, lines 11 and 12 — To delete “, other than an industrial manslaughter offence under section 30A,”.

No 23

Clause 230, page 159, lines 21 to 23 — To delete the lines and substitute —

(3) Nothing in this section affects —

- (a) the ability of an authorised officer (as defined in the *Criminal Procedure Act 2004* section 80(1)) to commence or conduct a prosecution for an offence against this Act; or
- (b) the functions of the DPP under the *Director of Public Prosecutions Act 1991*.

No 24

Clause 231, page 159, lines 27 and 28 — To delete “an industrial manslaughter offence,” and substitute —  
industrial manslaughter,

No 25

Clause 231, page 160, line 17 to page 161, line 10 — To delete the lines.

No 26

Clause 232, page 161, lines 15 and 16 — To delete “an industrial manslaughter offence under section 30A,” and substitute —  
industrial manslaughter,

No 27

Clause 232, page 161, lines 31 and 32 — To delete “an industrial manslaughter offence under section 30B, or for a Category 1 offence,” and substitute —  
a Category 1 offence

No 28

Clause 232, page 162, lines 5 to 21 — To delete the lines and substitute —

- (3) Subsections (4) and (4A) apply to proceedings (the **relevant proceedings**) against a person for a Category 1 offence, a Category 2 offence or a Category 3 offence in relation to any conduct (the **relevant conduct**).
- (4) The relevant proceedings may be brought after the end of the applicable limitation period in subsection (1) if —
  - (a) either —
    - (i) the DPP has considered whether proceedings for industrial manslaughter should be brought against the person in relation to the relevant conduct or to any conduct that includes the relevant conduct, and has decided not to bring those proceedings; or
    - (ii) the DPP has discontinued proceedings for industrial manslaughter against the person in relation to the relevant conduct or to any conduct that includes the relevant conduct; and
  - (b) the relevant proceedings are brought no later than 6 months after the day on which the DPP made that decision or discontinued those proceedings.
- (4A) Despite section 230(1), the relevant proceedings may only be brought under subsection (4) by an authorised officer (as defined in the *Criminal Procedure Act 2004* section 80(1)).

No 29

Clause 232, page 162, lines 22 to 26 — To delete the lines and substitute —

- (5) A person may be convicted of an offence as provided for by section 30A(2) or (4) despite subsection (1) and section 10A(2) of *The Criminal Code*.

No. 30

Clause 272A, page 178, line 7 — To delete “\$55 000” and substitute —

\$51 000

No 31

Clause 272A, page 178, line 8 — To delete “\$285 000” and substitute —

\$255 000

No 32

Clause 274, page 179, after line 21 — To insert —

- (7) The Minister must make available on the WHS Department’s website, without charge —
- (a) a copy of each code of practice that is currently approved; and
  - (b) the identity of each document applied, adopted or incorporated (to any extent) by an approved code of practice and, unless doing so would infringe copyright, a copy of that document.

No 33

Clause 277, page 181, line 24 — To delete the line and substitute —

on which this section comes into operation; and

No 34

Clause 277, page 181, after line 32 — To insert —

- (3) If, in the Minister’s opinion, a House of Parliament will not sit during the period of 21 days after finalisation of the report, the Minister must send the report to the Clerk of the House.
- (4) When the report is sent to the Clerk of a House it is taken to have been laid before the House.
- (5) The laying of the report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the report.

No 35

Clause 288, page 186, lines 7 to 21 — To delete the clause.

No 36

New Clause 288, page 186, after line 21 — To insert —

**288. Section 96A deleted**  
Delete section 96A.

No 37

Clause 417, page 249, lines 10 and 11 — To delete the lines.

No 38

Clause 417, page 249, line 28 — To delete “health and safety”.

No 39

Clause 417, page 250, line 4 — To delete “health and safety”.

No 40

Schedule 1, page 253, lines 1 to 31 — To delete the Schedule.

No 41

Schedule 2, page 273, line 23 to page 274, line 10 — To delete the lines.

No 42

Long Title, page 1, the 4<sup>th</sup> bullet point — To delete “and” the second time it occurs.

No 43

Long Title, page 1 — To delete the 5<sup>th</sup> bullet point.

**The ACTING SPEAKER:** Members, we have before us message 140, the schedule indicates the amendments made by the Legislative Council to the Work Health and Safety Bill 2019. What is the first clause we want to look at?

**Mr W.J. JOHNSTON:** I have just given a list of notes to my good friend the member for Hillarys with some suggestions of how to group these amendments. If he is happy to do so, I am going to proceed in that way.

**Mr P.A. KATSAMBANIS:** I am happy with the list the member has provided.

**The ACTING SPEAKER:** The minister has to seek leave to do it as a list.

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 1 to 3 made by the Council be agreed to.

These amendments are in response to the Standing Committee on Uniform Legislation and Statutes Review's recommendations that the WA act is automatically repealed if not operational within 10 years of assent. The other amendments arising from committee's report include the operation of the way the bill comes into effect after being assented to. The assent provision that was included in the bill, as presented, was exactly the same as a number of bills that were presented by the former Attorney General. The former Attorney General, Hon Michael Mischin, was the chair of the committee and insisted that these amendments be made. They were moved by Hon Nick Goiran and agreed to by the government because they have no practical impact.

**Question put and passed; the Council's amendments agreed to.**

**Mr W.J. JOHNSTON:** I move —

That amendment 4 made by the Council be agreed to.

This is a consequential amendment to amendment 16, which will be dealt with later in the bill.

**Question put and passed; the Council's amendment agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 5 and 6 made by the Council be agreed to.

These amendments were moved by Hon Alison Xamon, MLC, to insert a subclause to clarify the circumstances in which a strata company is considered a person conducting a business or undertaking. They were to be dealt with in the regulations; therefore, the government has no objection to them and including them in the bill is fine.

**Mr P.A. KATSAMBANIS:** There is no objection from the opposition to these amendments. It is questionable whether they are necessary, but given that it is questionable it is better to include them than not include them. I understand that the minister was going to include them by regulation but being in the act is just as good so we are happy to support them.

**Question put and passed; the Council's amendments agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 7 and 8 made by the Council be agreed to.

Schedule 1 is amended by amendment 40. This amendment is a consequential amendment and was a recommendation of the Standing Committee on Uniform Legislation and Statutes Review. It relates to a provision that would have allowed the bill to be extended to dangerous goods. That is the policy intention of the government but it would have required further legislative amendment in any case, and to remove any doubt, we will be removing schedule 1 when we get to it. This is a consequential amendment to deal with that. Amendment 8 is a consequential amendment and will remove the reference to "health and safety magistrates" in schedule 2, division 6. That amendment, which we will obviously come to later, is a result of correspondence from the Chief Magistrate, who, according to my notes stated —

In my view, the inclusion of the provisions relating to health and safety magistrates are unnecessary. If these provisions are deleted, any offence created by the bill will be dealt with in accordance with the Criminal Procedures Act. Simple offences would be heard by magistrates, indictable only offences by the District Court and any either way offences by either court depending on the circumstance of a particular offence.

He went on to say —

I support the deletion of schedule 2, division 6, and any reference to health and safety magistrates contained in the transitional provisions.

I make it clear that there is no principal impact other than there will be no health and safety magistrate in Western Australia. Some people think that having them would be a good idea but at this stage the government is not proceeding with that on the recommendation of the Chief Magistrate.

**Mr P.A. KATSAMBANIS:** In relation to the consequential removal of schedule 1 later—we may as well deal with it now since the minister raised it—I realise that it is the policy intent of government to bring that dangerous goods regime into the work health and safety regime; however, as the minister himself pointed out, that would require some legislative change. On balance, it is better to deal with the subject matter that schedule 1 was trying to deal with at the time that the legislative change will be made so that there is absolutely no doubt that this WHS regime will apply once those legislative changes are made. Having them tucked away in a schedule and enlivening them by the passing of legislation may not trigger consciousness, if you like, of affected people. I think it will work better as a package if all the changes are made at the same time. I am supportive of the deletion of the clause and the further deletion of schedule 1. In relation to the advice of the Chief Magistrate, as the minister pointed out, we do not have especially appointed health and safety magistrates. The Chief Magistrate deals with these matters and appoints experienced magistrates to deal with them. It is a tidying up of the bill to ensure that it complies with the way that our Magistrates Court is administered in Western Australia. Again, we are supportive of that.

**Question put and passed; the Council's amendments agreed to.**

**Mr W.J. JOHNSTON:** I seek leave to move amendments 9 to 17 together.

**Mr P.A. KATSAMBANIS:** I am happy to say yes on the basis that we get an explanation about clause 9 individually during the explanation. I would really appreciate that.

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 9 to 17 made by the Council be agreed to.

Amendment 9 inserts a definition of “serious harm” and is in division 5. It is consequential to including the term in clause 30A. This was a government amendment. Amendment 10 inserts “(industrial manslaughter)” and was recommended by the Parliamentary Counsel’s Office. Amendment 13 proposes a similar amendment at line 20. It makes it clear that this provision and the description relates to the crime of industrial manslaughter. That was a government amendment.

Amendment 11 includes serious harm as a knowledge element and is in addition to knowledge about death. It will be sufficient that the party being charged knew that the contravention of the work health and safety duty was such that it would likely lead to serious harm but they proceeded nevertheless. Amendment 14 proposes a similar amendment and it was also a government amendment. This is a very important amendment. An error was made by the government because the original provision said that a person had to know that the action they were doing would lead to a death and therefore it would be a defence to say, “I didn’t know the person was going to die. I just thought they would be seriously harmed.” Clearly, that would not be sufficient, so this amendment clears up that matter. Amendment 12 is a consequential amendment. During the committee stage, Hon Nick Goiran proposed amendments to delete clause 30B. I will talk about that in a minute. The Council supported those amendments. I must say that there was a similar government amendment that was an alternative to Hon Nick Goiran’s amendment and I will talk about that soon. Amendment 12 was also proposed by Hon Nick Goiran and it is consequential to the deletion of clause 30B. The removal of clause 30B consequentially required that death be added as an element in clause 31 for persons conducting a business or undertaking. Amendment 15 also removes reference to clause 30B. Amendment 13 inserts “(industrial manslaughter)” and was recommended by the PCO. Amendment 10, which I just spoke about, proposed a similar amendment at line 3. It makes it clear that this provision and the description relates to the crime of industrial manslaughter. It was a government amendment.

Amendment 14 includes serious harm as a knowledge element. Amendment 11 proposed a similar amendment and I will explain why that was needed. Again, it was a government amendment. Amendment 15 is a consequential amendment and is consistent with amendment 12 and, again, it was an amendment of Hon Nick Goiran. Amendment 16 was proposed by Hon Nick Goiran to deal with the deletion of clause 30B and it is consequential to the deletion of clause 30B industrial manslaughter, simple offence. Removal of clause 30B consequentially required that death be added as an element of clause 31 for persons conducting a business or undertaking. Amendment 17 inserts serious harm and is a consequential amendment in the same way that I described previously. It is an alternative to clause 30B and the Council agreed to include the reference to death in clause 31. This was an amendment by Hon Nick Goiran and, as I indicated, the government moved an alternative amendment in very similar terms.

**Mr P.A. KATSAMBANIS:** Including the term “serious harm” in the knowledge element required in the industrial manslaughter offence at clause 30A is a significant improvement. As the minister indicated, it was a bit of an oversight that had not been picked up, but the government picked it up. As both the minister and I have agreed in the past, sometimes an industrial incident resulting in either serious harm or death is almost a matter of luck in the circumstances, and the knowledge element required in the original construction of clause 30A was that the person engaging in the conduct knew that the conduct was likely to cause the death of an individual. It is extended now. They knew that the conduct was likely to cause the death of or serious harm to an individual. It is really related to the knowledge element that a person is creating a dangerous workplace rather than the consequences of creating that dangerous workplace. We are supportive of that provision. In some ways it probably broadens the scope of clause 30A a little. The removal of clause 30B has been debated in this chamber and the other place. That amendment

was moved by Hon Nick Goiran on behalf of the opposition in the other place as we had moved it here without success. We are satisfied now that the construction of clauses 30A and 31 are sufficient. In the other place, there was debate on an amendment to clause 31 that did not succeed. There is no point in reprising that debate now—suffice to say that we have reached the position in which both chambers have looked at it and this is the final construction of the clauses, and we will move on from there.

**Mr W.J. JOHNSTON:** I will just clarify that clause 30A was unanimously supported through this chamber. The challenge was that the construction that was agreed by the chamber would have left the opportunity for somebody to defend the charge under clause 30A by arguing that they knew that the behaviour would cause serious harm but they did not realise that it would kill someone. Clearly, that was a mistake by all of us here.

I turn to the deletion of clause 30B. Let me make it clear that the government agreed to delete clause 30B because we were amending clause 31. We opposed the two amendments that went together in clauses 30B and 31, but we were defeated. That was the subject of discussion outside the chamber between the Labor Party and the Liberal Party. Let me make it clear that when the Liberal Party's amendment prevailed, I understood that the clause, as amended, would be supported. The longstanding practice in Westminster Parliaments is that if a party passes an amendment, it supports the amendment that it passed. The tradition in the Westminster system is that if a party has an amendment pass through a bill, it supports the entire bill. If other amendments are defeated, that is not an excuse to not support the legislation. In the Industrial Relations Legislation Amendment Bill, the member for Hillarys said that the package of amendments either all get up or they do not. Generally speaking, if a member moves an amendment and the amendment is supported, that is a commitment by the member to support the amended bill; otherwise, why had the member proposed an amendment? If a member proposes an amendment that they then want to vote against, that is a clear breach of understandings of the parliamentary system that we have inherited from Westminster.

What happened? After the government was defeated on clauses 30B and 31, because it was a package, Hon Nick Goiran immediately said that even though his amendment had just been supported through the chamber and the government had withdrawn its amendment, his amendment was not satisfactory. The question I have always had is: what was in his mind when he encouraged the chamber to support his amendment if he did not think his amendment was satisfactory; what was in his mind? That was a deceitful action; there is no other way of putting it. What occurred was unreasonable behaviour in anybody's language. The offence elements of clauses 30B and 31 were identical apart from clause 30B being about death and clause 31 being about serious harm. The elements of the offence for clauses 30B and 31 were the same. It is true that the member for Hillarys opposed clause 30B in the form that we presented it in in this chamber. I do not agree with him, but he is welcome to do so. Clause 31 was agreed to unanimously by us, but the elements of the offence were identical. They are actually the same, in effect, as the existing law in Western Australia. Then the Liberal Party immediately said that the amendment that had already been placed on the notice paper by Hon Rick Mazza should be supported. I was never told that by the Liberal Party in any of the meetings I held with it.

**Mr S.A. MILLMAN:** I would like to hear more from the minister on this point.

**Mr W.J. JOHNSTON:** Then there was a vote on the amendments. Firstly, a number of organisations in the community were saying that we were criminalising accidents. We were doing no more than taking the existing provision in the existing act that has been around since 1984 and increasing the penalty. We were introducing jail time and significantly increasing the monetary penalties, but the actual elements of the offence were the same. I made that point a dozen times or more. The members can read *Hansard* to see that the elements of the offence were not changing. Obviously, it was using new language because we had to accommodate the concept of a person conducting a business or undertaking, but the elements of the offence were not changing. Had this conduct by the Liberal Party prevailed, we would have had two offences with different penalty provisions but the same set of circumstances. The knowledge element in clauses 30A and 31 would have been the same. We would have then had two offences with different penalties that were the same. That meant that the existing offence for a workplace death at level 3 would have disappeared, and the most commonly applied offence would not have been accommodated by the Work Health and Safety Bill 2019 in Western Australia. That would have been a disgrace. Had that amendment been passed by that house, it would not have prevailed. It would not have been supported in this chamber. If the bill was defeated, that would have been the consequence because we could not have the most common offence cease to exist and only the knowledge offence continue. That would have been ridiculous. It would have left hundreds of cases of death with no possibility of criminal sanction. It would have been a disgrace.

Fortunately, when the amendment went to the vote, it was defeated. I have to acknowledge Hon Charles Smith who had great pressure on him at the time, but he supported the government's position. I was surprised but I am very pleased to say that the Nationals WA stood up for common sense and a good outcome in this situation, and the member for North West Central specifically asked me to acknowledge the work of the Nationals, and I do so. I have already done it once in this chamber, but I acknowledge that the Nationals supported it and so did the Australian Greens. It is a credit to the Australian Greens that their support for this provision never wavered. I am very proud to be the Minister for Industrial Relations who has made a real difference in this state, not because of my work but because I was allowed to have the right to bring this legislation through Parliament. I give credit to the people who got it

to this point. I was at a Labor Party branch meeting on Sunday, and one of the rank and file members said to me, “This legislation is why you belong to the Labor Party. It is so fundamental to our DNA.” That member who used to work at WorkSafe Western Australia, as it happens, made the comment that he had spent 40 years lobbying to get this done. I am proud that I was lucky enough to be the minister who, as part of a bigger team, brought it forward. The Labor Party is clearly the major supporter of this legislation.

Secondly, I want to thank the union movement in Western Australia. The union movement has been single-minded on this for a long time. I am proud, as a former vice-president of the Trades and Labor Council as it was then—it is now UnionsWA —

**Mr S.A. MILLMAN:** Mr Acting Speaker, I would like to hear further from the minister on this point in particular.

**Dr D.J. Honey:** Where’s the mercy rule?

**Mr W.J. JOHNSTON:** It is not a surprise that the member for Cottesloe does not care about working people. I love this. The member used to be in charge of residuals at Alcoa; now he is managing residuals on the backbench of the Liberal Party!

Let me make it clear: the union movement has a proud history in this state and is to be commended for the work it did to get this bill to this point. I do not want to thank all the union secretaries and union officials by name, but I particularly want to thank Owen Whittle, assistant secretary of UnionsWA, for his hard work, and Meredith Hammat, secretary of UnionsWA, for her great leadership, along with a range of other unions—the Construction, Forestry, Maritime, Mining and Energy Union; Australian Manufacturing Workers’ Union; Australian Workers’ Union; Electrical Trades Union; United Workers Union; and State School Teachers’ Union of WA—that have worked single-mindedly on this over many years.

I want to give my final thanks to the most important people in this debate, who had to sit at home and watch on the internet the embarrassing contribution by Hon Michael Mischin. This is a man who no Liberal wants to see in Parliament. This is a man who has been dropped to number 6 on the ticket and therefore will never be in Parliament again at the end of this Parliament, because the Liberal Party does not want him here. He said terrible things about the families and their loved ones. John Welch from my office was getting phone calls each morning from people who wanted to complain about what Hon Michael Mischin had said in the chamber. Those families were sitting at home watching the debate. Hon Michael Mischin’s behaviour should be condemned by every right-thinking person. The other one we have to condemn is Hon Nick Goiran. Hon Nick Goiran purports to be a man of honour and a man with deep convictions. I do not understand why he tried to stand in the way of protecting the lives of working people. He says that he respects life, as do I, yet he tried to get in the way of this bill. That is a disgrace and he should be ashamed of himself.

I want to finish by thanking the families left behind, and particularly Regan Ballantine, who is with us in the chamber today. No family has suffered more or less than any other family that has been left behind; none of their sacrifice is more or less important than the others. But for a whole range of reasons—force of personality, attitude, time availability—Regan Ballantine has really driven the lobbying effort, and convinced me to support the introduction of an industrial manslaughter offence in this bill and a significant increase of the penalties for a level 3 offence. This bill will not bring back the life of any worker who has been killed—it will not bring back anybody’s life—but it should be a reasonable tribute to the hard work of the families that have been left behind. At the date in the future when this bill is fully implemented, it will make a difference. It will make a difference in three ways. Firstly, the bill will significantly increase the penalties. Secondly, the prosecution process will be simplified because we have made it clear who is in charge through the concept of the PCBU, or person conducting a business or undertaking. Thirdly, we have sent a message to senior people in organisations—I know this is already having an impact on them—that everybody is responsible and that they really do need to do better in health and safety. We have done better on health and safety over the last 30 years than we did prior to the 1984 legislation. The fact that workers’ compensation premiums today are the same, in dollar terms, as they were 30 years ago shows what we have done for health and safety in this state. But that does not mean we are at the finish line. We are not there yet. Even this bill will not be the finish line, but what it will do is to remind businesses that they have a principal responsibility to provide a safe workplace. That is their job. If they breach their obligations, they can be prosecuted. All we have done is to make those prosecutions clearer and to increase the penalties. I am very proud to be part of that.

**Ms M.M. QUIRK:** I believe the minister was just finishing off his very erudite remarks.

**Question put and passed; the Council’s amendments agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 18 to 20 made by the Council be agreed to.

Amendment 18 is a drafting refinement recommended by the Parliamentary Counsel’s Office. It is a government amendment. Amendment 19 is the same. Amendment 20 is consequential as a result of the amendments to clause 30A and, again, is a government amendment.

**Question put and passed; the Council’s amendments agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 21 to 26 made by the Council be agreed to.

Amendment 21 is to clause 223, which is titled “Which decisions are reviewable”. The amendment inserts item 5A in the table, which deals with clause 155A, titled “Supplementary provisions relating to appearances”. Clause 155A(6)(b) provides the regulator with the authority to approve legal practitioners in prescribed circumstances. This amendment provides for the witness to be an eligible person to request a review of a regulated decision not to approve a legal practitioner, and was an amendment from Hon Alison Xamon.

The Director of Public Prosecutions advised that amendment 22 is necessary for the proper functioning of her role. The amendment authorises the regulator to commence charges in every instance, including for the indictable industrial manslaughter offence for a clause 30A prosecution. The DPP will assume conduct of the matter once disclosure is complete or the matter is committed to the District Court. This is consistent with the existing practice in criminal courts, in which the investigating agency, the WA Police Force, commences the charge in the Magistrates Court and the DPP takes over the proceedings once the matter is committed to a superior court. For almost all types of offences in Western Australia, it is not the DPP that initially brings the proceedings. To do otherwise would create various problems, including in relation to disclosure obligations. This is a government amendment.

Amendment 23 was initiated on the advice of the DPP and is also a government amendment.

Amendment 24 is consistent with the refinement of the definition of “industrial manslaughter” consequential to the removal of clause 30B. Again, it is a government amendment.

Amendment 25 is supported on advice of the Director of Public Prosecutions. A person who believes an industrial manslaughter offence or a category 1 or 2 offence has been committed but no prosecution has been brought will be able to write to the regulator to request that a prosecution be brought. The regulator must provide a response to the person within three months. Should there be any dispute about whether a charge is supported by the evidence, existing processes and practice will allow the regulator to seek advice from the DPP or, for simple offences, typically the State Solicitor’s Office. Again, this was a government amendment.

Amendment 26 is a consequential amendment and is again a government amendment.

**Mr P.A. KATSAMBANIS:** I think these are very, very important amendments. As the minister has pointed out, many of the amendments in this group are on the advice and recommendation of the Director of Public Prosecutions. It is extremely important that we ensure that the provisions we are introducing into the legislation, especially new clause 30A, can be effectively prosecuted. It is interesting that although we went through quite a significant consultation process, including a ministerial advisory panel, these issues were not ventilated then. I recognise that at the time the panel was looking at the operation of work health and safety laws and how a national model law could be adapted to Western Australia from an occupational work health and safety perspective, not from a prosecutorial perspective. Perhaps it was a bit of an oversight. Through the Committee of the Whole House in the other place, issues arose about how the DPP would interact with this legislation and we had the opportunity to tidy them up. As I said, we fully support these amendments because they will make the prosecution sanctions work, as will some of the amendments coming up in the next batch.

**Question put and passed. Council’s amendments agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 27 to 29 made by the Council be agreed to.

Amendment 27 is a consequential amendment as a result of clause 30B being deleted and “death” being included in clause 31. It is a government amendment. Amendment 28 provides the regulator with typically two years to bring a prosecution for a simple offence, which includes categories 1, 2 and 3. There will be no time limit to bring a clause 30A industrial manslaughter prosecution should the DPP decide to not commence a clause 30A prosecution or to discontinue an existing clause 30A prosecution. Assuming the two-year limitation period has expired for simple offences, the authorised officer is given a further six months to bring a category 1, 2 or 3 prosecution. It should be noted that the regulator is not an authorised officer under the Criminal Procedure Act. It is a government amendment. Amendment 29 is a consequential amendment that permits the court to impose alternative convictions for lesser offences when the relevant time periods have expired. Subsection (1) imposes a two-year limit for offences. Section 10A(2) of the Criminal Code makes reference to time limits. The time limits that might be relevant to industrial manslaughter prosecution are removed. That is a government amendment as well.

**Mr P.A. KATSAMBANIS:** Again, these amendments are supported. They come from that interaction with the DPP. They will make sure that if the DPP takes over a matter, and at some point in time determines not to bring proceedings or to withdraw proceedings, the effluxion of time does not limit the regulator from taking action under other provisions in clauses 31, 32 and the like. Again, it will give effect to the interaction between any potential District Court and Magistrates Court proceedings. The amendments are supported by the opposition because we recognise that they will make the legislation far more workable.

**Question put and passed. Council’s amendments agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 30 and 31 made by the Council be agreed to.

Amendments 30 and 31 are to clause 272A and the penalty provisions. One penalty is being changed from \$55 000 to \$51 000 and the other from \$285 000 to \$255 000. There was a very, very long debate on this clause, which relates to insurance for penalties arising under the act. It was an inordinately long debate on that narrow issue. In the end, it came down to a debate about the penalties. The penalties of \$51 000 and \$255 000 apply under the identical provision in the New South Wales legislation. The Liberal Party said, through Hon Nick Goiran, that it would not oppose the clause if the penalties in WA were exactly the same as the penalties in New South Wales. For that reason, the government moved these two amendments; therefore, we seek the opposition's support in this chamber.

**Question put and passed. Council's amendments agreed to.**

**Mr W.J. JOHNSTON:** I move —

That amendment 32 made by the Council be agreed to.

This amendment places a duty on the minister to ensure codes of practice are provided but at the same time protects copyright. The amendments commit the minister to making relevant documents without infringing on the intellectual property of persons and organisations that have created the referenced or incorporated documents. This means that the WHS bill will be inconsistent with the model WHS bill; however, the government proposed the amendment in order to maintain consistency with the bill and ensure the availability of the codes of practice as widely as possible. Other publications and codes of practice that may be referenced have copyright issues. The amendment is appropriate as it balances this important aspect of Australian law and allows wide distribution of codes of practice. This is a government amendment.

I want to make it clear that this amendment was in response to some really ridiculous behaviour by Hon Michael Mischin. Through the Standing Committee on Uniform Legislation and Statutes Review, he attacked the important practice of issuing codes of practice. He wrongly thought that a code of practice was a regulatory instrument, when it is not. Codes of practice have existed in Western Australia for many years. In fact, as I understand, Hon Michael Mischin issued some of them while he was minister; certainly, many were enforced while he was minister. They are not a regulatory instrument; they are shield, not a sword. They prescribe defences if a person is brought for prosecution, so it not possible for them to be a regulatory instrument. If there were a regulatory instrument, people could be penalised for breaching them. As there is no possibility of a penalty for breaching them, they are a defence against the prosecution for failing to comply with a duty under either the regulations or the act. It was simply, completely and utterly a misunderstanding of what the purpose is. The fact that not a single employer association in Western Australia supported the amendments moved by Hon Michael Mischin on this matter shows how out of touch the Liberal Party is at the moment.

**Question put and passed. Council's amendment agreed to.**

**Mr W.J. JOHNSTON** — by leave: I move —

That amendments 33 to 43 made by the Council be agreed to.

Amendment 33 sets out the counter for the five-year review from the assent day, rather than proclamation. The intention is that the assent day for the WHS act to commence will be as soon as possible after proclamation. The drafting of the WHS regulations will be a substantial project and could take some time to finalise; however, it is expected that the regulations will be completed within 12 months of assent. Depending on the proclamation day, the WHS act is likely to have been in operation for less than five years. In these circumstances, the review may be conducted before the issues with the WHS act have become apparent or are precisely understood. In these circumstances, government and private sector resources would not be used to best purpose. As drafted, the Work Health and Safety Bill is consistent with the established Parliamentary Counsel's Office drafting protocols. It is not clear why the amendment was proposed; however, apart from noting the potential for a reduced operation period, there are no particular objections. The amendment was moved by Hon Nick Goiran.

Amendment 34 prescribes procedures for tabling the report. There are no details about other legislation that includes this level of prescription. It is standard operating procedure for the department to provide any appropriate report to the minister once finalised. The normal procedure in forwarding the report to the minister is for the department to provide a letter referring the report to Parliament. The drafting of the proposed amendment would appear to mean that if the minister was of the opinion that a house of Parliament was sitting, there would be no prescribed 21-day requirement. It appears that the amendment is prescribing procedures for parliamentary processes. It is not known whether subclauses (4) and (5) are consistent with parliamentary procedures. During the Legislative Council debate, Hon Nick Goiran advised —

The second amendment upgrades the statutory review clause to the new standard we are commonly aware of, particularly with regard to the out-of-session tabling provisions.

The amendment was passed, having been moved by Hon Nick Goiran.

Amendment 35 is consequential to the removal of the reference to health and safety magistrates. The reason for the amendment is explained on page 6081 of *Hansard* of 17 September 2020. I will not quote the comments. A number of subsequent amendments in the WHS bill proposed by the government are also consequential to the removal of the reference to health and safety magistrates. This is a government amendment. Amendment 36 is consequential to the removal of the reference to health and safety magistrates. It is a government amendment, as are amendments 37, 38 and 39, which were moved for the same reason.

Turning to amendment 40, on 29 June, I wrote to the Chair of the Standing Committee on Uniform Legislation and Statutes Review confirming that schedule 1 would be deleted from the WHS bill. This was in response to recommendations 4 and 5 of the committee's 126<sup>th</sup> report, "Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019". As I explained, this was a provision to allow for a future date for the inclusion of dangerous goods. It would have required parliamentary legislation anyway, so it does not offend any government agenda.

Amendment 41 deletes reference to health and safety magistrates, as previously discussed. It is a government amendment.

Amendment 42 is to the long title. It is consequential to the removal of schedule 1. It removes reference to "dangerous goods and high risk plant" in the long title. Again, it is a government amendment. Amendment 43 is also to the long title and is consequential to the removal of schedule 1. It removes reference to "dangerous goods and high risk plant" in the long title and again is a government amendment.

I commend the amendments.

**Mr P.A. KATSAMBANIS:** The opposition supports these amendments. This finalises a long list of 43 amendments that came from the process of referring the bill from this house to the other house and to two committees. After lots of consideration, we have arrived at this point. I have often put on the record my desire to see the model law enacted as closely as possible in Western Australia so that we can have something that approximates a national regime of workplace health and safety. It would have been a travesty had the argy-bargy of politics stopped that from occurring, so I am very glad that we have arrived at this stage. It has been nearly 12 years since the first draft of the model law was agreed to by the various ministers at the time, so it is a long time coming for Western Australia.

I note that the minister put on the record his thanks to a number of people. I particularly want to commend Regan Ballantine for her really strong and very passionate advocacy. As is the case with many people who advocate for law reform, it would have been preferable had they never needed to do so. Obviously, embarking on that process, and right throughout that process, it evokes all those terrible emotions that came with the family tragedy that she and her family endured. As the minister rightly said, to advocate for change does not bring any of those people's loved ones back, but it is important for the long term. Well done to her and all the other people who campaigned with her.

The other thing I want to put on the record is that despite the argy-bargy and the finger-pointing from one person to the other and from one chamber to the other, our parliamentary system is pretty robust and it works. Although this bill does not give the minister everything that he hoped for, and from our perspective it does not give us everything that we hoped for, we have arrived at a starting point. At the conclusion of this process, we will have a modern work health and safety regime that reflects our obligations as a state to abide by our agreement to introduce the model law, gives clarity and certainty to all participants and sends the message that the minister mentioned and I will reiterate to all employers that it is their responsibility to provide a safe workplace. It reinforces a multi-partisan belief by everyone in this Parliament and in the community that a person who goes to work, whether it is for the morning, afternoon or night shift, should leave home with an expectation that they will return safe and sound. That expectation should be met so that they and their family know that they are going to go to work and come home and that they will repeat the process the next day without risk of death or serious harm.

I think we have arrived at a really good point. It does not give everyone everything that they wanted, but from here we can move forward. I have often said that the successes in work health and safety over the last 30 or 40 years have been astounding and we have arrived at the point at which an industrial incident leading to serious harm or death is front page news because it is a horrific event and it should not have occurred, but it occurs infrequently. I wish we had done as well in the road safety area as we have done with work health and safety.

**Dr D.J. HONEY:** I would like to hear more from the member.

**Mr P.A. KATSAMBANIS:** But we should not rest on our laurels. There are sectors out there that can do a lot better. Again, that is where parliamentarians and members of the Western Australian community stand in unanimity. We are not divided on any of this. Let that message go across: the Parliament of Western Australia, whether members are Liberal, Labor, Nationals, Greens, Independent or whatever, supports a robust, strong and effective work health and safety regime. We encourage those sectors that are not doing so well, including some of the agriculture sector and some of the construction sector, to do better in the future. This bill can act as a strong incentive as both a guideline of what to do and a little bit of fear of the consequences if employers do not do the right thing. We are not divided on any of that.

With those words, I think the process has worked. We will have a workplace health and safety regime in this state that is significantly better than it has been in the past. Let us hope that those gains that have been made in the last

four decades continue in a cooperative and collaborative culture whereby employers and employees continue to work together, because that is where we get the real gains. If we turn it into an us-and-them situation, we do not get gains; it becomes an argy-bargy and a bit of a bunfight, and nobody wins.

I have often said this and I will say it again: in the workplace health and safety space, the trade union movement right across Australia, including in this state, has done a lot of the heavy lifting. I do not resile from that. The minister has heard me say it before and I will say it again: trade unions have a very important part to play in that. All parties have an important part to play in that. Employers have an important part to play in that, particularly smaller employers. That is where we can all help and assist them. Government and the authority can also help to assist small businesses to comply with their obligations and make sure that their intentions and actions match. I look forward to continuing improvements in the future so that industrial incidents and workplace health and safety incidents are not just rare but are eliminated. I hope we get to that stage sooner rather than later.

**Mr W.J. JOHNSTON:** The member said that we all did not get what we wanted. I did. I got every single provision in this bill that I set out to achieve. In the end, the government did not have to compromise except in one regard, and that was I wanted to separate out the penalty for serious harm at a level 3 offence from the penalty for a death at a level 3 offence. Other than that, this is exactly the bill the government wanted.

I never thought that I would get a 20-year penalty for clause 30A, but it was agreed. I thought I would have to compromise on that, but I did not. I knew that I would have to compromise on the 10 years' jail for clause 30B, but it was beyond my wildest dreams that I would get a penalty. What has no jail time currently will now be five years' jail. Let us not kid ourselves that this was a give and take. Despite the fact that the Liberal Party set out to deliberately frustrate the passage of this bill by sending it to two committees—it wasted Parliament's time and came up with ridiculous committee recommendations to eliminate important elements of health and safety law in Western Australia, that being codes of practice—it was defeated. I think there were eight days of parliamentary debate in the other house. The only reason the bill got passed was because there was a tragedy at Curtin University. We would still be putting up with the empty drum of Hon Michael Mischin and Hon Nick Goiran today if it were not for that tragedy at Curtin University. What the Liberal Party did here was a bloody disgrace, if I can use that Australian term.

I am proud to stand as a Labor member and say that we achieved everything we set out to do. I again want to thank the WA Greens, the WA Nationals and Hon Charles Smith. I cannot believe that I am standing here thanking the National Party and Hon Charles Smith, but I am because they played a great role in this. They were honest in the way that they approached this bill and that is how we have achieved it. I am so proud that we were able to get everything we set out to achieve, without compromise, through this Parliament. The idea that somehow we did not get what we want, let us make it clear: we got everything we wanted through this Parliament. The reason we got everything we wanted through this Parliament was that we approached this bill in an honest fashion, we listened to everybody involved, we made the right decisions and we made a series of compromises before we came here to take account of the needs of industry in this state.

Let me make it clear about the word “industry”. Industry comprises the social partners—employer reps and employee reps together. Everybody now interprets “industry” to mean employers; it is not correct. Industry comprises the social partners. Every representative of working people in this state should be proud of the fact that we got what we needed despite the despicable behaviour of the Liberal Party.

**Question put and passed; the Council's amendments agreed to.**

**The Council acquainted accordingly.**

#### **SAFETY LEVIES AMENDMENT BILL 2019**

*Returned*

Bill returned from the Council with requested amendments.

*As to Consideration in Detail*

On motion by **Mr W.J. Johnston (Minister for Industrial Relations)**, resolved —

That the Council's requested amendments be considered in detail forthwith.

*Consideration in Detail*

The amendments requested by the Council were as follows —

No 1

Clause 2, page 2, line 7 — To insert after “Royal Assent” —  
*(assent day)*

No 2

Clause 2, page 2, after line 10 — To insert —

(2) However, if the *Work Health and Safety Act 2019* Part 15 does not come into operation before the end of the period of 10 years beginning on assent day, this Act is repealed on the day after that period ends.

**Mr W.J. JOHNSTON:** I move —

That amendment 1 requested by the Council be made.

**Mr P.A. KATSAMBANIS:** The opposition agrees to this amendment.

**Question put and passed; the Council's requested amendment made.**

**Mr W.J. JOHNSTON:** I move —

That amendment 2 requested by the Council be made.

**Mr P.A. KATSAMBANIS:** The opposition agrees to this amendment as well.

**Question put and passed; the Council's requested amendment made.**

**The Council acquitted accordingly.**

## **BUILDING AND CONSTRUCTION INDUSTRY (SECURITY OF PAYMENT) BILL 2020**

### *Second Reading*

Resumed from 23 September.

**MR P.A. KATSAMBANIS (Hillarys)** [5.48 pm]: After more than six months of speaking from the lectern, or the dispatch box—it was a lectern rather than a box—it is quite unusual to rise from my chair to speak. I note that there is a return to a little normality in this chamber. I rise as the lead speaker on the Building and Construction Industry (Security of Payment) Bill 2020. I indicate at the outset that the Liberal Party will be supporting the passage of this bill. Let us be under no illusion about whether this bill is likely to be implemented any time soon. Quite some time ago now, I think it was either in September or October, the Leader of the Government in the Legislative Council, Hon Sue Ellery, gave the Liberal Party a list of legislation that the government intended to pass through the Legislative Council prior to the completion of this parliamentary session to ensure that that legislation could become law before Parliament is prorogued for the 2021 election. The government included some 16 bills on that list, including some bills that had yet to be introduced to the Legislative Assembly, lest it come up with that excuse now. The Building and Construction Industry (Security of Payment) Bill 2020 was not included on that list. From then onwards, the government flagged to the opposition that it was not working under any illusion that this bill would become law any time soon. That is very disappointing from a number of perspectives. This bill has been a long time coming—more than 20 years. The government gave a firm election commitment before the last election that it would introduce and enact this legislation during this term of Parliament.

I will provide a bit of history about how we got to this point. For quite some time there has been significant concern about payments made to some subcontractors in the Western Australian construction industry. It is not a problem that is unique to Western Australia; it has been happening right across Australia for quite some time. Subcontractors at the middle or the bottom of the chain of a series of contracts for construction have ended up in financial distress either because they do not get paid at all or because payment is disputed and delayed, and further disputed and delayed until the subcontractor comes to financial strife and has to enter into administration or liquidation or, in the case of a smaller business that might not be incorporated, into bankruptcy. There has been a lot more focus on that in recent years, but it has been happening for some time. Back in 1998, it was enough of a problem that the Law Reform Commission of Western Australia commissioned Mr Wayne Martin, QC, as he was then before he became Chief Justice, to conduct a report into financial protection in the building and construction industry in Western Australia. Amongst the recommendations of that report was the creation of statutory deemed trusts to better secure the payment of contractors and subcontractors in the building and construction industry. Between 1998 and 2015, the Construction Contracts Act 2004 was enacted in Western Australia, which provided some avenue of arbitration and quicker resolution of disputes. Questions were raised about the effectiveness of that act and its ability to protect subcontractors.

In 2015, the previous Liberal–National government commissioned Professor Philip Evans to produce a report on the effectiveness of the Construction Contracts Act 2004. That report was tabled in August 2015. In 2017, Mr John Murray conducted a review of security of payment laws, “Review of Security of Payment Laws: Building Trust and Harmony”, which also interestingly recommended the introduction of statutory deemed trusts. In 2018, an inquiry was conducted by Mr John Fiocco. The minister will correct me if I am wrong, but I think Mr Fiocco was assisted by Hon Matthew Swinbourn from the other place. John Fiocco was commissioned—again, the minister will correct me if I am wrong, but I do not think I am—by the previous Minister for Commerce. Irrespective of that, in October 2018, Mr Fiocco presented a report titled “Security of Payment Reform in the WA Building and Construction Industry”. One of its recommendations was the introduction of statutory deed trusts. It has been a long time coming.

As I said, somewhere in the middle of that was a firm commitment from Mark McGowan and the then Labor opposition in the lead-up to the 2017 election to establish a security of payments mechanism for government and non-government contracts to provide more transparency and structured progress payments between head contractors and subcontractors and ensure retention moneys are held in a project trust account to protect subcontractors in the

event of head contractor insolvency. That was all well and good. The Labor Party made a firm commitment to establish that security of payment mechanism. Unfortunately, the government will fail to do that during this term of Parliament because it indicated to the opposition that it does not intend to progress this bill through the other place before Parliament is prorogued for the election. Irrespective, we have the legislation before us and it is worthwhile considering it.

The legislation deals with three key areas. It creates a series of new security of payment laws that are more consistent with the laws that exist in other Australian states and territories. It includes some of the best practice recommendations that were included in the commonwealth government's national review in 2017, which reported in December 2017—that is, the “Review of Security of Payment Laws: Building Trust and Harmony”. Whilst Western Australians were looking at it, the commonwealth government was also looking at this space. It includes some of those security of payment laws. It does not implement all the recommendations of that commonwealth government review. It also does not implement all the recommendations that Mr John Fiocco made in the “Security of Payment Reform in the WA Building and Construction Industry” report that he presented to the government in October 2018, but it implements some of them. There is the creation of a deemed trust scheme to protect retention money in the event of insolvency. That would be done through a deemed trust scheme that would apply right across the contracting chain. I will get to that in a minute. I think it is a good thing. It expands the power of the board to take action against building service providers who fail to pay court and adjudication debts and excludes those with a history of financial failure from holding registration. I think that is pretty important because it gives teeth to some of these provisions. There is a carrot but then there is a stick, and that stick is that building service providers will be denied registration to operate in the building and construction industry in Western Australia.

We have no major objections to the majority of the provisions that are being introduced; in fact, we support them. As I said before, it is interesting that the government did not introduce the statutory deemed trusts. I know it did not officially commit to them in its 2017 election commitment, but people out there in the subcontractor industry truly believe that is what the government committed to. I know the minister will say in response that there are significant problems with those statutory deemed trusts, and they could create a hell of a lot of red tape and difficulty. I tend to agree with that. I am not criticising the government for not introducing statutory deemed trusts across the entire chain; I am just pointing out that they were recommended in the Fiocco report.

*Sitting suspended from 6.00 to 7.00 pm*

**Mr P.A. KATSAMBANIS:** Before the break, I was explaining the three key areas that the Building and Construction Industry (Security of Payment) Bill 2020 deals with, as identified in the explanatory memorandum and the second reading speech. I made the point that, despite several recommendations from various bodies, including the Law Reform Commission's report that was headed by Wayne Martin, QC; the “Review of Security of Payment Laws” by J. Murray, AM; and the “Security of Payment Reform in the WA Building and Construction Industry” by John Fiocco, the government has chosen not to go down the path of statutory deemed trusts. On balance, I think that is probably a good thing because those sorts of schemes can have as many problems as they purport to solve.

There is no doubt that the legislation that was introduced is an improvement on what has gone on in the past, which is why the opposition is prepared to support it. We have all heard the horror stories about subcontractors not being paid, payments being dragged out and being put into dispute. Eventually, subcontractors can unfortunately end up in financial distress through no fault of their own. They have delivered work to a good standard but have not been paid. We have also heard the horror stories about builders further up the chain going into insolvency in one way or another, whether it is through administration, liquidation, or bankruptcy for some builders if they are unincorporated. The subcontractor is again left in the lurch. Having done the work, they are not able to secure payment. We know the distress that can cause as a result. Often, for smaller subcontractors in the building and construction industry, their major asset is their home. All, or a large part, of their business borrowings are often secured against their family home and the impact of a subcontractor not being paid can result in them and their family losing their home. There are both legal and personal ramifications, which are horrific and ought to be avoided.

This legislation sets up a system of new security of payment laws that will ensure that those who carry out building and construction work can get paid in a reasonable time frame and that any disputes that arise can be resolved quickly and, importantly, inexpensively. A real part of justice is having access to justice. If it is expensive, many smaller businesses will not be in a position to be able to access justice. The provisions are relatively well calibrated. They stipulate when payments need to be made and they allow for a series of cascading payments. When a dispute arises, they definitely allow for quick resolution in an adjudication. That is all well and good.

One legitimate issue has arisen from consultation that the Liberal Party has had on the bill. We have had some extensive consultation through ReBUILD Australia, Adjudicate Today, the Master Builders Association of Western Australia and various other property and construction bodies. There is a concern that, as drafted, clause 29(1)(a) allows for the construction contract to stipulate who the adjudicator would be in any proceedings that may happen under the contract. Of course, on the face of it, that seems like an agreement between the parties, which is what we all strive to do—let the parties agree amongst themselves what will happen. The problem in practice is that, particularly in the building and construction industry, small subcontractors are often takers in these contracts. Often, but not always,

there is an imbalance in bargaining power. The construction contract itself is usually put together by the contractor. It appoints the adjudicator of the contractor's choice and the subcontractor is in a take-it-or-leave-it situation. This gives rise to an issue of perceived or apprehended bias. I am not saying there is actual bias because I think the adjudicators are people who take their role seriously. They are independent and they guard their independence jealously. When a subcontractor looks at it from the prism of the contract that is presented to them, an adjudicator that is stipulated by their counterpart contracting party leads to a perception that perhaps there is an undermining of the principles of neutrality and of independence with perceived or apprehended bias. It also removes any ability to have some real tension in pricing for adjudicators. If the adjudicator is the adjudicator appointed under the contract, that adjudicator is essentially guaranteed the work and can price it accordingly. If there was an opportunity for the claiming party to appoint an adjudicator, the subcontractor could shop around at the time to find an arbitrator who was prepared to sharpen the pencil—to use the minister's own kind of terminology—and offer a better deal on the adjudication.

It is possible that the way this clause is constructed may detract subcontractors from using the adjudication process because of the perceived bias of the adjudicator, because, essentially, the contract that the head contractor gave the subcontractor stipulates an adjudicator chosen by the head contractor. At the moment, here in this chamber, if the government is unwilling to accept an amendment, we do not propose to move an amendment to this clause to allow the claiming party to nominate an adjudicator or to otherwise allow the parties to agree to the adjudicator at a time when the dispute arises rather than having the adjudicator nominated in the contract. If the government indicated a willingness to do so, we could do that. Because of the nature of how this bill before us is going to be treated, we can, effectively, treat it as a bit of a green bill. Unless the government indicates otherwise now, it is unlikely that it is going to pass during this term of Parliament. Perhaps that is one of the issues that can be considered. If government members consider it overnight and tell us tomorrow that they will amend it, we will happily come in to support that amendment. If it is done between the houses, that is great. If it is done in another term of Parliament, that is great, too. I just think it is worthwhile to consider the input from the stakeholders. I know a number of the stakeholders have said that they do not think this clause strikes the right balance, so perhaps it would be worthwhile tidying it up.

I want to spend a little bit of time talking about the retention trusts. Retention money is money that a head contractor withholds from a subcontractor to ensure that faults do not appear down the line and the like. It is money that is otherwise owed to the subcontractor but is held back by the terms of the contract until a specified time or a series of events is concluded. It could be to fix defective work or the like.

If we take away the statutory obligations that have existed over a long period and we apply a common-law test of what retention money is, it would be hard to argue that that money is not being held by the head contractor on trust for the subcontractor. The fact that it has not been considered to be money held on trust or perhaps a specific-purpose trust at a common-law level is a failing that has led to significant problems. We know that. That money is being held. Often it is being used by the counterparty of the contract as its working capital, which it should not be. Sometimes that counterparty falls into insolvency before the expiry of the period that is required for the retention money to pass to the subcontractor, and, again, that falls into money claimed by general creditors and does not go to the subcontractor and that is wrong. A lot of people have suffered harm. Do not forget that often, the entire profit margin of a subbie's job or the largest portion of a profit margin on a job could be in the retention money, and without it, they have done that job, essentially, without any fair recompense, so I have no problem at all with the proposed scheme around retention money.

I recognise that it is novel for the building and construction industry. It is a new thing. It is a form of statutory deed trust, but it applies only to retention money. It will add some administrative burden, but as I said earlier, if we went back to our old law school days—in the case of the Attorney General and me, and a few of the other people in this chamber—and if we had just applied the normal common-law reasoning around what a trust looks like, be it an actual trust or even a constructive trust for that matter, retention money has that appearance anyway, and good business practice would have been to keep it aside. We might not keep it in a trust-type bank account, but we would keep it aside if we were running a construction business because we know that that money is owed to someone else. Therefore, this bill formalises what should be good practice and we know in too many cases is not practised. It will add some administrative burden to the entire construction contract chain, including subcontractors, obviously, because some of those contractors may be head contractors in other contracts.

Because it is new and novel and will add some administrative burden—also some complexity for people who are great builders or great subcontractors but are not lawyers—it is absolutely fundamental that the government and the Building Services Board engage in a comprehensive education campaign to ensure that the industry is ready and able to transition to this new retention trust regime. I would be interested if the minister, in summing up perhaps, could indicate what plans the government has to embark on an education campaign to ensure that everyone involved in the system—the head contractors, subcontractors and the like—are, firstly, aware of their obligations and, secondly, given some information and knowledge to enable them to navigate through this complex process. As lawyers, we know that trust obligations are pretty serious and that they apply to a person personally, so we do not want people to fall foul simply through lack of knowledge and lack of understanding of complex laws. I would welcome the Minister for Commerce letting us know what is proposed in that area.

The expanded powers of the Building Services Board, which will enable it to take action against building services providers that do not pay court or adjudication debts, and that will exclude those who have a history of financial failure from holding a registration, are good provisions. The provisions give the board significant discretion. The minister's office arranged a briefing for the Liberal Party, which a number of us attended by electronic means. I will take a segue here and say that the briefings by Zoom and other electronic means that we picked up through the COVID period are excellent because they save us all a lot of travel time and enable us to have briefings in non-sitting weeks and the like. I think they are to be commended—certainly for our original colleagues, they are even more beneficial.

**Mr D.R. Michael:** I think you'll find some government backbenchers also agree with you.

**Mr P.A. KATSAMBANIS:** Government backbenchers agree. I think ministers and ministerial officers agree, too, member for Balcatta. That is why they are still continuing to offer them, and I hope that continues. I really do.

In that briefing we were told that significant discretion existed so that the board could distinguish between those builders who have a history of financial failure that is related to their own bad activity—the bad actors—and the other group of builders, the subcontractors, who may develop a history of financial failure because they were not paid by someone who ought to have paid them. Again, I think that discretion of the board is worthy and well-calibrated. When the board is looking at people, it can decide whether they are people who have shown bad faith and therefore should be excluded from registration, or whether they were simply caught up in a problem not of their making but were subjected to financial failure because of the failure of other people up the chain to pay their obligations to these people, with all the consequent horrific outcomes that I outlined earlier, including potentially losing their life savings and family home. That discretion is well placed in the Building Services Board because it will have the history and it will have access to court and adjudication records and the like and can sort out who is a bad faith actor and deserves to have their registration withheld and who simply got caught up in a problem not of their making that resulted in them suffering horrific financial consequences. We want those people to continue. We do not want to exclude them; in actual fact, we want to protect them and make sure that they get paid.

The Building and Construction Industry (Security of Payment) Bill 2020 has been a long time coming. There seems to be at the very least an acceptance, if not broad support, in the building and construction industry that this legislation perhaps strikes a fair balance. It will give a lot more certainty and, perhaps, security to subcontractors that they will get paid for the job that they do. It will create a deemed trust scheme for retention money, which, as I said, makes perfect sense because the money will be held on behalf of the subcontractor until a series of events occur in the future. Clarifying that, the Building Services Board will be able to determine who the bad actors are so that they can be deregistered. It is a good first step along the way to fixing a problem that has existed in the building industry for a long, long time. Subcontractors do work in good faith and, through no fault of their own, they end up carrying the financial burden for the failure of people further up the chain to either pay them or manage their affairs in a way that puts them in a position to pay the subcontractor who has done the good faith work.

It is disappointing that the legislation has come so late in the piece. It is even more disappointing that it is unlikely to pass into law before the end of this fortieth Parliament, but this is a start. Hopefully, during the early months of the forty-first Parliament, this legislation will be dealt with in an expeditious manner no matter who is in government. If the minister indicates that it is the government's intention that it pass through both houses during this term, perhaps he should communicate that to the Leader of the Government in the Legislative Council so that —

**Mr P.J. Rundle:** No chance!

**Mr P.A. KATSAMBANIS:** My colleague the member for Roe tells me there is no chance at all. I am an optimistic person, member for Roe. I always like to be optimistic.

**Mr P.J. Rundle:** You've got to be realistic!

**Mr P.A. KATSAMBANIS:** An optimistic realist, a realistic optimist—whatever!

At this stage, there is no indication of the government wanting it to pass before the end of this Parliament. The correspondence that I referred to earlier between the government and the opposition parties does not list this bill as a priority for the government. That is disappointing. I know that it is a priority for subcontractors and the building and construction industry, even those elements of the industry that perhaps do not like this bill but at least want some certainty about when these legislative provisions will come into operation. Hopefully, they will come into operation sooner rather than later.

**MR S.A. MILLMAN (Mount Lawley)** [7.25 pm]: I rise to make a contribution to the debate on the Building and Construction Industry (Security of Payment) Bill 2020 and I start by indicating that I am in favour of this legislation. I thank the member for Hillarys for his contribution and for indicating the approach that will be taken by the Liberal Party. I need to point out one thing to the member for Hillarys; a constructive trust is an instrument of equity rather than of common law, as the member would remember from his days in law school.

**Mr P.A. Katsambanis:** Yes, it is. As you know, the common law term can be used in two ways; one to distinguish between equity, and the other, which I used it in, to distinguish between statute and non-statute law.

**Mr S.A. MILLMAN:** I will take it in that second sense.

I also agree with the member for Hillarys that this bill represents a good first step on the path to dealing with the issue of underpayment or non-payment of subcontractors, particularly in the building and construction industry. I acknowledge the work of the Minister for Commerce in bringing this legislation before the house. I also want to acknowledge the work of Minister Johnston before the dinner break, who was the minister with carriage of this portfolio when the McGowan government was elected in 2017, and to pause and reflect on the passage of the Work Health and Safety Bill 2019 and the amendments received from the Legislative Council. I saw Regan Ballantine sitting in the Speaker's gallery. The minister referred to her advocacy on behalf of the people she works with. The Work Health and Safety Bill 2019 does three things: it reflects prevailing community attitudes, updates legislation that is about 30 years old, and delivers on an election commitment. The reason that I raise those three points about the Work Health and Safety Bill is that the same three points can be made about the Building and Construction Industry (Security of Payment) Bill. Let me start by talking about some of the similarities.

Firstly, there have been numerous prior inquiries for subcontractors, as there have been in the area of work health and safety. Secondly, there has been a ministerial process, and I will come back to that process and to Mr Fiocco's report. Thirdly, there has been extensive stakeholder engagement. Now that the work health and safety statutory regime is up to date, and now that legislation has been introduced to update statutory protections for subcontractors, it is incumbent upon us as legislators to scrutinise and evaluate the efficacy of the new statute and, if necessary, undertake further reform. In that regard, we have a road map should it prove necessary. Before I go to the road map, the member for Hillarys has traversed most of these and indicated the Liberal Party's support for the legislation, and I am grateful to him for that. For the purpose of supporting the passage of this Building and Construction Industry (Security of Payment) Bill in this chamber, I will leave aside the question of the passage of the bill in the other chamber, except to say that as legislators in this chamber, it is our obligation to deal expeditiously with matters that come before us and prepare them for debate in the Legislative Council. We are discharging our obligation to make sure that this legislation enjoys a speedy passage through the Legislative Council.

This legislation will do what I will describe as three main things, and I will deal with each of them in turn. It will implement the new innovative retention trust scheme that the member for Hillarys talked about. It will speed up cash flow and strengthen the legislative framework around the building and construction industry. Let me start with the security of payment laws. One can see that parts 2, 3, 5 and 6 of the bill will introduce new payment laws in WA to ensure that those who carry out construction work can be paid and disputes about payment can be resolved quickly and inexpensively through an effective process of rapid adjudication. Part of the problem in the building and construction industry is that if the work has been completed and the contractor has not been paid, it is a costly and expensive process, with extensive litigation, to try to establish their right to the money that has been withheld. I want to say this: one can always have sympathy with the proposition that he who does the work should be paid for it. The brand-new security of payment laws are important. This legislative regime contained in parts 2, 3, 5 and 6 of the bill are consistent with the rights that subcontractors in most other Australian states and territories have enjoyed for many years. Under this bill, a party who carries out, or undertakes to carry out, construction work or to supply related goods or services will have a statutory right to receive payment and make a claim for payment every month or more frequently if that is provided for in the contract.

The bill will require that when a party to a construction contract who is entitled to payment makes a payment claim, the party who receives the claim—that is, the respondent—will be required to either pay the claim in full within the stipulated time or provide a payment schedule within 15 days. This is important because of the issue of cash flow in the construction industry. Although it is important that head contractors have their cash flow, it is important that subcontractors, who are often working across a number of jobs, also have certainty of cash flow, because it can have a domino effect. If a party's cash flow is limited by one principal contractor not meeting their contractual obligations, that can have a significant deleterious effect for those subcontractors—those small family-run businesses that are sailing close to the wind and running tight margins. This is an incredibly important reform. That is the first thing it will do.

I want to highlight that the second thing is that the rapid adjudication process will be more consistent with that in other states and territories. Once again, this is good legislation introduced by the McGowan government that will bring us up to date with best practice in other jurisdictions. We have learnt from what is done in other jurisdictions and we will be implementing that through the introduction of this legislation. The bill contains a number of important mechanisms to ensure that the costs of engaging with the adjudication process are kept down, including for low-value disputes, to ensure that the process is accessible to everyone in the industry. If a principle is vitally important to me and has provided me the motivation to participate in the parliamentary process, it is the principle of advancing and advocating for access to justice. If we can keep the time and cost burden down for participants, it will have the effect of increasing access to justice, which means that people will get their entitlements in accordance with the legislation.

The third thing that the bill will do is improve fairness in contracting practices. In my view, part of the reason for the problems in this particular industry is the significant disparity in negotiating power between the contracting parties. In other industries, other endeavours and other fields of pursuit, mechanisms are in place that balance the scales so that there is a relatively even negotiating position. The bill will introduce measures to improve the fairness and transparency of contracting practices in this industry. It will include a thorough and broader prohibition on

“paid-when-paid” provisions that will prohibit other types of unfair terms and require certain contracts to be in writing and meet minimum standards. Importantly, part 2 of the bill contains a novel measure to improve fairness in contracting that is not found anywhere else in Australia—voiding unfair notice-based time bars in construction contracts. As well as being a great model for bringing into WA best practice in other Australian jurisdictions, it also has the element of innovation, whereby new and innovative rights and entitlements are encapsulated in the statute. This is something that the member for Hillarys has already alluded to, and I agree with him. It is a testament to the manner in which the Minister for Commerce has brought this bill before the house for debate.

The bill will achieve the time bar mechanism by establishing an avenue for a party that challenges the enforceability of a time bar provision, such as within the context of the adjudication process, if it is unreasonably onerous or not reasonably practicable to comply with. The comments that have been made around adjudication are apposite to the debate. I think our adjudicators are professional and skilled and will place themselves in the right frame of mind and the right context in order to discharge their professional obligations to parties to a dispute. I accept that it is a balancing act in which one party often has a great deal of experience with these types of contracts and is often the leading party in negotiating them and can often refer to their preferred adjudicator and note that person in the contract.

The fourth thing the bill will provide that I want to mention is the retention trust scheme. Again, the member for Hillarys has complimented the minister on this, and I think it is a compliment well paid. I echo that and add my voice to it. The bill will introduce a new mandatory retention trust scheme in WA, the first of its kind. The scheme will reduce the risks to builders, subcontractors and suppliers if the immediate contract counterpart becomes insolvent by ring-fencing money to ensure that it is not available for distribution to general creditors. This is a brand-new provision and it is important because the work that subcontractors do often does not crystallise into a profit until the retention money is paid. I want to pause and reflect on that for a second. The profit that these small family-run businesses make provides them with an opportunity to pay their employees. It provides them with an opportunity to grow their businesses and to explore new opportunities. If these small businesses are not making a profit from their work, it undermines free movement in the market and the effective operation of the market. The fact that this retention money is often the margin between success and failure on a construction contract is incredibly important for these small businesses, so we should applaud and endorse this innovative solution to this problem. It is a problem because the construction industry accounts for a disproportionate number of the business insolvencies that occur each year. Unfortunately, often those at the bottom of the supply chain are impacted the most. We as a community are already facing unprecedented economic challenges as a result of what we have experienced in 2020. As a responsible government and a responsible Parliament, we should be looking to ameliorate the effects of those economic challenges.

If we can put in place a light-touch, responsible and responsive regulatory framework that means that those who do the work get paid for it, that can only be for the good. In that regard, this complements the McGowan government’s extended rollout of project bank accounts in July 2019 to the majority of state projects. I have said before and will continue to say that the state government needs to be a model player in the construction industry marketplace. As a state government, we often contract with providers to build infrastructure and commercial assets for the benefit of the people of Western Australia. That provides us with a unique position in the market to lead best practice, so that if we are doing the right thing in our jobs, that should flow on to other parts of the sector. It is setting a good example and backing it up with the regulatory framework that is required.

A whole bunch of provisions in the retention trust scheme deal with how that scheme is designed to operate. I do not propose to go into that in any great detail. The third part of the bill that I want to mention to members and provide my support for is the industry regulation. Part 7 of the bill in particular will substantially bolster the role of the Building Services Board in monitoring and enforcing compliance with certain standards of commercial behaviour in the industry. I know that other speakers are going to address this point so I will not dwell on it for too long. Unfortunately, there are players in this industry who are cowboys, renegades or mavericks and will not pay their subbies or their workers, and who then go bankrupt. They go insolvent. Six months later, we see them back on the block again with their phoenixing arrangements. We need to find those players and take them out of the industry. All they do is run the industry down and damage its reputation, damage the proper operation of the market and give the industry as a whole a bad name. If we can exclude those elements from the industry, that is only for the good. Strengthening the Building Services Board is not about more red tape; it is about monitoring and enforcing compliance with standards of commercial behaviour in the industry. That dovetails nicely with what I was saying about the lead that the state government can take in driving cultural change in the way this industry operates. A whole bunch of further industry regulations are contained in the bill that I think will all serve to bolster that combined carrot-and-stick effect.

Earlier, I mentioned a quote that I will reprise here, because it bears repeating —

One can always have sympathy with the proposition that he who does the work should get paid for it.

I have taken that quote from Brian Ernst, who is a solicitor practising in the construction industry field. He told the construction industry conference at Parliament House in Canberra on 31 May 1991 exactly that proposition. I take that quote from the Collins “Inquiry into Construction Industry Insolvency in New South Wales” in 2012.

[Member’s time extended.]

**Mr S.A. MILLMAN:** The reason that is important is —

**Mr J.R. Quigley:** Keep talking.

**Mr S.A. MILLMAN:** Sure thing, Attorney General. The reason that is important—it will be easier now that he has gone!—is that it is just one of a number of reviews that have been conducted into this industry and into this particular problem that has confronted this industry for a long time. Before he was Chief Justice of the Western Australian Supreme Court, Hon Wayne Martin was charged by the Law Reform Commission of Western Australia to conduct his own inquiry. That produced a Law Reform Commission report. That inquiry was started in 1985. If ever a piece of legislation has had a long gestation period, this is it. The Law Reform Commission started in 1985 and Wayne Martin's report was handed down in 1998. That contained a number of recommendations. That was the first one. The second one was, as I say, the 2012 Collins inquiry, which resulted in significant changes to the New South Wales legislative framework. I drew that quote from the Collins inquiry. Then, in 2017, John Murray, AM, conducted another inquiry, "Review of Security of Payment Laws: Building Trust and Harmony". That 2017 commonwealth inquiry reported on 24 May 2018. For members' interest, John Murray is a former national head of the Master Builders Association, so he is a stakeholder with a great deal of experience who provided a number of recommendations.

By way of background, we have three learned and thorough inquiries: the Collins inquiry, what I will call the Martin inquiry, and the Murray inquiry. That is a New South Wales inquiry, a Western Australian inquiry that is over 20 years old and a commonwealth inquiry. In 2017, the McGowan government was elected on a platform of inquiring into payments to subcontractors. I am here quoting from the Fiocco inquiry. During the debate in Parliament on this issue, Mark McGowan, then Leader of the Opposition, said about subcontractors —

They are ordinary small businesspeople who need certainty because they spend money in order to undertake work, they have a line of credit with a bank, and they have a mortgage on the line for the work that they are undertaking. If they do not get paid, they lose their house and their business, and their workers do not get paid.

That was the view expressed by our Premier as Leader of the Opposition in 2016. In August 2016, WA Labor incorporated into its platform the introduction of policies to improve protections for subcontractors in the building and construction industry. As I say, that commitment was outlined in its WA election platform. As I said before, the work health and safety legislation not only reflects community attitudes, was the subject of extensive community consultation and is the subject of a thorough ministerial process, but also delivers on an election commitment.

In order to arrive at the proper form of this legislation, then Minister for Commerce, Hon Bill Johnston, requested Mr John Fiocco to lead an inquiry into the payment of subcontractors in Western Australia. I start by saying that Mr Fiocco is a former partner of mine. We were both partners at Slater and Gordon Lawyers—I declare that on the record—but what I say next will complement his credentials as a person well placed to undertake this sort of inquiry. He is now a barrister at Fourth Floor Chambers; he spent many years practising and teaching in the areas of bankruptcy, insolvency, commercial law and contract law; he also has experience in industrial law; he holds the position of adjunct associate professor at the University of Western Australia Law School; in 2010, he was elected as a life member of the Law Society of Western Australia; and in 2015 he was awarded Lawyer of the Year.

**Dr D.J. Honey:** He beat you, then!

**Mr S.A. MILLMAN:** He was never elected as the member for Mount Lawley! Mr Fiocco is uniquely placed to be the person charged by this government to inquire into and report upon what legislative frameworks would be required to address this problem of subcontractors getting ripped off. What is interesting to note is the degree of convergence between the Fiocco report and the Murray report. Before I go any further, I commend my colleague and friend Hon Matthew Swinbourn, who was the other participant in the Fiocco inquiry, who did a great deal of work. As well as formerly being a senior industrial officer and lawyer, Mr Swinbourn was also a sessional lecturer in employment relations at the University of Notre Dame Australia. I have spoken about the John Murray inquiry set up by the federal Liberal government in the Fiocco inquiry, which is a state inquiry set up by the Western Australian Labor government. The following recommendations in the Murray inquiry are adopted as recommendations in the Fiocco inquiry. They are recommendations 1 to 18, 20, 21, 23 to 27, 28 to 31, 39 to 42, 49, 51, 54, 59, 75, 77, 78, 81, 82, 84 and 85. The recommendations that diverge are 36 to 38, 43 to 48, 50, 52 and 53. For recommendations 19, 22, 32 to 35, and 60 to 65 there is no comment. A small number of recommendations are not adopted by the Fiocco inquiry, and a small number of recommendations in the Murray inquiry are not commented upon, but there is an overwhelming degree of convergence between the recommendations made by the Murray inquiry. These are inquiries authored by the former national head of the Master Builders Association and the Fiocco inquiry.

In concluding, although this legislation does an incredible job discharging those three things I have already referred to—the brand-new security of payment laws, improving fairness in contracting processes and strengthening industry regulation—as the member for Hillarys said, this is the first step on the path to regulatory reform. There is a long history of reports, inquiries and debates that provide a solid intellectual, academic and professional foundation for us to look at what sort of legislative regime we want to put in place. This legislation is a good first step on that path to reform. Let me return members to the point I made at the start: although the Labor government

has once again delivered on an election commitment, introduced legislation that reflects community attitudes and values and updated all legislation and consultation with important stakeholders—although we have done all of these three things both with work health and safety legislation and now this subcontractor legislation—it is still incumbent upon us to ensure it is fit for purpose and delivers the outcomes we say are important values for our community, for the strength and safety of our economy, and the benefit of our subcontractors and their families. I am confident that this legislation represents a good first step on the path to making sure that subcontractors are not ripped off by unscrupulous providers in the construction industry. If another step needs to be taken to ensure they are properly protected so they get paid, their businesses survive, the work they do is rewarded and recognised, their families are cared for and they can grow their businesses and put on more employees, we know what that success looks like because of the work that has been done by people like John Murray, the former head of the Master Builders Australia, John Fiocco and Hon Matthew Swinbourn. I am confident this legislation will pass the Legislative Assembly. I am hopeful that this legislation will pass the Parliament. I know it represents a good first step on the path to reform. Our duty now is to make sure that it does what it is designed to do, and on that I commend the bill to the house.

**MR P.J. RUNDLE (Roe)** [7.54 pm]: I rise to speak on behalf of the Nationals WA on this Building and Construction Industry (Security of Payment) Bill 2020. Firstly, I would like to point out that we support the bill in principle, but I will point out a few weaknesses and disappointments that have emanated from the Labor Party's election commitments and promises. I would probably give the bill about seven and a half out of 10 at this stage. As the member for Mount Lawley said, it is a good first step, but there is room for improvement.

One of the first things is disappointment about the cascading trust that I understand was originally proposed by the Labor government. It now seems to have vaulted into a scenario of a five per cent retention trust. A lot of big statements were made by the Labor Party in opposition around 2015–16, but when push came to shove and the Labor government had to knuckle down and put the legislation together, some adjustments were made. I will develop that shortly. I will also give examples of previous situations in my electorate of subcontractors being left high and dry. To be honest, this is one of the reasons I am glad this legislation has seen the light of day. I will go through some of the elements, including the retention trusts across the contracting chain, consistency with other states, the adjudication, the powers of the Building Services Board over phoenixing, the Small Business Development Corporation, payment time frames and the education campaign.

The first thing to point out, and I agree with the member for Hillarys, is that in some ways although this is not a pointless exercise, it is such a shame that this bill has come on so late in the scene. Because of the long list of bills in the Legislative Council, I think something in the order of 18 to 20—a lot of which will also not make it through before Parliament closes—I cannot see how the government can take this bill to the next level. That is why I questioned the Attorney General; Minister for Commerce in estimates about the \$2.86 million, I think, that the government has allocated in the budget for implementing this legislation, which, as I said, may not see the light of day. I guess it is all about the Labor Party demonstrating that it has fulfilled its election commitment. Here it is. The cover of the document says “WA Labor: A Government for You”, “Protection for Subcontractors”. As I said, part of that policy was a lot of speeches made in 2016 about cascading statutory trusts, and now that has not seen the light of day. Another thing that was pointed out in the election commitment document “Protection for Subcontractors” was the demerit points system. I cannot really see that in the legislation, but I am happy to be corrected. According to the WA Labor policy promise, there was going to be a demerit points system. I just wanted to point that out, because presenting this bill at this time in the cycle is about this government demonstrating that it has fulfilled its election commitment, but unfortunately I do not see that the government is going to be able to take this bill to the next level through the Legislative Council.

The next thing that I want to point out is the disappointment of our subcontractors. On 25 September 2020, an article in *The West Australian* by Josh Zimmerman titled “Subbies’ fury as protection laws diluted” stated —

WA subcontractors are furious over proposed laws designed to protect payments to tradies working on big projects, saying they leave small business owners exposed to crippling losses.

Before drafting the Bill, Commerce Minister John Quigley had been outspoken in his support for the introduction of “cascading statutory trusts”.

The trusts would force head contractors to set aside progress payments for subcontractors.

Currently, there is nothing to stop project managers using that money however they see fit.

But the key measure was omitted from the final legislation read into Parliament yesterday. The McGowan Government only moved to protect retention money, which usually represents just 5 percent of a contract's total value.

Subcontractors Alliance spokesman Les Williams said that meant builders would continue to be permitted to treat tradies as lines of credit, forcing them to buy materials and pay their staff up front with no guarantee they would be compensated if the project goes bust.

“What they have proposed doesn't ... provide security for subcontractors,” he said.

I have a tendency to agree with that. As pointed out by the Master Builders Association and others, the retention trust is a step in the right direction, but I wonder whether a retention trust of five per cent will be enough to protect our subcontractors. Our subcontractors are obviously not too happy about it and, in some ways, I can understand why. I think more work needs to be done on that. As the member for Mount Lawley pointed out, we need cash flow protection for all layers of contractors right through the chain.

I want to give a couple of examples of things that have happened in my electorate of Roe, especially during 2018–19. There were examples of head contractors and other contractors further up the chain reducing invoices to squeeze lower level contractors. It was almost like an art form. They were quoting issues with subcontractors working on variation claims that, on some occasions, were substantially lower than the actual cost of work done. In some cases, the lead contractor decided whether the invoices submitted by the contractor for the work done should be paid either in full or partially. In some cases, the lead contractor decided how much to pay for things such as tip fees, licence fees and travel costs after those costs had already been incurred by the subcontractor. Quite often, they did not cover the full amount that the subcontractor had committed. There were small errors in paperwork that extended the payment period for many months. There were also cases of lead contractors and subcontractors going into voluntary administration, which ended up leaving local businesses in a very risky financial position. I will give a couple of examples that happened under this government. When I made a grievance on this issue, the previous Minister for Commerce was happy to point out that a couple of the contracts that I referred to of contractors failing to meet their financial obligations, such as those for the Narrogin and Katanning hospital projects, had been let under the previous government so he could not help out.

Another example was the Arthur River bridge works. The lead contractor was Marine and Civil Pty Ltd, which went into voluntary administration and left at least two of our businesses in Narrogin waiting on payments. A simple Google search found that Marine and Civil had been in voluntary administration at least once before. That surely should have put up a red flag in the government's tender management process. That was a frustrating case for my electorate and contractors in my electorate. Another example happened in the Shire of Dumbleyung. A couple of massive truck parking bays were to be managed for Main Roads Western Australia. The head contractor was Lendlease. The head subcontractor went into liquidation and all the subcontractors around Dumbleyung, Narrogin, Katanning and the like who had done work in good faith got left stranded. The head contractor said that that was unfortunate but there was not much that it could do about it. Luckily, Main Roads had not transferred the land for those truck bays from the farmers across to Main Roads, so the contractors were able to knock in signs that said to Main Roads and Lendlease that no-one else could get access to that land. That was the end of it. The contractors had some leverage, so they were able to negotiate with the head contractor, which had to get the work done by 30 June. If it had not been for that mistake of the land not being transferred over, they would have had nowhere to go. As the member for Roe, those examples quite upset me because some of those things have happened in my time.

For the Matagarup Bridge project, the government, funnily enough—because that was its project—was happy to honour some payments that were not made by the lead contractor, York Civil, when it went into voluntary administration. The government said it was okay and it would cover that money on behalf of the taxpayer. It happily cleaned that up because that was its project but, unfortunately, some other projects, especially in our regional areas, were left hanging out to dry. Those examples are from my grievance back in 2018 and give a demonstration of some things that have happened in my electorate.

I have consulted with industry and the likes of the Master Builders Association and many other subcontractors on this bill. I am disappointed that Subcontractors WA seems to have drifted away to some extent, so it is a little harder to find an organised body to talk to that represents all our subcontractors. I am sure that, as time goes by, another association will form.

I am encouraged by and congratulate the government, to an extent, for the Small Business Development Corporation recently seeming to have come to the fore with the changes in legislation. It seems to be playing quite a good role in dispute resolution. It is playing quite an important role, especially in these COVID times. I also give the government credit for its procurement policy, which I think has been an improvement. Those are a couple of things I would like to compliment the government on for putting in place. Without going into too much detail, I think that the changes to the adjudication process are an improvement. We are making progress by bringing the rapid adjudication process into line with other states. However, I fear that the appointment of adjudicators and the operating model will still work in favour of the larger head contractors over subcontractors. It is the old story. It is about bargaining power and how contracts always favour the larger player. That is my concern about the adjudication process. I just want to point out that drawing up a contract at the same time as the adjudicating body is appointed could favour the head contractor or the larger player. But I also think that any adjudication process that makes the process quicker and more rapid is an improvement.

The changes to payment time frames are certainly an improvement. Claims from head contractors to principals will now need to be paid within 20 business days or any lesser period as specified in the contract; claims by subcontractors to head contractors, or subcontractors to sub-subcontractors, will need to be paid within 25 business days, or any lesser period specified in the contract; and claims involving certain types of home building works will need to be within the period specified in the contract, or 10 business days by default if no period is specified in the contract. I think that is a step in the right direction.

[Member's time extended.]

**Mr P.J. RUNDLE:** One key point about the payment claims is that if a respondent to a payment claim gives the claimant a schedule within the earliest contracted time of 15 business days after the payment is made and the respondent does not respond after 15 days, the respondent will have to make the payment. I understand that the Master Builders Association is concerned about what will happen if a respondent happens to be away on holidays or is diverted by some other reason and cannot respond within 15 days. They will be disadvantaged. However, I would be surprised if someone went away on holiday during a major project. I think that setting a limit of 15 business days is fine. In a lot of ways, it is all about education. It is about making sure that the parties understand their obligations and what they need to do to have these processes in place. I am not too worried about that. I think industry will adjust.

The highlight in the bill for me are the extra powers that will be given to the Building Services Board. The powers it will have to exclude individuals, non-corporate bodies and corporate bodies from registration when an insolvency event occurs is a great step in the right direction. It also prevents what I think is another art form—that is, when people install a spouse or family member as a director of a company in an attempt to circumvent their obligations. As I said, I believe that the stronger powers being given to the Building Services Board will control what I see as a big problem of phoenix companies and will prevent a company closing down and starting up again down the road with a similar project that leaves the contractor who has done the right thing and done the previous job—supplied the gravel or cement, or whatever is required at a local level—stranded. This provision is a great step in the right direction. I congratulate the minister for that. I think it is welcomed by all and many subcontractors.

As the member for Hillarys pointed out, education is a real imperative if and when this legislation goes through. I think it will take time to transition all industry participants. There are no two ways about that, but I think it is a step in the right direction.

In conclusion, the Nationals WA support many of the steps in the bill, because they will give greater protection to regional contractors, especially regional subcontractors who have been burnt in the past. As far as I am concerned, it is an improvement. The system needs more improvement, but the question is whether this legislation will go through. Even if it goes through in the next term, under a different government, which hopefully it will be, this will be a step in the right direction.

**DR A.D. BUTI (Armadale)** [8.15 pm]: I would also like to contribute to the second reading debate on the Building and Construction Industry (Security of Payment) Bill 2020. We have all heard the saying to do a fair day's work for a fair day's pay, and that if a person does a fair day's work, they expect to get a fair day's pay. Unfortunately, that is not necessarily always the case. That saying has been synonymous with the trade union movement and the Catholic social justice movement for a long time. Basically, people should not expect to be paid without doing the work, but if they do the work, they should get paid. It is as simple as that. Of course, our colleagues on the other side of the aisle would agree with that.

It was a good contribution by the member for Roe.

**Mr P.J. Rundle:** Thank you, member for Armadale.

**Dr A.D. BUTI:** No. I really enjoyed listening to his contribution. He made some very valid points, as did the member for Mount Lawley before him, and the member for Hillarys who always makes a very acute forensic examination of legislation.

This bill is basically dealing with the loss of confidence among subcontractors and their fear that if they do the work, they may not get paid. That goes for their employees and families who rely on that income. This bill seeks to address that lack of confidence. It is trying to bring some confidence into the building and construction industry. As the member for Mount Lawley mentioned—it was repeated by the member for Roe—this bill is a very good first step and we will need to see how it develops.

Before I go through various aspects of the bill, without doing it in any great detail because other members have already done so, the bill basically deals with a few main areas: to develop new security of payment laws, improve fairness in contracting practices, and retain the trust scheme and industry regulation. But I want to look at the background of the bill. The member for Mount Lawley mentioned the Fiocco report. In the lead-up to the 2017 election, the then Leader of the Opposition, now Premier, talked about the need to tackle problems in the building industry. When the McGowan government was elected, the relevant minister was the member for Cannington. He set up an inquiry and appointed John Fiocco, a very prominent and well-respected lawyer, and Hon Matthew Swinbourn to conduct it. I think it is informative to look at that report and at the letters written by Mr Fiocco and Hon Matthew Swinbourn to Hon Bill Johnston who was at that time the Minister for Commerce and Industrial Relations. The letter from Mr Fiocco to the then Minister for Commerce and Industrial Relations, Mr Bill Johnston, dated 31 October 2018, refers to the establishment of the inquiry and the terms of reference, which were amended on 17 April 2018. The letter states, in part —

While the problem of security of payment in the building and construction industry is not a new phenomenon, this is the first time it has been considered in such a comprehensive manner in WA since 2001. It has become clear to me that despite the passage of 18 years the problem continues to exist today, confirming a need for further government action.

In arriving at the recommendations in this report, I have been informed by the findings made in numerous reviews into security of payment across various jurisdictions, including the most recent review by Mr John Murray AM on behalf of the Commonwealth Government. However, all recommendations made in this report are honestly held, carefully considered and mine alone.

Mr Fiocco then refers to the assistance he was given from Hon Matthew Swinbourn. Hon Matthew Swinbourn came into Parliament with extensive experience as a former senior industrial officer advocating for the rights of construction workers. Mr Fiocco could not have found anyone better in this Parliament to be involved in this inquiry.

Mr Swinbourn also wrote a letter to the then Minister for Commerce and Industrial Relations, Mr Bill Johnston. He states —

The building and construction industry is a vital part of the economy, providing the jobs, housing and critical infrastructure to meet the needs of all Western Australians. Last year —

That is back in 2017 —

the industry accounted for \$20.3 billion in activity and the direct employment of around 140,000 people.

Despite its contribution to our economy, a consistent problem in the industry has been ensuring that participants, particularly small business subcontractors, their employees and families have the confidence and security they will be paid for the goods and services they supply.

That is the crux of the problem that is sought to be addressed by the bill before the house. That is what Hon Matthew Swinbourn said in his letter to the minister upon the delivery of what is known as the Fiocco report. The full title of that report is “Final Report to the Minister for Commerce: Security of Payment Reform in the WA Building and Construction Industry”. I repeat what he said —

Despite its contribution to our economy, a consistent problem in the industry has been ensuring that participants, particularly small business subcontractors, their employees and families have the confidence and security they will be paid for the goods and services they supply.

The Fiocco inquiry produced a substantial report. There was wide consultation with key industry stakeholders on security of payment, with the aim of ensuring that people have confidence that they will be paid for the work they undertake and the goods and services they supply. Remember that I said originally that one of the major tenets of the trade union movement and social justice is that people are entitled to a fair day’s pay for a fair day’s work. That confidence has become precarious because of the behaviour of certain people. If people cannot have confidence that when they do work or when they supply goods and services, they will be paid, the whole system will come apart. As I have said, Hon Matt Swinbourn referred to the \$20.3 billion in activity and the direct employment of around 140 000 people. Therefore, this is an issue that governments need to address. The former Minister for Commerce and Industrial Relations, Hon Bill Johnston, tackled this issue, and the current Minister for Commerce and Attorney General has now brought this bill before the house.

The Fiocco report states, in part —

Despite recent reforms, it has become clear that WA’s security of payment laws do not adequately ensure prompt payment or speed up cash flow through the contracting chain.

That is the other issue—it is not just the security of payments, but also the timing of payments that is important. It continues —

Much of the reform the Government committed to prior to the 2017 State election is necessary for the long-term health, viability and for confidence to be restored in the building and construction industry.

Finally, many of the recommendations in this report are not ‘new’—they have been thoroughly considered and put forward by other inquiries. Almost 20 years ago, the former Chief Justice of WA, the Honourable Wayne Martin AC QC, then Chairman of the LRCWA, put forward comprehensive recommendations for a statutory deemed trust scheme to provide better financial protection for businesses operating in the building and construction industry. One can only speculate as to how things may “have altered in the building trade” had the recommendations been adopted at the time.

That is right. One can only speculate what would have happened had the recommendations of Hon Wayne Martin been implemented by government. Thank goodness the then Labor opposition made a commitment to tackle this important area. That process was instigated by the member for Cannington as the responsible minister and has continued under the current Minister for Commerce. I cannot stress enough the importance of bringing this bill to the house. As the member for Mount Lawley stated, this is a good start. This is incredibly important legislation to restore confidence that people who work in the building and construction industry will be paid for their work and for the delivery of goods and services.

The Fiocco report made 86 recommendations to government. It is obviously up to government to decide which recommendations it will implement and put into effect. As a result of the recommendations in the Fiocco report, this

bill is now before the house for debate, and hopefully it will be passed. If this bill is not passed, the problem of the security of payments will remain. That will not be good for an industry that, as Hon Matthew Swinbourn said, in 2017 was worth \$20.3 billion and employed around 140 000 people. Another issue is the multiplier economic effect of this industry. If this industry were to collapse, it would cause major economic and social problems in our community. That is why it is imperative that we put in place a legislative scheme that will provide confidence that people who work in the building and construction industry will be paid.

Let us now look a bit closer at the Building and Construction Industry (Security of Payment) Bill 2020. It delivers on many of the issues confronting subcontractors in the building and construction industry. It includes the establishment of defined processes to ensure payment of subcontractors in a quick and low-cost manner; effective mechanisms for resolving payment disputes to promote cash flow; the safeguarding of retention money; the management of poor commercial conduct of contracting parties; and the introduction of fairer contracting practices. Those are all very important elements of what this legislation will do. This legislation is, in many respects, a game changer. It will have a significant effect on improving confidence in the industry. Obviously, more things will need to be done in the future, but this is a very, very important bill.

Parts 2, 3, 5 and 6 of the bill will introduce new security of payment laws in Western Australia to ensure that contractors who carry out construction work can get paid, and that payment disputes can be resolved quickly and inexpensively through an effective process of rapid adjudication. It would be no good for us to provide solutions to disputes that are long and expensive; this bill will ensure that disputes can be resolved through an effective process of rapid adjudication.

The bill will ensure that in Western Australia, consistent with various other states and territories around Australia, a party that carries out or undertakes to carry out construction work, or to supply related goods and services, will have a statutory right to receive payment, or to make a claim for payment, at least every month, or more frequently if provided for in the contract.

[Member's time extended.]

**Dr A.D. BUTI:** When a party to a construction contract who is entitled to a payment—whom we refer to as the claimant—makes a payment claim, the party that receives the claim—the respondent—will be required to either pay the claim in full within the stipulated time or provide a payment schedule within 15 business days, setting out any reasons for withholding payment. It is a sad fact of life that we even need to have this legislation.

**Mr P.J. Rundle:** Hear, hear.

**Dr A.D. BUTI:** The member for Roe would have been brought up, as I was brought up, to understand that if you do your work, you get paid. That is how we were brought up, and our parents would have worked under the same principles, but unfortunately we do not necessarily live in that world anymore, which is why we need legislation that at least tries to improve people's confidence that they will be paid for their work in this industry.

The bill will ensure that payments flow down the contracting chain as fast as possible by creating staggered due dates for payment, depending on the claimant's position and the contracting claim. Claims by head contractors to principals and owners will now need to be paid within 20 business days of the claim, or a lesser period if the contract provides; claims by subcontractors to head contractors will need to be paid within 25 business days, or a lesser period if the contract provides; and claims involving certain types of residential works will need to be paid within the period specified in the contract, or 10 business days if there is no period specified in the contract.

This will benefit not only the people who do the work, but also anyone seeking people to do this work, because if people have no confidence that they will be paid, they will leave the industry. There will therefore be a reduction in suppliers and labour, and under the normal economic laws of supply and demand, that will mean that prices for services and labour will increase. That will be good for anyone—the consumer or the supplier of labour. As I said, other jurisdictions already have these provisions in place; thank goodness we now have a state government that is willing to tackle this issue that Hon Wayne Martin highlighted more than 20 years ago. It is obviously something we desperately need.

As I said, the bill contains mechanisms for speeding up the processes of adjudication and to make those processes as inexpensive as possible. The prohibitive cost is always a problem when people try to enforce their legal rights. It would be no good for us to say, "You have the right to be paid", if people then have to go through a prohibitively expensive court or dispute mechanism to seek their payment. The legal fees can run into amounts that sometimes are nearly as great as the amount being sought. The member for Hillarys might remember one such case in Victoria. It was nothing to do with the construction industry, but rather was a family law case, in which the client received \$1 million in the settlement but had to pay the lawyer \$900 000. It was in Melbourne.

**Mr P.A. Katsambanis:** I don't remember the specific case, but anyway, it would've been initials v initials.

**Dr A.D. BUTI:** That is right. I will not mention the law firm that was involved, but that is just absolutely absurd.

**Mr P.A. Katsambanis:** Sadly, it's not uncommon.

**Dr A.D. BUTI:** Exactly right.

Part 2 of the bill introduces measures to improve the fairness and transparency of contracting practices in the industry. This will include the introduction of a broader prohibition on paid-when-paid provisions; the prohibition of other types of unfair terms; and the requirement for certain contracts to be in writing and to meet minimum standards.

[Interruption.]

**Dr A.D. BUTI:** Do we have a problem here?

**The ACTING SPEAKER (Mr S.J. Price):** No; keep going, member.

**Dr A.D. BUTI:** I am just interested in the discussion! The member is not distracting me; I am just interested!

Part 2 includes a novel measure for improving fairness in contracting that is not found anywhere else in Australia—the voiding of unfair notice-based time bar provisions in construction contracts. That is actually a very important measure.

Was the Leader of the House trying to get more people into the house to listen to my outstanding speech?

**Mr D.A. Templeman:** It's very difficult to hold them!

**Dr A.D. BUTI:** That is right!

The bill seeks to strike an appropriate balance between competing principles of freedom of contract and the stark reality that subcontractors in the industry have to contend with unfair time bars that purport to unreasonably disentitle them to their right to payment. This is the perennial problem between freedom of contract and measures that seek to bring in fairness to the system. Some libertarians and free marketeers will always say that we should never interfere with freedom of contract, but as we all know, we do that all the time. Even if we do not do it by statutory mechanisms, there are legal mechanisms, which the member for Hillarys very well knows, that can interfere in freedom of contract, unconscionable behaviour, undue influence and the various equitable remedies and actions. Therefore, even if we do not have a statutory system, the law itself, the legal system, over centuries, has developed doctrines and principles that interfere with freedom of contract. Those who cry out that we should not have statutory interference in contracts, can cry that out and —

**Mr P.A. Katsambanis:** That's why it's been known as privity of contract rather than freedom of contract.

**Dr A.D. BUTI:** It is known as privity of contract—exactly—rather than freedom of contract. That is a good point, member for Hillarys.

**Mr P.A. Katsambanis:** Sorry to get into Old English.

**Dr A.D. BUTI:** No; it is good.

We have all these legal principles. Of course, one could seek to rely on those legal principles, but one may need to go to court and engage in expensive litigation that may take a long time, so that is why it is good to have a system that seeks to alleviate the unfairness between contracting practices and tries to seek some balance.

Part 4 of the bill introduces a new mandatory retention trust scheme in Western Australia. This is also the first of its kind in Australia. The scheme will reduce the risk to builders, subcontractors and suppliers when their immediate contractual counterpart on a project becomes insolvent by ring-fencing money to ensure that it is not available for distribution to general creditors. Often, retention money can represent a business's entire profit margin on a project. Basically, the bill will ensure that there is some security for and some protection of money that will have to be paid to the subcontractors rather than be distributed to general creditors. Where in the queue the subcontractor sits is always a problem in bankruptcy and so forth. This retention trust scheme is very important. Unfortunately, the construction industry accounts for a disproportionate number of business insolvencies that occur each year, which has a major effect on the supply chain. That is why it is very important that we have this retention trust scheme.

In conclusion, this bill is necessary. This bill has been a long time coming. It is this government that has acted. The Martin report, when he was head of the Law Reform Commission, was not acted on. Hon Bill Johnston instigated the Fiocco report. John Fiocco and Hon Matthew Swinbourn produced a fantastic report. Then we had the drafting of this bill, and now the current Minister for Commerce has the lead on this bill in this house. We need to have a statutory system that will return some confidence to the industry so that when someone does a fair day's work, they get a fair day's pay, which is a mantra and a principle that is imperative to social justice, the labour movement and the economic system that we work within.

**MS C.M. ROWE (Belmont) [8.44 pm]:** I rise proudly tonight to make a contribution to the Building and Construction Industry (Security of Payment) Bill 2020. As the member for Armadale just outlined in his great contribution, these reforms are absolutely necessary and very much overdue. I take this opportunity to acknowledge the work of the Attorney General and Minister for Commerce for not only bringing the bill to this house, but also championing these reforms before we even were elected. We committed to these reforms back in 2016 while in opposition. As other members have indicated, this bill will bring about major reforms to the construction industry. The reforms will result in a very positive and dramatic improvement in the outcomes for subcontractors and will ensure that greater protections will be in place for those industry participants.

It is fair to say that now more so than ever the building and construction industry is proving vital to our economic prosperity here in WA. It is also a great industry for generating jobs for many Western Australians right now during the post-COVID period here in the west. Literally hundreds and thousands of people's livelihoods right across WA depend on the building and construction industry. The current system clearly does not adequately protect subcontractors or small businesses operating in that industry to ensure that they get paid for the work they do and that they get paid in an appropriate time frame. That is the critical thing that has been the catalyst for introducing these reforms, because people were simply not getting paid and if they were, in many instances, it was a very protracted process to get that payment. That can have a ruinous effect on people's ability to live and it causes enormous stress and strain for many families.

The reforms contained within this bill seek to rectify this issue so that all participants in the building and construction industry can have confidence that they will get paid on time every time that they do the work. I think it was the member for Armadale who stressed this point: reinstating confidence in the industry for those subcontractors and small businesses is absolutely critical, because they do not want to put themselves on the line and get ripped off again by phoenixing companies and so forth. This is a critical thing that we are doing to provide that level of confidence for industry participants so that they know that they will get paid for the work that they do.

The key objective of this bill is to provide a legislative framework to provide an effective and fair process for securing payments to persons who undertake to carry out construction work or to supply related goods and services in the building and construction industry, and for related purposes. As others have indicated, the bill heavily draws from and relies upon the recommendations contained within the report written by the very well regarded barrister, based here in WA, Mr John Fiocco. The report that he provided to the minister is titled "Final Report to the Minister for Commerce: Security of Payment Reform in the WA Building and Construction Industry", dated October 2018.

As I have said, this bill addresses and rectifies many issues raised not only in this report, but also by many subcontractors right across the state over many years. A lot of their plights have been played out in the public domain and in the media, so there is no excuse for members in this place not to be aware of those issues that so many subcontractors have faced in this industry. Some of the reforms that we are looking to introduce include the establishment of a defined process to ensure payment of subcontractors in a quick, low-cost manner; efficient procedures for resolving payment disputes to promote cash flow; safeguarding retention money; managing poor commercial conduct of contracting parties; and introducing fairer contracting practices. I think everyone in the house here would agree that all these things are important. I cannot see anyone disagreeing with those principles or with how important they are for that industry, given what it has gone through over many years.

More so than any other, our government understands very clearly the hardships faced by many families who have businesses in the construction industry and who have suffered serious financial losses due to non-payment or, as I touched on before, a lengthy or delayed payment time frame that is simply unmanageable and unsustainable for many small businesses and families whose livelihood depends on those moneys coming back to them. We know that in many instances businesses or subcontractors inject up-front their own capital for material, supplies and labour. When the person they work for does not pay or goes into liquidation, the flow-on effect means that those businesses cannot pay their staff and/or they accumulate huge, unsustainable debts. It often renders them unable to continue operating and it clearly ruins lives. Businesses go under and people lose their homes and many other assets. I would like to highlight this issue and the impact it has on families by referring to an article in *The West Australian* headed, "Subcontractors stung as another WA builder folds" from May 2018. It refers to a building company called Amberley Homes based, I think, in Kalgoorlie, which failed to fulfil three housing contracts, leaving one client \$50 000 out of pocket. The article highlights the personal toll it took on this subcontractor. It placed enormous strain on his relationship and he was uncertain whether it could sustain the financial burden being placed on them. Another subcontractor caught up in this awful situation, Mr Holman, claimed that he was owed \$20 000 by the same company for work he had conducted in 2016. Bearing in mind this article was written in 2018, he said that he had been trying to contact the company since the work had been finished in mid-2016 but had never heard back. The article also states that Mr Holman estimated that at least 20 other subcontractors were caught up in this Amberley Homes situation. There were 20 other subcontractors in Kalgoorlie owed approximately \$300 000 in total. None of the contractors was confident that they would ever see any of that money recouped. That is clearly unacceptable. It was likely that, as subcontractors, this was their whole livelihood; they had to cough up the money up-front but were not paid for the work they did. It is absolutely unconscionable.

If the house will indulge me, I want to stress the enormous impacts such practices have had on subcontractors by drawing the attention of the house to another article in *The West*, which is a bit older, from June 2015, headed, "More unpaid subbie claims hit John Holland". I will read an extract from that article —

Jeremy Pash, formerly trading as Elite Drainage Pty Ltd, told the *West Australian* that he was not paid for variations totalling \$1 million late last year on Eastern Goldfields Regional Prison, culminating in liquidation and losses between \$5 million and \$6 million.

It comes days after the \$1.2 billion Perth Children's Hospital project was rocked by claims that several subcontractors were owed tens of millions of dollars by John Holland.

John Holland is a huge company, so for it to do this to subcontractors is absolutely disgraceful behaviour. The quote continues —

Graffiti scrawled on PCH walls by workers last week blamed the company for the recent suicide of one of the subcontractors, Acrow Ceilings managing director Ross McGinn.

Yesterday Mr Pash, who was subcontracted to put in sewerage and stormwater infrastructure at the \$250 million prison replacement project, said unforeseen site issues such as asbestos removal required variation to the contracted scope of works, which were authorised but never paid.

Mr Pash said his business went into a tailspin and liquidators RSM Bird Cameron had auctioned all his machinery and was pursuing his house.

“I am not going to be left with anything,” the 44-year-old father of two said.

“Just the clothes on my back. To get to my age and work so hard and not be left with one dollar, that’s disgusting.”

He is right. I think these stories clearly highlight how critically important the reforms we are dealing with tonight are. We should keep those personal stories at the very forefront of our mind as we debate the intricacies of these reforms and remember that these are people’s livelihoods. As Jeremy Pash said, he had nothing left. It would have been very difficult for him to rebuild his business and, indeed, his life after such an experience. It is people like him for whom we need to introduce laws such as this to provide protection mechanisms so that it does not happen again, because, clearly, big companies do not always do the right thing. In fact, they often do not.

One of the critical areas of reform in this Building and Construction Industry (Security of Payment) Bill 2020 is the introduction of new security payment laws to make sure those who carry out work in the construction industry are paid and, importantly, disputes about payment can be resolved quickly and inexpensively through the efficient process of rapid adjudication. I think this element of the reforms is particularly important because it will expedite the process. Just as occurs in other parts of the country, those who carry out work in the construction industry will have a statutory right to receive payment and to make a claim for payment every month or, if the contract provides it, even more frequently. We are setting an example by providing subcontractors with the shortest payment time for statutory claims in the country, with the requirement for payment within a maximum period of 25 business days. Those who do not comply with the payment claim requirement will potentially face significant consequences. Under these reforms, claimants will be able to elect to refer a matter for rapid adjudication. I believe one of the critical elements of the bill is the inclusion of mechanisms to minimise costs relating to this process. It will ensure that the process itself will remain completely accessible to everyone in the industry. By that I mean that they will not be caught up in legal fees, as the member for Armadale mentioned, for example, in a Family Court dispute when the payout was \$1 million and \$900 000 was paid in legal fees. No-one wants to see that; that is completely unfair and inequitable. One of the fantastic things about this process is that it will be accessible, quick and inexpensive. It has been specifically designed to enable claims to be dealt with and determined swiftly and efficiently. Limiting those formalities will obviously reduce costs. This is being done so that funds can continue to flow through the contracting chain, and I think that is really important.

Another area of the bill I would like to highlight is part 4, which looks to establish a mandatory retention trust scheme. This will be the first of its kind in Australia. It will essentially ring-fence money in a dedicated trust account for subcontractors and suppliers to ensure that it is not available to general creditors if their contractual counterpart becomes insolvent. Given that, and as other members have touched on, this is an industry that has a disproportionate number of insolvencies every year, it will provide an important safety measure, particularly for subcontractors. Again, it speaks to our commitment to reinstate confidence that we are looking out for subcontractors and smaller operators in this industry. This provision seeks to protect subcontractors’ retention money from being misappropriated or even lost entirely due to insolvency. There are a number of examples—I think the Fiocco report highlights some—of money being used for all different types of purposes and often lost entirely. I think that we all agree that is a completely inappropriate use of that money. Under current law, it is legal for a party holding retention money to simply raid these funds. Clearly, that is not appropriate. We need to make sure that we are protecting that money on behalf of subcontractors. I think that is a completely reasonable element within this bill.

Yet another important element of the bill to highlight is the enhanced regulation of the industry, which is covered under part 7 of the bill. Principally, it does this by boosting the role of the Building Services Board in its capacity for oversight and compliance across the industry to really focus on stamping out predatory behaviour by some operators, but it will not simply be a toothless tiger. New offences will be created under this bill and fines will be increased. One new offence that this bill seeks to introduce that I think is very important is that a person who threatens or intimidates others in relation to exercising their statutory rights to make and receive progress payment claims will face prosecution and fines of potentially up to \$50 000 for individuals and up to \$250 000 for body corporates. I think that really signposts to the industry that we are taking these matters seriously and that they should be on notice.

Can I please request a very small extension?

**The ACTING SPEAKER (Mr S.J. Price):** No, but you can have an extension, yes.

**Mr D.A. Templeman:** Just make it small!

**Ms C.M. ROWE:** Thank you. I will make it very small!

**The ACTING SPEAKER:** You can have 10 minutes.

[Member's time extended.]

**Ms C.M. ROWE:** This is a really important point. This bill will provide the Building Commissioner and the Building Services Board the power to remove from the industry building contractors who have a history of insolvency or not paying court order debts. This is one of the most critical elements of the bill. I know I have said there are a lot of really important and significant parts of this bill, but this is particularly important, because this looks to stamp out phoenixing. As others have said, phoenixing occurs when a company deliberately drives itself into insolvency. Directors strip out assets and cash and it goes into liquidation, only to re-emerge as a brand-new company shortly thereafter and recommence, even though it has left a litany of unpaid creditors behind. This shocking practice has ripped off so many hardworking subcontractors and Western Australians, leaving them absolutely devastated and financially ruined. I feel this provision in the bill is especially important as we will hopefully see the end of this terrible practice in WA for really hardworking West Aussies. I would be very happy to see the back of phoenixing. The industry and particularly subcontractors have been calling for this for a long time, and I am really pleased that we are listening to those subcontractors and providing these safety provisions for them. I think that these reforms will provide greater fairness and protection for subcontractors and give much-needed peace of mind and confidence to so many West Aussies in construction businesses. They want to know that they are going to get paid for the work that they do, every time. I think that is the essence of this bill. With this legislation, they will be able to go into projects with the confidence that they will get paid for the work that they do. I highly commend this bill to the house.

**MR Z.R.F. KIRKUP (Dawesville)** [9.03 pm]: I, too, rise to speak very, very briefly on the Building and Construction Industry (Security of Payment) Bill 2020. I appreciate the contributions from many members. Of course, in his contribution, the member for Hillarys indicated our support for this bill and that he will make sure to continue his forensic work on all legislation that the Attorney General; Minister for Commerce brings to this place.

I have one very brief story that reminds me why this legislation is so important. My father was a plumber and for some time was in civil construction. For most of his life, albeit for a very brief part of the boom, he did not earn much money. He would get paid by cheque and things like that, and oftentimes, when I was a younger boy, of course, we did not have a whole lot of cash around the house. We were often struggling to make ends meet. I remember very vividly—it is one of those memories that is imprinted on my mind—an occasion when my father was waiting, unsure whether someone he was subcontracted to was actually going to pay him. My parents never had much money. The cheque came through I think on 22 or 23 December. I think it may have been a Thursday, because it was late-night shopping, or maybe it was extended trading. That night, I can vividly recall, as a young kid, getting ready and going into the City of Perth with them to get presents. I did not know at the time, but they were buying presents for me. Absent of the fact of that cheque coming through and clearing, there would not have been a Christmas that we would have known about. Certainly, we would not have got the presents that we did. I remember that.

I think that small subcontractors capture the spirit of entrepreneurship in Western Australia. They are outstanding contributors to our economy, they are resilient individuals who time and again build our state and make it the state it is, but so often they get crushed underneath the wheel of speculative practice by head contractors who, as the member for Belmont and other members quite rightly pointed out, phoenix from time to time or do not pay. Certainly, for some government projects in which there is usually a certainty of being paid, that money is not forthcoming. We should not assume—I do not think this house does—that this is a matter of one big company not paying another big company that then has the means to provide through civil remedy in the courts; that is not the case. It is the people like my father who would otherwise have very little money, who rely on—certainly, we did—cheque to cheque, project to project, to keep their family going. That is why the legislation we have before us is so important. That is why I personally think that this is something we should have got around to doing when we saw many companies fall over under the former government. We saw that happen on a number of government projects. There was a flurry of building and construction, as is often the case in the building industry, with a number of developments. Companies brought in a lot of subcontractors, which is obviously a very easy way for them to do business. Companies would collapse under the weight of the litany of projects that they had on, and because of the stiff competition, often with very small margins, typically expecting that they would get variation orders or something like that to keep themselves going, they would fall over. Typically, there is not much recourse. As members, including the member for Belmont, have pointed out in their contributions, those companies simply find another way to continue existing with the people who have conducted those speculative practices continuing on, but the subcontractors like my father are much, much worse off. It breaks families. It breaks individuals who, in the spirit of Western Australia's entrepreneurship, continue to strive time and again.

I appreciate the contribution of all members of this place. I have been advocated to quite strongly by residents in my district, particularly Gary Brown, whom I suspect the member for Mandurah knows equally well. Those people have strongly advocated for these measures. I think that they are important measures. As the member for Mount Lawley has indicated, this is probably a path along what will ultimately be a much longer journey for what this may look like in time; I do not know.

The only concern I have is that, of course, this will not pass. This legislation, whilst needed, comes at a time when I think there is more economic uncertainty than ever before—a time when more people are uncertain about their futures. Small businesses have the opportunity now to strive to work as much as they can to try to hold on to as much money as they can because they are unsure about what tomorrow might bring. I suspect that all of us sit here in a state of anxiety, if only about the presidential election results in the United States, let alone what the future is going to look like in COVID recovery, and certainly what that might look like until 2023 when the Reserve Bank of Australia has indicated it will not increase interest rates beyond 0.1 per cent. There is a lot of uncertainty out there.

The only failure in this case is that the bill will not get passed. This is not a criticism of the minister who has brought the bill to this place, because I know that the Minister for Commerce; Attorney General has been exceptionally busy in bringing legislation to this place. I know, because the member for Hillarys has largely been the lead on that for our party for most of the last nearly four years in Parliament. It is a shame that the legislation will not see the light of day. That is a pragmatic response. We know that the bill will not be a priority for the Legislative Council if and when it reaches it. I suspect it is unlikely for it to get out of this place until the end of this week, which means that, given it is not a priority of this government in the Legislative Council, it will have to be put off until the forty-first Parliament and the priority is assumed within that. Within this time, all the practices that members have spoken about, that I have seen happen with my own family and that have been experienced across my district will likely continue. This is at a time when I am most concerned about the level of uncertainty in our economy.

**Ms C.M. Rowe:** The upper house has been invited to sit for an extended time and the opposition has agreed with that.

**Mr Z.R.F. KIRKUP:** I appreciate that, member for Belmont, but, as the member would be aware, there are 16 pieces of legislation that this government has indicated are priorities, and this was not one of them. I expect that if that was the case, we would see as much cooperation in that place as possible, but the legislation was not one of the priorities. With that, I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.

#### **PUBLIC ACCOUNTS COMMITTEE**

*Inquiry into the Use of State Funding by the West Australian Football Commission —  
Extension of Reporting Date — Statement by Acting Speaker*

**THE ACTING SPEAKER (Ms L. Mettam)** [9.11 pm]: The Public Accounts Committee has resolved to extend the reporting date on its inquiry into the use of state funding by the West Australian Football Commission until 12 November 2020.

*House adjourned at 9.11 pm*

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### QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

#### MCGOWAN GOVERNMENT — TRAVEL EXPENSES

**6409. Mr D.C. Nalder to the Treasurer; Minister for Finance; Aboriginal Affairs; Lands:**

I refer to your response provided on 6 August 2019 on the government's total cost of intrastate airfares for 2018–19 (to 31 May 2019) which totalled \$26,977,112, and ask:

- (a) How many flights in total does this represent;
- (b) How many flight paths are there in regional Western Australia and how many flights were taken on each regional flight path during this period; and
- (c) What was the total spend on each flight path during this period?

**Mr B.S. Wyatt replied:**

The Department of Finance advises:

- (a) The abovementioned total represents 67,549 intrastate flight bookings.
- (b)–(c) The total number of accessible flight paths in regional Western Australia should be asked of the Minister for Transport.

Sixty-seven flight paths were booked by WA Public Authorities through the Travel Management Services Common Use Arrangement (CUA). The CUA is mandatory for all WA Public Authorities for domestic air travel bookings on Regular Public Transport routes. The table below summarises the top 30 intrastate flight paths in the period, representing 99.7 per cent of intrastate bookings and 99.6 per cent of expenditure. All amounts stated are exclusive of GST, airport fees and charges.

Flight Path (includes bi-directional traffic and multi-segment trips)	Booking Count	Expenditure 2018–19 (to 31 May 2019) \$
Perth – Broome <sup>1</sup>	16,083	5,754,302
Perth – Karratha <sup>2</sup>	10,186	5,002,301
Perth – Kununurra <sup>3</sup>	5,802	3,409,316
Perth – Port Hedland <sup>4</sup>	7,561	3,260,379
Perth – Kalgoorlie–Boulder <sup>5</sup>	7,979	2,498,361
Perth – Geraldton	6,168	1,471,852
Perth – Albany	3,483	1,060,746
Perth – Newman	2,051	1,001,191
Perth – Paraburdoo	1,580	822,029
Broome – Kununurra	1,772	794,345
Perth – Learmonth	1,626	508,711
Perth – Esperance	1,339	480,485
Perth – Carnarvon	764	322,847
Perth – Onslow	364	110,135
Perth – Christmas Island <sup>6</sup>	131	79,597
Karratha – Broome	76	51,974
Perth – Monkey Mia	63	31,191
Kalgoorlie–Boulder – Geraldton	71	25,826
Meekatharra – Perth	27	18,349
Broome – Halls Creek	30	17,612
Kununurra – Karratha	22	16,910
Broome – Port Hedland	27	16,206
Broome – Fitzroy Crossing	24	15,203

Kalgoorlie–Boulder – Kununurra	18	15,176
Kununurra – Port Hedland	18	15,105
Newman – Karratha	17	14,812
Kalgoorlie–Boulder – Broome	23	14,338
Geraldton – Port Hedland	21	12,898
Geraldton – Karratha	22	11,182
Geraldton – Kununurra	10	9,817
<b>Subtotal</b>	<b>67,358</b>	<b>26,863,197</b>
Other routes	191	113,915
<b>Total</b>	<b>67,549</b>	<b>26,977,112</b>

<sup>1</sup> Over 80 per cent of bookings were made by Departments of Health (60 per cent); Education (8 per cent); Communities (8 per cent); Justice (5 per cent); WA Police (4 per cent).

<sup>2</sup> Over 80 per cent of bookings were made by Departments of Health (56 per cent); Education (10 per cent); Communities (6 per cent); Justice (4 per cent); WA Police (5 per cent).

<sup>3</sup> Over 80 per cent of bookings were made by Departments of Health (49 per cent); Communities (14 per cent); Education (8 per cent); Justice (6 per cent); WA Police (5 per cent).

<sup>4</sup> Over 80 per cent of bookings were made by Departments of Health (55 per cent); Education (10 per cent); Communities (6 per cent); Justice (4 per cent); WA Police (6 per cent); Main Roads WA (4 per cent).

<sup>5</sup> Over 80 per cent of bookings were made by Departments of Health (43 per cent); Education (11 per cent); Justice (11 per cent); Communities (9 per cent); Mines, Industry Regulation and Safety (5 per cent); WA Police (5 per cent).

<sup>6</sup> As travel to the Australian Territories of Christmas and the Cocos (Keeling) Islands is of an operational nature, it is treated as intrastate travel according to Premier's Circular 2014/02 (Guidelines for official air travel by Ministers, Parliamentary Secretaries and Government Officers).

#### CORONAVIRUS — PAYROLL TAX

#### 6414. Mrs A.K. Hayden to the Treasurer:

I refer to the State Government's COVID-19 payroll tax \$17,500 one-off grant issued from mid-July 2020 and your response to Question on Notice 6273 outlining that no data was available at the time, and I ask:

- How many employers, or group of employers, with Australian taxable wages of more than \$1 million and less than \$4 million were eligible and received the one-off grant;
- Are there employers, or group of employers, with Australian taxable wages of more than \$1 million and less than \$4 million that were not eligible and thus did not automatically receive the one-off grant;
- If yes to (b), how many and what are the reasons for their ineligibility;
- How many employers, or group of employers, eligible to receive the one-off grant are classified as small businesses according to the criteria defined by the Small Business Development Corporation (SBDC);
- How many employers, or group of employers, ineligible to receive the one-off grant are classified as small businesses according to the criteria defined by the SBDC; and
- What is the State Government's total expenditure for the one-off grant?

#### Mr B.S. Wyatt replied:

The Department of Finance advises:

- 5,671 employers, or groups of employers, that paid payroll tax in 2018–19 have received a grant as of 16 September 2020. Eligibility for employers that commenced paying tax in 2019–20 will be determined after the assessment year is reconciled in October 2020.
- Yes.
- As of 16 September 2020, 94 employers are ineligible to be paid the grant:
  - two employers are non-exempt statutory bodies;
  - three employers ceased paying tax during the 2019–20 assessment year; and
  - 89 employers did not pay any wages in Western Australia in 2018–19.

A further 140 employers' entitlement to the grant is under review on the grounds they did not declare wages for the whole of the 2018–19 assessment period or they ceased to pay wages in 2019–20.

- (d)–(e) Payroll taxpayers are only required to lodge information about wages payable. As a result, the Department of Finance does not hold data to determine if a taxpayer is a small business as defined by the *Small Business Development Corporation Act 1983*.
- (f) \$99,242,500 as of 16 September 2020.

#### ENVIRONMENT — CONTAINER DEPOSIT SCHEME

**6415. Mrs A.K. Hayden to the parliamentary secretary representing the Minister for Environment:**

I refer to the commencement of the Western Australian container deposit scheme, Containers for Change, on 1 October 2020, and I ask:

- (a) Out of the 74 operators in the refund point network, how many are commercial operators;
- (b) How many commercial operators are Western Australian owned and based; and
- (c) Can the Minister provide a list of:
  - (i) The names of the commercial operators and the location of the refund point they are operating;
  - (ii) The number of people employed by the commercial operator at each location of the refund point;
  - (iii) The names of the non-commercial (social enterprises/not-for-profits and local government) operators and the location of the refund point they are operating; and
  - (iv) The number of people employed by the non-commercial operators at each location of the refund point?

**Mr R.R. Whitby replied:**

- (a) I am advised that there were 72 contracted operators at scheme commencement, of which 33 are commercial operators.
- (b) Of the 33 commercial operators 28 are Western Australian owned and based.
- (c) Aggregated employment data are required to be provided annually by the scheme coordinator under the statutory reporting code. The employment at launch was 680 people for the scheme network. I table the names of the commercial and non-commercial refund point operators and the suburbs in which they operate. [See tabled paper no [3933](#).] Further information on the locations of the 205 refund points can be found on the Containers for Change website <https://www.containersforchange.com.au/wa/where-to-return>.

#### SCHOOLS — BAMBARA PRIMARY SCHOOL — ENROLMENTS

**6417. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Bambara Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

- (a) 196 as at Semester 2, 2020 census
- (b) 452
- (c) 0
- (d) Not applicable.

#### SCHOOLS — BELDON PRIMARY SCHOOL — ENROLMENTS

**6418. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Beldon Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

For clarification, Beldon Primary School is the electorate of Joondalup not Hillarys.

- (a) 333 as at Semester 2, 2020 census
- (b) 543
- (c) 0
- (d) Not applicable.

## SCHOOLS — HILLARYS PRIMARY SCHOOL — ENROLMENTS

**6419. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Hillarys Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

- (a) 586 as at Semester 2, 2020 census
- (b) 646
- (c) Two
- (d) 582

## SCHOOLS — MULLALOO BEACH PRIMARY SCHOOL — ENROLMENTS

**6420. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Mullaloo Beach Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

For clarification, Mullaloo Beach Primary School is the electorate of Joondalup not Hillarys.

- (a) 277 as at Semester 2, 2020 census
- (b) 420
- (c) 0
- (d) Not applicable.

## SCHOOLS — MULLALOO HEIGHTS PRIMARY SCHOOL — ENROLMENTS

**6421. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Mullaloo Heights Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

For clarification, Mullaloo Heights Primary School is the electorate of Joondalup not Hillarys.

- (a) 243 as at Semester 2, 2020 census
- (b) 496
- (c) 0
- (d) Not applicable.

## SCHOOLS — PADBURY PRIMARY SCHOOL — ENROLMENTS

**6422. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Padbury Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

- (a) 104 as at Semester 2, 2020 census.
- (b) Permanent capacity for 334 students.
- (c) One, but it is not allocated to Padbury Primary School. The transportable is used by the West Coast Language Development Centre, a campus of which is collocated on the Padbury Primary School site. The transportable caters specifically for the Language Development Centre's early childhood students.
- (d) 334 students.

## SCHOOLS — SPRINGFIELD PRIMARY SCHOOL — ENROLMENTS

**6423. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to Springfield Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

- (a) 236 as at Semester 2, 2020 census
- (b) 560
- (c) 0
- (d) Not applicable.

## SCHOOLS — SOUTH PADBURY PRIMARY SCHOOL — ENROLMENTS

**6424. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

I refer to South Padbury Primary School in my electorate, and ask:

- (a) how many students are enrolled at the school in 2020;
- (b) what is the current total enrolment capacity for the school;
- (c) how many demountable classrooms are currently installed on school site; and
- (d) what is the school's total enrolment capacity without these demountables?

**Mr P. Papalia replied:**

- (a) 402 as at Semester 2, 2020 census
- (b) 447
- (c) 0
- (d) Not Applicable.

## SCHOOL MAINTENANCE — HILLARYS

**6425. Mr P.A. Katsambanis to the minister representing the Minister for Education and Training:**

For each of the years 2017, 2018, 2019 and 2020 (to date) how much was spent in each year on school building maintenance at each of the following schools:

- (a) Bambara Primary School;
- (b) Beldon Primary School;
- (c) Hillarys Primary School;

- (d) Mullaloo Beach Primary School;
- (e) Mullaloo Heights Primary School;
- (f) Padbury Primary School;
- (g) Springfield Primary School; and
- (h) South Padbury Primary School?

**Mr P. Papalia replied:**

Data is only available for financial years.

School	2016–17 \$	2017–18 \$	2018–19 \$	2019–20 \$	2020–21 \$
Bambara Primary School	100 536	128 549	108 967	195 546	26 660
Beldon Primary School <sup>1</sup>	268 382	687 521	202 965	346 171	46 950
Hillarys Primary School	140 740	149 548	119 131	202 747	123 726
Mullaloo Beach Primary School	140 726	95 538	207 621	90 157	24 755
Mullaloo Heights Primary School	110 368	108 191	244 664	130 982	47 655
Padbury Primary School	165 874	150 259	96 957	230 914	26 443
Springfield Primary School	225 026	213 004	155 641	419 924	54 258
South Padbury Primary School	161 238	162 116	133 550	249 191	15 652

Data Source: Department of Finance (DOF) Data Warehouse 2020–21 data as at 16 September 2020. Includes expenditure funded by schools where works were arranged by Department of Finance. Schools that manage their own faults and breakdowns (devolved faults maintenance program) may not use Department of Finance.

<sup>1</sup> Beldon Primary School includes expenditure for Beldon Education Support Centre.

LANDS — CARNARVON JUSTICE COMPLEX — DEMOLITION

**6426. Mr V.A. Catania to the Treasurer; Minister for Finance; Aboriginal Affairs; Lands:**

I refer to the contract awarded for the demolition of the Carnarvon Justice Complex at 81 Olivia Terrace, Carnarvon, to a Perth based business, Merit Consulting Group, for an estimated contract price of \$89,386 (including GST), and I ask:

- (a) Can the Minister confirm Merit Consulting Group has included all required work within the quote, including utility disconnections, asbestos survey, local tip disposal charges and dust suppression measures for the end of the project;
- (b) If these costs have not been incorporated as required to undertake this demolition, why not;
- (c) Who will be held responsible and be required to pay if there are any shortfalls in costs associated with the demolition;
- (d) Will all remediation works, including dust suppression, be completed to health and environmental specifications and in consultation with the Shire of Carnarvon; and
- (e) Who will be accountable for the cost and the ongoing maintenance of the site, until such time as the land is purchased?

**Mr B.S. Wyatt replied:**

- (a) Yes, the contract is inclusive of all required tasks.
- (b) Not applicable.
- (c) If required, the Department of Planning, Lands and Heritage (Department) will consider contract variations.
- (d) Yes, the Demolition Works Plan and Asbestos Removal Control Plan will be approved by the Shire of Carnarvon.
- (e) The Department will remain responsible for managing the site until the property is sold.

