PROTECTION OF INFORMATION (ENTRY REGISTRATION INFORMATION RELATING TO COVID-19 AND OTHER INFECTIOUS DISEASES) BILL 2021

Temporary Order — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [11.27 am] — without notice: I move —

> That pursuant to the COVID-19-related business temporary order, the Council shall sit beyond 5.20 pm at today's sitting and take members' statements at a time ordered by the Council.

If I may, by way of further explanation, I have consulted with party leaders and have agreement that the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021 be treated as COVID-19-related legislation. In order to deal with this matter, we intend to deal with this bill today under the temporary order that was agreed on 25 May. I have consulted with the party leaders on time limits, as I am required to. They have advised me the following maximum time limits will be required for each stage of the bill: second reading stage, 180 minutes; committee stage, 240 minutes; third reading stage, 60 minutes. Members will have noted that the government has given up its allocated time for private members' business to free up some additional time to deal with that legislation. However, obviously, even with that extra time, if members use up the entirety of the time that they are entitled to, that is about eight hours, it will result in members' statements being taken at about 8.30 tonight.

I thank party leaders for their assistance in working out how much time we will need and I seek the support of the house.

Question put and passed.

Second Reading

Resumed from 15 June.

HON NICK GOIRAN (South Metropolitan) [11.29 am]: We are dealing with the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021 as an urgent bill for one reason only.

The ACTING PRESIDENT (Hon Dr Sally Talbot): Would you allow me to interrupt for just a moment? Can you confirm whether you are the lead speaker?

Hon NICK GOIRAN: I am indeed. On behalf of the Liberal Party, I am the lead speaker on this bill.

The ACTING PRESIDENT: Thank you, member. You have the call.

Hon Alannah MacTiernan: You're not the non-government alliance?

Hon NICK GOIRAN: It is very difficult and tedious at times to deal with the Minister for Regional Development, who swans in and out whenever she likes and has absolutely no understanding of the procedures.

The ACTING PRESIDENT: Member, I give you the same advice I gave a previous speaker this morning. If you address your remarks to me, everyone will stay calm.

Hon NICK GOIRAN: Acting President, through you to the Minister for Regional Development, I encourage her to understand that yes, indeed, I am a member of the Liberal Party and yes, I am the shadow Attorney General and I am the lead speaker for the Liberal Party on this bill. I am also pleased to be a member of an alliance with my good friends from the Nationals WA. It is not a complicated concept, but apparently the Minister for Regional Development, despite the fact that she has almost traversed the globe in terms of the jurisdictions she has been involved in in various Parliaments, finds this very, very difficult.

Hon Alannah MacTiernan: It'll never happen to you, mate! You would never, ever stand for a lower house seat. Your complete out-of-touch-ness with the electorate would be made evident.

Hon NICK GOIRAN: There is indeed at least a meeting of the minds on that point, Minister for Regional Development, through the Acting President, because, you see, I believe in one very important principle and it is called commitment.

Nevertheless, we are here today because the Minister for Regional Development and her cabinet colleagues have totally breached the trust of Western Australians. That is why we are dealing with this matter today, Minister for Regional Development. If you had done your job around the cabinet table, we would not have to deal with this matter on an urgent basis, so you might just sit there and listen for a while and learn something, because the breach of trust of Western Australians is no trivial matter. That is why we are here and that is why the Leader of the House has decided to fire up the battering ram provisions once again. Spare a thought for our colleagues in the other place. At least some of us have been aware of this legislation for two days. This was first brought to our attention on Tuesday, but spare a thought for some of our colleagues in the other place. I note in remarks made by the Leader of the

Opposition, Hon Mia Davies, at seven o'clock on Tuesday this week, a mere two days ago, less than 48 hours ago, she said —

> Not more than 20 minutes ago, we finished the briefing provided to the opposition on this bill. It is important to put on the record that we learnt of this legislation and another piece of legislation at around 10 o'clock this morning and had to find time to be briefed so the government could bring on this legislation in an urgent fashion.

Thankfully, we have had more than 20 minutes since we finished our briefing; we finished our briefing 35 minutes ago. We have had a little bit more time than Hon Mia Davies had in order to address these important matters—this urgent bill that has been brought about because of the massive breach of trust by the McGowan government. Indeed, COVID-19 has many varied symptoms, but one of those symptoms appears to be that this government waits until a matter becomes urgent before it starts to take action and, at that time, it then applies the battering ram. In April last year, more than 12 months ago, we dealt with the Emergency Management Amendment (COVID-19 Response) Bill 2020. For the benefit of new members, this will be, I think, possibly—I stand to be corrected—the first time that we are dealing with one of these urgent COVID bills in this Parliament. We dealt with them on several occasions in the previous Parliament. One of them and probably the first one was in April last year—the Emergency Management Amendment (COVID-19 Response) Bill 2020. What happened in April last year was very similar to what occurred just then. We had the Leader of the House indicate to us in April last year that the second reading stage of the bill must be concluded in 80 minutes. On 1 April 2020, she said, "I am setting maximum time limits" in no doubt the most dictatorial tone that could have been expressed at the time. The second reading stage was set at 80 minutes and the maximum time for Committee of the Whole was 60 minutes. It is no wonder that in those circumstances matters such as this now happen. We now have to fix up the problems that were created by the McGowan government and its delight and obsession with the battering ram last year.

I want to quote from Hon Alison Xamon, then a member for the Greens in the North Metropolitan Region, who expressed some concerns during the course of that particular debate. Hon Alison Xamon said on 1 April 2020 —

> I only received a copy of this bill and a briefing on it yesterday, which was a very small amount of time to be able to deal with a bill that imposes some very serious and hefty penalties and curtails civil liberties.

Later in that same speech, the honourable member said —

> I also recognise that we are giving enormous discretion to police officers. Many of our police officers are doing a really hard job and trying very hard to ensure that we have order and people are complying with the various public health initiatives that are coming through. I am also aware that the experience starting to emerge in other states is that there have been instances of police overstepping the boundaries and not being reasonable in the way that they operate under their new powers. We have to keep a very close eye on this. We need to ensure that this power is not abused and that people are not subjected to an onerous regime that is enacted in such a way that it is unfair and justice flies out the window in our efforts to ensure that people's lives are saved.

Hon Alison Xamon's crystal ball on 1 April 2020 has proven to be most clear. Here we are now, on 17 June 2021, dealing with precisely the circumstances that she outlined and expressed concerns about on 1 April last year when the government insisted, in what has now become a typical dictatorial fashion, on applying the battering ram. If anyone dared think about trying to scrutinise legislation or ask any questions, they were ridiculed for doing so. Now, more than 12 months later, the trust of Western Australians has been obliterated by the McGowan government. As if that breach of trust was not bad enough, this week the government has once again demonstrated that the words uttered by its ministers stand for nothing. They mean nothing. The Leader of the House in the other place, two days ago, in dealing with this matter said this in a short contribution to explain the necessity to pass this legislation urgently. I quote from the uncorrected proof —

> The reason for the need for this bill to be dealt with forthwith and the 9.15 pm time in the motion is for it then to be able to be presented to the upper house in time for it to lay on the table in that place for one week and then debated in that place on the following Tuesday as an urgent bill of the government.

Today is Thursday. It is not Tuesday. That was just another Labor lie.

It is essential that we can operate in an environment in which we can trust what members say when they stand in Parliament. We had a debate just yesterday about the importance of trust in the confines of parliamentary committees and the damage that can be caused by a reckless Labor member—one individual in particular, not from this place but from the other place—and how damaging that is to the parliamentary committee process. This is no different. We cannot have a senior member of the Labor government giving assurances to the people in one chamber only two days ago that this bill will be dealt with in this chamber on Tuesday only for that assurance to be torn apart. Whether it was a member from the other place who misled those members or whether it was simply the Leader of

the House who said, "I have no regard for what the government said in the other place; I'm running the show here", I do not know. And we do not need to spend too much more time today to find out which of those two members is at fault, but the point is this: this is yet again a breach of trust. How many more times does the McGowan government intend to breach the trust of Western Australians, whether they are parliamentarians or ordinary citizens going about their business having been told, "You can sign up to the SafeWA app with confidence; rest assured your data will be used only for contact tracing purposes", only to find that that was yet another Labor lie. How many more times will trust be broken?

The matters we are dealing with here are no trivial policy issues. I will spend a few moments looking at both the privacy issues and the position that has been articulated by the Commissioner of Police about criminal investigations and the use of data. As I begin by looking at the privacy issues, I draw to members' attention that only last year our nation's privacy commissioner issued a survey in the foreword of which she said —

> In 2020, privacy is a major concern for 70% of Australians, and almost 9 in 10 want more choice and control over their personal information.

Further on in the foreword, the commissioner said —

> In an ever-evolving digital environment, the actions we take to maintain our privacy are changing, while our trust in organisations to protect our personal information continues to decline.

One wonders what the privacy commissioner would have to say about the McGowan government's handling of this matter. In the foreword, the privacy commissioner stated —

> We also have strong views on misuse of our information.

She goes on to say —

> The COVID-19 pandemic has also influenced our views about privacy. While half of all Australians think privacy is more at risk generally during the pandemic, the majority are comfortable with personal information being shared to combat COVID-19 and expect it to be protected.

It might interest members, when they have time, to familiarise themselves with that survey to pay special attention to some of the findings, including this —

> Three in 5 Australians have experienced problems with how their personal information was handled in the past 12 months.

The survey also found —

> The behaviours Australians are most likely to consider a misuse are when:
>
> - an organisation uses their personal information in ways that cause harm, loss or distress (84%)
> - information supplied to an organisation for a specific purpose is used for another purpose ….

That is exactly what we are seeing here: information was supplied to an organisation for a specific purpose but it has been used for another purpose. It is categorically contrary to the express wishes of not only Western Australians, but also, indeed, our fellow citizens in this country.

I think the intense debate that occurred about the COVID SafeWA app last year has shown that Australians are deeply concerned and care deeply about the privacy of their information even in a time of crisis. The SafeWA app has allowed, of course, each and every one of us who has used it to share our whereabouts. We do not have to use the app, but we can volunteer to use it. When the McGowan government produced one of its plethora of media releases, the people of Western Australia were assured that the collection, storage and use of the data would be for COVID-19 contact tracing purposes only. I specifically draw to members' attention the media release dated 25 November last year, signed off by the Premier of this state; his hapless Minister for Health, Hon Roger Cook; and the Minister for Police, Hon Paul Papalia. Keep that date in mind, members, as we progress through this debate, not only at the second reading stage, which I am confident will be supported by the house, but also when we go into the Committee of the Whole House. Keep in mind that date—25 November 2020—when Hon Mark McGowan, the Premier; his health minister; and his Minister for Police, Hon Paul Papalia, issued this media release. I pause there for a moment because I want to correct the record. I think the comments in the media release were attributed to Hon Paul Papalia in his capacity as small business minister. But in a quirk of the McGowan government's media release system, he is referred to as the Minister for Police, but that may well have been Hon Michelle Roberts at the time. Nevertheless, the point is that the media release says —

> Records would only be used for the purpose of COVID-19 contact tracing, should it be required, and will only be kept for 28 days and not used for any other purpose.

When the Premier signs off on a media release like that, the people of Western Australia trust him. They assume that what he says is true and that he means what he says. It is just as well the honourable Minister Templeman or any other minister has not signed off on this, particularly given what occurred in the Assembly earlier this week. In my view, what has been uncovered here is a breach of data ethics.

There is an obligation and a burden on the government to maintain the absolute highest of standards. Over the course of the public debate that has occurred this week, I have already heard about references to the legality of accessing the data. Members need to contemplate for a moment to what extent there is a distinction between something being legal and something being ethical, and whether those concepts are mutually exclusive or otherwise. We simply cannot replace one threat, which is COVID-19, with another threat, being the unlawful surveillance and breaching of privacy.

It is interesting to note that in an article published only yesterday, the Leader of the Opposition is quoted as saying that the Attorney General had raised concerns that this data could be used in civil litigation or even the Family Court to prove the whereabouts of another person. In my previous career, I had the opportunity to act for a range of clients from various different areas. Despite my limited interactions in the family law area, I found it to be one of the most emotive areas of law that a person can possibly be involved in. I can well imagine the strength of feelings of some Western Australians at the moment with the notion that the data in the SafeWA app could, according to the Attorney General, be potentially used in Family Court proceedings. I would be confident to say that those individuals would, with passion and emotion, cry out about the breach of trust. If the government did not know that it could be used for this particular purpose, it certainly does now, and hence we have the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021 before us. But we also need to unpack, during the Committee of the Whole process, the precise time line of who knew what and when. I have already given some notice of that to the government's briefers and advisers at a recent briefing that I attended with Hon Tjorn Sibma. This is not a time for the government to shirk responsibility. It is not the time for the government to duck, dive and deflect. It needs to take responsibility for this matter. It has decided that it will deal with this matter on an urgent basis. It has the support of the opposition in doing so. We do not support the government's breach of trust. We certainly do not support the government's misleading of the other place earlier this week, but it has our support in dealing with this matter urgently. That does not mean that the government can shield itself, because of the urgency, from accountability. We will facilitate the passage of this bill on an urgent basis today, but we expect the government to be held to account. We expect the government to be prepared to answer the questions that will be asked. It is simply not good enough to constantly use the term COVID-19 as some kind of massive shield against accountability. Enough is enough. The trust of the people of Western Australia has been betrayed. People of goodwill have been prepared to forgo aspects of their personal privacy over the course of the last year, understanding the greater benefits to public health. I am concerned that this episode will damage, in the minds of some Western Australians, their preparedness to continue to work together in this fashion. It is exactly for those reasons that I will be asking questions during the Committee of the Whole stage to unpack how this breach transpired and to assure Western Australians who will be following this debate that their data is now going to be used for intended purposes only.

I note that almost an hour ago at the hastily convened briefing, we were informed that there will be no police advisers here today. I pause for a moment to thank the briefers, who did an excellent job at that briefing and were very forthcoming. I once again thank them for their professionalism and competence. Maybe the Minister for Regional Development, who seems to have a lot of time on her hands, could talk to her cabinet colleague the Minister for Police to arrange for those police advisers to be available to us today, because we need to know Western Australia police's policy on these matters. I imagine that if this bill had been referred to the Standing Committee on Legislation, a matter as serious as this that is trying to fix up a problem, that committee would have been inclined to call in certain witnesses, including the Commissioner of Police. Yet, today we will not get to hear the view of the Commissioner of Police, and the government tells us that not even the police advisers will be available. We need to know what WA police's policy is on these matters. We need to know what the policy was, what it is now, when it changed and why it changed. As I said, these are no trivial matters. I have outlined the concerns that Western Australians, and indeed Australians, have with privacy issues, but this needs to be weighed up against the policy debate around criminal investigations and the manner in which we are going to empower our investigative bodies to undertake those investigations.

I want to quote briefly from an article published yesterday in WAtoday titled "WA Police Commissioner defends accessing SafeWA data during Nick Martin murder investigation". It states —

> … Mr Dawson defended his agency's decision to access the information.

The article goes on to quote him saying —

> "Police have only got information twice out of 245 million transactions and they were exceptional circumstances and it is lawful," he told Radio 6PR on Wednesday morning.

> "Police have a duty to investigate crime and we're talking about a man who was shot in a public area with an allegedly high-powered weapon and other people were injured, and another situation where a man was stabbed three times in a public place and a person has been charged with grievous bodily harm.
>
> "Don't expect me to do my job half-baked—

I might borrow that phrase from time to time, especially when I am dealing with the Minister for Regional Development. It continues —

> I expect my officers to do everything possible to bring a murderer to justice … and I make no apology for it."
>
> Mr Dawson also revealed he quashed a third attempt by investigators in February —

I pause again to encourage members to keep a track of the time line here —

> to access the SafeWA data after a person delivered a bag of methamphetamine to a guest in hotel quarantine.
>
> "I overrode that and said, look in this instance we should not do it, but in the case of a murder investigation we should," he said.

This is why I expect the government to tell us what WA police's policy is with these types of investigations.

There will be Western Australians, particularly those families who have suffered through the death of a meth user, who, with passion and emotion, will prosecute the case that the peddlers of this meth are murderers and that a bag of it being delivered to a guest in hotel quarantine ought to be a red alert and should be treated with great seriousness. I have no doubt that the police commissioner feels very strongly about these peddlers of methamphetamine. I have every confidence that he will feel very strongly about those individuals, yet a decision was made that WA police would not access the SafeWA data on that case, but they would access it on the murder case. They will access it when somebody is dead, but they will not access it when somebody may soon be dead! Some people may argue that it is all the more important to access the information to stop the loss of lives. I hope members can understand the complexities at play here. In that respect, I can understand some of the comments made this week by certain members in government about weighing up these different considerations and why, in the end, they have decided to take the path they have in the bill that is before us, which, as I say, has the support of the opposition.

These are not trivial policy matters and there is no time other than today to get the answers to these things. It is no good for the McGowan government to rock up with its usual bag of defences and say, "Sorry, we can't answer these questions because this matter is urgent" or "Sorry, we don't have that information at our disposal"—sometimes we do not even get the word "sorry", but nevertheless—or to say, "Sorry, those advisers are not here." We have given fair notice about these matters. If anyone in government does not think that is fair notice, I take them back to the comments made by the Leader of the Opposition in the other place earlier this week, who said that they had finished a briefing 20 minutes ago and now they were dealing with the bill. I express my apologies—for what they are worth—to the various hardworking advisers who have been involved in this matter, because I know they have been under a lot of pressure, and will be probably be under a lot of pressure today. Nevertheless, we have no other time for this. The people of Western Australia do not have any other opportunity to get answers to these questions, other than today. There is no tomorrow—the Leader of the House has already said that.

With those remarks, I indicate that the opposition will support this legislation. We are very disappointed that the McGowan government has breached the trust of Western Australians. We support the McGowan government's efforts to fix this problem and we indicate that we expect it to be in a position to answer the questions that we need to ask in order for it to be held to account for a mistake of this magnitude. The Premier of Western Australia assured people that the data would not be used for any other purpose, yet the very powerful police commissioner said—I am paraphrasing him—"Well, I'm going to use it anyway!" This is a problem, and people need to be held to account. They at least need to provide an explanation as to the sequence of events that have occurred and why we are in this position. With those remarks, I indicate the opposition will be supporting the bill.

HON MARTIN ALDRIDGE (Agricultural) [12.04 pm]: I rise to contribute to the second reading debate on the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021. In doing so, I have to update my remarks from the end of May when we were dealing with the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021, because it is almost two or three weeks later and we are dealing with a bill with a longer title. I think in the other place the Attorney General used an acronym, and that might be more helpful as we proceed through the rest of the debate. He referred to it as the PIERIRCOID bill! Perhaps that will be easier in expediting passage under the restrictive temporary orders we have before us today.

A number of issues ought to be canvassed, and I will constrain my second reading contribution because the debate is time constrained and there is definitely a desire to get to the Committee of the Whole stage to thrash out some

of these issues. But I put on record that we have another COVID-19 bill that is being dealt with under very significant constraints. It is not the first time this has occurred, and it will not be the last. As Hon Nick Goiran set out, I first learned of the existence of this bill sometime after 10.00 am when we were in the party room and we received a text message to say that there would be two urgent bills brought on this week. I suspect government members probably had more notice than the opposition, because we understood that it had already been approved by the caucus, so we were behind the eight ball in that respect. From this text message, we learned there was a suspension of standing orders in the Legislative Assembly at 4.35 pm on Tuesday, and at 4.41 pm the Attorney General introduced this bill. At approximately 5.00 pm, the first briefing for the opposition occurred; of course, the Council was sitting at 5.00 pm on that Tuesday, so I was unable to attend that briefing. Having reflected on Tuesday night on the *Hansard* of the other place, I was reassured that it appeared to be a feature of the negotiation with the opposition in the other place that the reason for the expedited passage required in the Assembly on Tuesday was in order for the bill to sit for a week on the notice paper here in the Council, as ordinarily is the case under our standing orders. That would have given the opportunity to pause, to reflect on the very limited debate that occurred in the Assembly and to seek briefings in a proper manner. At that point, I instructed my office to organise a briefing on Friday of this week. They came back to me yesterday and said that that would not be possible as the bill was being brought on today; hence, my briefing occurred at nine o'clock this morning, and I thank the advisers for making this occur in a timely manner. The debate commenced in the Assembly at 7.00 pm on Tuesday and it was guillotined at 9.15 pm by a suspension of standing orders. In the Legislative Assembly, the length of consideration from second reading to third reading was two hours and 15 minutes. The Legislative Council is dealing with that bill now as an urgent bill under the COVID-19 temporary orders. It is interesting because when we look at the genesis of this bill over time, we see that three bills have preceded it that are somewhat related and all of them have been treated as COVID-19 bills. They go back to 2020. Members may recall that the Emergency Management Amendment (COVID-19 Response) Bill 2020, as Hon Nick Goiran suggested, was the first COVID-19 bill that the house dealt with. It was introduced into the Legislative Assembly on 31 March 2020 and passed that house on the same day, and was then introduced into the Legislative Council on that same day and passed the Council the following day on 1 April. That was the start of the COVID-19 legislation.

The ACTING PRESIDENT (Hon James Hayward): Member, I am sorry to interrupt you. I notice some students from Perth Modern School are in the gallery. Welcome, students. It is great to have you here. Give us a wave if you are from Perth Modern. I hope you enjoy your time in the Parliament.

Hon MARTIN ALDRIDGE: Thank you, Acting President, and welcome to the Legislative Council, Perth Modern students.

It is fair to say that the story starts with that first bill. That is interesting because, again, that bill was dealt with under temporary orders and was under the management of the Deputy Leader of the Government in the Legislative Council, Hon Stephen Dawson. The second reading debate was allocated 80 minutes, the Committee of the Whole stage was allocated 60 minutes, the adoption of the report stage was allocated five minutes—I note that in the order moved by the Leader of the House today no time is allocated to the adoption of the report—and the third reading stage was allocated five minutes, some of which I think was utilised. Interestingly, on that first bill, the guillotine came down on the committee stage and a number of clauses were not adequately considered but were put to the chamber without debate.

The next bill that came on was the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020. It was considered in early to mid-November 2020. Members may recall that that was to deal with the extension of the 12-month sunset clause that applied to new section 72A of the Emergency Management Act. On that occasion, temporary orders were invoked. The Leader of the House ordered that 105 minutes be set aside for the second reading stage, 90 minutes be set aside for the committee stage and zero minutes be set aside for the third reading stage. It is interesting that on that occasion—that was the extension of time bill—the President was required to interrupt the minister's second reading reply. The government effectively gagged itself by its own order and the minister was not able to complete his second reading reply. That took the minister by surprise and he then indulged the chamber by continuing his second reading reply during consideration of clause 1 of the bill during the committee stage. For those members who are not aware, many disputes often occur during consideration of clause 1 of a bill and on this occasion a minister of the Crown continued his second reading reply during consideration of clause 1. Not only was the second reading reply speech of the minister in charge of the bill disrupted, but also the committee stage of that bill was further disrupted by the Leader of the House's order.

I now come to the new Parliament and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021. I think that that bill is the only COVID-19 bill that has been dealt with so far in the forty-first Parliament and, as members will be aware, we dealt with it only in recent weeks. It passed the Legislative Council on 22 May 2021. I will say more about that bill later, but for members who may not have been engaged in the debate on 31 March 2020 when the original emergency management amendment bill was passed in the early stages of the state's pandemic response, I will read a couple of sections of the second reading speech and the explanatory memorandum. The second reading speech of Hon Stephen Dawson said —

> Finally, this bill introduces amendments to allow authorised officers to compel the provision of information from individuals for the purposes of managing an emergency. This power will require people to provide information about things such as their travel and social contacts when directed to do so. This information is essential for our response to the COVID-19 pandemic and to ensure public safety. Under the new provisions, a direction can be given that will require a person to provide "relevant information", as defined. A person is not excused from providing the information requested because providing that information may incriminate the person or expose that person to a criminal penalty. Information given, however, cannot be admissible in any unrelated criminal proceedings. Given the extraordinary range of powers that this particular amendment provides to the State Emergency Coordinator and authorised officers, it is appropriate that it is limited to only the pandemic hazard that our community currently faces. Therefore, a safety net of a sunset clause of 12 months to ensure that this broad power does not endure in the act has been attached to this amendment and to the broader power to direct for the purposes of this emergency.

That was Hon Stephen Dawson on behalf of the government on 31 March 2020. I now turn to the relevant clause—that is, clause 9—which in effect inserts a temporary section 72A into the Emergency Management Act. The second part of that clause allows a relevant officer to direct a person to provide certain types of information. I will read two paragraphs of the explanatory paragraphs, which state —

> This provision may allow for sensitive information to be obtained by relevant officers. However, it is not unconstrained and can only be exercised for the purposes of emergency management in an emergency situation or state of emergency. It is also subject to section 95 of the EM Act which makes it an offence to breach confidentiality.
>
> Section 72A is intended to apply only in the circumstances of an appropriate response to the COVID-19 pandemic response. For that reason, provision is made for a 12 months 'sunset clause' at Clause 10.

It is relevant to quote those measures because that is where this story starts. If it were not for temporary section 72A of the Emergency Management Act, the government and the State Emergency Coordinator would not be able to issue directions for information collecting surrounding mandatory contact registers, including the SafeWA app, or it would be constrained in doing so.

All these bills were dealt with, as I said, under quite constrained circumstances. I do not think anybody could argue that they were given suitable scrutiny. None of them were referred to committees. Nearly all of them were guillotined both in the other place and in this place, often mid-debate and, at times, even the government was interrupted in presenting its case for the legislative reforms.

It was rather alarming to learn about these concerns on Tuesday. I understand the government's concern about the confidence of the community in continuing to use the SafeWA app, because a number of people in the community, a number of my constituents, have over many, many months expressed their concerns. I think Hon Nick Goiran presented quite eloquently the tension that exists between privacy and when information ought to be obtained and used with a health outcome in mind during the pandemic. But the last thing we want to see is our contact tracing capability diminished. It is obvious that the contact registers, certainly, significantly benefit the state's capacity to contact trace. I do not think that that is in dispute.

Ahead of the first direction issued in late 2020, the government issued a media release titled "Maintaining contact registers, a requirement to keep WA safe". There are five dot points at the top of this media statement dated Wednesday, 25 November 2020, which read —

- Mandatory contact registers an extra safety measure as part of COVID safe principles
- Contact details will be recorded at relevant businesses and premises
- Mandating of registers to take effect from Saturday, December 5
- SafeWA, a free COVID-19 contact register app, now available for download
- Records kept for 28 days and not used for any other purpose

The media statement continues —

> SafeWA includes key features such as unique QR codes for venues which patrons can scan to register their attendance. Data will be encrypted at the point of capture, stored securely and only be accessible by authorised Department of Health contact tracing personnel, should COVID-19 contact tracing be necessary.
>
> …
>
> The register records will only be required to be held for a 28-day period, and will only be used for necessary COVID-19 contact tracing, should the Department of Health require it, before it is disposed of in accordance with data privacy laws.

The government's message on 21 November 2020 was quite clear ahead of, I think it was, 5 December 2020 when the first of now two directions on the mandatory registry process were issued. It was also quite clear that the government was not aware that its legislation was flawed in enforcing its intent with regard to who can use the information and under what circumstances they can access the information, which goes to the core of maintaining confidence in the community. I think the government is upset, otherwise we would not have a bill brought to the Parliament under these arrangements in such a brief period of time.

This is not a new issue, as we have discovered. It is funny; the Minister for Health is nowhere to be seen. This bill will be a health portfolio bill. It will be under the responsibility of the Minister for Health, yet I have neither seen the Minister for Health nor heard from him. He has not been involved in the debate in the Legislative Assembly. I am not sure where the government is hiding him, but he is not involved.

On 31 March 2021, the Minister for Health became aware of this issue, which was some months ago. Some months ago the government, at the highest executive level, became aware that there was an issue. The Minister for Health should know that there was an issue because he was one of the co-sponsors of the media statement on 25 November 2020. On 25 November 2020, the Minister for Health said, "Never, ever!" Then on 31 March he became aware that the WA Police Force had sought information for the purposes of a criminal investigation.

My question to the minister representing the Minister for Health yesterday was: on how many occasions has information been sought for a purpose other than responding to the COVID-19 pandemic? We now know that WA Health has received seven requests for SafeWA data for purposes other than responding to the COVID-19 pandemic. These were all requested by the WA Police Force as individual orders to produce. This was one of the issues that I asked about in my briefing this morning, and I am surprised that there is still—this is no criticism of the advisers—a lack of clarity in government about what happened and when and how. I hope that the parliamentary secretary, who has carriage of this bill, will have some, if not all, of those answers when we reach the committee stage. For example, we know that there were three requests relating to two criminal investigations that were complied with. I think that has been established. We do not know the status of the other four requests or, indeed, whether that number has changed from seven.

I have learnt that at least one of the requests was not compliant with the law, which ought to be interrogated in its own right. I think that we need to get to the bottom of the status of these request because it goes directly to the application, and particularly the urgency, of this bill. As we debate this bill today, do we have active lawful requests on the Department of Health or any other agency or person? That question has not been answered.

We also learnt that the Premier first became aware of this issue in early April. As far as I can tell, the Minister for Health was the first person to know about this issue, which does not surprise me because it would have been the Minister for Health or the director general or someone fairly senior who was issued an order to produce from the WA Police Force, and I assume the first thing they did was run that request up the chain. I suspect that request would have gone straight to the State Solicitor's Office and they would have sought some advice. I would have thought that the first thing on the minds of those public servants would be to inform the minister at the earliest opportunity, and if they did not do that or they did not see that problem coming, I would be highly surprised.

We know that the Premier first became aware of this issue in early April. We do not know the date, so we will work on that today, parliamentary secretary. Of course, we now know that the Premier first raised this issue on 14 April and he had a number of follow-up conversations with the Commissioner of Police from that date. But 14 April was the first occasion on which the two met, and it was at that meeting that the so-called request, as the Premier puts it, was put to the police commissioner and which I suspect from the reports that I have heard was promptly denied.

There are still a lot of gaps in the story. I make this point: this is not about working out who to crucify in the process or who to blame. We have had a data release contrary to the commitment of the government, and that data, as far as I am aware, still remains with WA police. I asked the Premier yesterday whether he intended to notify app users whose data was released to WA police contrary to the commitment that he and his government gave to them; and, if so, when? His answer was no.

If the government's first priority was for confidence in contact tracing and confidence in the system, I would have thought that the government would disclose that to not only the app users whose trust has been breached by the government's inaction, but also the Parliament. When would the government have done that, Mr Acting President, I hear you ask me. That would have occurred when we were dealing with the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021. The Legislative Council dealt with this bill between 11 and 27 May 2021. Now we know that the Minister for Health knew about this issue at the end of March and the Premier knew about this issue at the beginning of April. We were told that drafting process was complex, and I learnt this morning that there were some 11 drafts in total. When we as a Council were asked by the government to consider the extension of the section 72A powers that empower the government to collect and exchange information

as part of its mandatory contact registers, we know that at the time the government knew of the data access issue. That information was not offered to the Council in the course of considering whether those powers should be extended or, indeed, if they were to be extended, whether there should be further limitations on them, such as limitations relating to privacy or disposal. No disclosure was made to the Council. Once again, temporary orders come in and the government rammed the bill through, and then it says, "We need you to trust us. We need the opposition to do the right thing and build confidence. That's the opposition's job. You need to go out there and be responsible and build confidence." It said that, notwithstanding all those occasions on which it has lost our confidence.

This is a deeply concerning issue. There are still many, many questions that have not been answered. It does not surprise me that this bill is being managed under the health portfolio. It does not surprise me that police advisers are nowhere to be seen, because I suspect they are the people with the answers to all of our questions. I suspect we will be able to get wonderful advice in Committee of the Whole on the crafting of this bill, but none of the relevant material as to why the bill is needed or what problem it is responding to. What concerns me more is whether government actually knows the answers to those questions.

The government could be doing a range of things to build confidence around this matter beyond what is contained in this bill and what has been said in the debate so far. For example, will the government write to the Auditor General and ask her to enquire into this matter? I think this would be something of a significant priority for the Auditor General. The Auditor General has already inquired into a number of COVID-19-related matters. The government could ask the Auditor General to look into the performance of the government's agencies on this matter and get to the bottom of the questions of what happened, when it happened, how it could be improved, and whether this bill will actually achieve the expectations of the community about what the government says. That would be a wise thing for the government to do. I suspect it will not.

Will the government consider inserting a review clause in this bill? This is going to be a standalone act. In the time that I have had to look at the bill since 9 o'clock this morning, I cannot see any statutory review clause. Given the gravity of what is being responded to and the importance of having confidence in this system, surely if there were ever a bill to put a statutory review clause into, it is this one. What about a requirement to report annually? Why should there not be a requirement to table a report annually in both houses of Parliament that provides information on the operation of the act in the previous 12 months? That would build confidence. Have there been any unauthorised breaches? Have any offences been prosecuted? That reporting would build confidence that the government is doing what it said it would do with people's data. I look forward to the parliamentary secretary's response to those issues.

I had the opportunity late last evening to consider some of the Assembly *Hansard*. It did not take me long as there were only two hours of debate and we can read a lot quicker than people can talk, so, in that regard, the guillotine of the government in the Assembly helped me to get to sleep at an earlier hour than I had thought I would last night. Looking at the uncorrected *Hansard* of the Assembly, the way things have unfolded is really peculiar. I want to quote from the uncorrected *Hansard* of the Assembly of Tuesday, 15 June 2021. In his reply to the second reading debate, the Attorney General said —

> So far, members' contributions have been directed at criticism of the government for not getting on top of this problem earlier or they have asked: when did the government first know; who knew what when; and why has it taken this long? I can give the short answers to that. The Premier said he first found out in April. I am not part of the State Emergency Management Committee, so I did not find out personally until sometime after that when a staff member came to me with a briefing note from the State Solicitor informing that Health had sought advice from the State Solicitor about notices that had been served upon Health to produce. I was asked earlier today at a press conference what I said when I was told about this. I responded exactly as I did in my office, "I need a cup of tea!" This is a serious situation and we have to think this through.

The Attorney General went on to say —

> When this was mandated by the State Emergency Coordinator, who happens to be the Commissioner of Police, the government undertook that none of this information would be released other than according to law.

That is not entirely accurate. I repeat —

> … the government undertook that none of this information would be released other than according to law.

That is not what the government said. The government said that records would be kept for 28 days and not used for any other purpose. There was no disclaimer in fine print that said "unless some other law allows it to happen". That is not what the government told people on 25 November ahead of the 5 February legal direction coming into force. The Attorney General went on to say —

> That assurance was given to the public. The commissioner and others said at the time that this would be used only for contact tracing. When the information was first given to me, I asked what other legal avenue, besides the police using the Criminal Investigation Act, could there be. Of course, when we sit down and think about it, a whole raft of avenues are available. The member for Cottesloe referred to my media statement earlier today. There could be a subpoena, although there has not been one. There could be an application under the Freedom of Information Act or a notice to produce by the Corruption and Crime Commission. None of this has happened, and if those applications had been made, the government would have vigorously opposed them.
>
> The reason for the time lag between when the Premier first knew, which was well in advance of me knowing, and the matter coming to me and, ultimately, to the cabinet as draft legislation was that the Premier, quite rightly, entered into discussions with the Commissioner of Police to see whether the commissioner could issue a directive to all officers not to do this. As the Commissioner of Police explained, each constable holds a separate independent office. They are not employees; they are sworn officeholders of the office of constable of police and, as such, have their own statutory authority and can make applications under the Criminal Investigation Act. As these discussions unfolded, it became apparent that a legislative measure would have to be introduced, because if the information could be provided according to law, there needed to be a change in the law.

There are too many alarming things here to go into in the 11 and a half minutes I have left, but why on earth would there have been such a significant time lag between the Premier becoming aware of this issue in early April and the Attorney General becoming aware of it? I would have thought, for a matter of this significance, a Premier would be picking up the phone to his first law officer, the Attorney General, and saying, "Houston, we have a problem." It beggars belief.

The second most alarming thing is that the Premier then went to meet the police commissioner with a request. I am surprised that that occurred. If the issue were the inability of the government to get this right from the beginning, I would not think any experienced Premier of the state would go to the independent office of the Commissioner of Police and ask him not to do something. I would have thought that at that point it would be crossing the line between the executive and law enforcement.

Later in the debate last night, we learnt from the Attorney General when he said, according to the uncorrected proof *Hansard* —

> When we talk about there being a protocol, it was a protocol put forward by the police, not by government, and it did not provide a solution that the government would accept or was comfortable with in any way. This was part of the delay, with the police saying, "We'll do this" and that is why the other five applications were never dealt with.

The Attorney General speaks in riddles; we never, ever quite get to the bottom of what he is saying. In the entire two hours and 15 minutes that the Assembly had to consider this, there was not really an opportunity to work out what he was talking about. However, it would appear that the police instituted some sort of protocol, which is not available, of course. I have asked for it and it is not available. That protocol was not acceptable to the government, which is interesting because I was told this morning by the advisers that they are not aware of the protocol. They told me about an aspect of it, which is that it required an independent superintendent to approve the request, but no more detail was provided. The government clearly has had access to this protocol because it said it did not endorse it and that the legislative response was the only option left for it. A lot is being concealed. The other matter was that the Attorney General said —

> The Commissioner of Police has not raised an objection to this legislation and has not asked the government to stop proceeding with this legislation.

I would like to know from the parliamentary secretary how the Commissioner of Police was engaged in the drafting and cabinet decision processes of this bill, and whether he supports the bill.

I turn to a couple of aspects in the bill. I thank the advisers; some of them have provided advice to members over many, many years and without exception their performance was exemplary this morning at short notice, and I thank them for that. As we go through the clauses of the bill, I would like to raise one matter of significance with the parliamentary secretary. I raised it with the advisers this morning and said that I wanted to explore it at the committee stage. I refer to clause 5. Clauses 5 and 6 are what are referred to as the operative provisions of the bill. Clause 5 sets out the relationship of this act to other written laws. Clause 5(1) states —

> This Act has effect despite the *Freedom of Information Act 1992* and the *State Records Act 2000*.

In effect, it will set aside any right or provision from those acts; the PIERIRCOID bill will prevail. Clause 5(2) states —

> To the extent that there is an inconsistency between a provision of this Act and a provision of the *Criminal Investigation Act 2006*, the *Emergency Management Act 2005*, the *Public Health Act 2016* or any other written law, the provision of this Act prevails.

I note a couple of things. Listing those three acts—the CIA, the EMA and the Public Health Act—is not particularly relevant because the government could have just drafted the provision to say —

> To the extent that there is an inconsistency between a provision of this Act and a provision of any other written law, the provision of this Act prevails.

But, obviously, the government wanted to emphasise these three principal acts. I want to thrash out this issue when we get to the committee stage. My concern is that one of the other written laws that could be affected by clause 5(2) is an act that members of this house would all be familiar with, and it is called the Parliamentary Privileges Act 1891. Members would be aware that the privileges of this house are derived twofold—one from the Parliamentary Privileges Act 1891, which states —

> (b) to the extent that they are not inconsistent with this Act, the privileges, immunities and powers by custom, statute or otherwise of the Commons House of Parliament of the United Kingdom and its members and committees as at 1 January 1989.

In effect, there is an inherited privilege and a statutory privilege. My reading of clause 5(2) is that it could impact on the Parliamentary Privileges Act. That may not be obvious to members when considering a bill on the protection of data, but section 4 of the Parliamentary Privileges Act 1891 creates a power to order attendance of persons. This power is relied on routinely and significantly by Parliament and its committees. It states —

> Each House of the Parliament of the said Colony, and any Committee of either House, duly authorised by the House to send for persons and papers, may order any person to attend before the House or before such Committee, as the case may be, and also to produce to such House or Committee any paper, book, record, or other document in the possession or power of such person.

Members will be aware that when the house or a committee orders production of a person or a document, it is done using these section 4 powers. I understand from the briefing this morning that this bill may impact on the exercise of the Parliamentary Privileges Act 1891. I want to canvass a number of scenarios when we get to the committee stage of the bill and why the houses may well need to exercise their privilege in matters relating to the state's COVID-19 response and any inquiry into it or, indeed, this very matter. We have had a potential—we do not know—release of personal data contrary to the statement of the government, and no-one is providing precise answers. The Premier does not want to inform the people affected by the data release that their data has been released. This bill will retrospectively apply and allow police to continue to access and use that data. We imagine that there could be other occasions. Let us say we have a mass outbreak, mass deaths, whether from this pandemic or another one, and, as other jurisdictions have done—we have not—we want to establish inquiries. How would those inquiries be impeded in investigating and using, potentially, section 4 powers if clause 5(2) displaces, or displaces to some extent, the Parliamentary Privileges Act 1891? I think that question needs to be answered by the parliamentary secretary.

I just want to finish on this note. I agree with the government that we want to maintain confidence in contact tracing capability. I do not think we will find anyone in this chamber who does not. I learnt from this morning's briefing that the average daily usage of the SafeWA app remained consistent yesterday, being Wednesday, compared with Wednesday last week. I think that is a promising sign. However, there are several other things, some of which I have canvassed in my contribution, that the government ought to give genuine consideration to, and the first part of that process is to answer questions and acknowledge that it made an error.

HON TJORN SIBMA (North Metropolitan) [12.49 pm]: I think there is a fundamental question at the heart of our consideration of this Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021, which is: how did we get here? I think we got here for a variety of reasons, the main one being the arguments identified by Hon Nick Goiran and Hon Martin Aldridge just then. Throughout the course of last year, we were compelled to legislate and contemplate expeditiously. There is always a risk that comes with hasty decision-making. People's capacity not to see things that are obvious and not pull apart important matters to the degree they should and provide sound counsel or to ask more penetrating questions is foreclosed to them by the simple fact that they do not have the time to ask these questions. It is, of course, one thing to ask questions; it is quite another thing to receive answers and quite another thing altogether to receive helpful answers. The government's track record on a number of issues, including this particular issue, is that the quality of answers we receive from executive government—I mean specifically ministers, rather than their public servants—leaves a lot to be desired. This situation may have been avoidable if last year the government had been prepared to entertain a proposal to effectively establish a bipartisan joint parliamentary committee to look at the state's COVID-19 responses. The answer to that proposition, a proposition put on a number of occasions, was a flat-out no. Not so long after the hand went up and the "no" came out, there was a rather gratuitous, unhelpful, unbecoming character

assessment of whoever in the opposition or non-government party suggested it was a good idea. It was, effectively, "Get out of the way; stop undermining public confidence in our response." That was the quality of the response that came from the Premier, most notably. I hope that sounder minds might revisit that concept because if this is not evidence of the need for a parliamentary oversight committee, I do not know what is. Furthermore, there is an obvious need to establish a parliamentary select committee, if you like, of that nature simply because the very able and capable public servants with us in the chamber today to assist the parliamentary secretary to provide responses through the Committee of the Whole process will not be joined by their colleagues from the Western Australia Police Force. That is no insignificant absence. We are here for a variety of reasons.

I asked: how did we get here? We are here because we legislated and regulated in haste and—I do not like the phrase—there was a de-platforming, I suppose, or a demolition of any parliamentarian who sought to question throughout last year the quality of the government's response to COVID-19. We are dealing with this specific bill because of certain actions taken by the Western Australia Police Force in the course of its criminal investigations. I want to say at the outset that I have absolutely every sympathy for the actions of those officers, and for the commissioner himself, who discharged their responsibilities to the full measure of the law. Nothing is suggested here that the police acted unlawfully. I think they acted appropriately, given the circumstances, but they acted in a way that is discordant with, and does not fulfil, the repeated political commitments given by the Premier and the Minister for Health last year when the SafeWA app was rolled out and its use became mandatory. It is not the police commissioner's job to fulfil political commitments given by the Premier, the Minister for Health or any other minister for that matter. I do not know how useful the information obtained by the police was in the course of those two inquiries, but, to some degree, that is beside the point. I think there has undeniably been an erosion of public trust not only in the government's competence but also in whether or not the government has the capacity to even fulfil its commitments, particularly in relation to the community's COVID-19 responses. Trust is very difficult to build and it is very easy to lose. I am somewhat mollified by the contribution given then by Hon Martin Aldridge, which indicates that there has not been a precipitous decline in the use of the SafeWA app, and that is a good thing. However, I do not think we can trade extensively on public goodwill, particularly in light of what we have just discovered. We are committed to seeing this legislation through today not only to close loopholes—we have to explore which loopholes will remain—but also to restore public confidence in probably the most powerful tool that our public health officials have in managing and responding to, hopefully not, another fast-moving outbreak of COVID-19 in our community. It is an important tool but it should be used for the purposes for which it has been designed and in accordance with the commitments that the Premier and the Minister for Health have provided.

I will not make an extensive second reading contribution, but I will indicate a number of lines of inquiry, certainly before the lunch break. If it is possible, the government might take the opportunity to call upon a senior member of WA police to join their colleagues in the chamber, particularly in light of the fact that this is a time-restricted debate. I say that for two reasons. First of all, we do not want to seek answers from WAPOL in forums over the next few weeks when we can deal with it today, and certainly the time-restricted element gives some certainty to the need for an officer's presence. I think they can, potentially, time their day a little better. We do not need to detain someone extensively. If there is an opportunity to do that, I seek that that be done. One of the questions we might ask is: how many individuals' data has been accessed? They can put in an application, but I want to understand how many individuals have been affected by, effectively, the fulfilment of a notice to produce.

Hon Alannah MacTiernan: Member, can I just make a comment?

Hon TJORN SIBMA: No.

I understand that information could be sensitive but I think we need to understand the sum total, the full quantum, of individuals whom we are dealing with because that is important. In the course of the briefing, it became apparent that there was no overarching information protection framework, which has reinforced the political commitments given by either the Premier or the Minister for Health.

Sitting suspended from 1.00 to 2.00 pm

Hon TJORN SIBMA: Just prior to the adjournment for lunch, I was seeking the cooperation of the government, if at all possible, to co-opt a police adviser for the purposes of detailed committee examination, which is likely to occur in one hour and a half, and to do so for a range of reasons, the obvious one, notwithstanding, is that this information came to light—I am not sure how it came to light or what the precise details of the time line were—as an outcome of a couple of compulsions to provide information served on the health department to assist Western Australia Police Force with at least two criminal investigations. The question I posed before was that I thought it would be useful to have a police adviser here to assist the parliamentary secretary with his responses to questions, because I do not think we know yet how many people's SafeWA sign-in data was used—how many people the police's investigations affected. One might make the assumption that there is a reluctance to provide that information just as a quantum. I am not interested in the names or phone numbers, but there might be some reluctance to provide the quantum of

that information because it is exceptionally large. It might not be large, but at this stage we do not know. At least insofar as we operate under the current standing orders, I have to use the time to put these questions.

It is also important to use the contemporary police experience against the purposes of this bill. My question to the parliamentary secretary—he might be in a position to provide advice on this point without a police adviser present—is whether or not WAPOL has destroyed the data. I think there is provision in this bill to some degree to an extended period of retention for specified purposes, but I would really like to understand whether this bill is retrospective. I will take the most charitable view of it. If it is retrospective, who is going to—I hate to use this expression—police the police or, at least, audit compliance across the public sector to ensure that data collected up until this point has been destroyed? I think it is fundamental not only to the purposes of this bill, but also to the strategic public health imperative to restore community confidence in the continued use of this application.

This is probably not the point to ask this. It might be best carried over to the clause 1 debate, but hopefully not too extensively, because a number of clauses would help us to get some grips on this. There are elements of the time line, as best that we on this side of the house know, about how advice was provided up to, at least, the Minister for Health on 31 March. From a briefing I had with some very able advisers, I understand that the first request—the first notice to produce—came from the police to the health department on or about 27 December last year. That was taken from the briefing; I hope I have recalled that correctly. I jotted it down at the time, but there is obviously a three-month gap —

Hon Matthew Swinbourn: The first time was on 23 December.

Hon TJORN SIBMA: It was 23 December, okay.

Hon Matthew Swinbourn: Then there was another request on 27 December.

Hon TJORN SIBMA: Great. That is interesting, because at the appropriate time I would like to seek an understanding of whether advice was conveyed to any minister of the Crown, be it the Minister for Health, the Premier or the Attorney General, that that request had taken place. If they were so advised, particularly those three named ministers of the Crown, how were they advised and what action took place after that point?

Hon Matthew Swinbourn: Can you just say that again? Which ministers were they?

Hon TJORN SIBMA: Specifically, they are the Premier, the Minister for Health and the Attorney General. I will leave it there for now, because I do not want to make it more complicated than it needs to be.

In reference to the contribution provided recently by my colleague Hon Martin Aldridge, this seems to be a narrative—I will use that phrase—that the Attorney General was not directly alerted to this situation by either the Minister for Health or the Premier in a direct way, either via a meeting, a phone call, briefing or an email, but that he was advised of this situation, briefing him on the leakage of data in a manner inconsistent with the stated public purpose of the SafeWA sign-in app. It appears to me that he learnt of this situation somewhat after the fact. The narrative I have heard is that the Premier was attempting to, I suppose, convince or influence—I do not mean that in a way to be pejorative—the actions or investigative methodology of WAPOL. I presume he came to a decision point after 14 April, because that is after his first meeting with the Commissioner of Police, which was the advice provided to this house via an answer to a question posed by Hon Martin Aldridge. There must have been a point after 14 April when the Attorney was alert to this general situation. That might have occurred prior to that, but I find it unusual that although the Attorney General is the minister of the Crown responsible for bringing forth this piece of legislation—effectively, the parliamentary secretary carries it here as his representative—he may not have been in the loop, to use a colloquialism, because that information was not conveyed by either the Minister for Health or the Premier until some point in late April.

If I might just focus on the month of April, I will do so for a small purpose. I am a little curious about why yesterday the Minister for Health, in answer to a question again posed by Hon Martin Aldridge, could advise the house that he was first advised of this general situation on 31 March, but the most precise answer that the Premier could give about his awareness of this issue was some unknown date in early April. If it is possible to identify with a greater sense of precision on what particular date the Premier became aware of this, that would be enormously helpful, as would be, indeed, some insight into the manner in which the Premier became appraised of this matter. I think we would then potentially open up an avenue of discoverable documents, because I would like to understand the paper trail, if indeed one exists, between the Premier and the Commissioner of Police from early April until this bill was introduced. I think that kind of correspondence and those kinds of documents might provide some insight into the commissioner's attitude to this bill and the Western Australia Police Force's disposition towards this legislation, which I might just put as a question in very simple terms right now: does WAPOL support this bill or not? If we get an answer at all, how was that advice conveyed to the government? I think that, at a minimum, we need to understand the time line. This is not necessarily an issue of being pedantic. If we are to take the government at its word that this is a serious matter that compels an urgent response on behalf of the Parliament to the degree to

which we are now operating under the COVID provisions, how can the government maintain a sense of consistency or integrity of argument when this situation has been occurring for some time? The Minister for Health has known about it since 31 March and the Premier has known about it since at least early April, but the first that any of us—the general public—heard about it was this week. What explains the 11 weeks of slack time? I know that this kind of information has been provided before. I am not seeking a copy of the cabinet submission, but I will now seek advice on when cabinet provided permission to draft and/or print this bill, because I think that is important information to know. I will leave it there. I think that is important information to know.

The time line is material for one or two reasons. I do not have the specific dates to hand because my laptop has crashed, which is consistent with the quality of IT infrastructure that the Department of the Premier and Cabinet considers appropriate to a person of my station, but that is an argument for another day. I recall at least two incidents in the recent public memory, the first being the Anzac Day weekend lockdown and the second, I think, from memory, occurred after that fact and effectively related to a poor gentleman who contracted COVID-19 while under hotel quarantine who was cohabiting with a friend in the southern suburbs of Perth and that precipitated an outbreak of COVID. As I recall, at least insofar as that incident is concerned, we were not subject to a perfunctory or abrupt lockdown, but we were compelled—not encouraged, but compelled—to wear masks for a number of days. Those two incidents occurred after the Premier and the Minister for Health knew that there was a problem with the information security settings around the SafeWA app. If I recall correctly, the public of Western Australia was strongly encouraged to use the app. That encouragement came after the Premier and the Minister for Health knew that the data was leaking, potentially. I think that is problematic for the government. Truly, I do. I ask this question now, because I think it is better put now than during the consideration of the clauses in detail: did the government at any time receive any information verbally or in writing that encouraged the government to withhold knowledge about the problem of the SafeWA sign-in data application? I wonder whether or not the Premier, the Minister for Health or any other minister of the Crown was advised not to reveal to the public that this was an issue of concern. As an ex-bureaucrat, I could not contemplate being daring enough to write that down explicitly, but I would be interested to know whether there was any formal advice. Certainly, a strategic decision was made to withhold that information from the public for at least 11 weeks. During that time, we had at least two COVID-19 incidents in the Perth greater metropolitan area.

I made a very generic observation that Western Australia appears to lack an overarching funded and audited information security management framework. I would have thought that the development of the SafeWA application, and the fact that it is a mandatory application, would have generated at some level of government a greater degree of interest and movement. I think this again underscores the fact that if we had a bipartisan parliamentary committee comprised of people of some experience and goodwill who were looking into all matters concerning the state government's response to COVID, perhaps we would have avoided this issue and it might have been highlighted. To put it in layperson's terms: How safe is this data? What are the information management security settings? Where are the loopholes in the system that we have? Let us get ahead of it before something occurs that fundamentally erodes public trust, potentially. I ask this because although the problems are different there is a similarity between the matter we are dealing with and the revelation made today that there might be some problematic aspects of access to the so-called G2G PASS. The G2G PASS is not contemplated in this bill, but I understand that the police have made application on 12 or 13 occasions to utilise data via that application for purposes other than the reason that the G2G PASS was designed and implemented. I can understand to some degree the argument that, to a larger extent, the utilisation of the G2G PASS is discretionary in a way that using the SafeWA sign-in app is not because the SafeWA sign-in app has to be used everywhere a person goes, whether it is the cafe, the hairdresser or, like I did the other week when I used it to get a smashed windscreen repaired. We use it everywhere we go. I am interested to know whether we can expect to see a similar piece of legislation, perhaps after the winter recess, that deals with unforeseen problems in the management of information that can be extracted out of G2G datasets by WAPOL, the Corruption and Crime Commission or any other investigative agency or private citizen making a freedom of information application. I hope not to be in the same position in two months talking about the same issue. Frankly, the government is on notice. I look forward to a pretty reasonable explanation as to why that matter is not problematic and why it cannot be attached to or at least be an object of this bill. I say that because as I understand it—I am more than prepared to be corrected on this—the organisation, which I will not name, that has the contract to develop the SafeWA app and that was given the contract to develop the G2G PASS is the same company. To the best of my knowledge—I cannot recall; I normally keep an eye on these things—it was not subject to an extensive open public tender exercise. I think there was an opportunity for government to provide a direct award to one particular company. I ask that because I have an interest in an element of this bill, particularly the definition of a responsible person under clause 3. How are we to interpret in practical effect whom a responsible person is for the purposes of this bill? Who are the responsible people, not so much by name but by official designation throughout the state government, who will be obliged to comply with this legislation? I ask that because I think it is important to know who these people are and what the governance framework will be to ensure that they comply with the intention of this bill. How may we be guaranteed that the destruction of records, which is explicitly compelled after a period of 28 days under

this bill, will be enforced? How will the government audit that that has occurred? With all due respect, the bill is silent on that, and I suppose can only be silent on it, but that is why we have the processes we have.

I did not raise the issue of the company responsible for the development of these applications lightly, and I will do so in a constrained manner. At risk of absolutely misinterpreting unfairly the advice I was provided by officials in the briefing that I was pleased to receive, there had not really been a statutory safeguard for the management of this particular information until this bill had been written and introduced. I am really trying to understand how the system has worked up until this point and whether the state government has relied upon some clauses in the contract with the firm concerned to compel or encourage, in a non-statutory manner, the utilisation of this data for the stated public purpose, which was just to assist in the public health response to COVID-19. In order to answer that question, it would be appropriate for the government to table both of those contracts concerning the development of SafeWA and the G2G PASS in a manner that protects commercial confidentiality in the appropriate manner, but allows us some insight into the operative parts of those contracts and allows us a greater degree of insight into how governance of this data is managed within the company that was awarded this contract. I can only assume as a non-technical person that officers of that company must indeed have access to these datasets also. I will put to the government whether there have been any examples of that company's officers accessing this data or requests made directly of that company to provide data in a way that is inconsistent with the stated public health purposes of that legislation. If the minister could table those contracts, that information would be well received.

The last point I will make before I sit down in this time-limited debate is to forecast an interest in clause 2, "Commencement". Returning members will understand this; newer members may not. I think it is the test of urgency if I am to take the government at its word—I do so in this particular instance—that we need to fix this loophole today, whether I can anticipate the Governor being put on notice that he should sign off and give royal assent to this bill this evening in a way that is consistent with the stage-managed approach to the Palmer bill. The government set the standard there and if it is serious about restoring public confidence in this legislation, I think it should do it tonight.

HON WILSON TUCKER (Mining and Pastoral) [2.26 pm]: I stand to support the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021, which I hope will offer assurance that the data of Western Australian residents will be used as intended. I am glad this bill is being debated to prevent any more breaches of trust of the Western Australian people. I have worked in the technology sector and I understand the power of collecting data. I also understand the responsibility that comes with using that data as intended by the end user. I have worked with companies with tens of thousands or hundreds of thousands of employees. Those companies typically understand that malicious actors and threats typically come from inside the organisation and that limiting the blast radius and putting mechanisms in place is essential to restrict who can view and access that data and that the data is being used as intended by authorised people.

The Premier and senior government ministers repeatedly told Parliament and the public sector that data collected by the SafeWA app would be used only for the purpose of managing the COVID-19 pandemic. Western Australians' response to COVID-19 is admirable; they did the right thing and they placed their trust in the government. They trusted that the data would be used only in relation to the COVID-19 pandemic. In a Facebook post on 25 November 2020 the Premier said that these records would only be used for the purpose of contact tracing, should it be required, and would only be kept for 28 days. In another Facebook post on 26 November 2020 the Premier said that data would be encrypted at a point of capture, stored securely and accessed only by authorised Department of Health contact tracing personnel should COVID-19 contact tracing be necessary.

The public's trust in this case has been breached. We know that the Western Australia Police Force can, and has, accessed the SafeWA app data for the purpose of criminal investigation not related to COVID-19. This is troubling for two reasons. First, it is the State Emergency Coordinator who issues directions under the Emergency Management Act 2005. It was one of these directions that created the mandate to collect entry data and mandated the use of either a paper contact register or the SafeWA app. Second, this direction is deficient in regards to the protection of data and a person's privacy. The direction contains no mandatory destruction or deletion of the data and, crucially, it contains no prohibition on who can access the data and how it can be used. In the European Union and the United States of America, general data protection regulations apply to organisations and companies. This is typically a paradigm shift in how that data is viewed and the end user is considered the owner of that data. Regulations have been put in place around usage, destruction and access of this data. Unfortunately, there is little in common law or our statute books to protect the privacy of Western Australians, but there is a common law privilege against self-incrimination. Western Australian statutes that compel the production or collection of information generally prohibit that information from being admissible evidence in a proceeding that is not related to the purpose for which that information is collected.

It is clearly an oversight that the direction to mandate the use of the SafeWA app had no similar protection. I am advised that at the time of the drafting of the direction, the government was provided with legal advice that a prohibition contained within the direction would not prevail if it was in conflict with other statutes, for example,

the Criminal Investigation Act 2006. If that was the case, I ask the minister to table that advice now. There may be an objection to that request; I am new to this place but I have been advised that the government is typically reluctant to table its legal advice, but in this case, I must insist.

The government's claim is that the deficiencies of the direction must be addressed with this bill, because they cannot be addressed with an amendment to the original direction or a new direction. If that is the case, the government must table the advice so the house can be satisfied with that claim. The larger question here is: if the government was aware of this deficiency, why was this bill, or a similar bill, not produced earlier? Understandably, we had a recent election and Parliament was prorogued. But if the government knew about this deficiency as early as when the direction was being drafted, then a bill to address that deficiency should have been drafted at that same time.

In order to restore public trust in the SafeWA app and the use of contact registers, we must ensure that the privacy of Western Australians is protected and that contact data is used only for the purpose for which it is collected. This bill goes some way towards correcting the deficiencies within the original direction to collect data, and I support that effort.

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [2.32 pm] — in reply: I thank all the members who made a contribution to the second reading debate today and I also thank them for their engagement in what is an urgent bill, particularly the manner in which they have been able to engage with the briefings and all those sorts of things. I will not be making a particularly long reply. Most members have flagged that they will be raising certain matters in Committee of the Whole and that is probably a more appropriate forum in which to explore those more detailed questions.

I will go through a couple of points that were raised. I note the questions about time lines and events leading up to the request for data, the advice given to relevant ministers and the drafting of this bill. There were also questions relating to the number of orders to produce served on the Department of Health and Hon Tjorn Sibma also queried the number of individuals whose data has been accessed under orders to produce. Honourable members noted that they would seek specific information on these matters in the Committee of the Whole so to answer them now would pre-empt that and would be a doubling up in any event. We will deal with those particular questions in committee. Hon Martin Aldridge asked specific questions about dates, the orders for police and those things. I provided by way of interjection some clarity about that, but this is an opportunity for me to go through the time line again, as I understand it.

The first order to produce was provided with effect on 23 December 2020 and there was another on the same matter on 27 December 2020 and a final one for which the information was released on 31 March 2021. The Minister for Health has already indicated in Parliament that he became aware of the matter on that same day, that being 31 March. The Premier has advised that he became aware of it at the beginning of April and subsequently had a discussion in that regard with the Commissioner of Police on 14 April. It was soon thereafter that the government determined that a legislative solution was required in response and, from then on, the matter was dealt with on an urgent basis. I can confirm that the Western Australia Police Force was consulted on the bill. Members may know that the Commissioner of Police made a public statement yesterday, mostly through the media. He indicated that he has no opposition to the legislative solution that has been proposed. It is also my understanding that Western Australia Police were involved and consulted in the formulation of the bill. Hon Martin Aldridge also raised issues about clause 5 of the bill and how it will relate to the Parliamentary Privileges Act 1891. It is correct that this bill will apply over that act to the extent that there are any inconsistencies. In particular, the question would be as to the purpose of the request for production under the privileges act and whether or not the records exist at that time. I note that the de-identify statistical and summary information would be available under the Parliamentary Privileges Act because it is treated differently under the bill.

Without going over all those issues—Hon Tjorn Sibma raised a number of them—I commend the bill to the house and we can go into committee and start dealing with the broader details.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Peter Foster) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon NICK GOIRAN: The parliamentary secretary's second reading speech states that in December of last year, "we", being a reference to the McGowan government, introduced the requirement for mandatory contact registration. When in December 2020 was that done and by way of what mechanism?

Hon MATTHEW SWINBOURN: The answer to the member's question is that it was done on 5 December 2020 and the instrument was the Closure and Restriction (Limit the Spread) Directions.

Hon NICK GOIRAN: The parliamentary secretary indicated in his second reading speech that the government then expanded this regime to January 2021 by introducing the concept of mutual responsibility. What date was it in January 2021 and what was the instrument that was used?

Hon MATTHEW SWINBOURN: My advice is that it was announced on 29 January by way of a media release and it came into effect on 1 February. The instrument was the Contact Register Directions of that date, I think.

Hon NICK GOIRAN: In terms of the time line, the requirement for mandatory contact registration began on 5 December 2020 and the instrument was the direction that was issued, and the notion of mutual responsibility came into effect just shy of two months later on 1 February 2021 and the instrument was also a direction.

Hon Matthew Swinbourn: That is correct, yes.

Hon NICK GOIRAN: In the meantime, the parliamentary secretary provided some dates in response to Hon Tjorn Sibma's request during the second reading debate and he mentioned three dates: 23 December 2020, 27 December 2020 and 31 March 2021. There has been a bit of confusion in the public discourse, because there has been talk of potentially up to seven applications that might have come before the Commissioner of Police and that he—I think this is the phrase that has been used in some arenas—knocked back some of those and approved others. Just to clarify that, is the first order to produce on 23 December 2020 a document that the parliamentary secretary can table?

Hon MATTHEW SWINBOURN: The dates that I provided to the house were the dates on which the orders to produce were responded to. The actual date on which the first order was sought was 14 December and that was responded to on 23 December. The second one was sought on 24 December and was responded to on 27 December. The last one was sought on 10 March and responded to on 31 March. Unfortunately, we will not be able to table those orders to produce because they contain a significant degree of information that relates to the criminal investigations to the point that they would have to be redacted and would become meaningless. That is the issue there.

Hon NICK GOIRAN: Thank you, parliamentary secretary. It helps to know that within nine days of the requirement for mandatory contact registration last year, the police served what I gather was the Department of Health with an order to produce.

Hon Matthew Swinbourn: It was the Department of Health.

Hon NICK GOIRAN: A process would have been undertaken by the Western Australia Police Force that led to the service of that order to produce on 14 December. Was that process part of some type of standard policy, procedure or other that guided the decision-making that ultimately led to, within nine days, a requirement for mandatory contact registration? No sooner had the Premier said that it would be used only for contact tracing than the WA police chose to take a different approach. Was there some kind of policy or procedure in place at the time that guided that; and, if so, can that be tabled?

Hon MATTHEW SWINBOURN: The advisers with me at the table are not aware of any policy existing—when I say "not aware", I mean that we do not know about that. But we are aware that in February, a policy was put in place by the Western Australia Police Force and that involved an officer having to go to an independent superintendent to get access to it. I do not have access to that policy, so I am not able to table it at this juncture. Whether we will be able to at a later date is something we will have to deal with then.

Hon NICK GOIRAN: We will come back to the policy in a moment, but, as I said, within nine days of this requirement being in place on 5 December 2020, WA Police were already serving the first of these orders to produce. As I mentioned earlier, there has been some discussion that other attempts were made by WA Police, but they were not backed by the police commissioner. Were any other attempts made within that initial nine-day period?

Hon MATTHEW SWINBOURN: Regarding the member's specific question whether any were made in the nine days prior to the first one on 14 December, the answer to that is no, but the member mentioned seven in relation to that. I will provide some information to the best that I can, because I anticipate that the member will be seeking this information. We referred to the first request, which was on 14 December. The second request was on 24 December. A third request made on 25 February was received by Health, but no information was released because the request was for information that was older than 28 days and that information had already been destroyed in compliance with the directions. A request was made on 10 March, which we have referred to already. A fifth request was made on 1 April, then a request was made on 7 May and 27 May. The request of 27 May was not complied with because there was a technical deficiency with the order to produce, so there was no lawful request, as I understand it. The other two requests remain pending.

Hon NICK GOIRAN: That is very interesting information and helpful, parliamentary secretary, because this is the trouble with trying to understand these matters through interim media reports. There was some suggestion, which I certainly heard, that there had been seven requests and that the police commissioner "knocked back" several of them. It appears that no such requests were knocked back; in fact, the requests were made to the Department of Health but for the reasons that the parliamentary secretary indicated, including on one occasion —

Hon MATTHEW SWINBOURN: In relation to what the police commissioner may have said, they may have been knocked back internally within the police. As far as we are aware, those were not in relation to the seven we are talking about. Within his own processes he has obviously had some involvement and said that the police have knocked back their own requests.

Hon NICK GOIRAN: That is indeed helpful, because if we add all those things up, that may well mean that there were even more internal requests. We do know that WA Police, in their own four walls, decided to pursue seven requests and seven requests went to the Department of Health. Three of them have been complied with, one was impossible to comply with because the data was no longer available, two are currently pending and the last one has not been complied with due to technical deficiencies.

Hon Matthew Swinbourn: I think you've added an extra one.

Hon NICK GOIRAN: I will go back and check *Hansard*.

Hon Matthew Swinbourn: There are just the three that've been complied with.

Hon NICK GOIRAN: There is the one that was impossible.

Hon Matthew Swinbourn: That's right.

Hon NICK GOIRAN: And then two that are pending.

Hon Matthew Swinbourn: Maybe your sums are better than mine, member. Also, the technical one.

Hon NICK GOIRAN: Yes. This sequence of events is indeed interesting. The parliamentary secretary indicated in his second reading speech, and used the language "we" to refer to the government, that "we introduced a requirement for mandatory contact registration in December 2020". He has helpfully indicated to us earlier today that the actual date was 5 December and that the instrument was by way of a direction. Who issued the direction?

Hon MATTHEW SWINBOURN: It was the State Emergency Coordinator, who is the police commissioner.

Hon NICK GOIRAN: What we have here is a situation in which the WA police commissioner, putting on his hat as the State Emergency Coordinator, issued a direction for Western Australians to comply with. We do not have a choice whether we want to comply with that particular direction, not unless we want to fall foul of the law. He issued a direction on 5 December 2020 and he did so because the Premier of Western Australia issued a media release on 25 November 2020 announcing to all and sundry that there was going to be this regime, and knew that the Premier gave an assurance to Western Australians that it would be used only for contact tracing purposes, yet, within nine days of that happening, the police commissioner's own force decided to serve a lawful order on the Department of Health compelling it to provide information. That is the sequence of events that was outlined to us today. Is the parliamentary secretary in a position to advise the house what role, if any, the police commissioner had in the order to produce that was served on 14 December?

Hon MATTHEW SWINBOURN: I do not have any information available on what role the police commissioner played. Obviously, a lot of operational issues are involved. We are not likely to be able to make that information available to the member.

Hon TJORN SIBMA: Just taking up this thread, it indicates an appropriate focus on the actions of the police commissioner in his role as the police commissioner and also as the State Emergency Coordinator. I will not extensively repeat the remarks I made in my speech on the second reading. Obviously, involvement of WAPOL and the commissioner himself is material to the genesis of this bill. I sought the government's cooperation in making available a police adviser to assist the parliamentary secretary at the table. Has that request been conveyed to WAPOL?

Hon MATTHEW SWINBOURN: We asked for that assistance but we were told that no senior member was available to attend in the time frame given.

Hon TJORN SIBMA: I just put on the record that that is the most unsatisfactory response the parliamentary secretary has unfortunately been obliged to provide this chamber. That practice is completely and utterly unacceptable. It impedes the proper interrogation of this bill. I want my words to be noted to that effect because I have a range of other issues to discuss relating to the involvement of the police.

Perhaps the parliamentary secretary's very able advisers may be able to assist him answering my next question. Which department of state or committee entered into the contract with the service provider that developed the SafeWA app?

Hon MATTHEW SWINBOURN: I understand that the Department of Health was the contracting party.

Hon TJORN SIBMA: Did the Department of Health take advice from other agencies about the letting of that contract, including WAPOL?

Hon MATTHEW SWINBOURN: We do not know about WAPOL, but advice was taken by the State Solicitor's Office. It also had involvement.

Hon TJORN SIBMA: May I ask for confirmation of the date on which that contract was let, and the process by which it was let, particularly clarification on whether it was done by way of open public tender? If it was not done by that means, can the parliamentary secretary clarify by what means that contract was let and why a process other than a direct open competitive tender was enacted?

Hon MATTHEW SWINBOURN: My advice is that the award date for the contract was 18 November 2020. It was done through Tenders WA, so it was open in that regard, and involved WA Health and the Department of the Premier and Cabinet in the procurement process.

Hon TJORN SIBMA: Thank you very much, parliamentary secretary. That is very useful information. How many entities bid on that contract or otherwise expressed an interest?

Hon MATTHEW SWINBOURN: My advice is that two submissions were received but we do not have any other details about who lodged the submissions. I think the total number of submissions received was two, so I presume that includes the successful tenderer. We can confirm that if that is an issue for the member.

Hon TJORN SIBMA: I wish to inquire very briefly into why the contract was let to the successful bidder. What advantage did its proposition present that the other one did not?

Hon MATTHEW SWINBOURN: We do not have anything comparative between the two tenderers. I do not think it would be appropriate for us to speculate on their business and those sorts of things. I can say that the successful tenderer, Genvis Pty Ltd, was a third-party application provider. It has significant experience in mobile application development and data management, and was able to provide these services. It is worth noting that it also provided the G2G PASS for WA police.

Hon TJORN SIBMA: Thank you very much for your helpful answer, parliamentary secretary. I have only a couple more questions on this theme. What was the value of this particular contract for the SafeWA app? If the parliamentary secretary is in a position to answer, since he identified Genvis Pty Ltd as the successful proponent for the G2G app, what was the value of that contract?

Hon MATTHEW SWINBOURN: The information we have is from the Tender WA website, which is a publicly available website. My advisers are limited in their understanding of the matter. I am informed that the revised amount for the contract was $6 100 094, which is an estimate at this point.

Hon TJORN SIBMA: Is the parliamentary secretary in a position to potentially table that contract, consistent with my request during my speech on the second reading; and, if not, why not?

Hon MATTHEW SWINBOURN: We are not in a position to table the contract. The member's request was made less than an hour ago. I appreciate the way we are proceeding in this matter and the comments the member has previously made about the limitations of that. I can give the member some general information about what the contract does have. The contract is based on the standard Department of Finance general terms and conditions; however, in this particular contract there were 11 pages of additional terms to govern confidentiality, data handling, privacy, security and customer systems. Under the contract, periodic destruction is required pursuant to the privacy policy Genvis is required to comply with under the contract.

Hon TJORN SIBMA: This is probably my last question along this line of questioning. I was not completely surprised—I mean this in the politest way—by the parliamentary secretary's inability to table that contract. I would have thought that this request may have been forecasted by the government and it may have anticipated someone like me seeking that kind of information, because it is germane to the situation at hand. Is the parliamentary secretary aware of any pre-existing relationship between Genvis more generally and that company's capacity to understand the data management requirements of a government agency, including Western Australia Police Force?

Hon MATTHEW SWINBOURN: The member is delving a bit deeper than we are possibly able to answer. I have already indicated that there was a relationship with this organisation with the G2G PASS, which, if I recall correctly, came about some time before the SafeWA app.

Hon Tjorn Sibma: Was the fact that that company won the G2G PASS contract a determining factor that facilitated the awarding —

Hon MATTHEW SWINBOURN: I am sorry, I cannot answer that question, because the advisers I have with me do not know the answer. I will make clear that the company has a Western Australian base, which is in West Leederville. I am not sure whether it is a Western Australian company, but it is certainly located here in Western Australia.

Hon PETER COLLIER: I seek some clarification. Did the parliamentary secretary say that WAPOL was not available to attend today's committee proceedings or just would not attend?

Hon MATTHEW SWINBOURN: I think my answer related to Hon Tjorn Sibma's request that the police be made available, which was done before lunch. Contact was made with WA police and they let us know they did not have anyone senior enough who was familiar with the matter to be available this afternoon. I do not think that could be classed as a refusal. It is just that they did not have someone they could bring in this afternoon in the period that we were asking them to be here.

Hon PETER COLLIER: I am really surprised at that. We did the extension of the emergency powers act two weeks ago. When we had the briefing, we had a cast of thousands, quite frankly; it was wonderful. There were several people from WAPOL. This bill evidently involves WAPOL. Once again, we have facilitated the passage of this bill, as we have done with every single piece of COVID legislation. An agency that is intimately involved in this bill is not available. In the communication between the government and WAPOL, who notified government that the officer was not available?

Hon Sue Ellery interjected.

Hon PETER COLLIER: That is entirely relevant, Leader of the House.

Hon Sue Ellery: I do not know what you are talking about; I did not say anything.

Hon MATTHEW SWINBOURN: Contact from here was through the Minister for Police's office, and obviously the minister's office got in contact.

Hon Peter Collier: Sorry?

Hon MATTHEW SWINBOURN: The advice I have available here is that contact was made through the police minister's office with the request to have someone here. That is the position we are in now.

Hon WILSON TUCKER: During my second reading contribution I asked the parliamentary secretary to table the legal advice provided to the government during the drafting of the direction to mandate the collection of entry data. Can the parliamentary secretary please table that advice now; and, if not, why not?

Hon MATTHEW SWINBOURN: It is not the practice in this chamber for legal advice to be tabled.

Hon Martin Aldridge: It is when it suits you!

Hon MATTHEW SWINBOURN: Am I answering Hon Martin Aldridge's question or Hon Wilson Tucker's question?

Hon Martin Aldridge: I am making a point. I am asking a question.

Hon MATTHEW SWINBOURN: The member is not asking a question; he does not have the call.

Legal advice in relation to these matters is not typically tabled in this chamber. In relation to this matter, we will not table the legal advice because it would waive any privilege that exists.

Hon PETER COLLIER: I will make a statement here. I was grateful to the Minister for Police last week organising a briefing for me with the Commissioner of Police for about an hour and a half. I found him very forthcoming. Considering that the commissioner is a little exposed with regard to this issue, if he knew about this situation, he would walk over hot coals to ensure there was an appropriately qualified officer who could appear at this committee stage to answer these questions, because, quite frankly, they are legitimate questions. They are questions that we, as an opposition, are entitled to ask. As I said, we have not been remotely unreasonable with the passage of this legislation. As shadow Minister for Police, I hope that the message will get through to the police minister and the commissioner that the opposition is very, very disappointed that, in consideration of this significant piece of legislation, they could not provide one appropriately qualified officer to attend this committee stage.

Hon JAMES HAYWARD: I, too, am quite perplexed by this situation. This event has happened; it is clearly in the public interest. It is all over the media. Was it not on the radar of the police commissioner or the minister that this was going to happen today? I do not understand how the police service did not know this was happening. They got a phone call an hour ago to say, "Hey, look, guys, we have got this thing on. Can someone pop up?" and the response is, "Look, we're all a bit busy at the moment." I am not trying to be rude, and I do not wish any disregard to the parliamentary secretary, but I am just saying that it is hard to imagine how this circumstance has come about. Does the parliamentary secretary have an answer about why this was not organised before? This was potentially on the radar when all the other briefings were happening.

Hon MATTHEW SWINBOURN: We have representatives here from the Department of the Premier and Cabinet, the Department of Health and the Department of Justice, so we have a large number of people. Members might see the people sitting behind the chair who make up the total number of people involved in advising on this bill. Members might also note that when we were dealing with the security of payment bill yesterday, there were two advisers at the table and nobody sitting in those chairs behind the chair, so it would be unfair to suggest that the government is not taking this matter seriously. I have made the points I can make about the WA police, and the advice I have is that unfortunately nobody was available from the police this afternoon when the request was put in after it was raised by Hon Tjorn Sibma.

Hon TJORN SIBMA: I think the parliamentary secretary has been given a pretty firm indication of members' interest and expectation that there might be a uniformed adviser present here to discuss some of the parameters of this bill. That is not an unreasonable expectation considering the facts leading up to the genesis of this bill, but also this chamber's experience in dealing with many pieces of COVID-related legislation. I am prepared, albeit reluctantly, to accept the conveyance of a diplomatic message that there was no officer senior enough to provide assistance to the parliamentary secretary to fulfil his obligations, and I am about to ask this question with the greatest respect to all the public servants here present from the three agencies that the parliamentary secretary named: is there anybody here communicating with a counterpart at WAPOL to facilitate the answering of our questions?

Hon MATTHEW SWINBOURN: The simple answer to the member's question is no. The explanation is that the advisers consulted and worked with other police advisers in preparation for coming here today. I have had conversations with other agencies as well, and it is also worth noting that there were no police representatives when the matter proceeded through the other place either.

Hon NICK GOIRAN: This is a totally unacceptable set of circumstances. This bill has been brought on today at the insistence of the Leader of the House. We, the opposition, have agreed to facilitate it on an urgent basis, and one of the key agencies whose conduct is actually the genesis of this matter and the reason that we are here today is not available. I remind members that the opposition was told in the other place that this bill would be dealt with on Tuesday. If we were dealing with this matter on Tuesday, I wonder whether WAPOL would have been available. These are not trivial matters. We are talking about the most senior police officer in Western Australia, who wears multiple hats. He has the power to compel Western Australians to comply with a law that he issued. He did that on 5 December and his agency, within nine days of that order, did something that was the complete opposite of what the Premier of Western Australia expected. I said during the second reading debate that there needs to be accountability for what has occurred. We cannot tolerate these enormous shields that keep getting put up. The shield that is being used at the moment is the running clock to say, "That's all right. This whole thing is going to be done and dusted in about three hours and, unfortunately, WA police is unavailable, so no-one will be held to account."

I mention in passing that the parliamentary secretary has been most forthcoming this afternoon in the passage of this bill and that none of the fault lies with him. However, I would have thought that when a senior member like the Leader of the House insists that we deal with this matter today, she would be in a position to talk to her colleague in the other place, the Minister for Police, and say, "For goodness sake, get someone here immediately." We have only three hours in which to deal with this matter. The trust of the people of Western Australia has already been broken. Within nine days of the Commissioner of Police issuing this directive, he allowed his agency to breach the trust of Western Australians. Is there no cabinet minister and is there no-one from the McGowan government who has the ability to pick up the phone and talk to the Commissioner of Police and say that this is an unacceptable set of circumstances? The defence that has been put on the public record by the Commissioner of Police is that the police were acting lawfully. As I said earlier, just because something is lawful does not make it right or mean that it is ethical. It is, at the very least, a massive conflict of interest when the Commissioner of Police signs off on a direction telling everyone to comply with contact registration, knowing that the Premier had given Western Australians an assurance that it would be used only for contact tracing, yet the commissioner's own agency went and compelled the Department of Health to provide information within nine days. The problem we have is that the parliamentary secretary does not have at his disposal anyone from police who can tell us whether more requests were made internally within WA police in even less than nine days. Nevertheless, we are told that it was certainly done within nine days. A second request was made 10 days after that request, a third on 23 February, a fourth on 10 March, another on 1 April and then again on 7 and 28 May. My question to the parliamentary secretary is: has any assurance been given by WA police that it will cease and desist from this practice during the passage of this bill, or is it unavailable at the moment because it is issuing more orders to produce to the Department of Health? What kind of undertakings have the police provided to government on WAPOL's conduct in this matter at this time?

Hon MATTHEW SWINBOURN: In answer to the member's direct question about whether there is a cease and desist order, I do not have any information on that. However, in relation to the two outstanding orders to produce, which are pending, they are pending with the agreement of WA police, subject to the outcome of the progress of this bill. I would suggest that the attitude of police is that it is waiting to see what will happen with this bill. Obviously, the intention of all parties here is for it to be passed, which would have the effect of annulling those outstanding orders, if I can use that term.

Hon PETER COLLIER: I thank the parliamentary secretary. I am from Her Majesty's loyal opposition and I am here to assist. I want to facilitate the passage of this bill. In all honesty, I think we would all agree that it is unsatisfactory that no-one from WAPOL is here today. Under the circumstances, and given the sensitivities around this bill, I think it is absolutely imperative that we have a representative here from WAPOL. Given that we have another three hours to go and that we will have question time and possibly a dinner break, could the government attempt to get in touch with WAPOL and recommend WAPOL send someone here asap? That would at least facilitate

a degree of goodwill on this side of the chamber and, potentially, we could move on to other areas. Other than that, I stand by my previous comments that it is unacceptable to not have a WAPOL representative here. It would be helpful for everyone in the chamber, the parliamentary secretary included, if WAPOL could get someone down here as soon as possible. That is just a comment.

Hon MATTHEW SWINBOURN: I am not in a position to do that. All I can do is note the concerns that members here have raised with me and tell the member that I will definitely pass them on to the appropriate people. But in terms of that happening, there are other people watching this debate who are aware of what is going on. We have got who we have got and I hope we will be able to make progress with the other parts of the bill.

Hon MARTIN ALDRIDGE: Just to close the loop on these requests, I thank the parliamentary secretary for the information. It has clarified a number of questions in my mind already. I understand that the two pending requests were served on 1 April and 7 May. They are in force; they are lawful subject to the outcome of this bill. However, I understand there has been some communication between WA Police and Health to say that they will not enforce those orders until after the Parliament considers this matter. Is there correspondence to the Department of Health to that effect? What are the return dates on those two orders to produce? In other words, when will the agency be required to lawfully comply with those two remaining lawful notices?

Hon MATTHEW SWINBOURN: We are working on an answer to the first two questions the member raises. I refer members to section 55(2) of the Criminal Investigation Act 2006, which provides —

> A person who is served with an order to produce and who, without reasonable excuse, does not obey it commits an offence.

In these circumstances even if there is a date, the failure to comply is not necessarily a breach of the act if there is a reasonable excuse for doing so. We are trying to gather that further information. I guess what I am saying is that it is not such that it is a black and white line that if a person fails to produce at the date, they fall foul of the law. We are working on the other part of the member's question.

Hon MARTIN ALDRIDGE: I understand that there is no statutory time frame under the CIA for compliance with an order, and that makes sense because obviously scope, quantity, the amount of information and the type of information will depend on what is reasonable in terms of a return to time frame, so it does not surprise me that there is not a set seven days or 24 hours. However, I suspect that the order itself would have to have a return or a compliance date.

Hon Matthew Swinbourn: That is what we are trying to establish now.

Hon MARTIN ALDRIDGE: I am not sure I agree with the parliamentary secretary if he is saying that a court would hold that a reasonable excuse would be the Parliament contemplating it changing its mind.

Hon Matthew Swinbourn: No, that is not what I am suggesting, member.

Hon MARTIN ALDRIDGE: Okay.

Hon MATTHEW SWINBOURN: In relation to the order to produce dated 1 April, the compliance was the following day on 2 April. In relation to the one that was dated 7 May, compliance was 11 May. In relation to there being a document or anything else like that, I am not aware of that. I do not have any advice on that specifically but it has been recently confirmed that these matters have been pended. That is the advice I have received from Health.

Hon MARTIN ALDRIDGE: It is most interesting. Those dates, 2 April and 11 May, have well and truly passed. Technically, somebody, whoever in the Department of Health is having orders served on them, is now in breach of the law. I do not know whether that is an offence under the CIA or the Corruption, Crime and Misconduct Act, under which it is an equivalent offence as a contempt of court, but technically police could commence prosecutions against, I assume, a senior public servant in the Department of Health who has not lawfully responded to the requests. I will make that as a comment and the parliamentary secretary can correct it if he has a different point of view.

We know now that seven requests were issued on the Department of Health and they were in a variant state of compliance or noncompliance. I have heard reported that a number of requests did not make it to the Department of Health in which the Commissioner of Police intervened. I think there was a media report that a notice was going to be served in relation to the importation of methamphetamine into hotel quarantine and the Commissioner of Police intervened. In how many cases did the Commissioner of Police intervene where an officer was seeking to issue an order to produce? I would also be interested in when the commissioner first became aware that these powers were being utilised by his officers. I have also seen in media reports speculation that the police commissioner did not have knowledge of the orders to produce and became aware of them after the fact.

Hon MATTHEW SWINBOURN: In relation to the first point Hon Martin Aldridge raised, we do not accept that the Department of Health has breached. There are other provisions in the Criminal Investigation Act 2006 that would

potentially provide a defence. Without getting into an argument about whether someone has breached the law, there are a range of other matters. For example, it has been brought to my attention that section 53(2)(h) states that the order must contain "the date on or before which the order must be obeyed, which must allow a reasonable period for the person to obey the order". The point I am trying to make without going exhaustively through the Criminal Investigation Act is that there are potentially defences or excuses under the act that could be relied on in these circumstances. The member drew the conclusion that the police could rock up and charge and prosecute a health official for failing to comply. That is not necessarily the conclusion I would draw. The member asked how many times the Commissioner of Police intervened. This was raised previously in the debate and the answer is that I do not have the answer. We do not know how many. The member is aware of the one he referred to in the media. I am trying to recall the second point that the member made about whether the Commissioner of Police was aware of the issues in the act. We do not know the answer to that question.

Hon Martin Aldridge: Particularly in relation to the seven that were issued. Did he have knowledge prior to the first notice being issued on the Department of Health?

Hon MATTHEW SWINBOURN: To be blunt, we do not know the answer to that question. What I will say is that the Criminal Investigation Act does not require an officer go to the police commissioner and make him aware that they are exercising the powers under that act. I suspect that the police exercise those powers very often and I doubt that the police commissioner would be aware of every one that is issued. Obviously, there was a point in time when the Commissioner of Police became aware; we know that because the Premier had discussions with him on 14 April. That is the date of which I am most certain.

Hon MARTIN ALDRIDGE: I do not think we are getting very far with the police questions. I will ask a health question given that this bill, as I understand it, will come under the health portfolio.

There has been the release of data in compliance with three orders to produce. There were three requests relating to two criminal investigations. What quantity of data was released to the Western Australia Police Force? I do not know how these things are measured, but I assume that each check-in, if you like, each scan of the QR code, is one unit. I would like to know how many units or scans comprised the package of data that was released in compliance with the three orders to produce.

Hon MATTHEW SWINBOURN: We do not have access to the de-identified data, or the identified data for that matter, so it is a bit of a technical issue. I think people are trying to work on it. Naturally, the Department of Health knows what information it gave to the police because it would have been the subject of the order to produce, but the kind of detail that the member is asking for is a little more complex than just saying, "It was this big." One of the issues under consideration is whether any of that information might give away some aspect of a police investigation in terms of how many they checked and those sorts of things. The simple answer is that I cannot give the member that information at the moment.

Hon Martin Aldridge: Can you take it on notice?

Hon MATTHEW SWINBOURN: We are endeavouring to find a more suitable answer for the member. I cannot give an undertaking that I will give the member an answer because I am not sure whether we can provide an answer, but we will continue to work on it.

Hon COLIN de GRUSSA: I want to follow on in the vein that Hon Martin Aldridge started about data collection. As I understand it, the request was made of the Department of Health to retain this data. Where is that data stored?

Hon MATTHEW SWINBOURN: The SafeWA data is stored using a centralised approach and is immediately usable as soon as the user scans a QR code and gets the green confirmation screen, which I am sure we have all done. The scanned information is encrypted and stored by the government contracted service provider Genvis for 28 days. The data is able to be searched by the contact tracing team within minutes, should it be required. Genvis uses Amazon Web Services to store the data. Amazon Web Services is a cloud-based service provider and is subject to both Australian and overseas laws. The data is encrypted and not able to be accessed by Amazon Web Services. Amazon Web Services does not have access to it nor does it use the information for any purpose other than providing the service that is required by Genvis and for Amazon to maintain its own services.

In answer to Hon Martin Aldridge's question, I am advised that there were four discrete check-ins.

Hon COLIN de GRUSSA: The parliamentary secretary helpfully outlined that the data is stored on Amazon Web Services, and I think he said that the data is encrypted.

Hon Matthew Swinbourn: Yes.

Hon COLIN de GRUSSA: In that case, who holds the encryption key? Is that held by the Department of Health or Amazon Web Services?

Hon MATTHEW SWINBOURN: These questions are beyond my technical competence—I barely remember the password to my phone! But I will do my best here. As I indicated previously, when the scan is done, the data is immediately encrypted. That encrypted data is then sent to Amazon Web Services and that information is held within Australia. Amazon Web Services has the encryption keys and they change every 30 days. Genvis decrypts the de-identified information for the Department of Health obviously when access is sought from the health department for the purposes of contact tracing.

Hon COLIN de GRUSSA: This data is encrypted and it is stored by Amazon Web Services. If an order is issued to the Department of Health to produce that data, it has to be decrypted, but only Amazon or Genvis holds the encryption keys. In that case, has an order been made to either of those contractors or any other contractor as part of the process to get the data? Presumably, if the Department of Health requests the data, it is encrypted and it is no good to anyone. It has to be decrypted and only those two organisations have the encryption keys. In that case, have those contractors also been issued with orders?

Hon MATTHEW SWINBOURN: We are aware of only the orders to produce that have been served against the Department of Health. It would not make any sense to order them against the other providers because the Department of Health owns the property. The normal process would be to produce that order against the Department of Health. The Department of Health gets Genvis to then decrypt the information and provide it in a format that can be accessed and used by the WA Police Force, which would have been a condition of the order. Obviously, if encrypted information were provided to the police and it did not have an encryption key, the data would be of no use whatsoever. It is a fairly normal part of the legal process, in my experience, for the requirement to be to produce any document in a form that can be accessed by the person who is receiving it.

Hon COLIN de GRUSSA: I just need to be clear about the process. I appreciate that this may not be the parliamentary secretary's field of expertise, and it is not mine, but earlier the parliamentary secretary I think stated that the data is encrypted when a person scans in —

Hon Matthew Swinbourn: That is correct.

Hon COLIN de GRUSSA: — and it is stored on Amazon Web Services.

Hon Matthew Swinbourn: Yes.

Hon COLIN de GRUSSA: My concern is that if the data is decrypted as someone scans in, the encryption key would have to be on their device. Effectively, there would have to be three encryption keys—the person would have one on their device and Genvis and Amazon Web Services would also need encryption keys. Is the data encrypted when it leaves a person's device or is it encrypted on the way through, via Genvis, before it reaches Amazon Web Services?

The privacy policy for SafeWA states —

- Amazon does not have access to, nor does it use, your information for any purpose other than providing the services required for the operation of SafeWA, and to maintain their own services; and
- GenVis requests all of its service providers … to agree to use personal information only for the purpose of providing and maintaining their services.

It also states —

- GenVis will encrypt your information before storing it on Amazon Web Services to make it safer from external attack. Encryption is designed to make data unreadable—and to make it readable again only with the right encryption key. The encryption keys are with GenVis and Amazon;

To some extent, that helps answer my question. But in that case, the data cannot be encrypted as it leaves the device.

Hon MATTHEW SWINBOURN: I am just waiting for a technical answer to that question.

I probably cannot take the member any further than the information that he has provided back to me from the policy document. It is not really something that any of us have a level of expertise in, in terms of how the app is designed or how it operates. I am sure there are people who can give very precise answers to that. I think Hon Wilson Tucker might be one of those people. In relation to those specifics, we understand that encryption is immediate when it is received. That is as far as I can take the member, but I cannot give him anything more than that, because it is a very technical process that is beyond my comprehension.

Hon TJORN SIBMA: Just so that I can understand some of the issues related to this bill, I will not ask necessarily about encryption, but I will ask about authorised access to data and datasets. How many individuals within the Department of Health, whether they are in the dedicated contact tracing team or otherwise, have permission to access SafeWA sign-in data?

Hon MATTHEW SWINBOURN: The member's question does not have a precise answer, for a number of good reasons. Firstly, the number of people who might have access to that data would expand during a period in which we are doing contact tracing. I can indicate that WA Health has a COVID-19 contact tracing team of 50 staff, with a surge workforce that can increase as needed by 750. Obviously, during a period in which we are trying to track down and deal with a COVID-19 outbreak, all those people would potentially have access to that data for that purpose. The information I have is that typically, on an ongoing basis, the Chief Health Officer has the title of data custodian and the coordinator of the Public Health Emergency Operations Centre is the data steward, and they have agreed in writing to perform these roles. They have to comply with the information management governance policy pursuant to section 26(2)(k) of the Health Services Act. Those people have custody of that data, if we can use that term.

Hon TJORN SIBMA: I think the parliamentary secretary mentioned 150 staff —

Hon Matthew Swinbourn: Fifty, and then up to 750 staff.

Hon TJORN SIBMA: With the capacity for surge fluctuation?

Hon Matthew Swinbourn: Yes.

Hon TJORN SIBMA: Is that filled by contract staff when the government needs to respond to a fast-breaking event, or are they already public servants?

Hon MATTHEW SWINBOURN: All the contact tracers are employed by WA Health. Sorry, let me get my words right: all contact tracers are employed by WA, and they are bound by Health's code of conduct as well.

Hon TJORN SIBMA: I thank the parliamentary secretary. What instrument governs the operational relationship between officers of the Department of Health working as part of either the permanent or surge staff with Genvis? I am not so much interested in a code of conduct, but is there any contractual stipulation that identifies and authorises a relationship or specifies what is a reasonable, lawful, compliant request for information or assistance that someone at Genvis can assist a Department of Health worker with?

Hon MATTHEW SWINBOURN: If I have understood correctly what the member is asking, to access the data between the Department of Health and Genvis, the staff go through a portal. Approximately five people have access to that and they are all senior data staff.

Hon TJORN SIBMA: I thank the parliamentary secretary. I have probably one or two questions on that. What I was attempting to ascertain is whether the system was lax to the point whereby it might permit a Department of Health employee acting on a frolic of their own to solicit information that was contrary to the purposes of the development of the application. I take from the parliamentary secretary's answer that system infrastructure should potentially guard against that, but it is hard for me to come to any conclusion in the absence of a contract, which is the information I sought previously.

I am going to ask a question about the contract now. It is not an accusation, just a hypothetical, but I have asked for the contract. The parliamentary secretary has told me that for reasons of cabinet-in-confidence, it is unlikely that he will be in a position to table one.

Hon Matthew Swinbourn: I think I said "commercial in confidence".

Hon TJORN SIBMA: Sorry, commercial in confidence. I asked that because this issue is fundamentally about public confidence in the management of private information. Would there be any contractual provision between the state government and Genvis with respect to the SafeWA app to prevent that company from effectively de-identifying data and then onselling it to a third party for any other commercial practice? For example, it has been put to me that it could be used to de-identify males between the ages of 40 and 49 in Balga and the cafes they frequent. What sort of prohibition is there on Genvis to not trade or seek to further commercialise opportunities that have arisen from its contractual relationship with the state government?

Hon MATTHEW SWINBOURN: I think there are two parts to the question, including whether the contract is absent for them in relation to this so that they might lawfully onsell that information. Is that where the member was heading?

Hon Tjorn Sibma: I think there are two issues. The first one is: fundamentally, will you be in a position to table a redacted version of that contract today? The second issue is: is there any contract stipulation that prevents Genvis as the contractor commercialising—onselling, effectively—data that it has collected from SafeWA sign-ins? Potentially, they de-identify but they use those datasets for some commercial purpose.

Hon MATTHEW SWINBOURN: In relation to the member's first question, I am not in a position to say whether it will be tabled today, in a redacted or any other form. We already know that the contract has 11 pages of additions. It would take a long time for someone to sit down and work out what needs to be redacted. I do not envy the person who has to do that job.

In relation to being able to onsell information, I am instructed that the contract would prohibit that because there is a requirement to keep the information confidential. I am not accusing Genvis of any improper behaviour, but if a company were to do that, there could be avenues for prosecuting it under both the Emergency Management Act and the Criminal Code, and potentially taking action under civil law as well. There are protections available.

I might add that for Genvis there would be reputational damage as well. I would like to think that its business is to keep this data as secure as possible, so its motivation is its ongoing business interests.

Hon NICK GOIRAN: During the briefing I had earlier today it was mentioned that there were 11 drafts of the bill. What was the date of the first draft?

Hon MATTHEW SWINBOURN: Whilst the advisers are dealing with that, I will provide further information that Hon Martin Aldridge sought on the data that has been produced under the orders to produce. For the first order to produce, there were 1 639 check-ins. For the second, there were 800 check-ins, but that related to the same criminal matter. For the third one, as I indicated previously, there were four check-ins.

The first draft was received from parliamentary counsel—the member will appreciate that there are some cabinet-in-confidence issues, but in this particular case, we will give him the date—on 21 May.

Committee interrupted, pursuant to standing orders.

[Continued on page 1639.]

Sitting suspended from 4.15 to 4.30 pm