COVID-19 RESPONSE LEGISLATION AMENDMENT (EXTENSION OF EXPIRING PROVISIONS) BILL 2020

Second Reading

Resumed from 10 November.

HON TJORN SIBMA (North Metropolitan) [2.22 pm]: I commenced my contribution to the second reading debate at the unfortunate time of around 9.40 last evening and was able to muster only the barest outline of my introductory remarks. Nevertheless, I recognise in all seriousness that this is a time-limited debate and I am not the only speaker who wishes to address this bill, so I will very much get to the point.

As I outlined last evening, the opposition supports the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020 and the rationale for it. That is consistent with our party's custom and practice in respect of every piece of COVID-19-related legislation that has come before us. We have dealt expeditiously with very complicated, technical bills, and bills that present all kinds of conundrums, both philosophical and legal. We have legislated, as a responsible party, through difficult and trying circumstances for which there really is no guidebook in recent memory. We have got some calls right and some calls wrong—I concede that—but we have relied upon a spirit of cooperation and a commitment to accountability and confidence from the government which, it must be said, has rarely been met.

I cannot help but acknowledge the fact that earlier today, the Leader of the House tabled documents that were inconsistent with the order that the house provided to her. There were documents received, but not outgoing. In the course of our consideration of COVID-related legislation we have relied upon access to the truth and to the perspectives and information available to frontline health workers and frontline operators in law enforcement and the like. That is not through any sense of idle curiosity or commitment to juvenile game-playing, but because we want to know that we are actually assisting the government in meeting the needs of the day and that we are proceeding on the basis of information that is accurate, timely and can be vouched for.

It has been nigh on impossible over the course of the last six or seven months to elicit from this government information that is accurate, timely or complete, as we have tried to deal with our jurisdiction's response to a global pandemic. Overall, the policy calls have been right and the state government has worked properly with the commonwealth government. Western Australia has been advantaged by certain geographic truths, more than anything else, and also by the hard work and sacrifices of ordinary Western Australians. It would be remiss of me not to say that the true heroes in Western Australia's response to COVID-19 are not to be found in executive government but in the Western Australia Police Force, our hospitals, and in the ranks of all our frontline staff. They are the true heroes of COVID. All we want to do is ensure that we provide them with the tools necessary to complete the job—that is it. That is why we are here, and it is in that spirit that we approach this bill, which is effectively a reissue of the bill that we dealt with in, I think, April.

The purpose of this bill is to extend the operation of provisions relating to the Criminal Code, the Criminal Code Amendment (COVID-19 Response) Act 2020 and the Emergency Management Amendment (COVID-19 Response) Act 2020. We recognise the need to extend those provisions, but in our commitment to effectiveness, we cannot walk past our equally important obligation to scrutinise what is being put before us. Indeed, I think there is almost a double obligation on us to ensure that we do not, in a cavalier fashion, extend very extraordinary powers to people who are, frankly, unelected by anybody. That is no reflection on the quality of these people, but it is an observation on the duties of the people in this house. Those duties have been too easily diminished or dismissed by executive government, and particularly by the Premier. Seldom has a day gone by over the course of the last six or seven months when the opposition or members of non-government parties have not been criticised for having the temerity to actually question what the government is doing. They have been labelled wreckers and diabolical. There has been an unnecessary recourse—almost a reactive response—of invective and the impugning of members of Parliament when, perhaps, we cut a little too close to the quick, we ask a question that is a little too penetrating, we observe that a response could be modified, or that other viewpoints might be taken into account.

Obviously, the central argument has been about the border. I acknowledge and thank the government for moving to what it calls a controlled set of border arrangements, hopefully, this weekend. We hope that the government does so in a way that is safe and manageable. Indeed, the extension of the expiring provisions that we are talking about today is a central tool that Western Australians will rely upon to make the controlled border management framework both safe and effective, which is why we support this legislation. I cannot help but observe—because it needs repeating—that time after time, when we have sought information, compelled the production of documents, and sought to clarify why certain classes of individual seem to have had free and easy access through our so-called hard border but other people were refused not once or twice, but up to 10 or 11 times, what the rules of the game were. That is our job, but whenever we did that, we were accused of wanting to jeopardise the health of all Western Australians.

I am a newish first-term politician, but there are a few cardinal political rules that I have observed in my brief time. One of those is to speak only when needed. The second is to not let a lie get off the ground—to squash it. I want to use this opportunity to squash a lie that is a misrepresentation and mislabelling of the opposition, its members, and members of other parties too, although they will probably speak for themselves. No-one in this chamber has a wish to unleash mass death and carnage on the people of Western Australia, but if the Premier had been asked at any time during this pandemic, he would have said that that was exactly what we were embarked upon doing. Those claims went unchallenged and unrebuked by people outside this chamber. That cannot stand or be permitted!

We have also seen insights into this government's instincts. In no other piece of legislation were they made more abundantly clear than the first draft of the COVID-19 Response and Economic Recovery Omnibus Bill 2020, which, as I recall, we dealt with about two months ago. That legislation included the most extraordinary Henry VIII clause that I think has ever been drafted by the Parliamentary Counsel's Office or whoever drafted that bill. It was an inclination towards absolute power without any scrutiny. It was predicated on Parliament being prorogued and certain regulatory powers being invoked that could not be disallowed because, in all likelihood, Parliament would not be sitting.

That theme runs a little bit through this bill too. The timing that has been put to us is interesting. This bill seeks to extend the provisions until October next year. They are pretty extraordinary provisions, which this chamber voted to accede to in full acknowledgement of their power, but in full recognition of the extraordinary circumstances in which we found ourselves. The bill in front of us, I am sorry to say, is a bit of a lazy bill in that it presumes that after the next election Parliament will not be reconvened in April, May, June or even in July. Why would that be? First of all, it assumes very clearly that the McGowan government will get a second term. It might do that. If it does get a second term, I would like to issue a challenge. There is no justification for not reconvening a new Parliament as soon as possible after the 13 March election. The government will not require two, three or four weeks to reconstitute cabinet. It will not require many months to convene a new Parliament. I thought the central lesson of dealing with this global pandemic was a sense of agility, nimbleness and swiftness. This Parliament has proven itself equal to the task, and to suggest otherwise is, I think, an insult to the Parliament.

We are inclined to support what I think are some pretty sensible amendments that will be moved by the Nationals WA. They enshrine the principle that these powers are necessary. We recognise that they need to be applied and need to be extended, but that entitlement is not open-ended. When the proposition of a modification of these provisions was put to the minister responsible in the other place, I looked for a sensible and cogent argument against them—that is, an argument that was predicated on, perhaps, a risk to public health, a risk implied in undermining the capacity of law enforcement and other emergency management personnel and their capacity to discharge their obligations, or that it would somehow cause economic disruption. I was looking for something tangible—some reasonable excuse for why the extension needed to be as long as proposed. I am sad to say that the response was along the lines of: "I won't be the minister here next year, and you'll probably all be on holiday in July anyway, so why don't we just wave it through and extend these provisions until October?" Something is terribly wrong with that lazy, flippant and cavalier outlook, which has marked the government's response to COVID-19. It is the sour note to every high note that it reaches. The sense of entitlement is omnipresent. We agree to extend these provisions because we need to be prepared. They should be extended in a manner consistent with the ongoing revision of the situation and the modification of responses that we have seen.

This is also an opportunity to understand, if we can, how prepared Western Australia is should there be an outbreak. Do our frontline medical personnel—I am including paramedics—have the necessary personal protective equipment? I do not know. Can the contact tracing contract be made available to us in a way that we can comprehend its intended operation? What is its scalability? What uptake is expected or, indeed, might be demanded? I do not think that we are any the wiser. I recognise and acknowledge that analysis of wastewater discharge will commence from today. That is a useful informational tool and a necessary piece of intelligence in managing our response from this point onwards, but I am surprised that it has taken us nearly seven or eight months, or more, to get to this point.

I am concerned about another factor that is not related to this bill, but it gets to the very nub of preparedness. Are we sufficiently stockpiled with the pharmaceuticals that we need in this state should there be an outbreak? We should have learnt some lessons about supply chain disruption. If the toilet paper imbroglio has taught us nothing else, it is that panic buying is disruptive in its own right, but it has second or third order consequences as well. We should have sharpened our focus on supply-side management.

Some fundamental questions of capability remain unaddressed and unaccounted for by the government. It cannot do it in the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020, but this bill is one of our few opportunities to seek more than a glib response about how we manage from this day forward. This bill will pass with amendment, but we cannot just leave it there. We have to maintain an ongoing focus. I know that other members have spoken about the missed opportunity of having a committee that would have monitored the government's response to this pandemic. Such an outcome was probably very unlikely, even with the composition of

this chamber, it must be said. But I wonder whether a committee even like that would have been treated with the respect it deserves when this chamber is treated with this level of disrespect time and time again and as recently as this afternoon.

My concluding remarks are this. We have stood with the government every step of the way to assist it to respond to the needs of Western Australians in the management of this pandemic. We have been debased, humiliated, abused and insulted every step of the way, both organisationally and personally. We are diving deep into our resources of good grace to assist the government yet again. We have a time-limited debate. We will not be spending much time on this bill in Committee of the Whole, not nearly as much time as this kind of legislation deserves, but I very much hope that the government begins to treat us and this chamber with a measure of respect. It can start by agreeing to the amendments that will be moved by Hon Colin de Grussa.

HON AARON STONEHOUSE (South Metropolitan) [2.42 pm]: I indicate that I will be speaking for only a short time to allow other members an opportunity to speak because the government has remarkably again utilised its emergency powers to cut short debate on a very important bill, the Commercial Tenancies (COVID-19 Response (Early Termination)) Bill 2020. This is not the first time that this has happened, of course. Members are aware that months ago, the government rushed in special emergency powers that allowed it to forgo the normal standing orders and procedures of Parliament, allowing it to effectively guillotine debate. I have watched as consideration of COVID bill after COVID bill has been cut short. The Legislative Council has been midway through the consideration of a bill—only halfway through the clauses of a bill—and a guillotine motion has been exercised and debate cut short with all the remaining clauses being put to a vote. It is a very disappointing thing to see, especially when we are dealing with such serious matters as a pandemic, the state government's response to that pandemic and measures that irrevocably affect people's jobs, livelihoods and civil liberties.

What we have witnessed today and over this last week has been quite remarkable. I will just rewind a little bit. Last week, this house passed a motion compelling the Leader of the House, the chief government minister in this house, to produce documents from a window of seven days of correspondence relating to COVID-19 restrictions between the Premier and his office, the Chief Health Officer and his office and the Minister for Health and his office. I was eagerly awaiting that correspondence when I came to Parliament this afternoon, when we first sat. I was met with, unfortunately, a rather contemptuous response from the Leader of the House. It is a response that shows complete disregard and contempt for not only the members of Parliament who are concerned about what the government is doing or the institution of Parliament, but also the public whom we serve. The public actually deserves some answers. The public deserves to know what is guiding the government's policy on COVID-19. Is it based on best health practices or is there some ulterior political motive? It is very suspicious indeed that the Premier, the Chief Health Officer and the Minister for Health were saying three different things, then within a matter of a few days, they all managed to converge and were speaking from the same songbook again—very suspicious. Maybe it was completely innocuous and nothing was wrong, or maybe it was just a miscommunication, but the public deserves to know and it deserves an answer. When people have lost their jobs and livelihoods, when they are subjected to inhuman treatment, such as being locked in tiny hotel rooms with no windows, fresh air or ability to exercise, when they are subject to electronic monitoring, when they are separated from their families and friends for more than six months, when grandparents cannot see their grandchildren, when husbands cannot see their wives and parents cannot see their kids for six months, I think that people deserve the truth and some answers. The level of contempt, arrogance and disregard to transparency that this government has shown is absolutely astonishing. It is absolutely contemptuous.

The Leader of the House tabled some of the correspondence that we asked for. Of course, I am sure that this is a very well curated and well-redacted list of correspondence to ensure that nothing sensitive or embarrassing might be revealed. I hope that the house will deal with this matter appropriately, but in the meantime, quite remarkably, the government, with its contemptuous response and its well-curated list of correspondence that it provided us with—only a fraction of what we asked for—has turned around and come into the Parliament and asked for an extension of its emergency powers that we were hoping the correspondence that we asked for might shed some light on. How are these powers being exercised and are they based on best health practices? Despite the fact that we do not know the answer to that question, the government is asking us to extend various emergency powers for another six months. That is quite ridiculous.

A previous speaker pointed out that this could have been avoided earlier when the government first drafted its legislation to give it new emergency powers in the Emergency Management Act and to make some amendments to the Criminal Code. At that time, the government was well aware that an election was coming up in March. It should have had the foresight at that stage to ensure that those emergency measures extended adequately beyond the election or expired just before the election, providing enough time to extend the powers if need be. Rather, the government's emergency measures contained a sunset clause that will expire on 4 April 2021, so here we are considering an extension to those measures. What I do not understand, however, is why we need to extend these powers for six months. The

election is in March. A new Parliament will be constituted, new members of Parliament will be sworn in and a new government will be formed, but it does not take six months for that to take place. A new Legislative Council will be sworn in sometime in May. Perhaps if we add another month or two onto that, it gives us more than adequate time to consider an extension of emergency powers. It is unnecessary to extend these powers all the way to October 2021. Indeed, it is possible that the state of emergency will not be in effect in October 2021; we do not know what is waiting for us around the corner. But I do not want to entertain the scenario in which the Parliament is not sitting and does not have some say over how emergency provisions are extended. We really should not be giving the government too much slack here, considering how it has not been forthcoming with information and it has not demonstrated transparency or accountability to the public. I look forward to entering the Committee of the Whole stage when we will have an opportunity to severely curtail what I think is another power grab by this government. It is asking for far too much and it has not demonstrated through transparency the need for the power it is asking for.

HON ALISON XAMON (North Metropolitan) [2.49 pm]: I rise as the lead speaker for the Greens on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020. Of course, we have already debated the substantive legislation in this place—the Criminal Code Amendment (COVID-19 Response) Act 2020 and the Emergency Management Amendment (COVID-19 Response) Act 2020—the provisions of which this bill seeks to extend. Those acts were passed in the early days of the COVID emergency. I remind members that at the time, our community was facing terrible health and financial risks and people were understandably deeply concerned. This Parliament stepped up to protect them as best it could in extremely difficult circumstances. We did the right thing by doing that. Of course, the legislation went through without the usual level of consultation and scrutiny that we would expect to undertake when introducing such extraordinary powers. That pace meant that members of the public had no opportunity to consider the substance of the bills or contact their elected representatives about any concerns. Suddenly, the bills were law and people faced substantial penalties for breaching those laws. This time the situation is different. Of course, the emergency is still the same but the laws are already in place and their sunset date is not until next year.

I am not concerned about the original sunset date in the legislation. At that time, 12 months seemed to be an appropriate length of time to look at these powers. At that point, none of us knew what we would be facing. I am not of the view that we need to be critical that an expiry date was originally forecast at a time when we knew that we would not necessarily be able to revisit it. I am glad that the expiry date is April next year because it means that we get an opportunity to revisit the legislation. I prefer that expiry date compared with the 18 months that was considered when the legislation was introduced. I am glad that we have a chance for further discussion, although I am concerned that once again debate is being curtailed and I am still not privy to all the information, even the information that I requested, relating to the impact of this legislation. I am therefore concerned that once again we are debating an important bill without having heard the voices of community members. The only voices that we are hearing are those of government members and advisers. We have received very little information about whether problems have emerged with the legislation that we passed in such a hurry way back in April.

The sunset date in the Criminal Code Amendment (COVID-19 Response) Act 2020 and the Emergency Management Amendment (COVID-19 Response) Act 2020 is 4 April 2021, and neither act contains transition provisions. When the sunset occurs in the Emergency Management Amendment (COVID-19 Response) Act, the power to make directions pursuant to section 72A will end as will any existing directions made under that section, as is appropriate. I accept that Parliament is unlikely to resume post-election to pass similar legislation before the sunset occurs; therefore, it is appropriate that we deal with this before Parliament rises.

The bill will simply extend the sunset date in the Criminal Code Amendment (COVID-19 Response) Act 2020 and the Emergency Management Amendment (COVID-19 Response) Act 2020 by six months. Hon Colin de Grussa has an amendment standing in his name on the supplementary notice paper, which proposes an alternative sunset date of 4 July 2021. I note that the Nationals WA moved similar amendments in the other place but they failed because the government opposed them. The Criminal Code Amendment (COVID-19 Response) Act 2020 was passed by this place without it going into Committee of the Whole House. That legislation temporarily increased the maximum penalty for two offences—serious assaults under section 318 and threats in certain circumstances under section 338B.

Section 318 deals with serious assaults against specified public officers, including public transport officers, ambulance officers and emergency officers. An offence in this category attracts a maximum penalty of 10 years' imprisonment if the offender is armed or in company. Otherwise, the penalty is seven years. Under the act, the seven-year maximum penalty is raised to 10 years if the offender knew that they had COVID or if they create a fear, suspicion or belief that they have COVID. The usual defences and court process still apply and also applicable are some pre-existing features of section 318 that are opposed by the Greens—that is, the mandatory prison sentence in certain circumstances for offenders who are aged 16 years or over. Section 318 is a serious offence under schedule 2 of the Bail Act. There is a presumption against bail when a serious offence is committed while a person is on bail for another serious offence. The Greens remain concerned about anything that messes with judicial discretion. However, both of those

things operate independently of the Criminal Code Amendment (COVID-19 Response) Act 2020. As I said, that act temporarily increases the maximum penalty that can be imposed at the discretion of the court in certain circumstances. I note that the government has not received any feedback from lawyers about how those provisions have been operating.

Section 338B provides for a maximum penalty of seven years' imprisonment when the threat is to kill or, in circumstances of racial aggravation; otherwise, the maximum penalty is three years' imprisonment. The Criminal Code Amendment (COVID-19 Response) Act 2020 temporarily raises the three-year maximum to seven years if the threat is to injure or endanger any of the public officers that I listed earlier. The usual defences and court process still apply. There is no mandatory minimum penalty. The usual bail process applies because unlike the section 318 offence, there is no presumption against bail. I understand that no-one has been charged under the temporary amendment to section 338B. The government has not received any feedback from lawyers about the operation of the provisions.

The Emergency Management Amendment (COVID-19 Response) Act 2020 introduced a number of changes but the one that we are concerned about is the 12-month sunset provision after royal assent, specifically as it pertains to section 72A. Section 72A allows directions to be given to individuals or classes of people when the officer considers it reasonably necessary to prevent, control or abate risks associated with a declared emergency situation or state of emergency. Therefore, section 72A does not only apply to the COVID emergency; it can apply to other declared emergency situations. The directions that can be made under section 72A include, but are not limited to, directions to provide relevant information as defined about oneself or a closely associated person. Some of the directions that have been made in relation to the COVID emergency pursuant to section 72A are listed in the second reading speech. They include the Closure and Restriction (Limit the Spread Directions), the Quarantine (Closing the Border) Directions, the Presentation for Testing Directions, the Isolation (Diagnosed) Directions and the Remote Aboriginal Communities Directions. Under those directions, we have become familiar with COVID testing, the absolutely appalling hotel quarantine regime, isolation and social distancing. We have also become familiar with intrastate travel restrictions. Those restrictions have now been lifted, except to remote Aboriginal communities. The sort of relevant information that we have become familiar with having to provide under directions includes information regarding our health and any recent travel, and for contact tracing purposes.

Clause 54 of the Closure and Restriction (Limit the Spread) Directions specifies that "relevant information" includes whether a person has completed a safety plan. As a result of an amendment made in this place when the Emergency Management Amendment (COVID-19 Response) Bill 2020 was debated in April, section 86 of the Emergency Management Act 2005 now includes a "reasonable excuse" defence. Section 86 has no sunset clause—good. This bill will not amend section 86 in any way.

I understand from information I received at the briefing and subsequently that there have been 36 arrests, 53 summonses, 201 infringements and 15 formal cautions. I note that neither informal or verbal cautions nor infringements issued or reviewed by a superintendent are being recorded. The nature of that review was not explained in the material that I received. I ask the minister to please explain the nature of that review and the outcomes of that review to date.

Hon Stephen Dawson: Can I just clarify which review?

Hon ALISON XAMON: Infringements that are issued are reviewed by a superintendent. The nature of that review was not explained in the material that I received following the briefing. I ask the minister to please explain the nature of that review and the outcomes of that review to date.

I note also that arrest is being used as a last resort. Most of the breaches related to failure to comply with hotel quarantine or self-quarantine arrangements. Up until 3 November this year, 104 charges relating to breaches of section 86 had been finalised. All charges were finalised in the Magistrates Court; none in the Children's Court. Eight charges have been withdrawn and one charge has been dismissed.

The government has not been able to advise me whether any of the people charged or convicted had mental impairment issues. That was a specific concern that I had, and continue to have. The government was also not able to advise whether the reasonable excuse defence had been claimed for any of the charges; and, if so, the circumstances and the outcomes. Parliament is therefore debating this bill without knowing whether the people who are being impacted are people who live with mental impairment issues or whether the defence inserted by this Parliament on the last occasion is working as intended. The government advised it was not aware of any feedback from lawyers about people accused of the offences.

It is useful in this debate to remember that there is a distinction between the Emergency Management Act, the directions that are made under it, and the COVID response more broadly. The Emergency Management Act provides a source of power to make directions to respond to emergencies, including but not limited to the COVID pandemic. The content of directions made under that legislation, including whether they are validly authorised by the legislation, and if so whether they strike the right balance, is a different issue. A third issue is the COVID response more broadly, including all the legislation that has been passed. That includes that other source of direction-making power, the Public Health Act. I am talking about all the other measures and relevant matters, including but not

limited to public messaging, testing people, testing sewage, contact tracing, training, drills, and the adequacy or inadequacy of the G2G PASS system, including the review process.

I want to make some comments about the Clive Palmer case. In that case, the High Court made a distinction between the legislative source of power and the directions made through the exercise of that power. As we know, the case has only very recently finished and orders were handed down on 5 November. The reasons for judgement, however, have not been handed down. It is unfortunate that this debate is occurring before parliamentarians have had an opportunity to consider those reasons. In answer to the question —

> Are the *Quarantine (Closing the Border) Directions* (WA) and/or the authorising *Emergency Management Act 2005* (WA) invalid (in whole or in part, and if in part, to what extent) because they impermissibly infringe s 92 of the *Constitution*?

A majority of the High Court held —

> On their proper construction, ss 56 and 67 of the *Emergency Management Act 2005* (WA) in their application to an emergency constituted by the occurrence of a hazard in the nature of a plague or epidemic comply with the constitutional limitation of s 92 of the *Constitution* …
>
> The exercise of the power given by those provisions to make cll 4 and 5 of the *Quarantine (Closing the Border) Directions* (WA) does not raise a constitutional question.
>
> No issue is taken as to whether the *Quarantine (Closing the Border) Directions* (WA) were validly authorised by the statutory provisions …

The source of power for making directions under section 72A specifically does not appear to have been considered in the Palmer case. As extraordinary as section 72A is, the Greens believe that it needs to continue.

When this place passed the two bills I have already referred to, which are the substance of this bill, it had only been a fortnight since a state of emergency and a public health emergency had been declared. It was hoped that by the time the sunset clause fell due in 12 months that the COVID crisis would have effectively passed. Unfortunately, seven months later, it is looking very unlikely that that will be the case. Given all of these circumstances, the Greens will not be standing in the way of extending the sunset clause at section 72A. The question is whether it should be until July, as proposed by the amendment on the supplementary notice paper, or until October, as proposed by the government.

The thing that bothers me more is that it is becoming clear that this state lacks an appropriate mechanism for monitoring and oversight of both the directions that are being made in exercising the extraordinary laws we have passed, and are now extending, and the COVID response more generally. As I said during last week's motion on notice, the Greens want the directions and the COVID response generally to be strongly grounded in public health advice. As I also said during the last motion on notice, at the start of this pandemic the government did very well on transparency; everyone knew why the directions were being made and why the other measures were being taken. I think that is why they have been so broadly supported. Now, it is fair to say that in this state the monitoring and oversight of the exercise of these extraordinary powers or the COVID response more generally is not adequate. For example, as I said last week, unlike in Victoria, our Chief Health Officer is not directly addressing the public and he is not doing so in an unfettered way. Unlike some other jurisdictions, WA does not have a parliamentary oversight committee. In respect of this debate, we parliamentarians are not in possession of adequate information about how directions made under these laws are impacting people. I specifically asked about this at my briefing. I got some information; however, I have been unable to find out whether people with mental impairment are being charged with breaches of directions and I have been unable to find out whether the reasonable defence excuse is working as intended. In relation to the latter, I was told, according to my notes —

> Specific information regarding whether the defence was claimed, and circumstances of the offending, is not provided. It is open to any persons to contact the Magistrates Court of WA to request access to the recorded court transcripts, that would need to be analysed to identify the relevant facts and issues raised in court.

The first question I have is: why is the government apparently not keeping detailed records of the impact of these extraordinary laws on people and whether the safeguards are even working? Second, how on earth did the minister expect me to obtain that information between my receipt of that answer, which was on Monday, and the debate now, particularly when only the executive, as the prosecutor, knows the names of all the parties so as to request transcripts? That is information I am not able to get hold of. I think that such a response to a parliamentarian seeking information about the impact of these extraordinary laws on vulnerable people within the community, before an urgent debate on extending those orders, is inadequate. It is disgraceful.

As parliamentarians, there are various levers we can use to obtain information, but as we saw with last week's matter of public interest in the other place and again in last week's motion on notice in this place, these debates can all too

easily become politicised. That is not a desirable outcome. There is way too much at stake here to be playing politics. As has been said, people have already sacrificed too much, such as their liberty, their financial position, time with family and going to weddings and funerals, and they may well be asked to make more sacrifices in the future if there are outbreaks and community transmission of COVID in this state. This state needs a better monitoring and oversight mechanism. We need a joint standing committee. It is not acceptable that we are debating this bill without adequate information about how these extraordinary laws are impacting on vulnerable people in our community, particularly when debate happens so fast that those people will not have the time or opportunity to tell us that themselves.

I considered putting forward an amendment to this bill, but I made a decision to not move it at this point. I want members to be aware of the amendment that I seriously considered proposing. Effectively, it proposed the establishment of a joint standing committee comprising an equal number of members appointed by each house, and suggested that the functions and powers of the standing committee be determined by an agreement between the houses and not be justiciable. I decided not to proceed with the amendment at this point because, practically, it will not be able to be effected in any meaningful way. Parliament will be prorogued sooner rather than later, and I was concerned that if we looked at establishing such a committee now, it would effectively be dissolved before it had even started. My amendment ties in quite clearly with the amendment on the supplementary notice paper that proposes a three-month extension only. I suggest that we extend these extraordinary powers for another three months, as opposed to six months. If anyone on the opposition bench or even the government itself are interested, I say that if I am lucky enough to be re-elected to this place or, indeed, any other Green, that is exactly the sort of agreement I will be 100 per cent proposing if there is to be any further extension of these provisions. We may not have that oversight now, but if these extraordinary provisions are to be extended further than the additional three months that are being contemplated today, we need to ensure that that is done in conjunction with quite clear parliamentary oversight, with the terms of reference of that committee determined by both houses.

The Greens will allow this bill to pass, whether it is amended or not; however, we will support the amendment to extend these extraordinary powers by only an additional three months. These bills may not need to come back to us after that time, in which case it will have been right and proper for us to not contemplate extending those extraordinary powers longer than that three-month period. If, come next year, these bills do have to come back for a further extension, I propose that any members here who may be in the next Parliament may want to consider an additional amendment to incorporate an oversight committee. I give warning of that. It is something that a future government may want to consider and incorporate within any future bill, in which case I will not need to move such an amendment, but I think it is the only way that we can consider any further extension of these extraordinary powers. We have missed the opportunity for parliamentary oversight. That has proven to be problematic, but it is absolutely the case that if we continue to look at extending these extraordinary powers, particularly in the absence of clear information that has been specifically requested, we will need other mechanisms to try to ensure that we have ongoing oversight.

HON COLIN TINCKNELL (South West) [3.14 pm]: I was not going to speak on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020 today; however, I was very disappointed to hear the response earlier today by the Leader of the House to the request for information. That is why I am standing and speaking now. I want the government to know that One Nation will support this legislation on the extension of expiring provisions; however, we will also support the amendments proposed by Hon Colin de Grussa. I just wanted to make it clear that it was not a good move for the government to withhold information from Parliament. I think it will backfire in the long term. I also believe that this has been the attitude of this government from day one. As a new member of Parliament, over these last three or four years I have found it very hard to get answers to questions and information that is required. That makes it hard for parliamentarians to make informed decisions, which is a promise we made to the electorate. We find it very hard, because this government is withholding information that should be made available to Parliament.

The federal government's approach to COVID-19 was to involve state Premiers in the conversation. There are pros and cons with that, and I have read all the commentary from the press; however, that was an attempt by the federal government to bring the Australian people and their state governments along with it.

Hon Pierre Yang: They were attacking Daniel Andrews every day!

The PRESIDENT: Member!

Hon COLIN TINCKNELL: That was an attempt by the federal government to bring all the states along with it and work together.

Hon Pierre Yang: Every bloody day!

The PRESIDENT: Member, we do not use language like that in this chamber. Hon Colin Tincknell, proceed.

Hon COLIN TINCKNELL: Thank you, Madam President.

It would be very nice if the government had that same attitude with the Parliament, and especially the upper house. It is no wonder that Labor has not often had the numbers in the upper house, because it shows an absolute lack of respect for this house every day! As a member of this house, I think it may be a long, long time before Labor gains the numbers in the upper house, because it really does not respect the work that this house does. Our job is to look at legislation in its entirety, to find out all the information and to then make an informed decision. It is very hard to do that when this government will not share vital information to this Parliament.

HON MARTIN ALDRIDGE (Agricultural) [3.17 pm]: I want to make a discreet contribution to this COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020 and point out that it is operating under the temporary order as directed by the Leader of the House. Hopefully, the Standing Committee on Procedure and Privileges will get to review the operation of the temporary order in due course. I want to put on the record that this bill was introduced into the Legislative Council on Thursday of the last sitting week. If this truly was an urgent COVID-19 bill, why did the government not activate the temporary order at any stage during the earliest part of yesterday's sitting so that this bill could have been prioritised and expedited? Instead, we dealt with the Environmental Protection Amendment Bill 2020 whilst this bill waited on the business program to be ordered an urgent COVID-19 bill by the Leader of the House. That brings into question the use of the temporary order, which I do not support. I hope that the standing committee will review the operation of the temporary order in due course.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [3.18 pm] — in reply: I thank the members who have made a contribution to this debate on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020. It was certainly clear that all honourable members, with the exception of Hon Martin Aldridge, recognise the need to address the sunset clauses prior to the end of this year's parliamentary sitting calendar. Parliament will not be sitting early next year, as we head into the caretaker period in preparation for the state election on 13 March 2021. Obviously, following the state election it will be extremely unlikely that Parliament will resume in sufficient time to allow the passage of the legislation, or indeed similar legislation, before 4 April 2021. We must address these vitally important provisions now. Any gap in these laws in response to the COVID-19 pandemic present an unacceptable risk to the health, safety and financial security of Western Australians. The government has prioritised the passage of these amendments, recognising the time sensitivities and risks with failing to extend the sunset clause period.

I will now turn to the reasons that the government has asked for the six-month extension to the sunset clauses to 4 October 2021. We believe the government's proposal for a six-month extension of those provisions achieves the right balance between the need to ensure that the operative provisions are linked to the pandemic emergency and bringing these extraordinary powers back to Parliament within an appropriate time frame for further consideration. The proposal for six months is supported by the State Emergency Coordinator, the Commissioner of Police, who is responsible for managing the emergency, and the State Disaster Council, which includes the Chief Health Officer. The decision to extend the sunset date for six months has been reached having regard to the current health advice for Western Australia and observations of the global epidemiology of the COVID-19 pandemic. Many countries are continuing to experience the devastating effect and impact of COVID-19, particularly community outbreaks of COVID-19. Over the next six to 12 months, it is likely that COVID-19 will continue to present a significant threat to the health and, indeed, the safety of those communities. Currently, the greatest threat to WA from the pandemic is from international arrivals and international maritime and cargo operations. It is vital, therefore, that the powers that are subject to the sunset provisions continue to be available to the WA government in the medium to long term. This is to ensure that if there is a need, the emergency powers can be used to maintain or re-establish border controls and implement appropriate quarantine, but also COVID-19 health testing. The six-month extension of the sunset provisions will provide the WA community with confidence that these very important powers will be available without disruption. It will give certainty to industry and business, frontline workers and the community more broadly that every effort is being made to minimise and prevent the spread of the COVID-19 pandemic and that the health and safety of Western Australians is being prioritised, as well as safeguarding our economy.

The six-month extension of the provisions was also considered appropriate having regard to the upcoming state election and the desire to provide any incoming government with an appropriate amount of time to consider the need for any further extension of these provisions. The state election has been only one factor in the government's consideration of the extension.

We believe the proposal to amend the sunset clauses that apply to the COVID-19-related amendments so that they are extended for only three months is problematic. This is because a number of cases relating to serious assaults against public officers committed in the context of COVID-19 are currently before the courts. I am advised that following the sunset date, the higher penalties will be removed from the code and will not be available for sentencing in any cases that were not finalised before the sunset date. I imagine this will be distressing for health workers, police officers and other frontline staff who are victims of serious assaults and threats involving COVID-19. There is a risk with the proposal for a shortened three-month extension of the sunset provision. We believe the risk is

unacceptable. The Commissioner of Police has expressed that the government's proposal for a six-month extension is an appropriate time frame, having regard to the progression of these criminal matters.

The proposal to reduce the sunset clause period would place unnecessary pressure on the parliamentary process. It has been acknowledged by speakers that an incoming government and Parliament would have to act with extreme haste to further extend the provisions, if required. It is absolutely possible. We urge Parliament to not unduly restrict an incoming Parliament by committing to a course of action that would almost certainly result in the bill being declared urgent if the situation required it.

On the question about why the timing of the election was not factored into the original drafting of the provisions in March, this was due to the urgency of the amendments and the government's focus on the unfolding state of emergency, when there was a critical need to implement social distancing and other measures to stop the spread of COVID-19 in WA. At the time that the state government introduced the legislation in April, the health of the WA community was the top priority and a 12-month period was considered an appropriate time for the provisions. But, of course, we could not foresee the challenges that lay ahead. There is no rule book in this regard. There is not a book on a shelf somewhere that we can take down that says "COVID-19 Pandemic Instructions"; that is not available. The state has continued to listen to and assess expert health advice when making decisions about the management of the COVID-19 pandemic. The decision was not about the election and was based on the needs of the state to respond to the pandemic, which is the same reason that the state requires this further extension.

As I have indicated, the government is of the view that the Nationals WA's proposal for three months is not enough time for extending the operative provisions. Any disruption to the availability of the section 72A emergency management powers and the higher penalties for offences committed in the context of COVID-19 would present an unacceptable risk to the WA community. This is even more important as we transition from a hard border to a controlled border on 14 November. The continuation of the section 72A provisions are essential for contact tracing and the management of public registers, which are essential in the event of an outbreak.

The proposed six-month extension has no bearing on whether the state of emergency will continue and how the State Emergency Coordinator will implement the emergency management powers. Decisions will continue to be based on the best health advice and be made in the interests of Western Australians. The proposal to reduce the period of the operative provisions by three months is not evidence based or considered, and it does not give proper consideration to the epidemiology of the pandemic internationally.

The PRESIDENT: In accordance with the temporary standing orders dealing with COVID-19 business, the time limit for the second reading debate has ceased and I am required to put the question.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Matthew Swinbourn) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

The DEPUTY CHAIR: I note that we have issue 1 of supplementary notice paper 213. I also note that this is a time-limited debate and we have 90 minutes, so members may wish to keep that in mind when they contribute.

Hon TJORN SIBMA: It segues nicely into my first question. Noting that the minister was rudely guillotined by his own order, I am sure that he had within his grasp some answers to other questions put by members in this chamber, so in the spirit of charity and constructive interchange, I invite the minister to respond to those questions.

Hon STEPHEN DAWSON: Of course, that is one of the reasons why I love this place—the collegiality is sensational.

Hon Nick Goiran: Can we stop the clock in the meantime?

Hon STEPHEN DAWSON: No. It was not my order, but it was certainly my government's order.

There were some other questions. Hon Nick Goiran asked when the social distancing restrictions will be relaxed for places of worship. I am advised that the implementation of new arrangements is imminent to allow for higher density in places of worship, similar to what has been done for cinemas and theatres. It has been important to carefully consider the COVID safety plans for places of worship. I cannot be more exact than that, other than to say that I expect these changes will be made very soon. Of course, there is currently a two-square-metre rule per person.

Hon Aaron Stonehouse asked about health advice. The Chief Health Officer has provided consistent advice on the COVID-19 pandemic throughout the state of emergency. The Premier has tabled various pieces of advice in the Legislative Assembly and addressed this issue in detail on 15 October 2020. However, in summary, the Chief Health Officer has consistently advised that the border controls and other restrictions continue to be highly effective in

controlling the COVID-19 outbreak in Western Australia. Until community spread is eliminated in the affected jurisdictions, which will require at least a month to confirm, or is reduced to such a low level that it poses a minimal risk, opening the interstate borders is not recommended. The border control should continue to be reviewed, having regard to the continuing changes in the epidemiology situation in the other states and the situation in Western Australia. The WA government has continued to base its decisions for the state of emergency on the most up-to-date public health advice that is relevant in the context of Western Australia.

Hon Alison Xamon in her contribution asked questions about Aboriginal communities. Aboriginal communities can request to be exempt, either in full or in part. As of 30 October, 16 remote Aboriginal communities are open or partially open and 258 remote Aboriginal communities are closed, and they are closed at their request. They can, of course, ask for that to change. There was a question about the review process by superintendents before an infringement is issued. I am advised that the superintendent reviews the circumstances of the breach of the Emergency Management Act directions and considers those against the alleged offence before approving or rejecting the issuing of the infringement. In answer to the member's comments about mentally impaired accused, I am advised that we do not have a way of knowing whether the accused is mentally impaired until after the matter is finalised by a section 27 code—that is, insanity, acquittal, cautioning and custody order on unfitness grounds—so it is very difficult for us to find that information.

There was one more question from, I think, Hon Nick Goiran on the closed border versus the controlled border. I can confirm the following health advice: on 30 October, the Premier announced that Western Australia will, pending any further health advice, transition from the existing hard border to a new, controlled interstate border, effective from 14 November. The government is on track for those arrangements to be in place by Saturday this week. Of course, this is subject to the final advice of the Chief Health Officer and discussions at the State Disaster Council and the State Emergency Coordinator, who has responsibility for the relevant directions. The Chief Health Officer has recommended a 14-day rolling average of fewer than five community cases per day in each state and territory—that is currently being met in each jurisdiction, I am advised—and that that be required before progressing to the new border controls. Travellers from states and territories that are deemed very low risk, with no community cases of COVID-19 in the past 28 days, will be permitted to enter WA and comply with conditions, including that they must complete a G2G PASS declaration, they will be subject to a health screening and temperature test on arrival at Perth Airport, and they must be prepared to take a COVID-19 test. Currently, the jurisdictions that meet the very low risk criteria include Tasmania, Queensland, South Australia, the Australian Capital Territory and the Northern Territory. Travellers from those states and territories that are deemed low risk, with fewer than five community cases on a 14-day rolling average, will be permitted to enter WA and comply with similar conditions to those for very low risk jurisdictions. However, they will also be required to take a COVID-19 test at the airport COVID clinic, if deemed necessary by a health clinician. They will be required to self-quarantine for 14 days in suitable premises and present for a COVID-19 test on day 11, if they are still in WA. These jurisdictions currently include New South Wales and Victoria. The Chief Health Officer, I am advised, will continue to closely monitor community transmission in the other states and territories into the future and will advise if any changes to our borders are required to keep Western Australians protected.

I think that answers all the questions, but obviously we are in committee now and I welcome other questions.

Hon TJORN SIBMA: Before we went into committee, the minister made an observation about the four amendments by Hon Colin de Grussa on the supplementary notice paper. I think the minister made the observation that they were not evidence based with respect to the operational time horizon that they specify. I suppose this is the opportunity to ask the minister directly: is it the government's position that the operative dates, as they appear at clauses 4, 5, 7, and 9 in this bill, have been arrived at as a consequence of assessing the evidence; and, if so, will the minister table that evidence?

Hon STEPHEN DAWSON: I am told that the State Emergency Coordinator, the State Disaster Council and also the Chief Health Officer have been providing health advice to us all the way through this global pandemic, since March, and they continue to do so. Based on the best advice available to us, the proposal for six months is supported by all those officers or councils. There is no written advice that I can present today to the chamber, but we continue to rely on the best medical advice on all the decisions we are making about this pandemic.

Hon TJORN SIBMA: I thank the minister. The *Hansard* will obviously indicate that in response to a very simple question regarding the evidence upon which this bill is predicated, it was conceded by the government that no such evidence exists, certainly not in a form that can be tabled. Nevertheless, the lack of evidentiary support is the basis upon which the government rejects the amendments moved by Hon Colin de Grussa. That is quite obviously having your cake and eating it too—very much so.

Perhaps I will ask the minister another question, or a series of questions—I will be brief—before other members get up. Is the minister in a position to indicate to the chamber how long it took to draft this five-page bill and whether

or not the minister would anticipate that there would be sufficient time between the election in March next year and July next year to draft a similar bill, albeit with some amended dates in it?

Hon STEPHEN DAWSON: In response to the earlier comments by Hon Tjorn Sibma, I will say again that we continue to rely on the best medical advice available to us when dealing with this pandemic. That is what we have done from the outset and that is what we continue to do now, and I think that has served us very, very well. If members look at Victoria or other jurisdictions around the world that might not have done the same thing, they will see that those jurisdictions have found themselves in different circumstances. I do not resile from that fact.

In answer to how long it might take to draft the bill, the answer is probably not a very long time. But if members look back at 2017, which is the last time this place sat post an election, it did not sit until early May of that year. To be frank, ordinarily, things move very, very slowly through this place. A bill needs to go through the cabinet process and through both houses, and other things will come up in the meantime. We will, I presume, if Hon Colin de Grussa's amendments get up, need to declare the legislation urgent in the other place, at the very least, and rush through this stuff.

Hon Nick Goiran: Why?

Hon STEPHEN DAWSON: It will need to be rushed through the chamber. People in this place obviously say various things—they support it, they do not support it, or they do not support having the powers in place for an extra three months. We are doing this based on the advice we are given by the people I mentioned earlier on. At the end of the day, this chamber will decide whether it is three months or six months; so be it. We are relying on the advice given to us, including advice from the State Emergency Coordinator in his role as the Commissioner of Police. He has expressed the view that having a six-month extension is better than having a three-month extension.

Hon TJORN SIBMA: This is unlikely to be a profitable course of dialogue other than to say, because it needs to be said, that this chamber has, in good faith and good conscience, given the government the opportunity to provide us with the evidence—or, failing the evidence, the professional opinion that the minister has cited—in an open and transparent way so that we can make the appropriate judgements. It is all well and good for the minister to rely upon advice provided to the government by officials, but it quite obviously needs to be acknowledged that this chamber does not benefit from that advice. The minister is, again, essentially asking us to trust the government. I think that is a foolish suggestion that no-one could accept in good conscience.

I will ask the minister a question that I think encapsulates the approach that the entire chamber seems to be taking in its assessment of this bill. I will put it clearly: is the government proceeding on a precautionary principle in its management of the COVID-19 pandemic? If the answer is yes, is it not reasonable for this chamber to legislate upon the same principle?

Hon STEPHEN DAWSON: People play politics in this place all the time. The modus operandi of members on the other side is to say that they do not trust the government. Earlier this year, in April, we asked the Parliament to trust us on this legislation for 12 months to help us deal with the COVID-19 pandemic. There are very few people outside this place who would say that that trust should not have been given to us. Thanks to the people the member mentioned earlier in his contribution to the second reading debate—the frontline workers, the doctors, the nurses, the teachers and others, people like the State Emergency Coordinator and people on the State Disaster Council—we have done extremely well in Western Australia in managing this pandemic. I take the opportunity to thank each and every Western Australian, because they have done the right thing with regard to this legislation over the past few months. We asked the Parliament then to trust us, and I think that, collectively, we have delivered. Now we are asking, again, for the Parliament to put trust in the government on this issue, to enable us to continue to keep Western Australia safe and strong and to allow us to have a period post-election, when, should decisions need to continue to be made, they can be. Just because this power would be in place for six months if it gets through, does not mean that it would be used.

The State Emergency Coordinator has, every two weeks, to go to the appropriate minister to consult and to convince the minister that the emergency management declaration needs to stay in place for another two weeks. That process will continue and will have to be done every two weeks. Again, we are asking this place to trust the government and to help us continue to deal with this global pandemic in the best way possible, to keep Western Australians safe.

Hon COLIN de GRUSSA: Noting the guillotine hanging over our heads I do not intend to ask too many questions on the bill as a whole but will probably confine them to the clause 1 debate. The COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020 is all of six pages, including the contents and nine clauses. I cannot imagine that a bill of such small form could have taken a particularly long time to draft. Indeed, should my proposed amendments to the relevant clauses be successful and the time frame thus shortened from six months to three months, a further amending bill will need to come before the chamber. In that situation, I would imagine that we would have a pretty good template here and would simply need to change a few dates and numbers. That would not take a particularly long time, so I cannot understand the argument that there will not be enough time before

July to make those amendments. To return to the drafting of the bill, on what date were the drafting instructions issued, and when was the draft of the bill received?

Hon STEPHEN DAWSON: I do not propose to answer the question. I do not have the information before me, but it is essentially the same point that Hon Tjorn Sibma tried to make. I have said on the record that it would not take very long to draft a piece of legislation like this; it is a short piece of legislation, and it may well require only a number of cosmetic changes in relation to dates, if there is a future bill to be drafted by April next year. Time and again in this place the government is accused of not allowing proper scrutiny of legislation. A later time frame would allow the legislation to come before both chambers of the Parliament to proceed through the parliamentary process, for briefings to happen in a timely fashion, and for debate to happen in the chambers. That is part of the consideration of this legislation. Yes, it is a simple bill; I am happy to put that on the record. But I have already given the reasons for the government's preference for an October date rather than a July date.

Hon COLIN de GRUSSA: I accept that the government has a view on the need for six months rather than three months, and the argument that the minister just put about there being a longer period to debate potential amendments or a new bill, although I note that the winter recess takes up a large chunk of time between June and October. In debate in the other place, the minister responsible for this bill, the Minister for Emergency Services, made reference to the fact that because there was such a short period between the election and July, there would not be time for the necessary review to be undertaken of whether the provisions should be continued. I am wondering whether a review has been undertaken on the bill; and, if so, whether the minister has a copy of that review.

Hon STEPHEN DAWSON: I am advised that we are continually reviewing the state of emergency. Sign-off needs to be given every two weeks to continue the state of emergency. I am also advised that it is the intention of the government to undertake a review, but a big review would likely not happen until the state of emergency is lifted. It is important to say that this is the first time that a state of emergency has been issued for a pandemic like this. When I responded to Hon Nick Goiran, I said that there is not a textbook or a book on the shelf that tells us the correct course of action. We are dealing with this on a day-to-day basis. We are learning as we go and learning from other jurisdictions around the country. There is an intention to review the whole thing post the state of emergency being lifted.

Hon COLIN de GRUSSA: As I outlined in my second reading contribution, we on this side of the chamber—certainly the Nationals WA—are all acutely aware of the need for these extraordinary provisions to be in place to keep our community safe. However, we are also acutely aware of the job we have in the Parliament to properly scrutinise those powers to ensure that they are necessary and justified. I believe that they are necessary, but I have not heard a justification for the period for which the government seeks to extend those powers. On that basis, I will be moving the amendments that are in my name on the supplementary notice paper when we come to those clauses. The minister stated that the government is continually reviewing the impact of the pandemic and these provisions. I presume that, given that those reviews are ongoing, there is no reason why Parliament cannot reconvene before July, have a new bill brought before it and make the necessary amendments to extend the time frame, should it be necessary. Would that be the case?

Hon STEPHEN DAWSON: I imagine that the honourable member is correct.

Hon NICK GOIRAN: It is interesting that of all the days for the government to use the phrase "trust us", it would be today, after the performance of the Leader of the House during formal business. That is very funny of this government! I notice that one of the things that the government says it has done was to ease restrictions on cinemas, concert halls and theatres. No doubt the government thinks that it is very funny, but this is a serious matter. After the performance by the Leader of the House, we absolutely cannot trust this government. We can trust that when the Legislative Council orders the Leader of the House to provide documents, the Leader of the House and this government will thumb their noses at the chamber. That is what we can rely on! We can trust the government to do that. We can trust the government to absolutely ensure that it never complies with its promise of gold standard transparency. We can trust it to do that. The government should not ask us, on a matter like this, to trust it after the performance of its leader—its most senior member—who should be setting an example for everybody else. She proceeded to thumb her nose at the chamber earlier today. We will not trust this government. We absolutely will not trust it while that person is the Leader of the Government in the Legislative Council.

The DEPUTY CHAIR: Member, you should refer to the leader by her title, not as "that person".

Hon NICK GOIRAN: I find it interesting that the government then proceeded to tell us the period it has asked us to agree to will allow for some scrutiny. In other words, it will not bring the date forward to early July. It should be left until early October because that will allow the chamber to have time to scrutinise any legislation. This is the same government that brought in this bill under the temporary order. If the government is serious and authentic about the idea of scrutiny, why does it not list this bill for debate in the final sitting week? We will not sit next week because we will be dealing with Standing Committee on Estimates and Financial Operations matters—the annual reports and the budget—and then we have a final scheduled sitting week. There is talk about an extra week after that,

but there is one scheduled sitting week. If the government is serious about scrutiny of an important piece of legislation like this and serious that the date should be October, it follows that it should bring on this bill in that final sitting week. However, the government determined to bring it in—supposedly urgently—and to give us the least amount of scrutiny. In fact, the scrutiny has been so short that the minister with responsibility for this bill in this chamber had his own reply guillotined by the order. That is how serious the scrutiny is!

In his second reading speech the minister said that the powers under section 72A have been, and continue to be, critical to the government's strategy for closed borders. Does that fall away now that the government is shifting to controlled borders?

Hon STEPHEN DAWSON: I am advised that section 72A is still required for controlled borders.

Hon NICK GOIRAN: Who has provided that advice?

Hon STEPHEN DAWSON: I am advised that we would have received advice from the State Solicitor's Office saying that it is still needed. Section 72A is needed to require a G2G PASS, and will be used to question people coming into Western Australia about their COVID status.

Hon NICK GOIRAN: The minister said that the government would have received advice from the State Solicitor's Office. Did the government receive advice from the State Solicitor's Office? If so, when, and was it in documentary form?

Hon STEPHEN DAWSON: We have received advice on the necessity. I am further advised that we have not received the wording from the State Solicitor's Office; that is currently before it at the moment.

Hon NICK GOIRAN: The advice is from the State Solicitor's Office. It is not from the Chief Health Officer or the Commissioner of Police.

Hon STEPHEN DAWSON: I am told that the advice to create the controlled border is based on health advice, as directed by the State Emergency Coordinator.

Hon NICK GOIRAN: The minister is asking us to pass this bill that enables the government to continue to have powers under section 72A. Somebody has obviously provided advice to the government that it is a good idea for it to have those powers extended; otherwise, this bill would not be in front of us. It cannot have been the State Solicitor's Office because, as the minister just indicated, the extent that the State Solicitor was involved at all was with regard to the necessity for it. In other words, if the minister wants to extend the powers, it is going to be necessary for the minister to engage with section 72A. Who has provided the advice to the government that we need to have this bill before us at the moment, when did they provide that advice and was it provided in documentary form?

Hon STEPHEN DAWSON: I am told that the SSO advised us of the need to extend, and the State Emergency Coordinator and the State Disaster Council further agreed. It was the SSO that provided the advice contained in a letter from the SSO.

Hon NICK GOIRAN: Are we being asked to believe that the State Solicitor's Office proactively reached out to government and said, "A sunset clause for these powers is going to expire in early April. You are going to need to do something about this and extend them"?

Hon STEPHEN DAWSON: I am told that the Department of Fire and Emergency Services reached out to the SSO and sought advice.

Hon NICK GOIRAN: So things continue to shift. The request made by the Department of Fire and Emergency Services is the genesis of the bill before us. When did that happen?

Hon STEPHEN DAWSON: Those two things are not mutually exclusive. We would have known that the sunset clause was coming up to expiry and we sought advice from the SSO about how to further it or what was needed to ensure that it could be furthered.

Hon NICK GOIRAN: One human being in government must have, at some point in time, provided advice to government and said, "We need to have this extended." I am not talking about the mechanisms and how it was done; somebody must have provided advice. It is a bit like when Premier Mark McGowan continuously says that he is constantly relying on health advice—the health advice that the Leader of the House wants to hide from us. Whose advice has the government relied upon to suggest that this bill is necessary?

Hon STEPHEN DAWSON: It started at officer level in the Department of Fire and Emergency Services. That person advised the minister that the sunset clause was coming to an end and that further action would be needed on the drafting of new legislation that would be brought before the Parliament.

Hon NICK GOIRAN: So it has come from an officer in the department; that is the genesis of this bill. The government is now saying, "Trust us." I would have thought that the advice would have come from somebody at a far

higher level—no disrespect whatsoever intended to the respective officer. Surely somebody at a much higher level must have provided some advice to the government. Sure, the genesis might have been the officer at the department, but just because an officer at the department says that this is a good idea, presumably the whole of the McGowan government does not fall into line. Somebody else must have come along and said, "Yes, actually that is a good idea for X, Y and Z." For example, maybe the Chief Health Officer provided advice to Premier Mark McGowan, advice that has been hidden by the Leader of the House. Perhaps that advice is something along the lines that the Chief Health Officer expects the COVID-19 pandemic to last the whole of 2021 and that it would be a good idea for the government to extend its section 72A powers. Maybe that is what happened. Somebody at a very senior level must have provided that advice. I understand that the government wants to continue to keep the advice under lock and key, especially the Leader of the House, but that is not the point. If the government would like to have these extraordinary powers extended, it should provide clear advice to this chamber about whose advice it is relying on—not the mechanism, the State Solicitor's Office and so on and so forth. Somebody at a senior level must have provided advice to the government that this was the appropriate course of action. I want to know who that is; I what to know their name and their title. In particular, I want to know whether that advice was in documentary form. Why am I continuing to ask about that? Ultimately, I would like that advice tabled because that is the kind of information that the Leader of the House and the government continue to refuse to provide to the chamber. Now that they want us to have these extraordinary powers extended, they could do us the courtesy of tabling that advice.

Hon STEPHEN DAWSON: It is no surprise to anybody that I will not be tabling any advice from the SSO. I will say again that an officer in the department raised the matter with the minister's office. It was agreed that a further course of action needed to take place to extend the legislation that we have had in place over the last few months. The department spoke to the SSO, and following that, the SSO gave some advice to government. It obviously went to the minister, but there are two elements to the bill before us, so multiple ministers interacted with it, and the need to extend was discussed at the State Disaster Council. The bill was drafted and went through the normal process of going through cabinet and coming before the Parliament.

Hon NICK GOIRAN: Then the government has never received, according to the minister—I take it the minister will tell me if I am wrong—any advice from the Chief Health Officer that this bill is necessary and appropriate and recommended by the Chief Health Officer. That has never been received by the McGowan government. There is no good health reason for dealing with this bill at the moment. Is that what the government would like on the record?

Hon STEPHEN DAWSON: This bill before us was supported by the State Disaster Council, which contains the chief public health officer. I am not sure where the honourable member is leading with this, but if he is suggesting, for some reason, that this bill before us is absolutely not needed, I can tell him that he is misguided and he is wrong.

Hon Nick Goiran: You heard my second reading speech. I said it was necessary in my second reading speech.

Hon STEPHEN DAWSON: That is very good, because the member's last line of questioning seemed to suggest that he was going in a different direction. This bill is absolutely needed—absolutely needed—to keep Western Australia safe and strong and to keep people safe and stop them from dying. This bill is needed. Cabinet and the State Disaster Council signed off on the bill. A similar piece of legislation has helped to keep us strong and keep people safe for the last few months, and that is why we are bringing this bill before the chamber now. In the course of discussions, and as part of the State Disaster Council, on which the State Emergency Coordinator and the Chief Health Officer sit, it was agreed that a six-month time frame was a better solution, for the reasons that I previously outlined.

Hon NICK GOIRAN: This is the last point that I will make because I know that other members want to ask questions. Minister, to be clear, as it is on the record in my second reading contribution, I said that these things are necessary. With respect, I think the minister misunderstood the point of my questions. My questions are not about whether they think the bill is necessary—we are in furious agreement about that. The issue about which we have a difference of opinion is whether the government should be transparent. I say that the government should be transparent. The minister and the Leader of the House say that the government should be as least transparent as possible and that under no circumstances should documents be tabled in this place. The government wants to hide that information from us. The minister said that the provision has been supported by that particular committee. I asked: has the government received any advice in documentary form from the Chief Health Officer that this bill is needed? The minister has not answered that question. I have asked it on several occasions and in different forms, but in true McGowan government fashion, the information is being kept a secret from this chamber—and this is in the context of the government saying, "Trust us".

Hon MICHAEL MISCHIN: I was not planning to contribute to the discussion on clause 1, but perhaps the minister can assist me. I will ask three questions in succession, which the minister can answer as a group. Does the State Disaster Council keep minutes and make recommendations in writing to the relevant ministers? Has it done so in this case? Will the minister table those minutes; and, if not, why not?

Hon Martin Aldridge interjected.

Hon STEPHEN DAWSON: Hon Martin Aldridge should be a soothsayer. The answer is yes, it keeps minutes. No, we cannot provide them because of cabinet-in-confidence.

Hon NICK GOIRAN: I understand that other members have questions. I asked for 30 minutes in which to ask my questions and I certainly have not had that time yet. My question —

Hon Sue Ellery interjected.

Hon NICK GOIRAN: Sorry?

The DEPUTY CHAIR (Hon Matthew Swinbourn): Member, focus your questions directly to the Chair.

Hon NICK GOIRAN: Absolutely, Mr Deputy Chair.

My question relates to the important issue of places of worship, which I raised in my second reading contribution. The minister indicated that information would be imminent. Does that mean that a decision will be communicated by the government whilst Parliament is still in session so that the government can be held to account for the decision that it makes or does the government intend to purposely make sure that it provides information after Parliament is prorogued so that it cannot be held accountable for it?

Hon STEPHEN DAWSON: The Premier has been on the record as saying that amendments with respect to places of worship are being drafted and will be announced in the near future. I anticipate—I cannot give the honourable member a guarantee—that that will be done before the end of the parliamentary year.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Act amended —

Hon MICHAEL MISCHIN: My questions will be directed broadly to parts 2 and 3 and to the effect of those parts. It may be convenient if I deal with them in the context of clause 3, as long as the minister is prepared to traverse all of them because they amount to the same thing.

Hon Stephen Dawson: I am.

Hon MICHAEL MISCHIN: I thank the minister for that.

The bill will amend in part both the Criminal Code and the Criminal Code Amendment (COVID-19 Response) Act 2020. The Criminal Code was amended in certain respects for section 318, which deals with serious assaults on public officers and the like, and section 338B, which deals with threats, in order to accommodate the circumstance in which there is either an assault —

The DEPUTY CHAIR: Order, member! Noting the time, I shall leave the chair until the ringing of the bells.

Committee interrupted, pursuant to standing orders.

[Continued on page 7734.]

Sitting suspended from 4.15 to 4.30 pm