

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

Second Reading

Resumed from 4 November.

MR F.M. LOGAN (Cockburn — Minister for Emergency Services) [10.07 am] — in reply: I rise in reply to the second reading contributions given by the opposition on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020 and thank the Liberals for their support for the omnibus bill before the house, which includes the time frame of extending the declaration of emergencies under section 72A of the Emergency Management Act and, of course, the Criminal Code provisions, by an extra six months, which will take it to 4 October 2021.

I am aware that the Nationals WA—its members have given me a heads-up on this—will move an amendment in consideration in detail, I presume, to change the time frame from six months to three months. I will not bother responding to the statements that were made by the shadow spokesperson for emergency services, but I will address the issues that were raised by the Nationals because they go to the content of the bill before the house and the issue of timing. The position put by the member for Moore went to the guts of this very small amendment to both acts that is before the house. He said that it would not need six months, in his view, to determine whether we need these provisions. I know that the member for Moore has been a good farmer in the past and he has been a member of Parliament for a long time now, but in terms of his expertise in dealing with pandemics, he is entitled to his opinion. I question significantly whether that extends to giving advice to the state government on what it should do when dealing with a pandemic. There are many, many professionals in the State Disaster Council and below who provide advice to the government on what it should do about the pandemic that is facing not only the state, but also all states of Australia and places across the globe at the moment.

The proposition for a six-month extension was arrived at on the basis that people might be concerned were we to extend the provisions of the declaration of a state of emergency for one year. It might have concerned them that we would be pushing out provisions that are onerous and not usual in a democracy for far too far. A three-month extension was simply too short for consistency purposes given where we are up to with the pandemic—I will address that in a second—and six months seems to be a fair and reasonable period of time to give consistency to our emergency service professionals to keep control of the pandemic here in Western Australia. That is the reason we arrived at six months. It was a fair and reasonable proposition. The proposition to extend the provisions of the Criminal Code for six months is endorsed by the State Disaster Council. It is also endorsed by cabinet. Therefore, for those reasons, we do not accept the member's proposition.

If we look at what has happened so far in Western Australia—the Premier touched on this yesterday in his response to the matter of public interest that discussed the government's response to the COVID-19 pandemic—the Premier has made clear his fear of the threat of COVID-19 coming from international travellers and people who are coming in via seaborne routes, particularly sailors. That is exactly where our COVID-19 threat comes from. Today, for example, we have four cases of COVID-19 in Western Australia, via the return of international travellers, mainly out of Doha and one out of Singapore. Those cases are being dealt with as we have dealt with all the travellers or visitors to Western Australia who have either got COVID-19 or had the possibility of getting COVID-19. That includes hundreds and hundreds of people on board cruise liners and, of course, those people who have returned from either the eastern states and had COVID-19 or, particularly, people coming in via international travel who had COVID, or sailors who have disembarked their ship or been identified on board their ships that they had COVID-19. All of them have been dealt with through the processes that we have in place in Western Australia, which is one of isolation, treatment and then return of those people—if they are sailors back to their ships—and ensuring that those people who contracted COVID have been isolated to recover from their illness.

That is the process that we have had in place since March this year to deal with people with COVID. The threat to Western Australia as it stands today, as identified by the Premier, is particularly from people who are returnees from overseas and maritime workers. The member for Moore said that this pandemic could be raging around the world for a long time. That is right, it could be raging around the world for a long time, but because of the processes and procedures we have in place that directly relate to section 72A of the Emergency Management Act, we have been able to control the pandemic and its impact in this state. That is how it has happened.

Those places around the world where COVID is out of control—the United States is a classic example, which has had 100 000 extra cases today alone—do not have states of emergency in place. They do not have declarations of emergency in place. They do not have the procedures that we have—which are, isolation, first of all by internal borders and then by borders with other states, and then controls on those people who are returning to Western Australia. They also have political interference that chops and changes the responses of the emergency services. We have seen that in

examples around the world. The United Kingdom is a classic example of where there has been a continual change in the responses to the COVID-19 pandemic and look at what has occurred as a result of that.

We have not had that in Western Australia. As soon as we realised that the COVID-19 pandemic was going to possibly have a catastrophic effect on the people of Western Australia, a state of emergency was declared. That automatically put in place the procedures of the State Disaster Council and the State Emergency Coordinator to ensure powers to direct people to isolate and to undertake testing, and powers to protect remote communities and to put in place the borders with the Northern Territory and South Australia. All those provisions have come out of section 72A and they have remained consistent for more than 200 days. As a result of that consistency, we have had no community infection in Western Australia. If we were to look at any place in the world for a model on how to respond to a COVID outbreak, I believe that Western Australia is the classic model. It has achieved its outcome on the basis of having a state of emergency in place with those provisions of section 72A.

This is all being done to ensure that the people of Western Australia are protected following the state election. I made it very clear in my second reading speech—that this relates to the election in March 2021; it is not all about the election. For what reason does it relate to the election? If the election is on 13 March 2021, Parliament will not come back until after the sunset clause finishes, and that will mean that those powers will drop away. Those powers will not be in place. If members believe that returnees are going to stop coming from overseas on 4 April 2021, they are deluding themselves. They are not going to stop. Therefore, what would be a fair and reasonable extension of the sunset clause? Should it be 12 months? If it was, people might be concerned that 12 months was too long. Should it be three months? Our view is that three months is too short. Six months allows the Parliament to come back and the government of the day to ascertain the COVID situation. It can continue for six months knowing that the systems that we have in place at the moment will continue to do the work of protecting the community of Western Australia until such time as that may change.

Would the provisions of the declaration of a state of emergency and the specific provisions under section 72A be needed, for example, if there was no community transmission anywhere in Western Australia and the numbers of returnees from overseas dropped off and, effectively, we were not being impacted at all by the COVID-19 pandemic?

At that point, the State Emergency Coordinator may advise the minister of the day that he or she does not need to sign the state of emergency declaration. Remember, the state of emergency declaration has to be re-signed every two weeks, or every 14 days. If the minister of the day agrees with the recommendation of the State Emergency Coordinator, he or she will not sign the declaration; therefore, no state of emergency will exist, and the section 72A provisions will not exist either. Those provisions of the Emergency Management Act come into effect only when a state of emergency or a declaration of emergency is in place. If neither of those is enacted—that is, the state of emergency falls away because it has not been signed, or a declaration of emergency has not been made—those provisions under section 72A will fall away and have no power. Concerns have been raised about the continuation of the powers of direction under section 72A. Those powers of direction can be taken away by two means—by the sunset clause in the bill, or on the basis that a state of emergency no longer exists.

The member for North West Central said in his contribution that there is no transparency and no ability for Parliament to examine both the reasons behind the section 72A provisions and the state government's response to COVID-19. The Premier addressed those issues yesterday when he spoke about the review that was done by Professor Weeramanthri, the tabling in this house of the report by the Auditor General—which clearly caught the member for North West Central unawares—and the fact that there have been eight briefings for the opposition about our government's response to COVID-19. There is also, of course, the Clive Palmer case in the Federal Court, which looked at not only the reasons for the border closure, but also the WA government's response to the pandemic. The Federal Court looked at the WA government's response, as did the Auditor General, and as did Professor Weeramanthri. All those reports, which have been tabled in Parliament, say clearly that the government of Western Australia has performed outstandingly in its response to COVID-19. Truckloads of information have been provided to the opposition, and to anybody else who wants it, to enable them to determine whether that is true. I know that the general public fully and strongly supports the state government's response to the COVID-19 threat to Western Australia. When it comes to transparency and accountability, I point to those three documents—Professor Weeramanthri's report, the Auditor General's report, and the Federal Court investigation as part of the Clive Palmer case.

The member for North West Central made a statement that I hope is not the policy position of the National Party. He said very clearly a number of times that, "We need to live with it." If that is the National Party's approach to COVID-19, it is the same approach as has been taken by President Trump, President Bolsonaro of Brazil and Prime Minister Boris Johnson. Their response to COVID-19 has also been that we need to live with it. That is what the member for North West Central said. I presume that is not the position of other National Party members, because, if it is, they will frighten the general public of Western Australia senseless. National Party members may like to say something about that in their contribution during consideration in detail.

Mr Sean L'Estrange; Hon Fran Logan; Mr Shane Love; Mr Vincent Catania; Mr Terry Redman; Mr David Templeman

I conclude my remarks on the proposed amendments to both the Criminal Code and the Emergency Management Act. I again thank the Liberal Party for its support of this bill. I make it very clear that the proposed amendments from the National Party will be opposed by the government.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 318 amended —

Mr S.K. L'ESTRANGE: Does the reason that the minister requires an 18-month extension of the time frame in the original bill—which is effectively a six-month extension from when this would have stopped—have anything to do with the fact that a contract is not yet in place for contact tracing? ‘

Mr F.M. LOGAN: Absolutely not. I point out that the Minister for Health answered that question in the house yesterday in response to the matter of public interest. He made it very clear that a contract is in place.

Mr S.K. L'ESTRANGE: Can the minister outline any special reasons why this extension needs to go beyond three months? After the election in March next year, a new Parliament will be formed. We will then move forward until the winter recess, which I suspect will be in July. That should give the government ample time to work out whether it needs to change this legislation. After the election, a new Parliament and a new government will be formed. There will also be a new Minister for Emergency Services. Given all that change, would it not be warranted that the people who will be running the state after the election make the decision about an extension rather than do it through this bill, which will go all the way forward to October 2021?

Mr F.M. LOGAN: Let us just run through the time frame, which is basically what the member has highlighted and really is the basis of the amendment proposed by the Nationals WA. The election is on 13 March 2021, and the member, as a former minister, knows that it will take some time for the government to appoint new ministers and for those ministers to be sworn in and to get to grips with their portfolios. The sunset clause is literally in place from 4 April. That really does not give us any time between the election and 4 April, so something has to be done. The amendment to be moved by the Nationals effectively says, “Why can’t we just take it up to 4 July?” As the member knows, we will not be here on 4 July. I will not be here anyway, but the member will not be here either because he will be on his winter break, which concludes in the last week of July. The Nationals have also indicated that a review should be undertaken during that time. Let us be sensible about this. We all know that a parliamentary review, which is what the Nationals are proposing, would not be completed between 4 April and 4 July.

Mr V.A. Catania interjected.

Mr F.M. LOGAN: Yes, well, has the member seen —

The ACTING SPEAKER (Mr T.J. Healy): Minister, if you can refer to this. I have the member for Moore next and then the member for North West Central.

Mr F.M. LOGAN: I will deal with that later.

It is just not going to happen. As I said in my response to the second reading debate, 12 months is probably a little too long because I think it would concern people if those provisions were in place for that long. That does not necessarily mean that they will be in place; section 72A of the Emergency Management Act comes into play only if a state of emergency is declared. Nevertheless, that could concern people and raise questions, as it did in Victoria, for example. Three months, as I have pointed out to the member, is just not long enough. In my view and in the view of the State Disaster Council, it does not provide consistency for emergency services workers to be able to deal with the ongoing threat from returning travellers and merchant seamen.

Mr R.S. LOVE: We got notice of this bill being introduced on, I think, Tuesday morning. We received a briefing on Tuesday afternoon and here we are, discussing it on Thursday morning. That time frame is quite short for dealing with this proposed extension of the operation of the provisions of the two relevant acts. It seems to me that three months is a very long time to bring forward such a simple bill. It is already printed; the government would just have to change some of the dates and bring it forward. The minister said that if it were to be extended to July it would coincide with the winter recess. I contend that we could spend a day in June putting the bill through Parliament and debating it, just as we are doing today. I do not accept that six months is necessary for considering this bill.

We are talking about clause 4, which concerns an amendment to the Criminal Code. The minister spoke at some length about the expiration of section 72A of the Emergency Management Act, but we are talking about an amendment to the Criminal Code at clause 4, and that has very little effect on controlling the borders or the list of other matters in the explanatory memorandum that the member for Warren–Blackwood has referred to. Section 72A makes

provisions for quarantine directions, presentation directions, isolation directions and remote Aboriginal directions. We are not talking about that here; we are talking about amendments that affect section 318 of the Criminal Code. Section 318 makes provisions for offences committed against public officers. We had a briefing from the Attorney General's staff and the Minister for Emergency Services' staff the other day and it was explained to us that, in fact, very few people have been charged with any offences under those provisions. I think I might have also picked up in the minister's second reading speech a reference to the fact that there had not been many such offences committed. Can the minister explain to the house exactly how many times section 318 has been used resulting in either a charge or a prosecution against an individual?

Mr F.M. LOGAN: That was quite a number of questions and statements all rolled into one. I will start by referring to the email that was sent to Terry Redman, Peter Rundle and Hon Jacqui Boydell at 9.59 am on Friday, indicating that there would be a briefing for the Nationals on Monday, either between 3.00 and 5.00 pm or 12.30 and 1.30 pm. That did not occur because there were claims from the member's office that he had not been notified. He clearly was notified; unfortunately, the Leader of the National Party was not aware of it until later because she was not told. Nevertheless —

Mr V.A. Catania interjected.

The ACTING SPEAKER: Member!

Mr V.A. Catania interjected.

Mr F.M. LOGAN: I have just told the member.

Mr V.A. Catania interjected.

The ACTING SPEAKER: Member! The minister is answering that question.

Mr F.M. LOGAN: It is not a chat.

Mr V.A. Catania interjected.

Mr F.M. LOGAN: It went to Mr Redman, Mr Rundle and Ms Boydell, on the basis that Mr Redman handles most of the emergency services matters in this chamber. Briefings were available to the member with regard to people who have been charged under section 318 of the Criminal Code, which is referred to in clause 4 of this bill. I indicate to the house that nine people have been charged with 16 offences of assault of a public officer under section 318(1) of the Criminal Code. Five of the accused have pending court appearances; two arrest warrants have been issued for non-appearance; one person pleaded guilty and was fined \$2 000; one person pleaded guilty but did not appear for sentencing; and one person pleaded guilty to an alternative charge under section 318(1)(d) of the Criminal Code. Two of those appeared in court this week and one was sentenced to imprisonment.

Mr R.S. LOVE: I point out that this bill was introduced with the aim of proceeding under the COVID standing order. It is actually necessary to get the agreement of the Leader of the National Party to enable that standing order to take effect; that is quite clear. It seems quite inappropriate that the Leader of the National Party was not contacted in the first place. Sending an email on a Friday night to various country members in remote parts of the state is hardly giving notice to the leader and getting the agreement of the leader to proceed under the COVID standing order.

Mr F.M. Logan: It was Friday morning.

Mr R.S. LOVE: The minister is required to do that if he wants to proceed under the COVID standing order. The Leader of the House knows that full well. There have been many communications between the office of the Leader of the National Party and the Leader of the House on these matters, going back to March, when the amending legislation that we are now seeking to further amend was first introduced. That process is well known to the government and it is surprising that it was not followed on this occasion. I point out to the minister that if, in future, any such matters come forward—not that he has many weeks left in his current role—he would be well advised to ensure that the Leader of the National Party is directly informed, if he wants legislation to proceed under the COVID standing order.

I will get back to the matter at hand, which is the amendment to the termination date of section 318(1A) of the Criminal Code, which was inserted by the Criminal Code Amendment (COVID-19 Response) Act 2020. The minister has outlined that a number of people have been prosecuted under that section. Can the minister outline to me the exact reason why a six-month extension is needed and why this matter needs to have currency? Why does this change need to have effect until 4 October and how will that safeguard the state any better than a closure on 4 July?

Mr F.M. LOGAN: This is needed for the very same reasons that I spoke about in the second reading speech and explained to the member for Churchlands. When the extension to the sunset provisions of the Criminal Code was put to the Commissioner of Police, who is also the State Emergency Coordinator, he indicated his request that this provision line up with the other provision as well.

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Mr R.S. LOVE: In the second reading speech that the minister gave introducing this extension bill, he noted that these were extraordinary powers and that they would not normally be expected to be introduced. The minister outlined at some length why the change to section 2 of the Emergency Management Amendment (COVID-19 Response) Act 2020 is essential, but very little has been outlined as to why these matters need to be extended beyond 4 July instead of ending on 4 October. Therefore, at this point, I seek to move the amendment that stands in my name to clause 4. I move —

Page 3, line 7 — To delete “18” and substitute —

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Mr F.M. LOGAN: As I indicated in the second reading speech, we will be opposing this amendment; therefore, I deny that request.

Mr V.A. CATANIA: I, too, stand to back the member for Moore and the Nationals WA approach. Earlier, the minister read out some of the charges that have been laid and the subsequent fines or imprisonment. Can the minister outline whether those penalties would exist in a normal course of action—that is, without the 12-month extension of the Criminal Code? Can the minister please advise whether those people would ordinarily have been charged under the laws that we have in this state?

Mr F.M. LOGAN: These matters were dealt with at length during the initial introduction of this provision into this Parliament by the Minister for Police acting on behalf of the Attorney General. This matter deals specifically with COVID-19. The fact that it is such a contagious disease, emergency services workers felt—particularly the State Emergency Coordinator, who is also the Commissioner of Police—that that provision ought to be brought in to ensure that they were protected from threat or actual action while on the front line protecting us from COVID-19. That is the reason the provision is there and that is the reason why, in future—because pandemics do pass—it has a sunset clause in it.

Mr V.A. CATANIA: The minister is saying that if this is not passed, there is no protection for emergency workers at all under the current legislation; is that correct?

Mr F.M. LOGAN: In respect of COVID-19, yes; that is correct. The protection for emergency services workers from threats by people who claim to have COVID-19, or who may have COVID-19, and who then assault a public service officer would fall away on 4 April, if not passed.

Mr V.A. CATANIA: Given that it has been eight months, has the minister looked at introducing permanent legislation? If we have to deal with COVID-19 without a vaccine, will the government introduce permanent legislation, rather than emergency powers, which is an ad hoc way of dealing with the situation? What legislation has the government looked at putting in place given the fact that it has had eight months to deal with a potential situation in which there may not be a vaccine that magically gets rid of COVID-19? Even if there is a vaccine for COVID-19, it may take years to roll it out.

Mr F.M. Logan: We've got to live with it.

Mr V.A. CATANIA: We may have to live with it—absolutely.

Mr F.M. Logan: We've got to live with it.

Mr V.A. CATANIA: Minister, I think you are not being mature.

Mr F.M. Logan: I am being mature. That's what you —

The ACTING SPEAKER: Members! Minister! This is a very important discussion —

Several members interjected.

The ACTING SPEAKER: Members! Minister!

Mr F.M. Logan interjected.

The ACTING SPEAKER: Minister, just pause for a second. I will let the member ask his question and then I will call you.

Mr V.A. CATANIA: The minister is saying there will definitely be a vaccine; is that correct?

The ACTING SPEAKER: Sorry, if you ask your question in full, member, I will then get the minister to respond.

Mr V.A. CATANIA: What if there is no vaccine? What if we do have to live with COVID-19 for a very long time? What if a vaccine is five or 10 years away, or maybe never? Is it not better to put practices and procedures in place to ensure that the community is protected rather than—to perhaps use harsh language—not dealing with the potential that this virus may be around forever and a day? That is the issue and that is why this extension, to me, seems as though it is covering up the lack of government attention and preparedness in ensuring that COVID-19 —

Mr Sean L'Estrange; Hon Fran Logan; Mr Shane Love; Mr Vincent Catania; Mr Terry Redman; Mr David Templeman

Point of Order

Mr F.M. LOGAN: This is consideration in detail. If the member wants to make a speech, he can do.

The ACTING SPEAKER: Member for North West Central, I will allow you to finish the question, but please keep it to the amendment.

Debate Resumed

Mr V.A. CATANIA: I think this 12-month extension is providing cover for a government that is not addressing a virus that could be around for a long time. I back the member for Moore in saying: why does it have to be 12 months? Why can it not be until 4 July? The minister's excuse for it not being 4 July is that we will not be sitting. Clearly, we would deal with it before 4 July. That is commonsense and perhaps what is lacking is commonsense and a mature debate. In 12 months' time, will a review be conducted into the way that the government has handled COVID-19? Better still, why has a joint house committee or some sort of committee not been formed to ensure that we can learn from mistakes that have occurred over east, around the world and, more importantly, how we can ensure that the public is fully informed that the measures the government is taking are actually assisting people and providing a safe community going forward? Why is the government not dealing with the COVID-19 response in an open, transparent and proper way? Why is the government in this time frame not going to have an open and transparent review process so that everyone in Western Australia knows whether it is doing the right job?

Mr F.M. LOGAN: I think that before the member for North West Central gets on his feet, he should actually read the bill. The bill states six months, not 12 months, in terms of its extension. The member kept on repeating himself by saying that this is a 12-month extension. It is actually a six-month extension. It would be helpful to the debate if he actually knew what he was talking about.

The second thing is I actually agree with some of the comments he just made, such as the fact that COVID could still be a threat to Western Australia after six months. I agree with him on that. Why, then, did his colleague move an amendment to reduce this extension to three months? Why would he do that? It runs completely counter to all the points that he has just made.

Several members interjected.

Mr F.M. LOGAN: I am not entering into a debate. Three months runs completely counter to the point that the member for North West Central has just made.

Mr V.A. Catania: No.

Mr F.M. LOGAN: This clause, which seeks to amend the Criminal Code, will give the State Emergency Coordinator, the Commissioner of Police, an appropriate amount of time to decide whether he believes this provision should continue beyond six months. It will be up to him along with the Attorney General and the Minister for Police to review this provision and decide whether it is needed beyond six months. With respect to a threat to the state of Western Australia, the member for North West Central is absolutely correct, which is why I suppose he will support the clause.

Mr D.T. REDMAN: It is really important to emphasise in this discussion that the Nationals WA are not opposing the importance and, indeed, the passing of this COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill to give government the tools to manage the unique circumstances we face with COVID-19. That is really important. We will support the bill to give government the tools to do that, as we have in the past and as we will today. What is in discussion here is whether an extension of six months on top of the extension to 4 April next year is an overreach given the circumstances of an election. As the member for Moore quite rightly highlighted, if it were not for the election, we would not be here today. I think that was as much acknowledged in a Premier's media statement, which the member for Moore read out in Parliament, I think, yesterday. We are debating the merits of the time frame this extension will allow for some extraordinary powers. As far as the member for Moore is concerned, we were notified on Monday. I acknowledge that emails came out on Friday. In this house, he is the spokesman for emergency services. In fact, the Nationals spokesman for emergency services is Hon Colin de Grussa but, interestingly, he was not on that list.

Mr F.M. Logan: I didn't know that.

Mr D.T. REDMAN: The point the member for Moore made was that with a turnaround time of three or four days, we can get this legislation into the house and passed. The time frame for both houses dealing with it can be very, very short, as we have seen with other special legislation that has gone through this place. Going into the next term of government, as the opposition we are acknowledging that if we were lucky enough to win government at the next election, we could deal with it well before 4 July, which is what this amendment suggests.

Mr Sean L'Estrange; Hon Fran Logan; Mr Shane Love; Mr Vincent Catania; Mr Terry Redman; Mr David Templeman

I want to go back to a really important point the member for Moore made because it is important to the timing of this. In response to the query of notice, the minister came up with three names on an email that went out last Friday morning. I have a copy of it on my phone.

Mr F.M. Logan: It's a pity you didn't read it on Friday.

Mr D.T. REDMAN: Can I make this point, because I am interested in the minister's response? Significant to the special provisions in this chamber for bringing in COVID legislation is the approval of both the Leader of the Opposition and the Leader of the National Party. My question to the minister is: Who in government is responsible to ensure that, in our case the Leader of the National Party, has given permission for this legislation to come into the house? Is it the minister or the Premier? Who is responsible and when did that happen?

Mr F.M. LOGAN: This is pathetic. A bill is before the house that contains two very small clauses that seek to extend the sunset provisions relating to the Criminal Code and to section 72A of the Emergency Management Act, but the Nationals WA are talking about notification of a briefing. I will tell members what this comes down to. It comes down to the member for Warren–Blackwood not being able to talk to his leader. It is all about the little infighting that is going on within the National Party, which we all know about; they are not talking to each other. The Nationals got notified of a briefing. If they did not want the briefing, they should have said so. They were notified of a briefing, but did not tell their leader, so they started this nonsense in here. If the Nationals do not want to support this, they should not vote for it. We will deal with it outside.

Mr D.T. REDMAN: Minister, I come back to a question that is fundamental to this house dealing with special legislation. Who is responsible for seeking the Leader of the National Party's support for bringing special legislation to this house, as this is? Is it the minister or is it someone else?

Mr F.M. LOGAN: Given the fact that we are not dealing with that at the moment—we are dealing with clause 4—I do not need to answer that at all, but I will. It is the Leader of the House, of course. We would not be having this debate if there had not been agreement. There has been agreement and we are here dealing with it. Get on with it. If the Nationals do not like this provision, they can vote against it.

Mr D.T. REDMAN: Thank you, minister. The minister made the point that it is the Leader of the House. Can the minister tell me when that agreement was approved to allow this legislation to come into this house?

Mr F.M. LOGAN: No.

Mr D.T. REDMAN: The minister has been given a note so he will probably answer the question that he did not know the answer to. In reality, for this house to be able to deal with the legislation on Tuesday morning, approval was given by the Leader of the House. It is my understanding from the member for Moore that that happened on Tuesday morning. Nothing was going to proceed until it happened on Tuesday morning. I come back to the point that the discussion here is about the timing and whether, post-election, the government or, indeed the opposition, has sufficient time to extend the special provisions beyond 4 July, as we are suggesting. That is what the debate is about. Given the way bringing in this has been handled, there is more than enough time for dealing with what has been self-described by the government as “extraordinary powers” with sunset clauses. The sunset clauses are there because they are extraordinary powers. It is reasonable for the house to stake that we think the nature of those powers are such that we should temper just how long those provisions are available to government, knowing that we will support this. It is important because the government needs to have the tools, but both chambers of this Parliament need to recognise that if the government of the day is being given extraordinary powers, self-described by this government, it is important they are given for the period the government thinks it is needed. The Nationals believe it is more than enough time post the election next year to extend those provisions should it be necessary, and, indeed, as the member for Moore has highlighted, there might be other provisions. This is a movable feast. This does not start and stop with a bunch of provisions to keep borders shut and to manage all those issues. There is an ongoing likelihood that within Western Australia, we will have to manage COVID as part of our day-to-day lives. More long-term provisions might be needed.

It is more than reasonable to allow the new government with a new minister to assess the new provisions on 4 July in the full light of day after the election on 13 March. The election is when the public gets a chance to say who will look after them. We believe this provision is overreach. It is not unreasonable to call it overreach. Therefore, we seek the government's support to wind that back a bit. The government self-described the powers as extraordinary powers with a sunset clause because they are extraordinary powers. Let us put some limits on that that will not constrain the decisions the government makes. The provisions we are suggesting the government put in place will not constrain its decisions, and nor do we want to constrain government. We want to extend the powers necessary to manage issues. The government has advice from its agencies and the issues presented to it on how to manage that. All we can do is take that on face value. However, I think it is reasonable that the Parliament of the day has a chance to limit the provisions if they are considered by the government to be extraordinary and indeed provide for a sunset clause. What the member for Moore has put up on behalf of the National Party is more than reasonable. It is not unreasonable

Mr Sean L'Estrange; Hon Fran Logan; Mr Shane Love; Mr Vincent Catania; Mr Terry Redman; Mr David Templeman

for the two chambers to support a position that extends the powers by reason of the election being in the road, which is what the Premier said was the problem. We can do that and we will support it, but we do not believe it is necessary at this point to overreach for extraordinary provisions and, obviously, seek the government's support to make those changes.

Mr F.M. LOGAN: We are here because, obviously, the National Party as a whole agreed to deal with this bill under the COVID-19 provisions. If the National Party has a problem with its membership talking to each other, that has nothing whatsoever to do with me or the government. I have explained to the chamber why a six-month extension for these provisions has been chosen. The six-month extension has been endorsed by the State Disaster Council and cabinet, and we are not moving on it.

Division

Amendment put and a division taken, the Acting Speaker (Mr T.J. Healy) casting his vote with the noes, with the following result —

Ayes (15)

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

Noes (33)

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

Amendment thus negated.

The ACTING SPEAKER: The question is that clause 4 stand as printed.

Mr D.A. TEMPLEMAN: I rise in the context of this clause and the vote that just took place. I was not in the chamber when there was some discussion about information regarding this bill being given to the Leader of the Nationals WA. I have shown the member for North West Central my phone contact with the leader of the National Party on Tuesday at 7.24 am, highlighting again this matter being a COVID-19 matter and, indeed, this matter being debated in this place. As has been highlighted by the minister, the National Party was notified prior about this bill with the offering of briefings for this bill on Friday morning. Any assertion members opposite make against me as Leader of the House that the National Party leader was not —

Point of Order

Mr V.A. CATANIA: Can the minister please table his phone?

The ACTING SPEAKER (Mr S.J. Price): Member for North West Central, I call you for the first time.

Debate Resumed

Mr D.A. TEMPLEMAN: I am highlighting that if National Party members are not able to communicate among themselves, that is not the fault of the government, it is the fault of the National Party. I confirm for *Hansard* that I spoke to the National Party —

Mr V.A. Catania: Table it.

Mr D.A. TEMPLEMAN: The member has seen it. I showed it to him during the division, so he should not pretend he has not—and I will show it to him again if he wants it confirmed. I will screenshot it. On 3 November 2020, there was a phone call to Mia Davies, National Party leader—I will not broadcast her phone number—at 7.24 am.

Mr R.S. LOVE: In response to what the Leader of the House said, nobody has denied that that communication took place. In fact, it has been stated in the house already that the Leader of the House had the agreement to bring forward the bill. The question was around the level of notice given to the National Party as a whole about this matter. The appropriate course of action may have been to communicate about this bill with the leader rather than with a random selection of National Party members who are neither the leader nor the spokesperson for emergency services. That is the point that was made.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 2 amended —

Mr R.S. LOVE: Clause 9 is at the heart of much of the discussion we have had. It will extend the powers under the Emergency Management Act 2005. New section 72A was inserted into the act in March under the COVID-19 response legislation. This is the operation of the provision that would lead to the sunset clause being enacted, which will strip section 72A back out of the act. This is the matter that has been spoken about most by the minister and it is the part of the bill for which he has direct responsibility as the Minister for Emergency Services. I make it clear that the National Party agreed to the insertion of section 72A. We had no problem with that; however, it was acknowledged by us and by the government that it was an extraordinary range of powers that were being introduced and that an assurance needed to be given to the Parliament that those powers would be stripped away after 12 months.

Now we see amendments to extend those powers for a further six months. Given the fact that we are now four months out from the end of that provisional period, that is taking it forward for almost another year, until 4 October next year. I have already outlined in the earlier discussion the reasons the Nationals WA feel that this is an overreach and unnecessary. There is plenty of time for this omnibus bill to be introduced by the new Parliament, which will be constituted after the March election and will most likely come together sometime in April, and that new Parliament will have plenty of time to take this simple act and bring it through the Parliament in the way we have just outlined. It could be through in a day or two, and probably only with an hour or two of discussion, in this chamber, at least, to ensure that it is accepted by the Parliament.

Why is it important that we limit this period? It is important because the minister himself has accepted that these are extraordinary powers. These powers over people's lives are not given freely by the people of Western Australia to anybody without a great deal of concern and I think introspection from us as legislators about the necessity of these powers. It is appropriate that we review them very —

Mr V.A. Catania: In a timely manner.

Mr R.S. LOVE: It is appropriate that we review them in a timely manner. As I said in my second reading contribution, it would seem to me that a good trigger point for that would be the election of a new government and a new Parliament and the appointment of a new minister who could look at the appropriateness of these settings.

I am not suggesting for a moment that we will not be in a COVID situation in April or July. There will be the need for appropriate management of that situation, but it should be the consideration of the new Parliament and the new government as to how it wants to go about that. It needs the ability to make those decisions itself.

Mr D.T. REDMAN: I am looking forward to some more commentary from the member for Moore.

Mr R.S. LOVE: I do not think that the people of Western Australia necessarily think that there is anything to be feared by the continuation of the powers in the current circumstances; I do not have that fear, as such. But I think it is very important that the government look at how these powers are being used to ensure that the best settings are put in place to ensure that people have their rights respected, and that powers such as closure and restriction, quarantine and presentation for testing directions be used appropriately, and that the only time Parliament can do that is when legislation is introduced into the house. It is very important that the new Parliament is able to look at these matters to determine for itself what is the most appropriate way going forward.

As we have said, we do not oppose this bill, we do not oppose the extension, and we do not criticise the government for its actions in bringing forward this matter at this time. We understand the timeliness of it. We understand that over this election period there will be no functioning Parliament, presumably from November through until at least April next year, and that there needs to be an extension. But we are saying that it should be left up to the new minister and the new Parliament to determine exactly what powers will be granted. It could be that the new government simply decides that, in the interim, it will just pass an omnibus bill of this nature to give itself more time to properly consider what powers are required, but it could be that it wants to change the legislation and introduce a different system. I think we heard examples during the second reading debate of some of the quirks, if you like, in the way that the situation has been managed and about some of the experiences of our constituents. It may be appropriate for the government to re-examine exactly how the powers operate. I think the member for North West Central said that if this is a long-lived situation, some changes to the operation of some of these aspects could be made. I do not quibble with that, but I think it is the job of the next Parliament and the next minister to consider those things. All we are saying is that three months is adequate time for the next government to consider whether it wants to simply extend these conditions or make changes to them.

The Nationals fully support the actions of the government in bringing forward this matter and the extension of these powers, but we think that it should come back to the Parliament for consideration in a much timelier manner than has been outlined. We do not believe there is a necessity to extend these powers through to October, not because

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we believe that COVID will not be here or we do not think that some sort of situational response is needed, but because there will be a new government and a new Parliament, and it is only right, given the extraordinary nature of these powers, that the further operation be considered by that new government, new Premier and new minister. A three-month extension to July rather than October is adequate time for that to happen. I move —

Page 5, line 10 — To delete “October” and substitute —

July

Mr F.M. LOGAN: We oppose the amendment, as I indicated in my second reading speech. We opposed the changes to the Criminal Code and we will oppose changes to part 4 and the Emergency Management Amendment (COVID-19 Response) Act, and for good reason. The member for Moore continues to say that we will leave it up to the next minister. Remember, a state of emergency is in place and that will continue, I am assuming, beyond the time frame set down for these conditions under section 72A of the Emergency Management Act. The state of emergency will continue, but emergency service workers will not have any powers to deal with people who have COVID who refuse to self-isolate or follow directions. The police and emergency service workers will not have those powers unless we give them those powers under section 72A of the act.

After the election in March, the new government gets its new ministers in place and sworn in. From the end of June—not 4 July, because Parliament will not be sitting—or from May, effectively, the government will also be dealing with the next budget and a whole series of other issues. If the member genuinely believes that in that short period, which is effectively two months or less, a review can be undertaken into whether we continue those provisions of section 72A, he is absolutely deluding himself. For the life of me, I cannot work out why the member has moved this amendment to extend these provisions by three months rather than six months, other than to grandstand. It just does not make any sense at all. A cursory assessment of the time frame we are talking about would prove quite clearly that a new government of the day would not be able to do it. Remember, it is not just the minister. The minister is the one who brings this forward to Parliament to seek an extension. It would have to go through the State Disaster Council, which is in place because we are in a state of emergency, and the cabinet of the day to convince them that an extension needs to be given or a review of the extension needs to be done.

That will all be done by the State Disaster Council, and everybody else comes below it. The member has not addressed that. I mean, seriously, come on. This is a ridiculous proposition that has been put up simply for the purposes of grandstanding, and we definitely do not accept it.

Mr D.T. REDMAN: I just want to highlight what the debate here is. I guess I want to reiterate that the Nationals WA do not oppose the government having powers, albeit extraordinary powers, to manage COVID. We do not oppose that at all. That is why we supported this legislation when it first came in. What is up for debate is simply whether there is sufficient time after the election, up until 4 July, which is what the amendment suggests should be the expiry date of these current provisions, for government, whatever government it is, to extend it should it be deemed necessary. That is what is up for debate. Is there sufficient time? We have the election on 13 March 2021. If the opposition got into government, we would expect that ministers would certainly be appointed within a month and we would then come back to Parliament within two months of that date with a new legislative agenda. That takes us up to May.

Mr F.M. Logan: June.

Mr D.T. REDMAN: It could even be the start of June. The worst-case scenario is if the opposition won the next election. It is not the worst-case scenario for us —

Mr F.M. Logan: You're right!

Mr D.T. REDMAN: That was probably poorly worded, was it not?

The point I am making is that the opposition, which is moving this amendment, is satisfied that if it got into government, it would have sufficient time until 4 July to extend the date should it feel it necessary. We are satisfied with that, because that is the scenario that would take the most time. If the government were to be re-elected, for the most part it would have its ministers in place, although new ones will certainly have to be sworn in, and it could come back to Parliament pretty quickly. There is a whole heap on the agenda sitting in the upper house that has not been dealt with and will not have been dealt with by the end of this term. The government will have an agenda ready to go, so it will be able to get back into Parliament very quickly. This week is proof of that: from getting permission from the Leader of the Nationals WA and Leader of the Opposition, we had legislation in the house yesterday and we will have a debate to get it through this chamber today, which will happen. It will be the same in the upper house. The special provisions for COVID allow us to have that time frame. The only thing up for debate here is whether there is sufficient time after an election on 13 March next year, should the government of the day win, to bring back legislation to extend the expiry date. That is the only thing that is up for debate. The minister has not given us a satisfactory response. He is suggesting that there is not enough time.

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Mr F.M. Logan: I don't have to give you a satisfactory response.

Mr D.T. REDMAN: The minister is suggesting that there is not enough time. I do not accept that.

Mr F.M. Logan: You have to put your case. It is your amendment.

Mr D.T. REDMAN: I am prosecuting the argument in support of the member for Moore's amendment —

Mr F.M. Logan: I don't have to prove anything. All I have to do is say no.

Mr D.T. REDMAN: — that there is more than enough time from the election until 4 July to bring special legislation into this house under special provisions, which we have agreed to, to get an extension should it be deemed necessary. That is the only point up for debate. The government, through its minister, has not given a satisfactory argument to suggest that that could not happen by 4 July. It has not given a satisfactory argument. There is overreach here, because these are extraordinary powers —

Ms R. Saffioti interjected.

Mr D.T. REDMAN: — Minister for Transport, set by her Premier.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Minister!

Mr D.T. REDMAN: They are. They are extraordinary powers. There is the sunset clause for exactly that reason. We are not opposing the laws; we are saying that here are special provisions in place that we are all dealing with. Do not overreach on them. This minister has not given a satisfactory response that there is not time after the election to deal with it. Maybe he might have another go, because he has not convinced us yet.

Mr F.M. LOGAN: I point out to the pompous member for Warren–Blackwood that we do not —

Withdrawal of Remark

Mr D.T. REDMAN: I ask the minister to retract that. I have been perfectly courteous, albeit making strong debate. I have been perfectly courteous to the minister. There is many a name I would like to call him.

The ACTING SPEAKER (Mr S.J. Price): Member for Warren–Blackwood, it is not the most flattering use of vocabulary, but it is not out of order either.

Debate Resumed

Mr F.M. LOGAN: That is typical of the member for Warren–Blackwood. If there ever was a bloke with a glass jaw in this house, he is it. He loves dishing it out, but if he gets it back, he starts whining. He is the bloke with the biggest glass jaw in this house.

Several members interjected.

The ACTING SPEAKER: Members!

Mr F.M. LOGAN: He is obsessed!

Mr D.T. Redman interjected.

The ACTING SPEAKER: Member for Warren–Blackwood, you have asked the question, listen to the response.

Mr F.M. LOGAN: As I pointed out by way of interjection, we do not have to prove anything to the member. It is the Nationals' amendment, not ours. Their amendment to this bill has been brought before the house. I do not have to prove anything to the member. All I have to do is say no, we are not supporting it.

Mr D.T. Redman: That is arrogant.

Mr F.M. LOGAN: That is not being arrogant.

Mr D.T. Redman interjected.

The ACTING SPEAKER: Member for Warren–Blackwood!

Mr F.M. LOGAN: That is not being arrogant. It is pointing out a political reality to the member for Warren–Blackwood, who still thinks he is in government. He cannot get over it.

Mr D.T. Redman interjected.

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

Mr F.M. LOGAN: He cannot get over it. He cannot get over the fact that he is no longer a minister. That is what the issue is here. He is not only playing politics with a pandemic, but also proving to this house why the Nationals'

proposition would not work. We notified the National and Liberal Parties last Friday of a briefing on Monday. The Liberal Party turned up and it did its briefing. The National Party claimed it did not get it, and there were complaints et cetera. That was on Friday. The briefing was on Monday. Parliament sat on Tuesday. We are still in this house debating this on Thursday. That is a whole week on two small clauses. The member for Warren–Blackwood says he is supporting this, but we have taken a whole week in Parliament to get where we are. The argument for extension of this sunset clause for three months, rather than the six months in this bill before the house, is that the provisions could still be dealt with in the last week of June. We have taken one week to deal with the current proposition. How can we guarantee it would be passed between the return of Parliament in 2021, whenever that is, and when Parliament rises on 28 June or whenever it is? We cannot. That is the reason that we have chosen six months, and the member has proven it here today. Grow up and pass this bill.

Mr V.A. CATANIA: It is the job of the opposition to scrutinise. We started this debate yesterday, so we have probably had only two hours of second reading contributions and less than an hour of debate on these clauses. This goes to the point of the opposition being there to represent the people of Western Australia and to scrutinise government. This is the whole issue. Then we get thrown back at us that we have taken time and that we are playing politics, and that we have to quickly pass this legislation. Our role is to debate the legislation, to ensure it is good legislation and to get the response needed to convince the opposition in scrutinising legislation, but also in providing a response to the public of Western Australia about why these provisions are needed. As the member for Warren–Blackwood and the member for Moore have said, we do not oppose this bill, but we are asking why the time needs to be six months and not three months. The concern I have is about the politics that may be played out after the election. When will the new Parliament sit? Is it the Labor Party's plan to sit sometime after May? Is it the Labor Party's aim to try to get control of the upper house to be able to ram through legislation as it sees fit, because it wants to play politics? They are fair and reasonable questions. When will the new Parliament come back in 2021? If the Labor Party, the current government, wins the 2021 election, will it come back after May?

Mr P. Papalia: Don't be so defeatist.

Mr V.A. CATANIA: No, the public actually needs to know this. The role of the Parliament is to scrutinise the government of the day, to make sure that we get strong, robust legislation and to protect the interests of the people of Western Australia. It is our role to question the government. We do not have a suitable answer from the retiring minister, who, obviously, does not care. His arrogance is creeping in.

Withdrawal of Remark

Mr F.M. LOGAN: That is a disgraceful statement for a retiring minister.

Several members interjected.

The ACTING SPEAKER: Thank you. There is no point of order; but, member, be careful with your language.

Debate Resumed

Mr V.A. CATANIA: It is clear that this debate is descending. The minister, who is retiring, is obviously going out by saying, "I don't have to answer that. You guys are disgraceful." That is not the response that we expect from a government minister who is trying to put through pretty amazing powers.

Mr F.M. Logan: You voted for them once.

Mr V.A. CATANIA: We are concerned. This side of the house is concerned. People are starting to wake up and are saying, "Hang on a second! What is the government putting in place if we have to live with COVID-19?" That is the mature debate we should be having, because we all will have to live with it. What is being put in place to ensure that Western Australians are protected? In the estimates, we were not able to find out how many G2G passes had been provided to people coming into Western Australia. We could not even get answers from the Minister for Seniors and Ageing about how many people in aged-care facilities are being tested at the moment to ensure that COVID-19 is not here in Western Australia. His response was, "I don't know." The government has a few gaps there. It is our role to scrutinise the government and the information that is given to us by public servants, and to make sure that there is robust debate and robust legislation that protects all Western Australians. That is our role. The government is trying to politicise it. It is saying we are playing politics. Every time we ask a question of the Premier, he says, "You want people to die." No-one wants anyone to die. Everyone is going down the same path. We are trying to protect Western Australians. But the government is not being open and transparent. It is not providing the necessary answers for the public of Western Australia. It is not operating in an open and transparent way. The problem is that the minister is retiring and he does not care.

Mr F.M. LOGAN: The member for North West Central said that he needed time to consider the bill before the chamber.

Mr V.A. Catania: I didn't say that.

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Mr F.M. LOGAN: The member said he needed more time to consider the bill before the chamber, and that that was only fair. Clause 4 states —

In section 318(1A) delete “12 months” and insert:

18 months

That is it. That is the change in the Criminal Code. The bill is also amending section 2 of the Emergency Management Amendment (COVID-19 Response) Act 2020. Clause 9 states —

In section 2(c) delete “the day after the period of 12 months beginning on the day after assent day;” and insert:

4 October 2021;

Does the member need more time to work through that one? I know the member for North West Central struggles to understand that this bill will actually extend the sunset clause for six months, not 12 months. If he struggles that much —

Mr V.A. Catania: No, no. You’re struggling, mate.

Mr F.M. LOGAN: If the member struggles that much to read those words, I am hoping —

Mr V.A. Catania: You’re struggling as a minister. I can’t believe they’re allowing you to do this legislation.

Mr F.M. LOGAN: I hope that when I retire —

Mr V.A. Catania: You’re really getting the bottom of the rung here.

Mr F.M. LOGAN: What I hope when I retire —

Mr V.A. Catania: It couldn’t happen quick enough!

Mr F.M. LOGAN: I hope that when I retire I do not have to listen to your drivel anymore and I hope that the member joins me in that retirement as well. That is what I hope.

Mr V.A. Catania: Good luck.

Mr F.M. LOGAN: I tell you what, Parliament does not deserve the member for North West Central. If he struggles to read two sentences and needs more time to do it, he should not be in this place. That is why I have talked about political posturing and turning this pandemic into a political game. The member just did that. Do not worry; his constituents will find out.

Amendment put and negatived.

Clause put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by **Mr F.M. Logan (Minister for Emergency Services)** and transmitted to the Council.