

**COVID-19 RESPONSE LEGISLATION AMENDMENT
(EXTENSION OF EXPIRING PROVISIONS) BILL 2022**

All Stages — Standing Orders Suspension — Motion

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [4.24 pm] — without notice: I move —

That so much of the standing orders be suspended as is necessary to enable the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022 to be introduced forthwith without notice and to proceed through all stages without delay between the stages.

In speaking to the motion, I point out that the Premier in answer to a question by the member for Cottesloe in question time today quite rightly and accurately outlined why the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022 is required to proceed through the Parliament forthwith. The Premier outlined that the bill will do a range of things. It contains provisions to ensure that we continue to keep Western Australians safe and, of course, continue to live with COVID. The Premier also highlighted clearly in answer to a couple of questions today that the COVID-19 pandemic continues. The Minister for Health also earlier in debate highlighted the 12 000 or so COVID cases that were recorded today.

The bill will also provide safety measures and ensure that safeguards are put in place in nursing homes, aged-care homes, hospital facilities and other places where care is given to protect patients and staff. It will also allow us to continually respond as swiftly as possible to ongoing COVID circumstances. It will also ensure that the measures that are outlined or highlighted in the provisions of the bill continue.

It is important to note the Premier's words in question time today. The state has an extremely outstanding reputation now because of the way in which this government responded to the COVID challenge. That has been recognised throughout the world effectively, but certainly nationally as well, in the decisions, many of them very difficult decisions, made by this government and its response to the COVID-19 pandemic. That is why so many Western Australians responded when they were required to do the right thing. There is a high rate of vaccination in the state because of the decisions made by this government. WA now has record high levels of vaccination that are equal to, if not surpassing, other examples around the world.

Sadly, of course, there have been some deaths in Western Australia as a result of COVID-19, but one can only shudder to think what would have happened had we resiled and not responded in the way in which we did. Let us remember that it was those opposite who early in the pandemic called on this government to relax border controls, to give in to people like Clive Palmer, to open up and not to put in place a range of important measures, many of which were restrictive. It was those opposite who did that all the way along. Imagine the terrible toll we would have had had we listened to those calls and, indeed, had those demands been granted. I think that the Premier, the government and the people of Western Australia deserve accolades for the way in which they responded. It has been demonstrated in critiques from around the world that not only has Western Australia's economy thrived during these difficult circumstances, but also that our statistics are the envy of many around the nation and the globe.

In doing that, we need to introduce legislation that will respond, and allow us to continue to respond, to the challenge that we face. That is why this motion and this bill is being introduced. It needs to be treated urgently because we want to make sure that we can swiftly make measures to continue to keep people safe as and when they are required. As the Premier highlighted in question time today, the alternative—that which is argued for by members opposite in the National and Liberal Parties—would see us in chaos and having to come back to Parliament constantly to reinforce or make new measures. This bill will allow us to continue to keep Western Australians and those people working on the front line safe. That is why the bill is urgent and needs to be debated and pass this house today. If we need to sit late into the evening, the government will do so, to ensure that the bill can proceed to the other place and be passed in order for those measures to continue.

I seek the support of all members of this place to support and pass this motion to ensure that we can continue to keep Western Australians safe, continue to be the envy of the world and continue to make the right decisions on behalf of the population here in Western Australia and those who visit.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [4.31 pm]: The Leader of the House devoted a substantial part of his contribution to the debate on the suspension motion to what he sees as the substance of the bill, but not to why this is being done in this way. This is becoming a habit of this government. I think we were informed just over 24 hours ago that a bill would be coming before the house. There were no details whatsoever—none. We got a Zoom briefing at 11.30 this morning. Those members who are experienced in the matters of opposition will know that this is a day of business for us. We have our party room meetings, we have to prepare for and go through the day, but we have not had that opportunity. We have had a briefing. We were not given all the answers we requested at that briefing; practically, neither have we had any time to digest it. We have come into this chamber and had question time from 2.00 to 3.00 pm and then the matter of public interest for another hour, so for three of

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the five hours since that briefing, we have physically been in the chamber, doing our work as an opposition. Who amongst the members sitting here thinks that that gives the opposition any decent opportunity to properly review and question this bill?

The Premier indicated back in April that the government was looking to extend this bill. The Premier indicated that back in April, yet what do we see? Once again, this Labor government is treating the opposition with contempt. But it is more than treating the opposition with contempt; it is treating Parliament with contempt. The government thinks it can do what it likes because it has the numbers—whatever it likes! This is a significant bill, as was indicated. When the Emergency Management Act was first introduced into this chamber, I was here with a good number of members of the government, and it was indicated that these are extreme powers in the context of something that was an unknown—the commencement of a global pandemic with some early indications of potential dreadful outcomes—and the government had to take urgent emergency actions. We supported the government in doing that. We said: fair enough. Clearly, we needed to give the government free rein to do what it needed to to respond and govern in response to this matter. But here we are two years in. It is clearly not a community crisis in this state. That does not mean it is not important, and it does not mean that there are not significant issues that have to be dealt with, but we are two years in, and there are real questions about whether the Emergency Management Act should be continued. As I said, at the time the bill was originally introduced, the Minister for Emergency Services indicated that these were extreme measures that would only be used in the most extreme circumstances, and we accepted that argument at the time. But just like when the Aboriginal Cultural Heritage Bill 2021 came into this place, the government has given us no time to scrutinise the legislation. We have had no time to go out and talk to people in the community. We have had no time. I might say, we have had no meaningful answers or justification for this. We can debate that at the time, but this is not a proper process. This does not allow proper scrutiny in this chamber by the opposition. As I have said, how many members here think this is appropriate? We have had a four-week break. We were told this is impending and imperative.

Ms S. Winton interjected.

Dr D.J. HONEY: Another valuable contribution from the member for Wanneroo.

Several members interjected.

The ACTING SPEAKER (Ms M.M. Quirk): Members!

Mr M.J. Folkard interjected.

The ACTING SPEAKER: Member for Burns Beach!

Ms S. Winton interjected.

The ACTING SPEAKER: Member for Wanneroo!

Ms S. Winton interjected.

The ACTING SPEAKER: Member for Wanneroo!

Dr D.J. HONEY: We have had a four-week parliamentary break. At any time, the government knew that it was intending to do this. At any time, it could have organised a proper briefing for us and in fact had the courtesy to speak to the Leader of the Opposition, given that we are supposed to be seeing a bipartisan approach. As I say, we have taken that approach through the overwhelming —

Several members interjected.

The ACTING SPEAKER: Members! Members!

Ms S. Winton interjected.

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

Dr D.J. HONEY: We have taken a bipartisan approach through the great majority of this pandemic. We have asked questions, which is the job of the opposition. It is the opposition's job to question the government, especially when it is bringing in extreme powers and extreme controls on the population, but we have not had the opportunity to do this.

Several members interjected.

The ACTING SPEAKER: Members!

Dr D.J. HONEY: Just because perhaps the Minister for Planning thought it was humorous—I do not know; we will find out tomorrow—today we also have an urgent briefing on changes to the Planning and Development Act that the minister is bringing in. Again, there is no opportunity for us on this side —

The ACTING SPEAKER: Member, I counsel you to stick to the matter.

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Dr D.J. HONEY: Madam Acting Speaker, this is on top —

The ACTING SPEAKER: You need to speak to the motion, member.

Dr D.J. HONEY: By way of explanation, on top of what we have been trying to deal with here, we have had to deal with another briefing from another minister bringing in another urgent bill that will be rammed through this chamber tomorrow without adequate scrutiny. It is exactly the same *modus operandi*. This is improper. This is not good government.

As I have said in this place on a number of occasions, one thing I have noted is that normally the Premier is fastidious about proper process in this place. However, this is not proper process. This is abusing the government's numbers and its power to deny us the opportunity to give proper scrutiny to this bill. Giving proper scrutiny to a bill is not only coming into this place and asking questions, but also having the opportunity to consult with people throughout the community on the bill. Members of the government all know that in relation to other bills. We do not just bring a bill into this place and talk to it without talking to other people. I wish to make that point strongly. This government is being increasingly high-handed and, as I say, improper in the way it is abusing its power in Parliament. It did not have to do it this way; it could have done it in a way that gave us all an opportunity. Let us face the numerical reality of life: this bill will pass Parliament because the government has ascendant numbers in both houses.

Ms S. Winton interjected.

The ACTING SPEAKER: Member for Wanneroo!

Dr D.J. HONEY: It is not going to not pass. We would only ever —

Several members interjected.

Dr D.J. HONEY: If the Minister for Planning thinks that this is democracy —

Ms S. Winton interjected.

The ACTING SPEAKER: Member for Wanneroo!

Dr D.J. HONEY: — then she has a very distorted view of what democracy is.

The ACTING SPEAKER: Member for Cottesloe, just sit down for a minute. Member for Wanneroo, all you are serving to do is prolong the agony. Please desist.

Dr D.J. HONEY: Thank you very much, Acting Speaker. This is not democracy. This is not proper process.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Minister for Planning!

Dr D.J. HONEY: This is not proper process. This motion will not give the opposition the opportunity to scrutinise this bill properly. This is a substantial bill covering very significant restrictions on people's rights and liberties in the community. The minister may say it is appropriate that we can debate some of that later when we debate the substantive motion; however, this will not give us the opportunity to do it properly. It is wrong. It is an abuse of your power in this Parliament.

The ACTING SPEAKER: As this is a motion without notice to suspend standing orders, it will need an absolute majority in order to succeed. If I hear a dissenting voice, I will be required to divide the Assembly. There is a dissenting voice.

Division

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

Ayes (38)

Mr S.N. Aubrey
Mr G. Baker
Ms L.L. Baker
Ms H.M. Beazley
Dr A.D. Buti
Mr J.N. Carey
Ms C.M. Collins
Ms L. Dalton
Mr M.J. Folkard
Ms K.E. Giddens

Ms M.J. Hammat
Ms J.L. Hanns
Mr T.J. Healy
Mr M. Hughes
Mr W.J. Johnston
Mr D.J. Kelly
Ms A.E. Kent
Mr P. Lilburne
Ms S.F. McGurk
Mr K.J.J. Michel

Mr S.A. Millman
Mr Y. Mubarakai
Ms L.A. Munday
Mrs L.M. O'Malley
Mr S.J. Price
Mr J.R. Quigley
Ms M.M. Quirk
Ms R. Saffioti
Ms A. Sanderson
Mr D.A.E. Scaife

Dr K. Stratton
Mr C.J. Tallentire
Mr D.A. Templeman
Mr P.C. Tinley
Ms C.M. Tonkin
Mr R.R. Whitby
Ms S.E. Winton
Ms E.L. Hamilton (*Teller*)

Extract from Hansard
[ASSEMBLY — Tuesday, 10 May 2022]
p1947b-1971a

Mr David Templeman; Dr David Honey; Mr Reece Whitby; Dr Tony Buti; Acting Speaker; Mr Peter Rundle;
Mr Dave Kelly

Noes (3)

Dr D.J. Honey

Ms L. Mettam

Mr P.J. Rundle (*Teller*)

Pairs

Mr R.H. Cook

Mr H.T. Jones

Mrs J.M.C. Stojkovski

Mr V.A. Catania

Ms M.J. Davies

Mr R.S. Love

Question thus passed with an absolute majority.

Introduction and First Reading

Bill introduced, on motion by **Mr R.R. Whitby (Minister for Environment)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR R.R. WHITBY (Baldvis — Minister for Environment) [4.46 pm]: I move —

That the bill be now read a second time.

Western Australia is experiencing its most significant COVID-19 outbreak with the current Omicron wave that reached the state earlier this year. Today, 10 May, we have reached our highest daily number of new cases, with 12 390. The Western Australian government has responded to the global pandemic and the developing outbreak with several measures to keep Western Australia safe, keep people in jobs and minimise the disruption that COVID-19 brings to the wider community. Some of those measures have relied on the emergency powers introduced by the Emergency Management Amendment (COVID-19 Response) Act 2020 and higher penalties for serious assaults and threats against public officers committed in the context of COVID-19 introduced by the Criminal Code Amendment (COVID-19 Response) Act 2020. I will refer to these collectively as the COVID-19 response amendment acts.

Honourable members may recall that the COVID-19 response amendment acts included sunset clauses with the intent of limiting the operation of certain emergency powers and the penalty provisions to the duration of the COVID-19 pandemic. The sunset dates were initially set for 12 months after the day on which the COVID-19 response amendment acts received royal assent and have been extended three times by the Western Australian Parliament to 4 July 2021, 4 January 2022 and 4 July 2022. This bill will extend the operative provisions of the COVID-19 response amendment acts by a further six months to 4 January 2023.

Before I turn to the detail of the bill, I will outline the specific provisions that are subject to the sunset clauses and will explain why it is important that the operation of each is extended to ensure that the state can continue to respond appropriately to COVID-19. The Emergency Management Amendment (COVID-19 Response) Act 2020, amongst other things, introduced new section 72A into the Emergency Management Act 2005. This provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency. It includes the ability to direct a person or class of persons to take any action the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers. Pursuant to sections 2(c) and 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, section 72A will be deleted from the Emergency Management Act 2005 on 4 July 2022. On the sunset date, any existing directions that rely on section 72A will no longer be valid as there are no transitional provisions to continue the operation of those directions. Further, section 72A will not be available for making new directions.

It is important that the section 72A powers continue to be available to government for the immediate future. This is whilst Western Australia adjusts to living with COVID-19 and with the possibility that protective measures may need to be re-established to manage further outbreaks of new variants. Section 72A has supported measures such as the controlled border, which is not presently being applied. Initially, the purpose of the controlled border was to prevent the importation of COVID-19 into Western Australia, and it was recently used to ensure that persons entering Western Australia adhered to vaccination and other requirements.

Section 72A is currently relied on for travel restrictions to help keep remote Aboriginal communities safe from COVID-19. Section 72A currently enables the application of measures and protocols to support the controlled return of cruise ships to Western Australia. Section 72A facilitates the testing, tracing, isolation and quarantine arrangements, such as the requirement for positive cases to isolate. Information-gathering powers under section 72A have supported the contact registers. Section 72A is also relied upon for implementation of the public health social measures, which have continually evolved to optimise the management of the pandemic and used in a way that is proportionate to the risk. At various times, this has included restrictions on certain activities; density and capacity

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limits at specified venues and events so that they could proceed in a COVID-safe manner; and a mask-wearing requirement. These measures, combined with the backing of the community and a very high uptake of the vaccination program, have been effective in securing a soft landing through the Omicron wave and minimising impacts to our health system, economy and way of life.

As the outbreak progresses, the use of these measures and other arrangements will continually be considered against the latest health advice. The continuation of section 72A for a further six months beyond 4 July 2022 has no bearing on decisions regarding the state of emergency for the COVID-19 pandemic. Whether or not Western Australia will remain in a state of emergency will be based on expert advice—primarily, the advice of the Chief Health Officer and the State Emergency Coordinator—and whether the Minister for Emergency Services is satisfied that extraordinary measures are required at that time to prevent or minimise loss of life, prejudice to the safety or harm to the health of persons or animals or the destruction of or damage to property or the environment. The extension of the sunset date and continued operation of section 72A into the immediate future will ensure our emergency management personnel have the powers available to continue to help us respond to COVID-19 and maintain a responsible and flexible framework that has served the state so well to this point.

I now turn to the Criminal Code amendments contained in this bill. The Criminal Code Amendment (COVID-19 Response) Act 2020 amends the Criminal Code to increase the maximum penalties for the offences of serious assault and threats committed in the context of COVID-19. The increased penalties sought to reflect the seriousness of assaults against public officers such as frontline workers, particularly in the context of the pandemic. The amendments to the offences under sections 318 and 338B of the code were made in response to several distressing reports of people across the country and internationally claiming they have COVID-19, and deliberately coughing or spitting on innocent people who are just trying to do their jobs. This was particularly occurring, or at risk of occurring, in the context of frontline essential staff who work tirelessly around the clock at great personal risk to themselves and others to keep our community safe and to stop the spread of this disease. The increased penalties reflect the seriousness of this conduct and send a clear message that deliberately exposing our public officers to COVID-19, or threatening to do so, is an unacceptable show of disrespect. The government, and indeed the Western Australian community at large, does not and will not accept it.

In November 2021, when the operation of these higher penalties was last extended, Western Australians were preparing for the virus to arrive for the first time in nearly two years. Since January this year, COVID-19 has been present in our community in large numbers. Now is the time that our officers are most confronted by the reality of contracting COVID-19 in the course of their work. Now is the time to send a clear message of support for the important work they are doing. Isolation requirements and close contact rules may have changed, but the contagiousness of the COVID-19 virus has not. While public officers may be incidentally exposed as they go about their work, we must condemn those who deliberately set out to, or threaten to, infect officers, exposing them to the risk of illness and leaving them unable to perform their duties when they contract COVID-19.

The Criminal Code Amendment (COVID-19 Response) Act 2020 has a sunset date of 4 July 2022 when the increased maximum penalties for the offences committed in the context of COVID-19 will be deleted. This bill extends the expiry date of the provisions for higher penalties for a further six months—up to 4 January 2023. The bill before us today will extend the operation of the respective sunset clauses under the COVID-19 response amendment act for a further six months, with a new effective sunset date of 4 January 2023. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available should the state of emergency in respect of COVID-19 pandemic continue, and will ensure that higher penalties continue to apply to serious assaults and threats against public officers committed in the context of COVID-19.

I commend the bill to the house.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [4.56 pm]: As I have indicated publicly, the opposition will not support the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022 unless the government can demonstrate that the state cannot be managed without this extension. I offer the apologies of the Leader of the Opposition, who could not be here today because she is extremely ill with influenza. She has used rapid antigen tests many times and she does not have COVID, but despite her best intentions, she could not be here today. I am grateful to her for providing me with some information on this debate.

We have been in this state of emergency since March 2020—over two years. The Premier confirmed at the beginning of April that there would be an extension to these powers. He stated that having those powers was important because we do not want to let it all go and then find ourselves without the capacity to deal with the situation. That was his justification. Despite over a month passing since then, we were not given any notice until five hours before this bill was introduced into the house. We have had an hour of briefings on this bill, and another hour for another bill that is being introduced urgently tomorrow. I think members can do the simple arithmetic. We have not had time to give proper scrutiny to this bill and ask questions. We had an opportunity at the briefing to ask some questions,

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but I have not had a chance to determine whether we have had a response to those questions, and what those responses were. However, I will do my bit, given the extreme and deliberate lack of time that the government has provided to go through this and examine the bill.

The decision to introduce this bill in this way undermines the integrity and the credibility of the government on this matter. At all stages of this pandemic, the opposition has made every endeavour to cooperate. Members who were in the house during the last Parliament will know that every single bill that was brought before this place as emergency legislation relating to the pandemic was dealt with by us in the time frame set in both houses. The self-serving assertions made here today that, somehow or other, we have stood in the way of the passage of COVID-related legislation is completely false. In every single case, we have cooperated with the government and met the time frames that the government imposed for emergency COVID legislation. As an opposition, we have appropriately asked questions throughout that process to ascertain whether the legislation is required and whether it achieves the intent that the government has stated that it should. Doing it in this way, as I said, completely undermines the integrity of this process. Government members are using their ascendant numbers in this chamber and the other chamber to do as they will in a deliberately contemptuous way. Today I raised the issue that the Minister for Planning is also rushing through a major planning matter and how it is being carried out in this state.

Point of Order

Dr A.D. BUTI: I have not been following the debate closely, but are we talking about the substance of the debate now? We are, I think. I am not sure what relevance the planning minister's legislation has to the bill that is before us now. The member for Cottesloe is always going on about relevance. Practise what you preach.

The ACTING SPEAKER (Ms A.E. Kent): I shall seek advice. Member for Cottesloe, you can continue on the argument that you have said, but let us stay on the topic of what the bill is actually about, please.

Debate Resumed

Dr D.J. HONEY: Thank you very much, Acting Speaker.

As I was saying, the Minister for Planning's actions continue to reinforce that we have a government that is arrogant and drunk on power. Government members believe they can do whatever they like. They believe they can come in and treat the opposition with absolute contempt. We heard the Premier today in question time using what was really abusive language to members on this side. We hear the constant belittling that the shadow Minister for Health gets from members on the other side for the outstanding concerns she raises and work she does. Members opposite do not want to be held properly accountable. They think they are all-seeing and all-knowing and everything they do is in some way perfect and that they should be able to push this particular bill through the house. As I said, we hear that constantly when we raise issues in here. The reply is, "How dare we ask a question?" or "How dare we raise a concern in this place?"

When the pandemic first arrived in Western Australia, there was really panic and fear. In many areas, there was enormous concern. People saw terrible images of what was happening overseas. There was great uncertainty. There were a range of opinions from public health officials on whether this pandemic would spread around the world, to what extent it would harm people and how it compared with previous global pandemics, but it became clear very early on that this was genuinely a global pandemic and that there would be severe potential health impacts if it was not managed correctly. There were also early indications that there were ways of managing this pandemic and Western Australia and Australia were very fortunate that under the federal Liberal government, Australia was one of the first—I think it was the first country in the world—to ban immigration and visitors from China. I might recall that the Labor Party, at the time, criticised the federal government for that. Very rapidly, the federal government controlled the borders. The other thing the federal government did, which is a lesson that this government could take, was in the spirit of ensuring a bipartisan approach to dealing with this pandemic, it formed the national cabinet. Regardless of colour or creed, or, in fact, party affiliation in this case, the federal government worked with all state governments to work out the best possible way to respond to this pandemic. The shutting of our international borders by the federal government was the thing that most protected Australia from the worst effects of this pandemic. Of course for Western Australia, there are two major entry points plus the airports; there is very little entry through seaborne ports. There were three places to close and we could shut off all, even interstate, visitors, which the state government did.

We supported those measures at the start. We understood that there was a need for quick action. We also understood that, in that circumstance, you do not get in the way of the government. You have been elected. You are there to do a job. In a situation like that, we are here to ask appropriate questions but not get in the way and, as I indicated earlier, we did not get in the way. Every single piece of legislation that was put under the banner of urgent because of the COVID pandemic was passed through this place within the time frame that the government requested us to

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do so and in the other place as well. However, we did not envisage that two years on we would still be debating the extension of these powers. I think in large part it is because the Premier does not want to let go. I will talk about that in a little while. We recognise that there are still matters that need to be dealt with by government. Decisions still need to be made and controls still need to be put in place, but it is not at all clear to us that that is not possible simply by using the Public Health Act. I will go through that in a little bit of detail later on. We saw the Premier's performance today in question time—just a supremely arrogant, dismissive performance. He has become accustomed to the power. He has become accustomed to turning up to the press conferences every day. During the election campaign, there was a five-day lockdown when one positive case was identified, a guard working in a hospital. It was five days at the immediate start of the election campaign, so the opposition could not carry out any campaigning at all, yet the Premier and the Minister for Health were on television every morning and every evening, utterly dominating the electoral cycle during that campaign period. We saw that throughout the pandemic and we have seen it since. Every day, we see the Premier and the health minister out there making some or other announcement around this matter. We do not see that in the other states, but in Western Australia it has been determined. As I say, it is of great concern if the reason that these powers are being extended is so that the Premier can maintain his presence in the public arena and not that it is required intrinsically.

We hear lots of noise from members on the other side. They may disagree with some of the things we say and some of the questions we ask, but that is the right we have as an opposition. It is not just us who are concerned about extending the emergency powers. When the then Minister for Emergency Services—Hon Fran Logan, now retired from Parliament—introduced this bill, he made it really clear that these were extraordinary powers for an extraordinary circumstance. As I indicated at the start, and not to repeat myself too much in this debate, no-one knew what we were facing, but it looked like what we were facing could be catastrophic for the entire population of Australia. Where are we two years later? Two years later, we just had a football game at the weekend for which 60 000 people could have been at the stadium. There is no limit on the number of people who can attend a stadium. I could walk into a bar with 1 000 people with no masks on and have a beer. There are very few places where masks are required. Some of the current controls seem a little bit odd. I have to wear a mask on a bus but I can go into a bar with 1 000 people, all closely packed, and have a drink without a mask. That is obviously a matter the government thinks is important, but it seems to rather defeat the purpose when as soon as a person gets off the bus, they are potentially exposed to people who are infected and they are not required to wear a mask. In relation to that, people are entitled to wear a mask in this place. Removing mandates does not stop people wearing masks; it simply means that they are not compelled to do so in certain circumstances.

The Australian Human Rights Commissioner, Lorraine Finlay, has concerns about the long use of these state of emergency laws. On 5 April 2022, on ABC radio, she was quoted as saying —

“The state of emergency declaration transfers an enormous amount of power to the executive, and therefore to public servants and bureaucrats, and reduces parliamentary oversight and scrutiny,” Ms Finlay said.

...

Ms Finlay said the state of emergency provisions were never designed to be on a rolling basis, as they have been in WA.

“At the start of the pandemic, when we didn't have a lot of information about what COVID-19 was, or what the impact of the virus would be, you can understand the need for that quick and decisive action,” she said.

The longer the situation goes on, the harder it is to justify the continuation of emergency measures.”

I might just add a little to that. It was interesting to listen to the discussion that we have had so far. The minister gave his overview of why this legislation is required. What will change in 12 months' time? We will have COVID in the community and people will be dying of COVID. COVID will still likely be a highly infectious viral illness. Epidemiologists tell us that the normal trajectory of these viruses is that they become more contagious but less virulent over time.

A member interjected.

Dr D.J. HONEY: Exactly—like the seasonal flu. More people catch it. Some people still die. I think over 1 000 people die from the flu every year in Australia. That would mean that around 120 people in this state die of flu every year. What will change in 12 months or two years? COVID is likely to be here in a decade. We will not eliminate it like polio. It will be exactly like the seasonal cold or flu. I will be glad if the minister could tell me what fact will be different in a year from what it is today.

I will go on. What is happening in other states? The ABC reports —

Unlike Victoria, where the government must now provide written justification for any pandemic orders such as new restrictions, the WA state of emergency laws do not require any written reasoning to be shared on the public record.

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Throughout the pandemic, the WA government has maintained that its decisions are based on the advice of the Chief Health Officer.

But Ms Finlay said the public should have more information about what the advice is.

She is quoted as saying —

“It’s not a matter of simply broadly saying the health advice required ‘this restriction’, but showing how the evidence requires that particular restriction in relation to that particular risk,” ...

“And also showing that that restriction is the minimum required to actually respond to the emergency so that we’re not introducing overly broad restrictions.”

The ABC report continues —

The state of emergency legislation is due to expire in July, but there are no limits on how many times it can be extended.

This contrasts with Victoria, where state of emergency provisions have time limits and cannot be continued on a rolling basis without returning to parliament.

This forced the Victorian state government back to parliament last year to develop its pandemic-specific legislation.

One of the questions we are asking is: why has the state Labor government not done the same thing? I hold the Minister for Emergency Services in high regard. I hope this is not true but we are led to believe —

Mr R.R. Whitby: I’m not the minister.

Dr D.J. HONEY: Sorry; he is the minister representing the Minister for Emergency Services. Nevertheless, I still hold him in high regard.

We know that the Victorian government introduced specific legislation because the minister in this place, the Minister for Emergency Services, the Premier and others have told us that there are certain things we cannot do under the Public Health Act. We need to be convinced of that. Nevertheless, we are told that. Victoria obviously had similar problems so it brought in specific legislation to deal with those ongoing things. How do we return to normalcy? This is not normal. Having a constant state of emergency is not normal. It is not the normal thing we should be doing and it is not the normal way we should be living in society.

In relation to transparency, I continue with the ABC report —

Victoria’s new legal framework, which replaced its state of emergency in December last year ...

This is a party of the government’s own liking, I suspect. The Victorian government did this. The government must have known about this. National cabinet meets monthly, and sometimes more frequently. Why did the government not go down this path? Whatever is true today and whatever special powers we might need to manage COVID in case it changes or suddenly morphs will be true in a year, two years and maybe 10 years. If that is the justification, we will never get out of this and we will just make this permanent. The Victorian government dealt with that. It said that there are some specific shortcomings. I think it has been stated that there are some specific shortcomings in the Public Health Act—for example, the requirement for people to wear masks. Although the Public Health Act contains extraordinary powers to direct people, certain of those powers have to be reviewed—I think in that case we were told every 24 hours. I am sure that someone as creative as the Attorney General could possibly work their way around that. Nevertheless, if that is the case, maybe that is something that the government can do in a pretty straightforward way. In any case, if it is an absolute barrier to proper management of people being required to wear masks in certain circumstances or people being required to quarantine in certain circumstances, that could have been done in the legislation. Victoria introduced its legislation in December. The government must have known about it before then. Instead, it chose to go down this path of extending the Emergency Management Act.

Importantly, in terms of transparency, the Victorian legislation requires leaders to table their reasoning for any pandemic restrictions in Parliament. The ABC reports —

Separate parliamentary and independent committees must also review pandemic orders and provide advice to the health minister and to Parliament. That advice is on the public record.

That is really important. As I have said, these powers are onerous. Some of these restrictions have bankrupted businesses. They have caused individuals who have part-time work to lose their jobs and the like. At the end of the day, there has been a collective view, which I think was supported by the community at large; I think we saw that. There was very strong support for the Premier’s approach to this during the last state election, and we suffered the consequences of that. Nevertheless, there was overall support for the fact that sometimes we have to impinge on someone’s rights to protect others. There is this greater public good. What is the greater public good? Is that restriction

on an individual worthwhile given there is an overall greater public benefit because of that restriction? If it is done in that way, we get a chance to see that and to test that.

Members on this side have submitted a number of questions to government on its reasoning around decisions made under this Emergency Management Act. Universally, the response has been, “We cannot share that because it is confidential. It is confidential to the State Emergency Management Committee. It is confidential to cabinet. It is confidential in some way.” We get no transparency. We ask questions and we challenge the government and say that certain aspects of the legislation need to continue.

For example, there is public debate at the moment about the need to continue the mandate against people who are unvaccinated attending workplaces. Given the extremely high level of vaccination in the rest of the community, people who are unvaccinated are the biggest threat to themselves. I have made it very clear that I am triple-vaxxed. I encourage every citizen in this state to get vaccinated. I know that some people, for their own reasons, do not wish to get vaccinated. As we know, some people cannot get vaccinated and some do not wish to. They fear for their lives. We can say whether that is rational or irrational. Equally, some people are agoraphobic; they cannot go outside. We might say that they are irrational and they have nothing to fear but we do not go around condemning those people and giving them pejorative names. We respect the fact that there is a diversity of views in our society. We respect the fact that some people hold certain views. Whether we think they are wrongheaded views or not, we respect their views and respond to them. There is some debate as to whether we need to do that. Whenever we do that, what do we hear? From this side, we get this cacophony of anti-vaxxers. We get abuse from the Premier and from the health minister. There is really pejorative, nasty, personal abuse of members on this side of the chamber because we ask those questions. What we are most concerned about is the lack of transparency, but we do not even get the right to see what the advice was based on; we are just told—there is this assertion—that it is the Chief Health Officer’s advice. We saw the Premier come out and make statements and then the Chief Health Officer’s advice came out days later. Nevertheless, it was not entirely clear. We were just told that and we have no way of scrutinising it. We cannot obtain any of the information and we do not get to see the data. There was the palaver we went through trying to get any insight on the modelling that the government said it had been using all along. It took months to get to see that information, yet it was crucial information on which crucial decisions on managing this pandemic were based. The government’s arrogant view was that the opposition had no right to see that information. The opposition did not deserve to see it because it had no role in this matter. The government had all the power and thought it could do what it liked, and it did.

Queensland Human Rights Commissioner Scott McDougall has suggested that the state should follow Victoria’s lead. The Western Australian government has maintained that it needs the state of emergency laws to introduce important directions based on health advice. Victoria faces no more or less an ongoing threat from this pandemic than we do, yet it has been able to manage this through specific legislation that deals with specific fears about shortcomings in relation to the government applying certain laws, and it has done it in a way that is transparent so that the public and the opposition have the opportunity to question what the government is doing.

An ABC news article reads —

“If these directions are not extended, the directions that have been made for the purpose of managing the emergency, which includes both response and recovery, would no longer be available,” a state government spokesperson said.

... emergency powers were needed to enforce isolation, mask-wearing, capacity and density limits, and vaccination requirements.

I think Western Australians would like Parliament to have an opportunity to review the basis of those decisions and do not want decisions made based on the advice of one individual. As I said, at the start there was enormous support for the approach the government took and the opposition did not stand in the way of the government. Quite the opposite, it supported the government in what it wanted to do, because the situation was an unknown entity and it would have been completely inappropriate at that stage to stand in the way of the government, public servants and others getting on with the important work of managing the early stages of this pandemic.

I would be interested in hearing about the feedback other members of this place are getting, because I am increasingly hearing members of the community and others—I will say most loudly from the business community but also the broader community—ask why we are continuing with the state of emergency, why certain decisions are being made and why certain decisions are being continued. We can only speculate because we are not given the information that we require. The idea that the Premier simply makes an assertion and says that something has to be done because it is the best thing to do and the opposition should just cower down and say, “Absolutely, that has to be done”, is a farce. Did government members do that when they were in opposition? They did not. When we were in government, opposition members challenged and questioned every decision the government made, or those that they did not like at least, and went to great lengths to make sure that the government was transparent and open to

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them. The government should expect no less of us now. We say put in place all the safeguards we need, but it is not at all clear to members on this side of the chamber why that has to be done under the Emergency Management Act.

I want to move on to the Auditor General's report into COVID. I will come back to say a little bit about the detail around the Public Health Act, the Emergency Management Act and the parts of this bill on criminal prosecutions. The Auditor General has just released a second report on the impact of COVID on the Western Australian public service. As you would expect, there has been a considerable impact on both the private and the public sector as we have navigated the pandemic. I will read some excerpts from that report for members who have not had a chance to have a look at it. The Auditor General's opening remarks in the report read —

I should stress that to provide a comprehensive report on the management of the pandemic and impacts across the whole community would require a separate large-scale examination, which this was not. However, there would be significant future benefit from a systematic impartial examination of the response to this pandemic by both the State and the Federal governments, and its impact on the WA community. This would capture learnings in preparation for future pandemics and other emerging crises and assist in setting transparent criteria and thresholds for proportionate, risk-based and consequential responses. It would also permit an explicit understanding of the various costs and benefits, including trade-offs over different timeframes and for segments of our community, which would help frame deliberations around any future allocation of resources and the use of emergency powers.

I asked the Premier today whether he would carry out a review into the pandemic. I was told, "Oh well, we can't really do it. We're in the middle of it." That answer clearly does not hold any water. The Premier would not commit to that inquiry; he said it would probably occur. Once again, I call on the Premier to commence an inquiry. The timeliness of these sorts of inquiries has great importance. The inquiry does not have to conclude in one or two months; the government can give it reasonable scope. Union members on the other side of the chamber who have carried out safety investigations would know how critical the timely collection of evidence and information is to an inquiry. One of the concerns with all this is that a lot of stuff is anecdotal and will be lost in the mist of time. We will lose the opportunity to gain valuable learnings on how this crisis was dealt with if we delay any longer an open, transparent and full inquiry on how the response has been carried out.

If we look at the state's current COVID status, we see a large number of active cases. I think it is the better part of 59 000 active cases, around 218 people in hospital and six in intensive care. The health minister constantly tells us, and it has been obvious throughout the pandemic, that, yes there are significant health issues with COVID, but from the experience overseas, we know that people who are seriously ill, in particular suffering serious respiratory distress and impacts on other organs, who are in an intensive care unit in hospital increase their survival rate fivefold. The number of ICU beds is critical, and that has been repeated by the health minister and others. It was repeated by the health minister just recently in an interview. We have six people in intensive care, and that is not likely to change. Therefore, we do not have a hospital system that is overwhelmed with COVID patients. We do not have hospitals that are generally overwhelmed with COVID patients. COVID patients comprise a very small fraction of the hospital case load. Our hospitals are overloaded because we simply do not have enough hospital beds, nurses, doctors and other health professionals. It is not the case that it is because of COVID. We have a very clear trajectory of this disease in society. As I have said, what is going to change in the next 12 months or the next two years? We will continue to have thousands of people infected with COVID despite the best endeavours of vaccination and others. Hopefully, the virulence of the disease is lessened, but that will be the case next year and so on. Many people will require emergency treatment and the like, and all the justifications that largely exist now will exist in one or two years' time and so on.

Is it the government's contention that we will just continue rolling over the Emergency Management Act as it exists? I will come back to key questions that I think the government needs to answer. I want to dwell a little on the justification, if you like, for continuing this approach versus relying on the Public Health Act. I will not go through the Public Health Act in detail—that has been done by others—but the Public Health Act has extreme powers. I have a table comparing the state emergency powers during a state of emergency with the Emergency Management Act. If I go through that list, I cannot identify a single key area that the Public Health Act does not deal with when dealing with a public health crisis. There is a separate matter in this bill around the criminal penalties and other related matters that I will talk about in a moment. We asked at the briefing, "Is it not possible to deal with all the key areas that need to be dealt with under the Public Health Act?" We understand that it is not just a case of forget it, COVID is just there and we will stop doing anything. We know that is not the case and that health controls need to be in place and that people in vulnerable environments need special protection. Eighty-one per cent of the people who have died from COVID are aged over 80 years. The majority of our older population over 80 are in aged care and it is important to protect them. We know that people are in hospital with other illnesses. We do not want COVID rampaging through hospitals when people are seriously ill with other illnesses. We know that. We know there will be some other environments and matters. We know that from time to time the government will need to restrict the

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movement of people and the number of people who can attend a venue and the like. It is possible that that regulation may have to come back. However, all that is possible under the Public Health Act.

What we constantly heard in the briefing when we asked the question on whether this is critical, was that the government thought it was the most appropriate—not critical, just the most appropriate—measure. I am sure it is convenient for the government to do things in a way in which there is no ability for the opposition or anyone else to challenge what the government is doing. The government just makes assertions and says that that is the case, and that is it unless there is some other portal into how the decision is made. There is no way for us or anyone else to challenge or question it at all. That is convenient for the government. Governments love dictatorships. I think it was Bronwyn Bishop who said that she thought the most efficient form of government in the world was a benevolent dictatorship, and her only caveat was that she wanted to be the dictator. In any case, it is very convenient for the Premier, who basically, with a wave of his hand, can do anything he likes. We know the reality is that it is very unlikely that ministers and others will stand up to the Premier when the Premier says he thinks this needs to be done. That is not a conspiracy; it is just human nature. That is convenient. What does “most appropriate” mean? Does it mean what is easiest for the Premier or whatever avoids the irritation of having the opposition raising irritating questions, or perhaps even demonstrating that the government did not do the right thing in relation to a particular matter? Is that what is most appropriate, or is it critical?

As I said at the start, we should have special emergency powers only in a genuine crisis. What is happening in Ukraine at the moment is a genuine crisis. I am not painting that as a ridiculous extreme, but it is obviously an example of a genuine crisis. At the start of the pandemic, it was a genuine crisis. We just did not know. We knew that this could be terrible, but we just did not know, so extreme actions had to be taken, but now we do know. We have been able to safely bring probably 150 000 people into the state during those two years. We are now in the position of being able to hold major events and so on in the state, so we do know. It is not the initial crisis situation. We now know the situation, and it appears that the Public Health Act could be adequate to deal with it. I am really keen to understand in the opportunity we have to examine the bill here why that is not possible. If that is not possible, why then could the government not go down exactly the same path Victoria has gone down? It has that model. What I have said publicly, and as the opposition we have said collectively amongst ourselves, is that if the government wants us to come back and urgently approve that sort of bill, we will do it. We will not stand in the way of the government doing that. We would then normalise things. We would get out of this state of emergency. But we do not see the justification for continuing this legislation past July this year if we can do it in that way. That is the way that we can do it. We have specific legislation with checks and balances and transparency, but continuing as we are is not the appropriate way to do it, in our view. As I said, I am happy to be informed because we have not had the chance to get the information. I will come back to the key questions that I will need to ask.

I might tackle the issue of the need to continue the additional criminal penalties for, effectively, an assault on a public officer. I think it covers more things than that, but, most notably, it deals with deliberately exposing a public officer such as a police officer or a health worker to COVID. I refer to someone who, for their own perverted, malicious reasons, wants to try to infect a police officer or other public official with COVID. They know they have COVID, or think they have, and they use that to, in some way, do that. Obviously, that is horrible. We think that is a terrible thing and there should be severe penalties for that. But guess what? There already are severe penalties for doing that. A person can be jailed for up to seven years for spitting on a police officer. If they try to attack a police officer with the virus—in this case, we are talking specifically about someone trying to infect another person just going about their lawful duty—they can be jailed for seven years. The government said that we have to make the penalties even tougher. That was part of the government saying, “We’re tough on COVID. We have to make it tougher; we have to make it 10 years”, which played so well in the last election campaign. We are now two years into living with COVID. Today we heard in the briefing—I am happy to be corrected on the numbers because these are just the ones I jotted down—that 24 people have been charged and 16 people have been prosecuted. Given that the maximum penalty is 10 years, what do members think was the maximum penalty applied to people doing the wrong thing under those provisions? The maximum penalty that has been applied for those 16 successful prosecutions is one year—one. It seems quite clear after two years that the courts have decided that they have ample scope. Certainly one year sits well inside seven years, I would say, so why do we need to continue with the penalty being a maximum of 10 years? It is not offering any great deterrent. I would like members to say to someone, “Listen, if you do this, you’ll get seven years in jail.” They will say, “I’ll do that.” If we tell them that the penalty will increase to 10 years, do members think they will say, “Well, maybe I won’t”? I do not honestly believe that anyone in their right mind thinks that is an increased deterrent, but the proof of the pudding is in the eating. The maximum penalty applied for the 16 successful prosecutions under these provisions has been one year’s jail. Seven years is ample scope. Let us face it, hepatitis is endemic in some communities. Some people deliberately try to infect police officers with blood. Many members know that hepatitis is a terrible illness. There are several variants of it. It potentially shortens life considerably, depending on the variant, and can be an agonising death for the infected person. If the government thinks that the overall penalties are weak, put up an amendment. We will not sit here and oppose the government if it

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can justify that and say it is necessary, but it does not need to do that in this bill. It is clear that the courts have adequate power under existing laws to deal with that and I seriously do not believe that it is necessary to include that penalty in the legislation. It might make a good headline or be a good media opportunity for the Premier to get out there with the Minister for Emergency Services to say, “We are tough on this”, but it will not make any practical difference in the application of the deterrent. Clearly, in practice, it has not been applied for anything close to 10 years.

The government must answer these key questions. First, which directions issued pursuant to the Emergency Management Act cannot be issued pursuant to the Public Health Act? Second, if any directions are identified in the answer to the first question, for what reason is the Public Health Act deficient and why are we not addressing that deficiency? Third, if no directions are identified in the answer to the first question, what is the utility for government to activate parallel emergency powers under both acts concurrently? Fourth, what consequence, intended or otherwise, will arise if the temporary emergency powers under the Emergency Management Act cease on 4 July 2022? Fifth, what advice has the State Emergency Coordinator or the State Emergency Management Committee provided to government in support of this amendment or otherwise?

I would be very grateful if those questions could be answered. I am sure that the minister has excellent advisers—I saw them today; they were very learned and gave us information that seemed to cover all the areas—and we would be very grateful for answers to those questions because they will go to the core of why we need this legislation. The Public Health Act has enormously wide powers, so what specific things does the government need to do that it currently cannot—not that that the government would like to do it another way—under the existing legislation? Why do we need other powers under the Criminal Code?

MR P.J. RUNDLE (Roe) [5.41 pm]: I, too, would like to rise with the member for Cottesloe and express some of my concerns about the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022. I also support what the member for Cottesloe said in the debate on the suspension of standing orders. I was in a state of shock yesterday afternoon after we got the phone call from the Leader of the House saying, “We’re going to bring on urgent legislation in relation to the Emergency Management Act and we need it wrapped up by Tuesday night.” It was quite bizarre that happened after a four-week parliamentary recess and after the Premier on ABC online on 5 April stated —

“Having the capacity and the powers to do those things is important because you don’t want to have to let it all go and then find you don’t have the capacity,” ...

That is what the Premier stated clearly in early April, yet yesterday, 9 May, about 24 hours before we were to debate this legislation, the Leader of the House rang us saying that the government needed to introduce this emergency legislation and that it had to be wrapped up by Tuesday night. Imagine our response. The Leader of the House also said, “By the way, we’ll give you a briefing around about 11.00 or 11.30 tomorrow morning.” As the member for Cottesloe pointed out, we had a few other things going on. It has been a challenge to try to absorb the legislation, talk to any stakeholders and to come back after that, especially when we face the same thing tomorrow with the planning bill. It will be the same scenario—urgent. That is what leads us to question this move that demonstrates the arrogance of the government and the disdain the Premier has for the people of WA and the parliamentary system. When the member for Cottesloe spoke during the debate on the suspension of standing orders motion, several government backbenchers nodded their heads agreeing that the Premier is abusing the parliamentary process. I find the way the Premier has gone about this to be very disturbing. He uses the language of fear. He describes anyone who questions these decisions as anti-vaxxers or people who are seeking to undermine public health outcomes. That is a demonstration of a culture of fear. It is not good enough.

It is quite interesting that the government spent two years trying to keep people out of Western Australia but is now bending over backwards encouraging people in and expecting them to come in left, right and centre at the same time as rolling on emergency legislation. As the member for Cottesloe said, when COVID-19 first arrived in Western Australia, we were all concerned because we did not know what we were dealing with. There was no vaccine, of course, and it took time for the world to understand what we were dealing with.

Another thing I found quite interesting was the way in which vaccines were developed quickly and people criticising their rollout. I might add that during those early stages and throughout the last couple of years, the opposition supported the measures of the government. We asked questions when some incongruous decisions were made, but we generally supported the government. To be honest, we never envisaged we would be here two years later debating the extension of these powers. I think that is why we are finding it difficult. WA has been in a state of emergency since March 2020. We are now entering the third year of these extraordinary powers, yet we are seeing a much greater level of scrutiny in Victoria than in Western Australia. It has been pointed out that all these directions could have been dealt with under the Public Health Act and that if there were a deficiency in the Public Health Act, it should have been dealt with there. We struggle to understand why this bill needs to be delivered so urgently and why it could not have been covered by the provisions of Public Health Act.

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When the COVID restrictions were first brought in, there was no access to vaccines. It was a very different time and the government described these measures as draconian. The opposition was assured that they would not be in place any longer than was completely necessary. Now, the Premier and the government is taking them on for longer than is necessary. The Emergency Management Amendment (COVID-19 Response) Bill 2020 was introduced and passed within two days, on 31 March and 1 April 2020. We are now over the two-year mark. At that time we were told by the Minister for Emergency Services, Fran Logan, that it was essential we strengthen our state's ability to respond to the current emergency and that the measures were not being introduced lightly. We carefully considered the new laws. We thought we had struck the right balance of ensuring fairness, but also giving our emergency services and law enforcement officers the power they needed to keep us all safe during these unprecedented times. Of course, I always refer back to that election slogan of keeping us safe. We saw the effect and it was effective—we certainly cannot deny that—but how long can we extend these laws? How long will the McGowan government stick with this when Western Australians have actually moved on?

We are now living with COVID. As members know, we are currently reporting 10 000-plus cases a day, but there are only a handful of people in ICU. Western Australians have overwhelmingly done the right thing. They have done everything that this government has asked of them. They have got vaccinated, socially distanced, worn their masks and stayed at home when they were told to. There comes a point in time that I question: what is the motive for this government to ram this bill through today imposing these extraordinary emergency responses for another six months? I know what it is; it is power, control and self-interest. We have seen the way this has developed over time. I guess the way I would describe it is that the Premier's ego has got to a point at which he is using these emergency powers to continue his hold over the people of Western Australia.

We saw an example on 5 February. Everyone accepted that 5 February was the date we were going to open up again, but the Premier decided to override everyone around him and extend this a bit longer. "Look at the control I've got!" He got pushback from the community, all those international students who were stuck all around the world trying to get into Western Australia, and all those families from Western Australia who were over east and overseas and had all worked towards 5 February as the date on which they could come back into WA. When he saw the response of the WA public to him backflipping on the 5 February date, the Premier went out there and got all his backbencher and Dorothy Dixier questions to support him on why that decision was important and why he had to make it. It was quite interesting to see the media statements. There was no doubt that he realised he had overstepped the mark. This is what I believe was the turning point for this government. That date—5 February 2022—was the turning point and the beginning of the downhill slide. If members talk to anyone out there—I am sure most members of the Labor Party are out in the electorate, doorknocking and the like—they will find that that was the turning point, and many people in Western Australia will not forget that.

As a comparison, we can look at what Daniel Andrews did in Victoria, which went through 250-odd days of lockdown—the world's longest lockdown—and we saw the command-and-control scenario there. Our Premier jumped on board with that, as well, but this Premier and government have taken it to another level. Lorraine Finlay was quoted as saying —

... the state of emergency provisions were never designed to be used on a rolling basis, as they have been in WA.

In Victoria, the government must now provide written justification for any pandemic orders such as new restrictions. The WA state of emergency laws do not require any written reasoning to be shared on the public record. We have been told, "It's the Chief Health Officer's advice", "It's the Chief Health Officer's advice." We have been told that time and again, but no-one can seem to get to it, so we do not know whether it is the Chief Health Officer's advice or the Premier is making it up as he goes and then getting the Chief Health Officer to work in that advice to agree with the Premier. That is what a lot of the Western Australian public thinks.

Mr D.J. Kelly: You are an idiot—honestly!

The ACTING SPEAKER: Minister!

Withdrawal of Remark

Mr P.J. RUNDLE: Point of order, Madam Acting Speaker. I do not think that was appropriate.

The ACTING SPEAKER (Ms A.E. Kent): Would you mind withdrawing, please, minister.

Mr D.J. KELLY: I withdraw it.

The ACTING SPEAKER: Thank you.

Debate Resumed

Mr P.J. RUNDLE: Thank you, minister.

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I am reflecting on how the people of Western Australia feel. I am talking about the fact that despite Victoria having had the world's longest lockdown, the Victorian government actually is a contrast in that its state of emergency provisions have time limits and cannot be continued on a rolling basis. It has a new legal framework that replaced the state of emergency in December last year that requires its leaders to table in Parliament their reasoning for any pandemic restrictions. Separate parliamentary and independent committees must also review pandemic orders and provide advice to the health minister and to Parliament. That advice is on the public record. That is really what we are asking: why can this not be the process in Western Australia? As the member for Cottesloe pointed out, the Queensland Human Rights Commissioner Scott McDougall has suggested that the state should follow Victoria's lead, but, unfortunately, our government is not going down that path.

The member for Cottesloe also pointed out what the Auditor General has said. The Auditor General feels that we need a much more comprehensive report on the management of the pandemic, but, of course, this government has not seen fit to go down that pathway. Every time we have asked this government to consider an inquiry, we have been met with resistance. I do not think it is too much to ask of this government. We know that this government does not welcome scrutiny. We know it has avoided it. I think we have seen a demonstration of that today in the way this government has actually manipulated and abused the parliamentary system. I think today is quite a disturbing development. This week, in fact, the government is pushing and ramming legislation through simply because it has the numbers and because it can. It is not looking at transparency. It is certainly not looking at the ability of the opposition or any other stakeholders for that matter to have a look at the legislation and talk to the people who will be affected by it. As we pointed out earlier, the Public Health Act provides an opportunity, and the member for Cottesloe pointed out the questions we would like answered about why the directions issued pursuant to the Emergency Management Act cannot be pursued through the Public Health Act. There are a number of other questions relating to that.

I want to finish with a few quick examples of situations in which the WA public has not been able to hold certain events, but other events have been able to occur. We saw the Port to Pub situation, whereby 500 people were in the water, but they were not able to hold that event. At the same time, we could have 30 000 people at Optus Stadium. We saw the Wagin Woolorama in my electorate. May I have an extension, please?

The ACTING SPEAKER: Yes, a very short one; we are about to break.

[Member's time extended.]

Mr P.J. RUNDLE: I understand.

The Wagin Woolorama is held at a venue that has 10 times the area of Optus Stadium.

Sitting suspended from 6.00 to 7.00 pm

Mr P.J. RUNDLE: I was getting towards the end of my contribution on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill, but I have had more time to think about it and I have 13 minutes left. I want to close with a few examples of some of the contrary things that we have seen with the arrangements with the Chief Health Officer. As I said, sometimes the people of Western Australia are wondering whether the Chief Health Officer's advice is being tailored to meet with the Premier's decisions. Sometimes I also wonder whether cabinet members have anything to say or whether it is a matter of whatever the Premier says goes. The Port to Pub swim was a classic example of that. There would have been 500 people in the water, but that did not meet the health requirements. At the same time, however, we could have 30 000-odd people at Optus Stadium all sitting next to each other. The people of WA cannot quite understand how these things work together. The Wagin Woolorama would have covered 10 times the area of Optus Stadium, with about 10 000 people attending each day on the Friday and Saturday, but it was not allowed to go ahead. At the same time, Optus Stadium was at 50 per cent capacity and could cram 30 000-odd people into an area one-tenth the size of the Wagin Woolorama, which was not allowed to go ahead. Those are the sorts of examples that the people of Western Australia scratch their heads at and wonder what is going on. As the member for Cottesloe pointed out, currently we can go into a restaurant and be unvaccinated, but the person who serves us has to be vaccinated. How does that translate with the Chief Health Officer's advice? Another example during the pandemic was a father was allowed to be at the maternity hospital for the delivery, but once the baby was delivered, that was it; he could not go back up to see the baby or the mother of the child. That is another example that many of my constituents who were in that situation at the time found very upsetting. Back in the early days of the pandemic, a husband and wife had been separated because one was being looked after in aged care and could not be seen by their spouse because they were in the wrong development commission area. They could not cross the border to go to see their spouse of 50 years because of the government's requirements. Those are some examples.

As I said earlier, 5 February 2022 was the turning point. The Premier had given an unequivocal statement that that was the date on which our families and international students and the like would be able to come into WA. International students around the world and vice-chancellors of universities could not believe it. They had geared up everything for 5 February, but what happened? The Premier made an arbitrary decision to extend the border closure for another

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three weeks. He then started backpedalling when he saw the public's response to his command-and-control method, with the Emergency Management Amendment (COVID-19 Response) Act. We saw this method today. We had this stuff coming out from the Premier about having to come back into Parliament every time the government wants to make a change to this legislation, so we should just extend the provisions for six months. We do not mind coming back! We do not mind coming back if there is a reason to come back.

This arbitrary decision and this urgency were not explained at all by the Leader of the House. Early April was when the Premier signposted that he was going to need to extend this scenario, but we got a briefing at 11.30 this morning to tell us what is going on with this legislation. It is an abuse of Parliament and it is disappointing to members on this side of Parliament, as I said. Today when the member for Cottesloe was talking about the abuse of Parliament, I thought I saw agreement from several of the backbenchers, who obviously will not say anything, but some of them certainly agree that this is an abuse of Parliament. I just want to point out that when this government first came into power, it talked about gold-standard transparency and the like. This is the exact opposite of gold-standard transparency. A lot of our members, the public and our constituents are starting to question what is going on here. We know the Premier has a taste for it, like Daniel Andrews in Victoria, but even Victoria has taken steps to justify any changes. As the member for Cottesloe and I explained during our speeches, those changes need to be justified when we are continuing in a state of emergency at the Premier's whim.

I very much appreciate our health workers. I very much appreciate our police who have helped my constituents and I am sure those of all members of Parliament during Operation Tide over the last couple of years, but there is a point when we need to come back to COVID normal. As we pointed out, we obviously have large case numbers at the moment, but we have very low ICU numbers. As an opposition, we are wondering how long will this government and this Premier keep holding onto this? We are seeing the Premier's arrogance. We are seeing the Premier trading on people's fear with a rhetoric of keeping them safe, when, in actual fact, he just does not want to lose control. I will end my contribution there.

MR R.R. WHITBY (Baldvis — Minister for Environment) [7.09 pm] — in reply: We have had an interesting contribution from members opposite on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022. I appreciate the fact that they took some time to make some comments; however, I have to say that they were silly, puerile and lacking in substance. I think it points to a real disconnect that still exists between the opposition and everyday Western Australians, because at every stage of this COVID-19 emergency, the opposition has wrong footed itself at every turn. Opposition members wanted to open the borders. They sided with Clive Palmer. They wanted to open up too soon. Now, they are trying to argue that we should walk away from a simple piece of infrastructure that underlies or supports the state of emergency arrangements that have served us so well for so long. These arrangements have protected the lives of Western Australians. They have kept lockdowns to an absolute minimum. Western Australia has been perhaps the freest community on the planet during COVID. Our freedom has been guaranteed with these effective directions that have protected us and kept COVID out. It was the Western Australian government that decided to let COVID in when vaccinations were high enough to give us a soft landing. Virtually no other jurisdiction on the planet had that benefit. These arrangements have served us incredibly well. The other point I would like to make is that these arrangements have protected our economy. They have kept lockdowns to an absolute minimum—a number of days compared with months and months on the east coast. That has meant that our economy has stayed strong and people have stayed in employment. These provisions have served us incredibly well.

I speak to many people. I am sure my colleagues in this place will share their experiences, but opposition members talked about what ordinary, everyday Western Australians are saying and feeling and suggested that they are getting angry. Well, I think they would be angry all right—angry about the way the opposition has handled itself during this pandemic. I think they would be angry and concerned if they knew the opposition was trying to take away the safeguards that are in place. I speak to many people. Time and again I have spoken to people who have said that they are lifelong, rusted-on Liberal voters, but they supported us at the last election. They go out of their way to praise the Premier and his government for the way in which it has protected our state. It is incredible. The last election result was pretty incredible too, but the way the people of Western Australia regard this government and its handling of COVID is virtually unequalled on the planet. The opposition would undermine the very provisions that have allowed us to get this far so safely. We are in the middle of a deadly global pandemic. The case numbers today in Western Australia were over 12 000. We are not through this yet. The directions have been greatly reduced, but a small number of directions are still in place to protect Western Australia.

Opposition members talked about being surprised—that this extension caught them off guard. They have known for six months that the current legislation will expire on 4 July 2022. When the legislation passed the Parliament six months ago, opposition members knew that it would expire within six months. They also talked about the Premier indicating in early April that he would consider an extension, so, again, this comes as no surprise.

Several members interjected.

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Mr R.R. WHITBY: This legislation comes as no surprise. The government wanted to make the best judgement on the way forward with the most up-to-date information. That is why we are at this point to make this decision.

Members opposite talked about their extensive workload. Seriously, this is the bill. There is a contents page—that is one page. There is a title page—that is another page. It has one, two, three, four pages. There are big gaps on each page. We could fit it on one page if we wanted to! It is not the Magna Carta and it is not *War and Peace*; it is virtually a three-page document. The bill has nine clauses, member. What is more, it is exactly the same legislation that has been passed three times before. Members opposite have debated this in the Parliament three times before. It is the same legislation.

Dr D.J. Honey interjected.

Mr R.R. WHITBY: I heard the member for Cottesloe in silence for the most part.

The only change is the date; it will extend it to 4 January 2023. That is the only change. This is it—nine clauses.

Dr D.J. Honey interjected.

The ACTING SPEAKER (Ms M.M. Quirk): Member for Cottesloe, I think the minister has indicated that he is not entertaining interjections, thank you.

Mr R.R. WHITBY: Members opposite talked about not voting for this legislation tonight. Is that true? Are they going to support this?

Dr D.J. Honey: You've got to convince us about whether it's worth supporting or not.

Mr R.R. WHITBY: No. The member for Cottesloe stated earlier that he would not support it. Does he still believe that? Is that still his position?

Dr D.J. Honey: You haven't given a single response to my questions, so how can we support it?

Mr R.R. WHITBY: If the member for Cottesloe does not support it, what will replace the power to give effect to those directions?

Dr D.J. Honey: The Public Health Act.

Mr R.R. WHITBY: How will that be done? The member for Cottesloe mentioned about coming into this place and passing legislation. Every time there is a change, every time a direction is withdrawn, every time a new direction is —

Dr D.J. Honey interjected.

Mr R.R. WHITBY: Member, hear me out. Every time a new direction is required, will we bring it back to Parliament and debate it?

Dr D.J. Honey: No; you don't have to do that under the Public Health Act.

Mr R.R. WHITBY: The member for Cottesloe said that he wanted to see the debate. There have been 570 directions during COVID-19. That is a lot of legislation. That is a lot of amendments.

Dr D.J. Honey: The Public Health Act has broad powers already, so you are misleading.

Mr R.R. WHITBY: No, I am not. I heard the member for Cottesloe talk very clearly about coming back and debating the changes.

Dr D.J. Honey: No. We said that if you need to make changes to the Public Health Act to give you those broader powers, then come back here and we'll support you.

Mr R.R. WHITBY: The other component of this legislation is the protection of frontline workers. We had a comment from the member for Cottesloe tonight that we should reduce the maximum penalties.

Dr D.J. Honey: No, I said you should go back to the seven years.

Mr R.R. WHITBY: No, I heard him. He cannot make statements and then change *Hansard* after the fact. I heard the member for Cottesloe overwhelmingly in silence, and I expect him to pay me the same respect.

The ACTING SPEAKER: With respect, minister, you did ask the member questions, so you invited some responses.

Mr R.R. WHITBY: I did ask him a question. That was before; I am moving on.

The ACTING SPEAKER: You are moving on; excellent.

Mr R.R. WHITBY: I think we heard both members opposite, but certainly the member for Cottesloe, talk about reducing the maximum penalties for offences against frontline workers. What sort of signal would that send to police and nurses?

Dr D.J. Honey interjected.

The ACTING SPEAKER: Member for Cottesloe, I am calling you to order!

Mr R.R. WHITBY: Member for Cottesloe, this is not your opportunity; you have had your say.

I will go through some of the incidents that have happened recently. This is what frontline workers have to endure in this state on occasion. A person deliberately coughed on four nurses in a COVID isolation ward. A person spat on three police officers in a police vehicle and then said that they had COVID. A person spat directly in the face of a police officer and said, “COVID is real and you’re going to die now.” This is what our frontline workers have to put up with, and members opposite want to reduce the maximum penalty. What sort of signal would that send? This one is probably the worst. This is disgusting. A person removed the face mask of a woman police officer and spat inside her mouth. These are the types of things, not imagined but real, that are happening out there on the front line. This is why we need this legislation to protect these frontline workers, and the member is suggesting that we reduce the maximum penalty.

Members opposite talk about their contact with the community and say that people are worried about all sorts of things. As I said before, my experience is that the general community is overwhelmingly supportive of way the government has responded to COVID-19. Our government has taken a central, sensible approach. I am concerned that the more our government takes a central considered, sensible, middle-of-the-road approach, which has proved so popular with the people of Western Australia, the inclination for members opposite is to go to extremes—to keep going and try to appeal to that small body of people. It is dog whistling to the extremists when members opposite stand in this place and talk about these basic protections that have served us so well.

When COVID-19 first came on the scene, did anyone here know that would happen? Did anyone foresee COVID-19 emerging in the community? I do not think anyone saw it. We knew that there was a danger from viruses and there had been incidents in previous years, but no-one could know when and how that would play out. Likewise, no-one saw the Delta variant come along. No-one saw Omicron. We knew that there was a possibility, but we could never be sure of what was around the corner, yet members opposite are saying that it is now time to get back to normal. What is it that the member knows about our future that we do not? I mean, what —

Dr D.J. Honey interjected.

The ACTING SPEAKER: Member for Cottesloe!

Mr P.J. Rundle interjected.

The ACTING SPEAKER: Member for Roe! Member for Cottesloe!

Mr R.R. WHITBY: The member knows we will never get another variant; this is over. This is what we call COVID-normal. We can rest easy, can we? We can pack up and go home.

Mr P.J. Rundle interjected.

The ACTING SPEAKER: Members! At the risk of being nicknamed Statler and Waldorf, I would appreciate it if you can desist.

Mr R.R. WHITBY: The truth is we do not know what is around the corner. We really do not. We do not know when we will need to respond. The current situation allows a range of directions to be implemented and we have had many over the period. At the moment, a small list of directions applies. As I said, over the journey, there have been many, many others—570 in total. Some of the directions that the opposition would have us walk away from tonight include the requirement of face covering in our aged-care homes and hospitals. The earlier comment was that it would not support this legislation. What will happen on 4 July this year if there is no power to give effect to directions that require people visiting very vulnerable people in aged-care homes and hospitals to wear a face mask? There is no explanation of how that would be dealt with. There is no explanation about how we would require people to isolate if they have COVID. There would be no power to stop cruise vessels. Imagine if a cruise vessel emerged off our coast with a new strain of COVID. That is not pie-in-the-sky stuff. That has happened in Western Australia. We would have no power to stop those infected people getting off at Fremantle and spreading right throughout the state. There would be no authority to regulate the entry of high-risk vessels into our ports. There would be nothing stopping people with COVID from going to very remote Aboriginal communities. Not supporting this bill and saying that they do not want this bill passed basically says that in all those situations, there would be no protection and nothing to underlie the authority of those directions.

This legislation has served our state incredibly well and it is not in itself an extension of the state of emergency. That requires the Minister for Emergency Services to sign-off on an extension every 14 days. When that happens, this bill provides the authority for the directions to exist and to be used. Some of the commentary I have heard tonight was that this should not be a rolling situation. The alternative is permanent legislation that would require us all to go back and forward to Parliament to pass legislation or to withdraw it. We have a situation in which the

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Minister for Emergency Services is comfortable. He cannot sign the extension of the emergency provisions at any time when it rolls over every 14 days. We could get out of this a lot quicker under these arrangements than under the kind of thing that the opposition is proposing.

It requires another six months of an underlying framework that supports our directions. None of us can know what is around the corner. We are not like other states, because we delayed the arrival of the virus into our state for so long that we are now reaching our peak. There is not an equivalence with other states and what they are going through. Because of our great work in creating a very soft landing, we are only now reaching our peak in cases. We do not know what is around the corner. We believe we put Western Australia in the very best position of any jurisdiction in the world. We have probably the highest rates of vaccinations on the planet and that has put us in a very good position, but we do not know what is around the corner. We do not know what new variant might come, how transmissible it will be or how effective our vaccines will be against it. This is an arrangement that gives us the power to implement new directions as required and gives us the ability to respond in a very quick and effective way.

The proof is in the pudding. We have been very successful in our handling, and this law is part of the reason we are in this position right now. The opposition has said that it is not going to support it. I hope it changes its mind, but what is the alternative? It is coming back to Parliament multiple times every time something is required and then that legislation gets locked in and then how do we get out of it? We would need to end or withdraw that legislation. This is an effective piece of legislation. It is a simple piece of legislation. Nine simple clauses will simply extend the current circumstances for another six months and then every 14 days the Minister for Emergency Services will sit down with the Commissioner of Police and become satisfied whether it needs to be extended. I implore members to reconsider their position and support the government on this. It is a very sensible piece of legislation. It has support and confidence amongst the community. We are in a very good place right now in our response to COVID-19. We are seeing daily case-load figures increase and we are seeing, tragically, deaths, but it is a very different scenario from what we would have had without this legislation.

I commend the bill to the house and I urge the opposition to support it.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1: Short title —

Dr D.J. HONEY: I will say how disappointing! That was probably the most offensive and disappointing speech the minister has given in this place. That is a shame. The minister is clearly acting under instructions. I asked five really simple questions. I said in good faith that these are the questions that we need clarity on, and asked whether the minister could give me answers. They were simple questions. They were not tricky or unusual questions. I am sure the minister's advisers would have been aware of the tenor of the questions that would be asked in this place. The minister did not have the common courtesy to answer even one of those questions; instead, the minister gave a gratuitous and insulting speech to the members of this house. The minister may feel very smug. The minister is clearly getting affected by the same disease as some of his colleagues in this place who think they can do what they like.

The ACTING SPEAKER (Ms M.M. Quirk): Member, I think we need to treat each other with some respect. I think your pejorative terms are not going to advance the matter.

Dr D.J. HONEY: Thank you very much, Acting Speaker. That was my point. In relation to this clause, how was the decision to extend the sunset clause for a six-month period reached? Was there consideration of a shorter period, or another period? How was that decided?

Mr R.R. WHITBY: I do not think that is relevant to the title of the bill.

The ACTING SPEAKER: Minister, the short title debate tends to range relatively widely.

Mr R.R. WHITBY: Does it? Okay. The decision was ultimately a decision of cabinet, member. Obviously, there have been a number of extensions to this bill previously. The first ran for 12 months from when COVID first occurred; the second was for three months, taking into consideration an election period and to give a new government the opportunity to respond; and, subsequently, it has been extended for six months at a time. We could have chosen 12 months, but we have tempered it because we want to limit the time and be able to have this review and the opportunity to talk about these issues in Parliament. It is about getting it right. We could argue that three months is too soon and 12 months is too long. The happy medium has most of the time been six months.

Dr D.J. HONEY: Minister, we are not seeking to drag this out unnecessarily, but there are some questions that we want answers to, and we will go through these as quickly as we reasonably can. In relation to that decision of

cabinet, was any advice provided to cabinet to justify the requirement for a six-month extension; and will the minister table that advice if it was given?

Mr R.R. WHITBY: Member, it was a decision of cabinet. I am not going to reveal the discussions and the advice to cabinet.

Mr P.J. RUNDLE: Can the minister tell me how many cabinet meetings the government has had between early April and yesterday, I am assuming?

The ACTING SPEAKER: Member, I think that is trespassing a little wider than is necessary to debate this bill.

Mr P.J. RUNDLE: It is further to the previous question, which was trying to ascertain the lack of notice pursuant to that. That is what I was trying to link to.

The ACTING SPEAKER: That is fine, but I rule that it is probably going too far. The member for Cottesloe.

Dr D.J. HONEY: Thank you very much, Acting Speaker. In fact, I think I should refer to you as chair, should I not, in consideration in detail?

The ACTING SPEAKER: Whatever item of furniture you feel comfortable with.

Dr D.J. HONEY: Okay. Thanks very much. In relation to this legislation, the minister said that it was a cabinet decision, and we have heard that, therefore, any information is cabinet-in-confidence. Was the legislation presented to cabinet or was this in fact a decision of the State Disaster Council?

The ACTING SPEAKER: Member, you are just trying to canvass cabinet deliberations by the back door. You have got an answer from the minister. Let us move on.

Dr D.J. HONEY: Thank you very much, Acting Speaker. Minister, we have covered —

The ACTING SPEAKER: I can give you the call if it is another question.

Dr D.J. HONEY: Thank you very much; I need the exercise tonight. We have heard, and it has been presented in the debate, that other states have made different choices in winding down their COVID response. The minister talked about the number of COVID infections. The number of COVID infections in Victoria, for example, is about half the level of COVID infections in Western Australia. Today, Victoria reported over 10 000 COVID infections—I am talking about the rate. The state of Victoria still has a substantial number of COVID infections, yet it is managing that through another legislative approach. Every other state has progressed to another way of dealing with COVID. What is so different about Western Australia that we cannot go down the path of Victoria, for example? The minister made the interesting point that if we were to go down the Victorian path, we would have to come back to this place again and again. That is not the case in Victoria. Victoria has a simple piece of legislation. What I have also indicated to the minister is that my understanding of the Public Health Act —

The ACTING SPEAKER: Is there a question among all this?

Dr D.J. HONEY: Yes. I am just getting to that question. The minister raised a point in his second ready reply about the other mechanisms that could be used. The Public Health Act provides extraordinarily wide powers. Some simple modifications to that act could deal with all the points that I have heard the minister raise on this matter. Why is the experience in this state so different that we have to go down this other path, when other states are ending their COVID response?

Mr R.R. WHITBY: It has been different. Our response has been a lot better. The member made a comment about the cases in Victoria.

The ACTING SPEAKER: Minister, it might be good for the purposes of Hansard if you could remove your mask.

Mr R.R. WHITBY: Yes; apologies, Acting Speaker. We know that Victoria has a much larger population, so the rate here is quite significant in comparison. We have followed the same legislative framework for the past two years, and it has been very effective. Those are the key differences.

Dr D.J. HONEY: Thank you very much, Acting Speaker, for the reminder about the mask. Perhaps we can do this in debate on another part of the bill, but this is as good as any. What directions remain in place at the moment, and does the minister expect those directions to remain active?

Mr R.R. WHITBY: Ten directions are currently in place under section 72A. They are the Air Travel (Face Covering) Directions (No 2); COVID Transition (Face Covering) Directions (No 7); COVID Transition (International Border) Directions; COVID Transition (Testing and Isolation) Directions (No 13); Maritime Crew Vessel Directions (No 3); Maritime Crew Member Directions (No 9); Proof of Vaccination Directions (No 6); Regulated Entry of Higher

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Risk Vessels into Western Australia Directions (No 2); Remote Aboriginal Communities Directions (No 5); and Transitioning Aircraft Passengers Directions (No 6).

Dr D.J. HONEY: How many of those directions could be dealt with under the Public Health Act?

Mr R.R. WHITBY: The member is seeking a legal interpretation or an opinion, which is contrary to standing orders.

The ACTING SPEAKER: That is probably more appropriately dealt with, member, under the operational side.

Dr D.J. HONEY: Were additional members considered for inclusion for COVID management to be more efficient, for example?

Mr R.R. WHITBY: I do not understand the question. Can the member please repeat it or explain it in a different way?

Dr D.J. HONEY: It is about whether there are ways that these measures could be carried out more efficiently in relation to the management of COVID, or whether the minister believes that this is the only way those matters can be handled.

The ACTING SPEAKER: That is probably seeking an opinion, too, minister.

Dr D.J. HONEY: In relation to this overall process, has the minister or the government given any consideration to having a review of the measures and the efficiency of the measures to date under this bill?

Mr R.R. WHITBY: I am not the Minister for Emergency Services; he is in another place. I can only go to the public commentary that exists out there. Indeed, I think it is the member who said that the time for a review is after the pandemic. I think the Premier indicated today that after we have dealt with this situation and in some future period, it would be worth looking at all the processes, the state and federal cooperation, the operations of national cabinet and the way that the pandemic has been handled. I agree with the member's earlier comments that the time for that is not in the middle of a pandemic; it is after it.

The ACTING SPEAKER: I just counsel you, member, that you are really trying to go behind deliberations. You should really address the import of the legislative provisions.

Dr D.J. HONEY: Thank you very much, Acting Speaker. I understand the answer that was given earlier that somehow or other we are asking for a legal opinion on what can be covered under the Public Health Act and this bill, but I cannot believe that with the expertise the minister has at the table and in the room, he cannot provide some level of advice. We have gone through exhaustively the table and the provisions in the Emergency Management Act and the Public Health Act, and our contention is that it appears that nearly all the provisions are covered in the Public Health Act. Perhaps to be quite specific, and I am sure the minister's consultants can give him some advice, what regulations cannot be captured under the Public Health Act? I do not think that requires a legal opinion. This is just a straight comparison of two pieces of legislation, and the minister has his experts sitting at the table.

The ACTING SPEAKER: Minister, provide a partial answer if you can and we can probably move on.

Mr R.R. WHITBY: It is not a case of being beyond capacity; it is about the standing orders of this place in terms of giving a legal opinion. I want to remind the member that we are not here to consider the Public Health Act. This is about an extension of this particular legislation.

Dr D.J. HONEY: I understand the answer the minister has given, but when we are going through the discussion and debate on this bill, one of our concerns is that it is not required that the Public Health Act provides an alternative. The minister even asked this himself in his response to the second reading. I think it is reasonable to say what cannot be captured; otherwise, I think it is fair for me to assume that the Public Health Act can capture it all. The minister has not given me one single piece of information to tell me how the current restrictions, or the requirements for managing COVID, cannot be covered by the Public Health Act.

The ACTING SPEAKER: Minister, do not answer that. I have been counselled by staff that although it is practice in the Council to canvass far and wide in relation to short titles, that is discouraged in this chamber. To some extent, you actually answered your own question, and you have already commented. The minister has taken that on board and I think we need to move on. If you have further questions in relation to the short title, I welcome them; if not, you might want to consider moving on.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 338B amended —

Mr R.R. WHITBY: Before we proceed, we will be dealing with matters relating to the Criminal Code, so I would like to ask some new advisers to join us.

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Dr D.J. HONEY: In relation to this clause and the criminal penalties, the minister, in his second reading reply, said that we had asked for a reduction in the penalties in the Criminal Code. That is simply untrue.

Mr R.R. Whitby interjected.

Dr D.J. HONEY: No, minister. I said that the extension to 10 years is not required, given that it appears the courts are not using it. Currently under the Criminal Code, the penalty is seven years. These powers will extend it to 10 years. The minister has said that these powers will be ultimately removed, so it will go back to seven years. There is nothing unusual or special about that. The point I made was based on the advice we were given about the maximum penalty that had been applied. Is the minister aware of how many charges have been laid, in fact, under the existing legislation? How many penalties have there been and what has been the maximum penalty?

The ACTING SPEAKER: Minister, you are being asked how many charges have been laid and what are the penalties therefore.

Mr R.R. WHITBY: We are discussing clause 5. Is the member's question in relation to proposed section 318 or 338B?

Dr D.J. Honey: It is in relation to both, really, but yes, clause 5 is "Section 338B amended".

Mr R.R. WHITBY: Between 1 October 2021 to the present date, one person was charged under section 338B(2), the provision for threats. On 6 April 2022, a 44-year-old male was arrested for a separate matter by police. He declared to police that he was infectious with COVID-19. He was conveyed to Broome Police Station and after being conveyed to a holding cell he said to the officers, "I spit on you." The male then turned his head towards the officers and coughed. He was charged and appeared at Broome Magistrates Court on 7 April and was fined.

Dr D.J. HONEY: In relation to that matter, but more generally, would that person have been charged if this act did not apply in any case? I do not think I am asking for specific legal advice. Would that have been a penalty under the existing act?

Mr R.R. WHITBY: Yes. Certainly, there would have been a charge for that offence, but I think the point the member is making is that there is not a requirement for an increased penalty under the provisions of this bill. I would argue that sending a clear message of deterrence to people who would behave in this way during the COVID-19 pandemic is a good thing, and also having a maximum penalty that is higher than that under non-pandemic conditions gives the judge more of a range to choose from.

Clause put and passed.

Clauses 6 and 7 put and passed.

Clause 8: Act amended —

Dr D.J. HONEY: At the risk of going over old ground—I am probably encouraging an early response from the Acting Speaker—the advice given in the briefing was that this is the most appropriate act to amend to deal with these measures. Was any consideration given to making amendments to any other appropriate acts to deal with these matters?

Mr R.R. WHITBY: This is the legislation that has provided the framework for the last two years of the pandemic. We have seen how effective it has been and this is the legislation that we are seeking to extend.

Mr P.J. RUNDLE: Could the minister tell me what consequences, intended or otherwise, would arise from the temporary emergency powers ceasing to be available?

Mr R.R. WHITBY: Quite simply, the directions would have no way to be enforced. They would not be effective. Police could not use them, we could not direct people to wear masks in aged-care centres, we could not direct people not to go into remote Aboriginal communities and we could not stop cruise ships arriving and disgorging infected passengers. Without this power to provide that the minister must re-sign every 14 days and give effect to the directions, they would simply not be in force.

Mr P.J. RUNDLE: What advice has the State Emergency Coordinator or the State Emergency Management Committee provided to government in support of these arrangements?

Mr R.R. WHITBY: The State Emergency Management Committee does not provide advice to government. It certainly consists of people who are very effective, including a number of ministers, the Commissioner of Police, the Chief Health Officer and others. It gives effect to the directions and the decisions of government.

Clause put and passed.

Clause 9: Section 2 amended —

Dr D.J. HONEY: This clause obviously sets the date for the extension of powers, which is 4 January 2023. We discussed a little earlier this evening that Victoria has more than 10 000 infections. Given that it is many months—

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possibly 12 months—ahead of this state, it would seem reasonable to believe that there will still be thousands of COVID infections in the community in 12 months' time. In fact, there are likely to be many thousands of COVID infections in the community in two years' time. How has the government alighted on the date of 4 January 2023? The minister has indicated that this is the only way that the government is considering to manage this matter. In setting this date, has it set a threshold for the number of infections? Has it modelled it and estimated that there will be a certain number of infections? Is there a target for when we will no longer need the emergency management powers? How did the government come to that particular date? What was the logic in coming to that date?

Mr R.R. WHITBY: I remind the member that I am no longer the Minister for Emergency Services, but simply represent him in this chamber. This pandemic has been unpredictable. There has always been a desire by some people to have some sort of formula or some sort of black-and-white journey forward that says that once this happens, we will do this. In the past, that has proved to be unwise, because we do not know where this is going. We do not know whether there will be a new variant. We saw that South Australia had set a course to open up and I think that was a mistake.

I want to show the member this list. It has quite a number of pages; 563 directions have now ended under the current arrangements. This is a list of the number that are currently in force. The beauty of the arrangements we have in place is that at any time we can add to or take away from this list. It gives us the ability to remove directions as they are seen to no longer be required or to make them fit for purpose as circumstances change. It is quite a good way of responding to COVID, because COVID is unpredictable. I think we agree on that, and this is a way of responding as and when required. I know there is an interest in getting through this and there is the thought of this being beyond us. I honestly cannot tell members when that will be; I do not think anyone can. But this is the evidence of the effectiveness of our approach that has been so successful in Western Australia. We can bring on directions or we can take them away. I would argue that this is a very light touch. This is crucial. These people are the most vulnerable—people in aged-care centres, people who are sick in hospital and people in remote Aboriginal communities. Heavens, we do not want another *Ruby Princess*. These directions protect us. They are a light touch and are a world away from where we have been over the journey.

Dr D.J. HONEY: The point we have made a number of times, and the point that I made in my contribution to the second reading debate, is that we recognise and accept that there are things that the government needs to continue to do, but the Public Health Act is a perfectly good vehicle and, with some minor amendments, it could do all the things that the government is doing with this bill, other than those clauses that relate to criminal matters. As we have already indicated, it is clear, based on the charges to date, that there has been no sentence even approaching the existing maximum penalty, so clearly it is not a matter that is under threat.

Just in relation to getting to the date of 4 January 2023, I think the minister can anticipate our concern here. We accept that the government has to do things, but unfortunately, under the Emergency Management Act, there is zero transparency for the community and the opposition in relation to any of the reasoning. These things simply come out as edicts. We are told they are necessary, and that is the end of it. We cannot ask questions. We are told that everything that goes into those decisions is secret. Based on what the minister has told me this evening, why would anything change? I can see us being here in November and having another urgent bill being shoved through to extend it again, because every single piece of logic that the minister has used to justify this extension will apply at the end of this year. In fact, it will apply in the middle of next year and at the end of next year. Based on what the minister has said, we can expect to see no end to this. The government does this in six-month tranches; that is the logic it has used to reach this stage and to justify the continuation of these powers. It is very important that we manage this well, but society is largely functioning as normal, and this is clearly not the situation we had at the start of this crisis. Why not just be honest and set a date? Nothing will change; in three years' time we will have thousands of COVID infections. People will be dying of COVID and there will be new variants of COVID, despite all the reasons the government has given tonight. Is it therefore reasonable for me to assert that, based on what the minister has told us today, this will not end and the government will take this to the next election as a state emergency?

Mr R.R. WHITBY: I am trying to get my head around the logic here, because we both agree that this is unpredictable. I know there is a desire to put it behind us, but we cannot do that because we just do not know. I think the member wanted me to put an end date on it. That would be nice, but I cannot do that. As I said before, the fact that we are down to this many directions means that, effectively, there could be no directions, or we could be down to one or two. The government will be able to look at the situation in six months. Hopefully, we will continue to get through this—I hope that is the case—and we will be able to look at what will be required at the time, but we need to set a time line. If the member wants me to set a year or two years and be done with it, who knows? I think that would have been a long time. I think six months makes sense and there will be an opportunity for the government, when we approach that new sunset date, to reconsider. The member wants us to get back to normal, and this is very close to normal: 10 directions. People are free; they can go to hotels, they can go to work and they can travel. They

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can go overseas and people from overseas can come here. What the opposition is after is essentially here and now, but we need to safeguard in case things change.

Again, this is an elegant, simple system that has served us so well. Why would we want to change it? It has got us to this point and has given us one of the best results on the planet. Importantly, these directions are about the most vulnerable people in our community, including people in aged care and seniors with lots of other conditions. We talk about the low death rate in Western Australia, and we should be thankful for that, but every day, virtually, we hear about a tragic loss of life, and that is someone's father, mother or grandparent who has died. We can say, "Well, they're of advanced years. People of that age can get the flu or whatever", but I do not think it tempers people's grief to think that it is somehow okay for a loved one to die of COVID because they were at the end of their life anyway. Every day is precious, and if someone is in a very vulnerable situation, we should protect them. Those lives are precious. There are also whole remote Indigenous communities that could be endangered.

This is about effectively living a normal life, as we are today. We are back with a full chamber today and we are almost back to normal, but we will keep this small handful of directions in place to protect the most vulnerable. If we wake up tomorrow morning and there is a new variant rampaging in Europe, we will know that we have the legislative infrastructure in place to protect us very efficiently.

Dr D.J. HONEY: No-one wants to see people die and no-one wants to see people not being properly protected. Having said that, every year about 120 people in this state die of influenza, and we can expect this to go on. The point I am trying to get to in relation to the date that has been set is that the government has not given any explanation to indicate that it will ever end, and we could simply come back to rolling six-month reviews. Every fact the government has stated in relation to this virus will apply. Even at the end of this year we are very likely to have 5 000 or 6 000 COVID infections per day, and people will die of COVID. It is not going to stop; COVID will be with us forever, or certainly for the foreseeable future unless there is some magic, and this date will never end. That is the concern. We have a powerful tool in the Public Health Act, which allows the government to give directions on a range of matters; it is very, very broad. That is how we can move back to normal. If the Public Health Act is deficient in small ways, let us amend the Public Health Act so that we can manage this in a normal way, using those broad powers, but allowing the government to focus on specific issues such as the requirement of a 24-hour renewal for clauses on masks and the like.

Mr R.R. WHITBY: I think we are going around in circles. I have explained how we have a very effective and successful mechanism for dealing with this. I have explained how we are down to 10 directions from well over 500. Maybe they could be reduced further, but the issue is that we are living fairly normal lives and we still need to protect the vulnerable. The opposition wants an end date and it wants this to be over. We all want that, but I am not going to walk away from the risk to people in aged care, for instance. The member for Cottesloe mentioned that people die of influenza every year in their advanced years, and that is true, but really? Are we really not prepared to simply wear a mask to go into an aged-care home because it might save the life of someone in their 90s?

Dr D.J. Honey interjected.

Mr R.R. WHITBY: This direction ensures that will happen. I know the opposition has always argued against us, and I do not know how successful we have to be in dealing with this pandemic before it begins to support us, but I urge the member to realise the effectiveness, efficiency and elegance of the system we have created. It has done remarkable things to help protect this state. There is a small number of people in Western Australia who have an issue with this, but overwhelmingly the people I speak to, from all walks of life, have valued the protections that this government has offered against the pandemic and they are grateful. I have spoken to people who are questioning why the borders are open now. There are some Western Australians who actually want us to go back and not have new arrivals here. It is always about a balance in assessing risk and making the right decisions for the state. It is not easy, but I think we have done incredibly well.

Mr P.J. RUNDLE: I must say I share the member's scepticism when the minister mentions that another variant is potentially always around the corner or something could happen in Europe or whatever. The question is: when will it come to an end? But I will leave that aside for the moment. Is it going to roll on to March 2025? Who knows? In closing, I assume that the one element that has been added is the cruise ship scenario. Is that the one new element to this or is that just one of the things that it has been condensed down to?

Mr R.R. WHITBY: That is what has existed and we believe that it is appropriate and should continue.

Mr P.J. RUNDLE: Under the international health guidelines, if you like, if someone comes into a port and they are not well, it is the job of the government of the day to look after them. What difference is there between this scenario versus a normal state of affairs when we are not operating under the state Emergency Management Act? Is there any difference whatsoever?

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Mr R.R. WHITBY: These directions can control the number of people who can be on a cruise ship, and they also put an obligation on the ship's captain and, I imagine, the shipping company to appropriately deal with the situation. But let us go back to when we did have a cruise ship with cases on board. These directions are effective in giving control and authority to our police to handle that in a safe way. We saw in Sydney the fiasco with the *Ruby Princess*, with the New South Wales and the federal government releasing hundreds of infected people onto the streets of Sydney. I think that was our first superspreader event. It resulted in our first case in Western Australia. Our first deaths came from the *Ruby Princess*—a cruise ship. These important directions protect us.

Clause put and passed.

Title put and passed.

Third Reading

MR R.R. WHITBY (Baldivis — Minister for Environment) [8.13 pm]: I move —

That the bill be now read a third time.

The DEPUTY SPEAKER: Did you want to speak to it?

Mr R.R. WHITBY: No, I think I have said enough tonight. I am very happy.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [8.13 pm]: We come into this place and we debate matters, but we get the sort of strong view from the other side that if we ask questions or challenge the government in any way, somehow or other this is a moral failing or some other failing on our part. If we did not do that, we would not be doing our job in Parliament. In fact, we are trying to help the minister in this matter. The reason we think the minister needs help in this matter is that, as I said before and as was discussed in the consideration in detail phase, there is nothing the minister has told us tonight that indicates that these emergency powers will ever end—not one thing. Every single thing the minister has used tonight to justify the continuing of these emergency powers past 4 July will exist at the end of the year. We will have substantial numbers of COVID infections in the community. There will be new and unexpected variants in the community. People will die of or with COVID, and the deaths will be reported as COVID-related deaths in the same way that deaths are being reported now. There will be numerous COVID-related deaths at the end of this year. I wish that were not the case; I wish there was a magic spell.

It is very clear is that the vaccines we have are not as effective as most vaccines. We have to have these vaccines much more frequently. I have had three vaccines. I will have my fourth vaccination shortly, and that is likely to go on. So that is a vaccination every six months, essentially, post the vaccines being implemented. So every single thing the minister has discussed here—the ease of the government making decisions and the rapidity of being able to make decisions—will all exist. The justification that is given for this extension is a justification to extend the powers in the Emergency Management Act forever, and I think that is the wrong way to go about this.

The Public Health Act—I encourage members to read the Public Health Act—has considerable powers. As I said, I am not going to hold this place up by going through that detail here; I do not think that serves any purpose. But members can inform themselves. There are considerable powers in the Public Health Act. It was indicated during the briefing. We were not given explicit details, but it was indicated during the briefing that there are some things —

Mr D.A. Templeman interjected.

Dr D.J. HONEY: Yes. I thought the Leader of the House was going to terminate me there! I was starting to worry—a man of his power. It would have been like some *Star Wars* movie!

It seems that minor amendments to the Public Health Act could deal with the issue of having to make certain types of restrictions in the future. From my understanding, most of the restrictions, most of the limitations, could have been done under the Public Health Act, but they were done in this legislation. We were told it was the most convenient way for the government to do it. In any case, there is also a model in Victoria for how to deal with those ongoing matters. As I pointed out, Victoria still has a very substantial number of cases, so there are other ways of doing it.

As we said right at the outset, the state of emergency should be unusual; it should be exceptional. It should not be the normal. But it appears that the new normal is going to be constantly living under an Emergency Management Act, because none of the factors being used to justify this bill or the extension of this period to 4 January next year will have substantially changed by the end of this year or next year. They will continue. That cannot be the new normal. This cannot be the approach of the government. I mean, we will end up with zero transparency for how any of those decisions are being made. That is not the appropriate way to do it. That is not how we do it in a democracy.

As I said at the outset, we understood at the start of this pandemic that it was extraordinary. That was very clear very early from the information coming from overseas. Of course, the eastern states were much more affected at the start of this because they had many more overseas visitors than us. So we had a chance to learn. Now we know

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how to manage this. We know how to control the spread of infection. We know what the important factors are. Yes, it is very important that we manage all that very well. We have consistently said that we appreciate that this is an enormous public health effort that will continue for some time, but it does not have to continue under the Emergency Management Act, and that is why we have expressed the concerns that we have tonight. I know that I cannot stray too far in the third reading debate, but this legislation was not done in a proper way and, unfortunately, it reinforces the concern that these provisions will continue for years and not for just six months.

MR R.R. WHITBY (Baldivis — Minister for Environment) [8.20 pm] — in reply: I want to thank members opposite for their contributions on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022 tonight. Unfortunately, pandemics do not come with an end date. They do not. We cannot set our clocks by them for when we might want them to finish. The member for Cottesloe seems to be desperate for me to give him a date, a month, a time when we can all walk away from this, but that is simply not possible. This is the nature of pandemics. The member for Cottesloe's comment that a state of emergency should exist during extraordinary times is right. We are in a deadly global pandemic. The last one was in 1918. They are extraordinary, and we are in one now. Some people might be complacent about that fact, but we should not be. This response is fit for purpose and required. These controls and directions will help us protect Western Australian lives. As I said before, they can be dialled down to almost none. They are there to protect us and they are available if need be when circumstances change.

I wish I had the crystal ball that the member for Cottesloe seems to have, but I am not sure whether his is working that well. I remember he said a few months ago in this chamber that there was no way that we would get to a vaccination rate of 90 per cent in Western Australia and that it had never been achieved anywhere on the planet and we were dreaming.

Dr D.J. Honey: I said I would be the first to congratulate you, and I was!

Mr R.R. WHITBY: That is what he said. He said it was never going to happen.

Dr D.J. Honey: No, that's not true.

Mr R.R. WHITBY: I will dig out the *Hansard* for you.

That just goes to show that none of us, not even the member for Cottesloe, can be certain of what is going to happen in the future.

I hope the pandemic goes on a downward trajectory and we can get through this, but a prudent and responsible government keeps the ability to respond to protect the community. If I were in the member's position, I would not be sure that voting against these protections would go down too well with the broader community. We will get this legislation through this chamber. I invited the member to support it, and I still do, but if he opposes this, he will be on record as opposing provisions that will protect our most vulnerable people. I do not think that is a good look.

Dr D.J. Honey: Minister, I meant to thank your staff and your advisers. I forgot to do that before.

Mr R.R. WHITBY: Thank you, member. It is remiss of me to forget; thank you for reminding me. I would like to thank the long-suffering staff, who are here far later than they want to be—except one of them, maybe! I would like to thank everyone who is here tonight. I really appreciate the fact that you are here providing the advice and helping this legislation through. I thank members opposite for being here and taking part in the debate, and thank members in the chamber for listening intently.

I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.