

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2017

Second Reading

Resumed from an earlier stage of the sitting.

HON SIMON O'BRIEN (South Metropolitan) [5.12 pm]: Madam President, I know that everyone has been waiting through a busy question time for me to resume my theme. Just as I arrived at the subject of what should be happening in this particular space, rather than time wasting and inconveniencing people, I made the point with reference to the second reading speech—so it is government members' own health advisers telling them—about how the absolute proportion of smokers in our society seems to have plateaued. The number has certainly reduced dramatically over decades. We were entertained by Hon Michael Mischin, who reminded us that smoking had gone on in the confines of this very chamber; I hasten to add that it was not in my time, but not long before. Before I became a member, I recall being surprised to view in another place, I think it was Bill Thomas, the then member for Cockburn, get out of his seat to go and sit in the corner of the chamber in another place—which, of course, is the same dimensions as this one—and light up a cigarette. There was an ashtray with a floor stand, and I was a little surprised by that. This would have been the early 1990s when things like that generally did not happen in any workplace. That is when it was explained how that was “behind the Chair” and therefore outside the chamber because, of course, never, ever had smoking been allowed in the chamber! But since 1904, it had been happening in the corner there, behind the Chair. I do not know what happened to those ashtrays. I guess they went the way of the others.

Then there was a stampede to outrage oneself about smoking. The smokers were told, “No, you can't smoke in an enclosed workplace anymore.” Collectively, they accepted that and said, “Fair enough.” Then, whether they be in the front bar of the Iron Clad Hotel, or whichever pub they might be in, people were told that they could not smoke in all the bars and that one bar would be designated. That, of course, was not enough for the zealots, was it? They said, “Now you have to go outside the pub altogether. You'll have to go out into the beer garden.” Inevitably, smokers went along with that, but that was not enough, of course. The goalpost had to be moved again. Then they were not allowed to smoke in one half of the beer garden. I think Janet Woollard said it at the time. I do not know where that ended up; people are probably agonising over it. I do not go to beer gardens very much these days.

Hon Darren West: You're missing out!

Hon SIMON O'BRIEN: Frankly, I went to the pub on more occasions before I was 18 years old than since I was 18 years old, but that was back when people could have a beer and a smoke at the Booragoon Hotel or somewhere. Yes, all the cigarettes were butted out on the soggy carpet. That used to happen here too, but times have changed.

Hon Alannah MacTiernan: The good old days!

Hon SIMON O'BRIEN: Indeed! I suspect the minister and I can find common ground here! We can talk about the good old days, but I will come up to the present. Smokers have gradually been put out and out and out. There was a time when they had to go out on the balcony of somewhere to smoke. They could not smoke inside. Then, of course, the McGintys and others of the world pursued them out onto the balcony. They came up with this nonsense idea about enclosed buildings. If people were on a yawning great verandah on a first-floor building in Fremantle, that was not an open area because between the roof, the floor and the wall behind them, that was more than half of what would otherwise have been open space, therefore it was “enclosed” by the new definition. So people were not allowed to smoke on verandahs either. The poor old smokers have been confused and now the last survivors, those who crave a fruit flavoured cigarette, would be crushed out under the heel of these zealots, and heaven help them! But again I ask: what will happen to the hardcore smokers who will not give up for whatever reason? Despite any health scares, social pressure or anything else, they will not give up. We know numbers of smokers have plateaued. Plenty of other literature is available to give us figures beyond the second reading speech, which indicates that the number has plateaued at a low level. What do bureaucrats do when faced with that situation? They say, “Well, if it's not working anymore, then we obviously need to do more of it and double up on what we're doing that isn't working.” It is a curious reaction, but we see it happen very often. I beg to differ. If all someone is going to achieve has been done through one course of action, then they need to stop pushing that same course of action if it is no longer delivering anything. If they have to proceed with some sort of other goal, they need to try some other course of action.

Before we rose for question time, I raised the question of e-cigarettes and vaping. E-cigarette lobbyists have come to this Parliament. I have a vaping implement at home. They were given out to members. It is probably illegal.

Hon Aaron Stonehouse: It is illegal.

Hon SIMON O'BRIEN: Is it? Then I will be in big trouble. I will probably get raided tonight! For all we know, I have probably committed offences under the Animal Welfare Act 2002 as well!

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Vaping will not be countenanced by health authorities and advisers in Western Australia in particular and in Australia in general. That is very silly. There are hardcore smokers for whom vaping or e-cigs would provide the outcome that others want. We would then not have to worry about whether passive smoking is an issue at Scarborough Beach or on a balcony in Fremantle or, indeed, in a corner of the parliamentary chamber.

I raise that issue in the context of this bill. I make a plea for some common sense to apply. However, I fear that will fall on deaf ears, because so much form has been exhibited in this space by people who are not prepared to countenance any tolerance of people's nicotine addiction or, dare I say it, nicotine preference. Is it less than nine per cent of one in 11 persons? I do not know. However, I reckon there is a considerably higher percentage of smokers in this chamber than that figure.

Hon Alison Xamon: Than nine per cent?

Hon SIMON O'BRIEN: Yes—too right there is. Some of them have bummed cigarettes off me! Seriously! The member has not seen me smoking, has she?

Hon Alison Xamon: No.

Hon SIMON O'BRIEN: That is because I do not smoke around here. I do not smoke when I am going about my business as a member of Parliament. There is nowhere around here where I am allowed to smoke. We used to be allowed to smoke in the courtyard. We are not allowed to do that anymore. I feel sorry for people who want to have a smoke to relieve their stress or whatever other symptom they need to relieve. However, when I am away from this place, I smoke. It does not matter that I am a heart attack survivor. But can I get an e-cig if I want one? No. That is because this government and its health advisers, and the previous government and others, are too pig-headed, stupid and head-in-the-sand to understand that people could use that to break through their nicotine addiction. They are not prepared to contemplate that. Therefore, we have ended up wasting our time on this bill. I have to tell members that I do not give a rats in contemplating how I will vote on this bill.

Hon Dr Sally Talbot: Be quick. You're running out of time.

Hon SIMON O'BRIEN: I am sure members opposite will give me an extension!

The ACTING PRESIDENT (Hon Dr Steve Thomas): Order, members.

Hon SIMON O'BRIEN: I do not care about earth-shattering initiatives with fruit or confectionary-flavoured cigarettes. I must admit that strikes me as a bizarre concept, but apparently some people get pretty excited about them. I object to what to my mind is the insidious rule that was passed by this Parliament that it is illegal to sell items that resemble cigarettes. This is a matter that I want to examine in detail during Committee of the Whole. We were told when that law was implemented that it was to protect children. Right! Some lollies were being sold called FAGS. Do members remember those? They were in an oblong box that contained about 10 lollies, and they were white and made of marzipan.

Hon Sue Ellery: No; they were sugar.

Hon SIMON O'BRIEN: They were just sugar, were they?

Hon Sue Ellery: They were unadulterated sugar.

Hon SIMON O'BRIEN: Then they would need to be banned if they were made of sugar! God almighty! They probably had salt in them as well. Heavens above! Kids liked them. They were called FAGS because they resembled cigarettes. They were briefly renamed —

Hon Alison Xamon: FADS.

Hon SIMON O'BRIEN: Yes, FADS, because the manufacturers must have known that the health zealots would be coming after them. There is now a law that people are not allowed to sell FADS because they resemble in some way cigarettes. That is the reason that e-cigs are illegal in this state. I think the members of Parliament of the day were duded. There was a second agenda that had nothing to do with lollies that were shaped like cigarettes. It was all about e-cigs, which were looming on the horizon. That is part of the record.

One aspect of this bill really offends me, and I would like the government's response to this. I have pretty good bulldust indicators after the successive governments I have seen come through this place. I believe that one of the reasons for these amendments to the Tobacco Products Control Act is to deal with Mr Devlin's cigar emporium, which we have heard so much about. I cannot substantiate this—that is why I am asking for advice from the government—but I am aware of an allegation that during earlier iterations of the anti-smoking legislation that successive governments have been so keen to implement, Mr Devlin was told begrudgingly by the government officers who were dealing with him, "Well, you got a reprieve this time, but we're going to get you in the long run." I believe this bill is a manifestation of that—at least in attitude, if not totally in fact. I was not there at the

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

time, so I do not know whether that is true. However, from everything I have observed—I have vented a bit about it this afternoon—from the health zealots who are trying to tell everyone they cannot smoke, that would be typical of this government's fascist attitude. The government is saying to tobacco users and retailers, "We don't care about what you think or about any rights you may assert to have. You're not entitled to have rights. We're going to eliminate you, and we will do whatever it takes, ruthlessly, and without any sense of even-handedness." I suspect that is what is behind these otherwise inexplicable, and, quite frankly, nonsensical provisions that relate to at least Devlin's—which I have never visited and am never likely to go to; I do not know the bloke—or any other specialist tobacco retailer. I would be surprised if there are any other specialist tobacco retailers in this state. Does anyone know of any?

Hon Aaron Stonehouse: Some tobacco retailers might be eligible. But it is not a licence. It is only a defence.

Hon SIMON O'BRIEN: Right. That brings me to my next point, which is related to that. Hon Michael Mischin might say something about this at length in the committee stage. It is a blot on our statute book, as Hon Aaron Stonehouse has just reminded us, that this act provides a defence for a person who is a specialist retailer and portrays that as some sort of protection for a specialist retailer. It does no such thing at all. It is an absolute outrage. Why does a person need a defence for something unless they have been accused of something? Why can they not be allowed to go about their business, as we all do, in a lawful manner without running the risk of being charged with something and then being told, "But it's all right; you've got a defence"? Does anyone want to be charged with robbing a bank and then be told, "Don't worry; when you get to court, you've got a defence by saying that you were never in the bank"? It is an absolute nonsense. If a person has not committed an offence, they should not require a defence, yet that is what this bill purports to do. It will put the specialist retailer at risk of being prosecuted by a vindictive establishment, but, as the protectors of the public, we are told to accept that by saying, "It's all right; if that happens, they might have a defence within very narrow parameters." That is not how a law should be constructed—it is not—yet that is how the law under the act is currently constructed, and it should be deconstructed.

As members can tell, I do not have very much time for the bill, and I have very little time for those who have conceived it, constructed it and put it forward for all the reasons that I have outlined and then some. I am getting sick and tired of the sanctimonious attitude of people—for generations now—to this matter, and we have heard some more of it already in the debate in this place. I am getting fed up to the back teeth; in fact, I am beyond fed up with the attitude of the health zealots who think that their role in life is to dictate to all of us how we should live our lives, using their trumped up excuses or justifications that it is somehow about protecting children or protecting us from ourselves or that because we are all part of an overall health system, we have to do exactly what they say. I am fed up to the back teeth with it. They need to understand that they, too, are servants of the people, not the dictators in charge. But, of course, if Parliament and successive governments are going to let everyone's rights and freedoms be walked over, that is precisely what will continue to happen.

To finish on at least one vaguely conciliatory and consensual note—I am sorry to disappoint the honourable Leader of the House —

Hon Sue Ellery: You never disappoint me—never!

Hon SIMON O'BRIEN: I might yet. I was staggered to discover that it is not an offence for a person under the age of 18 years to sell tobacco products—full stop. I was surprised by that. I was aware that the law had been changed some time ago and that it is an offence for tobacco products to be sold to people under the age of 18, but I was surprised to find out that people under the age of 18 could sell these products. It is inconceivable, for example, that someone under the age of 18 would be employed in a bottle store to sell alcohol only to people over the age of 18. So I am surprised that that never happened. Is it not extraordinary that, with all of this regulation and banning of everything and stopping of this and cracking down on that, that is one little thing that somehow slipped through the net until now? Perhaps at least we can support that, because it would be an idiotic thing not to do.

I feel so much better now for getting all of that off my chest. I might go into the corner and have a smoke to celebrate! No, I will not do that. I hope members reflect on what I have had to say, because I think the authors of this bill have somehow lost the whole point that they set out with 30 years ago.

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [5.35 pm] — in reply: I thank members for their contributions, which varied in content and in length, to the debate on the Tobacco Products Control Amendment Bill 2017. I also thank members and their parties for indicating their support for the bill. I will be able to respond to some of the issues that were raised in the second reading debate, but I have no information about some other issues, particularly recent allegations, so I will not respond to those. I will try to respond in broad themes to the range of issues that have been raised. Members will know that the government has an amendment on the supplementary notice paper.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

A number of members have pointed out that this bill will strengthen restrictions on the sale of tobacco. Let us not forget that this bill will amend an act that has been in place for a long time. The object of that act is to reduce smoking rates amongst the general population and amongst children in particular. This bill will add to the act that has been in place for some time in a couple of different ways. Some honourable members said that the bill is limited in its professed aim of reducing smoking by children. I go back to my original point. This bill will amend an act that is already in place and that has a number of techniques to reduce smoking rates. Members also focused on one part of the bill; that is, currently, people under the age of 18 years are able to sell cigarettes. This bill, if successfully passed, will make it illegal for people under the age of 18 to sell cigarettes. That is only one part of this bill that is aimed at reducing smoking by young people, and I will come back to the detail of that in a moment. I just wanted to point out that there is a lot more to this bill than that one part. Other parts of the bill ban fruit and confectionery-flavoured cigarettes and split-pack cigarettes. One of the members raised a concern about split-pack cigarettes. It is quite insidious. It is a marketing tool to split a pack of 30 cigarettes into smaller packs. If a person buys a split pack, they can break it up and give it to their friends. It is also easy to hide. It is easy for schoolkids to hide in their pockets, their bags et cetera. This is just one step that can be taken to reduce the harm caused to children by smoking.

This bill also aims to stop sales of cigarettes at music festivals and other events that young people attend in great numbers. I remember a time when I attended music festivals.

An opposition member interjected.

Hon ALANNA CLOHESY: I am now not young; I thank the honourable member for pointing that out!

The bill also stops cigarettes being used in shopping reward schemes. I am advised that there are still schemes in which people can be rewarded with cigarettes for some activity carried out for loyalty, for example, with a particular product. To assume that the component of the bill that prevents people under the age of 18 years selling cigarettes is the only way in which it reduces harm amongst children is incorrect; I point to those other sections as well.

Let me focus a little on section 18, which also refers to reducing or preventing children from selling cigarettes. I think it is reasonable to point out that we do not allow people under the age of 18 to purchase alcohol. Why then are we allowing people under the age of 18 to purchase cigarettes? It goes hand in hand. The legislation that is already in place that this bill seeks to amend also stipulates that tobacco products need to be kept out of sight to minimise young people's exposure to cigarette advertising or to these products. The legislation is undermined by allowing children to sell tobacco as well. We are trying to stop young people being exposed to the marketing of cigarettes and keeping them out of sight, but, on the other hand, we are allowing them to sell cigarettes. It is important to introduce this section for a number of other reasons, which we could go into in more detail if members wish to in the Committee of the Whole stage. I point out that in 2016, a survey of 500 Western Australians, undertaken by the Cancer Council of Western Australia, showed that 92 per cent of respondents—90 per cent of smokers and 94 per cent of nonsmokers, so a fairly even number of smokers and nonsmokers—supported selling tobacco products only by people over the age of 18 years. There is a general understanding in the community that tobacco products should be sold only by people over the age of 18. I think that is probably enough on that section.

One of the questions Hon Nick Goiran raised was —

Hon Nick Goiran: Of four.

Hon ALANNA CLOHESY: They are not in order. One of the questions that Hon Nick Goiran raised was about clarification of the differences between the bill that was presented in the other place in 2016 and the bill that we are debating here. The bill that was presented in 2016 came from the statutory review. The honourable member raised a very interesting point about statutory reviews and having some mechanism by which Parliament can be made aware of when those reviews are due, for example. It is not a point that I can respond to on behalf of the government, of course, but it is interesting. The review of this act was late; it happened in 2011. It took from 2011 to 2016 for the previous government to even attempt to make some amendments to the act that was under review.

This bill is quite substantially similar to that one that was tabled in 2016, but I would like to point out some important differences. The objectives and the outcome of the two bills remain the same, but there are some differences. One is the commencement date in clause 2. An additional commencement period was added in clause 2 for clause 4. The commencement period for clause 4, which provides for no retail sale by a person under the age of 18 years, will commence 24 months after the day on which the act receives royal assent. That was in response to some discussion amongst stakeholders. That clause, which requires people under the age of 18 not to sell cigarettes, will take effect two years after royal assent. That is a significant change from the previous bill.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

There were also some drafting changes. Clause 11 amends section 40 of the act. Section 40 is amended in both the 2016 and 2017 bills. This section provides for notice of a decision by the CEO to refuse the renewal of a licence. The time frames in the 2016 bill have been simplified, but the outcomes stay the same. There are some reformatting of provisions that have been done. For example, part 9 is a newly added part to the 2017 bill. Two provisions under this part, sections 128 and 129, were previously located in other parts of the 2016 bill. So there has been some reformatting. Clauses 13 to 15, which refer to restricted investigators, are consequential provisions. Section 77 of the act is proposed to be replaced. The replacement of this section was included in the 2016 bill. Section 77 concerns the appointment of restricted investigators to investigate offences under the act. On further review after the 2016 bill, it was considered appropriate and relevant to include related provisions to the appointment of restricted investigators. These provide for the special function of a restricted investigator and the requirement to hold an identity card.

In response to Hon Michael Mischin's question about the burden of proof, indeed this bill and the amendment that he talked about concerning section 23 also maintain the defence structure that is set out in the current act. Those affected by that have been consulted and are happy with and support the amendment. Hon Nick Goiran asked whether further consultation was undertaken for the 2017 bill. Extensive consultation was undertaken for the review of the original act. That extensive consultation was with 169 peak representative bodies, groups and individuals with a known interest in the issues covered by the act who were notified about it. Sixty-nine submissions were received from stakeholders, including 21 individual members of the public. It was a fairly extensive consultation process. No further detailed consultation was undertaken on the 2017 bill because the outcomes of the two bills remain the same. As I said, there was some discussion with a stakeholder on one of the amendments, which we will discuss in detail.

I do not know that there is much evidence that specialist retailers not being able to demonstrate their product will have a general effect on tourism. As I said, there will be a two-year phase-in period for the provision preventing people under the age of 18 from selling tobacco products.

Hon Alison Xamon spoke in detail about the interrelationship between people with mental illness and the tense relationship around smoking. I understand the very important points that she raised, particularly around access to cessation treatment et cetera. She also spoke about the high rates of smoking by people with mental illness and also the financial inequalities experienced by people with mental illness, particularly severe mental illness. It is probably worth pointing out that people with mental illness are more likely to smoke than the wider population. In WA in 2013, 19 per cent of adults aged 18 and over who had been diagnosed or treated with mental illness in the previous 12 months were daily smokers. That is compared with 12 per cent of adults across the general population who were daily smokers, so the prevalence is higher. Some programs are targeted at people with mental illness. The Department of Health funds Cancer Council WA's Make Smoking History program and the WA Quitline counselling service. I am advised that they have targeted components to assist people with mental health issues. As members would know, the Make Smoking History program aims to raise awareness of the harms of smoking amongst those people with a higher prevalence. Partnerships have been formed with mental health organisations such as Mentally Healthy WA and the Western Australian Association for Mental Health.

That is pretty much most of what I am able to respond to in relation to the questions that have been raised by members. As I said, I am happy to discuss the amendment in my name in Committee of the Whole.

I want to be very clear about what section 23 of the act does. I recognise that members may want more information or may want to discuss it further. After the bill was introduced, concerns were raised about the amendment to section 23 of the act, which proposes to phase out displays of tobacco products in specialist retail stores over two years. As members are aware, the current act already deals with the display of tobacco products. A fair way of summing up what the act does is that it completely removes tobacco products from the point of sale site. As I said, concerns were raised about amendments proposed in the bill. Further discussion and consultation was undertaken to ensure that stakeholders' views were taken into account. As members know, a further amendment was drafted, which states —

- (2) If a person is charged with an offence under section 22(1) it is a defence to prove that at the time the offence is alleged to have been committed —
 - (a) the person was a specialist retailer; and
 - (b) the display was of a cigar or an implement designed to cut a cigar; and
 - (c) the display could not be seen from a public place outside the premises specified in the licence; and
 - (d) a health warning sign in accordance with the regulations was displayed immediately adjacent to the display.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon Aaron Stonehouse: That is the proposed amendment, not how the act currently sits now.

Hon ALANNA CLOHESY: That is right. That is what I was talking about. That is what the amendment does. That is an outcome of discussion with stakeholders, and it was seen as fair and reasonable to do that.

I want to come back to the amendments that this bill proposes. They will tighten the laws and policing relating to the sale, supply and marketing of tobacco products and the exposure to second-hand smoke. These new provisions will contribute to the state's comprehensive action on tobacco control contained in not only this bill but also the act, and do more to protect children from exposure to tobacco products.

Question put and passed.

Bill read a second time.

Sitting suspended from 5.57 to 7.30 pm

Committee

The Deputy Chair of Committees (Hon Robin Chapple) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon NICK GOIRAN: During the second reading reply, the parliamentary secretary touched on a couple of questions I had asked on behalf of the opposition. I asked four questions and, by my count, I think the parliamentary secretary responded to two and a half of them. I take the parliamentary secretary to that. The first one responded to was about the comparison between the two bills—the draft bill of November 2016 and the bill currently before the house. She indicated that they are substantially similar bills and took us through various provisions that she indicated were different.

Hon Alanna Clohesy: Or similar.

Hon NICK GOIRAN: I think the parliamentary secretary was concentrating on the things that were different; the ones that the parliamentary secretary did not mention, obviously, must be the ones that are similar. By my count, the parliamentary secretary touched on clause 2, and I think she touched on clauses 11, 12, 13, 14, 15 and 20. I gather, by implication, that clause 4 is also different, because she mentioned that clause 2 deals with the difference between the six months and the 24 months, referring to section 4. Are there any other differences between the two bills?

Hon ALANNA CLOHESY: The key differences that I discussed in the second reading reply were significant or substantial. I talked about clause 2. There were no changes to clauses 3, 4, 5 and 6. I talked about section 25. There is no change between the 2016 and 2017 bill on section 33A, which is clause 8. I have talked about section 38. I have talked about section 39; the member can let me know if he wants more detail on that. Clause 11 amends section 40, and I talked about that in the second reading reply. In the second reading reply, I talked about section 77—clauses 13, 14 and 15. Section 78 is also covered by clauses 13 to 15, as is section 81. There are no changes to section 82 in this bill compared with the 2016 bill. There are no changes to clause 16, or section 92. The difference between the 2016 bill and the 2017 bill in the general provisions contained in clause 17—section 11A—is that the penalty for the offences under section 25 of the act are set out in section 25 rather than in section 115. That is because the offences under section 25 of the act are considered to be of a lower order than some of the more serious offences provided by the act, for which a stronger deterrent is required. It was considered appropriate to set out the penalty directly under section 25. Section 119 was included in the 2016 bill, so it is no different. A second part to section 119 has been moved to a different part of the bill. There is no change to clause 19, and clause 20 was discussed in the response to the second reading debate when I talked about the reformatting of provisions. Does the member want me to go through how they are reformatted?

Hon Nick Goiran: No.

Hon ALANNA CLOHESY: The definition of the due day in the glossary is the same as it was in the 2016 bill, but it was contained in clause 10. It has now been moved to the glossary. The definition of identity card is in the new amendment, reflecting the amendments to section 81. I think that is fairly thorough.

Hon NICK GOIRAN: As much as the parliamentary secretary says that it is thorough, the difficulty with the explanation is that she chops and changes between referring to sections and clauses. It makes it difficult to track exactly what the parliamentary secretary is saying is different between the 2016 bill and the bill now before the house.

Hon Alanna Clohesy: By way of interjection, perhaps I can help to solve that by talking, when I introduce the amendment, about any difference.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon NICK GOIRAN: With respect, the government's amendment deals with clause 6, whereas I am interested at the moment in all 21 clauses of the bill. For example, I think I heard the parliamentary secretary say that section 82 is the same in each bill. Is that right?

Hon ALANNA CLOHESY: We are talking about clause 15. In fact, I did not say that. I referred to it when I talked about restricted investigators, so I did not say that.

Hon NICK GOIRAN: Unless I am gravely mistaken, I recall the parliamentary secretary raising section 82 and saying that there was no difference between the versions of the bill. That is in accordance with my recollection of events only minutes ago, so to be told now that it was not said seems odd. I guess the only way of verifying that would be at a subsequent time when we review the *Hansard*. Be that as it may, can the parliamentary secretary clarify for us whether there is any difference in how this bill deals with section 82 and how the draft bill dealt with section 82?

Hon ALANNA CLOHESY: In the second reading reply I said that it was an additional clause; I did not say that there was no change.

Hon MICHAEL MISCHIN: Maybe I was mistaken, but it looks to me as though the parliamentary secretary has been referring to a comparative table of some sort between sections. If that is so, it might assist us in our consideration of the bill and being able to compare it against the exposure draft tabled by Hon John Day at the end of 2016 if we could be provided with a copy of that comparative table. We would then be able to at least match the clauses in the current bill with those in the previous bill, and more readily pick up for ourselves where there are differences and whether those differences are material. Is the parliamentary secretary able to do that for us?

Hon ALANNA CLOHESY: They were notes for my reference. I am not sure how they would assist the honourable member in understanding the detail of the amendments that we are considering, in particular the parts of the bill that we are debating. They are just notes for assisting me. We are going to go through the bill clause by clause. We need to talk about the content of the bill, not differences between a bill that no longer stands and the bill that we are now considering. We are considering the bill before us, not a previous bill, and nothing else in between. We are considering the bill before us.

Hon MICHAEL MISCHIN: I understand that Hon Nick Goiran, who has management of this bill on behalf of the opposition, has further questions, and it may or may not matter to him, but I understood his interest to be the manner in which this bill departs from the earlier version. Its relevance, it seems to me, is this: the earlier bill was prepared on the advice of the department to the then minister. It was exposed to the public, by way of tabling in this place and the other place, in order that feedback and submissions could be made to address issues exposed by that first draft. We are being presented today with a version of the legislation that has supposedly taken that into account. My recollection of the second reading reply is that there has been consultation with stakeholders, and a variety of other forms of words indicate that the government has received information, submissions, perhaps complaints and perhaps affirmations on how this bill ought to be crafted. I am impressed if the government has taken that sort of thing into account because, plainly, on some of the pieces of legislation that we have dealt with recently there has been little or no relevant consultation with anyone who is meant to be affected by the legislation or who is going to be required to make it work.

What I am interested in, as perhaps Hon Nick Goiran and other members are, is knowing how the government's thinking has been shaped on this legislation in the—what—12-plus months since it was exposed to the public. It is also to my mind relevant to proposed amended section 23—if we can call it the Devlin's provision—because I recall that it was said by the government at the time that there had been wide consultation on that provision. I understand that Devlin's has said there was none. I would like to explore that proposition. It would certainly assist in navigating our way around it if we could have, for example, a comparative table of the current provisions that we are able to match back to the earlier bill, to be able say how it has changed and to what extent it has been informed by submissions from the public, from "stakeholders" and others who may be affected by this legislation or who will be required to make the legislation work. That would be of assistance to us. I am not asking the parliamentary secretary to reveal any confidential information, but comparative tables are a fairly common sort of document produced by the instructing department and agency for the assistance of the minister and those managing the bill, and, indeed, they are often produced for cabinet. That does not necessarily mean that they are cabinet-in-confidence. They are an aid, and if one is available—even if it simply compares the clause numbers between this and the earlier bill—it would be of assistance to us. Hon Nick Goiran and others may have a different view, but in my experience those things are of value and could assist the house in understanding the way that this legislation has been developed. I ask whether one is available and can be produced in some form.

Hon AARON STONEHOUSE: I echo the statements of Hon Michael Mischin. If a comparison table is available, that would be of immense help to members of the chamber in drawing comparisons between a previous bill and

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

the current bill, but also in guiding us in further inquiry as we continue through these clauses to know whether the clauses are unchanged between the previous and the current bill. We perhaps will not need to dive as deeply into those clauses because consultation has already been undertaken with members of the industry. If there are variances between the clauses of those bills, we will know that industry has not been consulted on the new clauses and that we will need to dive deeper in our lines of inquiry. If that assists the Chair or the parliamentary secretary, please keep that in mind when considering whether that table can be provided.

Hon NICK GOIRAN: I am grateful to Hon Michael Mischin and Hon Aaron Stonehouse, who have absolutely understood this issue. In some respects I find it perplexing. I concluded my second reading debate remarks by saying —

However, in light of this government's track record on legislation over the past 12 months, the opposition seeks a response to the points of clarification that I have raised. We also ask the government to facilitate the efficient passage of the bill during Committee of the Whole House by providing direct and satisfactory answers to questions, unlike the recent debacle with the Health Practitioner Regulation National Law (WA) Amendment Bill 2017.

We are only on clause 1 and are asking the most basic of questions. I have simply sought clarification of the differences between the two bills. Hon Michael Mischin quite reasonably noted that it appears that the parliamentary secretary has some form of helpful reconciliation table at her disposal and has asked for that to be made available, and the response was, in effect, "I don't really understand how that's going to help you guys." That is absolutely fine. I will not prolong the debate any further on that because the simple solution is to go through the bill clause by clause, and on each clause I will simply ask, to start with, what the difference is between this clause and the previous bill. We can do it that way, which will be more tedious and less efficient, or a very simple table could be provided and the whole thing will be much more expedient. It really does not bother me in the slightest. I am in no hurry whatsoever. I will leave it to the government to decide what it wants to do about that.

In the meantime, since I am interested in facilitating the passage of this bill and we are on clause 1, I will take the parliamentary secretary to another area that was touched on ever so briefly during the second reading reply.

The DEPUTY CHAIR (Hon Robin Chapple): I believe that the parliamentary secretary is indicating the tabling of a document.

Hon NICK GOIRAN: That is all right. The parliamentary secretary can wait until she has the call. In the meantime, I believe I have the call and I have a question for the parliamentary secretary. During the second reading debate I indicated to the parliamentary secretary that I was interested to know who was consulted on the changes between the old bill and the new bill. When I talk about the "old bill", I am talking about the draft bill that was tabled for public information and discussion in November 2016. The response provided by the parliamentary secretary during the second reading reply indicated that there had been extensive consultation in the original review. Something was not clear to me from the parliamentary secretary's response. She indicated that there were 69 submissions, and 21 had been from the public. I am not clear on whether the 69 submissions were the original review submissions or whether they are submissions on the draft bill that was tabled in November 2016?

Hon ALANNA CLOHESY: I will deal with consultation first. I said very clearly during the second reading speech that the 69 submissions were to the review in 2011. That report was tabled in Parliament, although I can table it again. There was not significant widespread consultation between the 2016 and 2017 bills, because the policy outcomes did not change. As to a table on the differences between the 2016 and 2017 bills, I am happy to table that, noting that members have indicated that it will reduce the length of the Committee of the Whole House. They can refer to that document, rather than debate clause by clause the differences between the 2016 and 2017 bills. On that understanding, I table a comparative document on the differences between the 2016 and 2017 bills.

[See paper 1247.]

Hon MICHAEL MISCHIN: I thank the parliamentary secretary for tabling that document. I have not, of course, had an opportunity to consider it. Hopefully, a copy will arrive fairly shortly. The parliamentary secretary said one thing that troubled me. Perhaps my recollection is not as good as it should be, but it was something to the effect that there has not been widespread consultation between the 2016 and the current bill because the policy outcomes did not change. I was wondering whether the parliamentary secretary could expand a little more on that. I understood that the purpose of the 2016 bill was to throw it open for consultation and public submissions in order to inform and shape the then government's thinking. I accept that it was the previous government. I do not recall any specific election commitments on the part of the current government that would guide or confine the manner in which it considers this legislation. I accept that the legislation arises out of some broad resolutions at a ministerial level across jurisdictions, but they would be informed by developments in other jurisdictions. I accept all of that. As has been emphasised, in many respects this bill is in advance of what has been done in other

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

jurisdictions. If it has been based on the advice of the relevant agencies to government, that is all well and good, but surely the purpose of exposing the draft in the first place was to receive feedback from the community—feedback from those who may be affected by it—to weigh up those submissions and to craft any changes to the draft or indeed even abandon the draft if the information received by the government was sufficiently compelling. It apparently has caused, or something has caused, the government to reorder the legislation in some fashion. Some proposed sections have been renumbered and some changes have been made. We will get to what informed those changes. To say that “the policy outcomes did not change” is a very broad statement. I do not understand why that would mean that there has not been widespread consultation. My understanding was that the bill was specifically tabled in this place and exposed to public comment in order that the previous government could receive some broad public comment and widespread consultation. It may be just a difficulty or a problem with terminology or an infelicitous expression of what the government’s position was, but I would invite the parliamentary secretary to explain that a little more so we understand what the government saw as the purpose of that exposure draft and to what extent it has taken submissions into account.

Hon ALANNA CLOHESY: The member is quite correct; he is mistaken about the 2016 bill. It was not a bill for widespread consultation, nor was it an exposure draft and nor was it a green bill; it was a bill to amend the Tobacco Products Control Act. The former government ran out of time from the consultations in 2011 through to the tabling of the bill in 2016. It ran out of time to deal with the bill in the previous Parliament, so the bill was just tabled. That may have been the reason the member considered it to be an exposure draft. The bill we are considering was indeed an election commitment of the Labor Party to get on and get that bill done; therefore, that is why this bill is in front of us. I think I have been through in a fair amount of detail the minor technical reordering of some of the bill. The member now has in front of him the tabled comparator table in relation to the 2016 bill. I hope the member has in front of him the document I tabled that tells him which sections were reordered.

Hon AARON STONEHOUSE: Following what has just been stated by the parliamentary secretary, to clarify for my own benefit: the bill tabled in 2016 was not an exposure draft; it was simply tabled because the former government ran out of time. That is how I understand it. Unless I am misremembering, I thought it was put in the second reading speech that the tabling of that bill was part of the consultation process; that members of the public could see the bill that was tabled and that was sufficient forewarning of the changes that we now see in this bill. I may be misremembering; maybe the parliamentary secretary could clarify that for me.

I would like clarification from the parliamentary secretary about another thing. No further consultation was done between the tabling of the 2016 bill and the introduction of this bill, even though an exposure draft was never made available for people to reflect on, or there was no green bill; it was simply tabled in 2016. Is it a standard process for a Minister for Health to simply introduce a bill without further consultation when the previous version of the bill was never submitted as an exposure draft; it was simply tabled because they ran out of time? Is that in the bounds of normal practice for a health minister?

Hon Nick Goiran: Mr Deputy Chair —

The DEPUTY CHAIR: The parliamentary secretary wants to answer the member’s question. I will come to Hon Nick Goiran in a minute.

Hon ALANNA CLOHESY: I do not recall, nor does *Hansard* reflect, that I said that that bill was for consultation. It does say that Hon John Day, the former Minister for Health, tabled it as a draft bill for public information and discussion. But I did not say that this was for consultation. Is that what the member was asking?

Hon AARON STONEHOUSE: That clarifies, but there was a second follow-up question to that, Chair, if I may. The second follow-up question to that was: the previous 2016 bill was merely tabled, it was not submitted as an exposure draft—there is no green bill. It was merely tabled because the former government ran out of time, supposedly cutting short the normal legislative process and the normal consultative process. Between then and now when this bill was introduced, no further consultation has been undertaken—is that standard practice for a health minister? Is it standard practice, even though the process was cut short in 2016 during the election campaign, that no further consultation is undertaken and a new bill is simply introduced; a new bill that has some quite substantial changes?

Hon ALANNA CLOHESY: As I said, there were not substantial changes between the 2016 and the 2017 bills. The member has in front of him the changes between the 2016 and 2017 bills. I also talked about the key differences in the second reading reply. I think there is sufficient information in both the second reading reply and the debate that we are going to have clause by clause for members to gain insight into the bill.

Hon MICHAEL MISCHIN: I confess to being rather confused at the parliamentary secretary’s comments. *Hansard* of the other place of 16 November 2016 records Hon John Day, the then Minister for Health, tabling the Tobacco Products Control Amendment Bill 2016 and saying that it strengthened the Tobacco Products Control

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Act and so on and so forth. He went through a little bit of a history of tobacco products control in Western Australia and the risks of consumption of tobacco products. He went on to say —

This bill results from a statutory review of the act that included extensive consultation with key industry and community stakeholders. In some instances, it brings WA into line with other Australian jurisdictions or restores our state to the forefront of tobacco control.

He then went through some of the features of the bill. He then concluded his tabling statement by saying —

I take this opportunity to thank the former Minister for Health, the member for Dawesville, —

That would have been Hon Dr Kim Hames —

for his significant involvement in this process, and table the Tobacco Products Amendment Bill 2016 and a copy of the explanatory memorandum.

At that stage the then Speaker pointed out something about the standing orders in the other place, to the extent that it has them, and mentioned that there was no provision to table the bill and sought some clarification regarding it. The then minister pointed out —

Effectively, it will be tabled as a draft bill for public information and discussion. I am not suggesting that it is being introduced in the normal method of a bill for progression through Parliament in the next week.

There was still at least a week's worth of business to be taken in that place —

Effectively, it is a draft bill for public information and discussion.

It seems to me that there is not much point in asking for discussion on a bill in a vacuum. The only point of putting something out there and saying, "Hey, folks, let's discuss it", is to obtain some information from the public in order to be able to assess it; otherwise, it is simply farcical and just showmanship rather than a genuine attempt to improve legislation and obtain feedback. I do not recall Hon John Day being that sort of a minister and I cannot imagine why he would have put something for discussion out there shortly before the final rising of the Assembly over a period when there was an expectation on the part of him and the then government that we would be returned to office if he was not serious about taking it into consideration if he received it. That seems to have been reinforced by the second reading speech delivered by the parliamentary secretary. She said —

This bill fulfils an election commitment made to the people of Western Australia in February this year.

No doubt she has that at her fingertips and can tell us exactly what that commitment was. She went on to say —

The Tobacco Products Control Amendment Bill 2016 was tabled in Parliament in November 2016 by the former Minister for Health, Hon John Day, MLA, as a draft bill for public information and discussion. During its tabling the amendments proposed in the 2016 bill were outlined. The bill did not progress prior to the 2017 state election.

Of course it did not. It was tabled in November in the couple of weeks before the end of that parliamentary year in the lead-up to an election and there was no sensible way of getting it passed even if the government had wanted to, and it plainly did not, because it indicated that it was not introducing it for the purposes of legislating; it was introducing it, as the parliamentary secretary herself has acknowledged, for public information and discussion. If there has been some discussion between the tabling of that bill in November 2016 and presentation in this place or the other place, I would appreciate knowing what that might have been and whether this government has taken any of that into account. To be told simply that there has not been widespread consultation between the bills because policy outcomes did not change does not help us much. Did the government invite or at least receive information or points of discussion from the public as was originally intended? Has it weighed up the submissions it has received and to what extent has it responded to them in forming its drafting of what has been acknowledged as a somewhat different piece of legislation from that tabled by the then Minister for Health in 2016? I would like to know just what sort of submissions were received by the relevant agencies and to what extent they informed the current form of this legislation. To have that question simply dismissed by saying that it did not change the policy outcomes and there has not been any widespread consultation does not help us very much. I am particularly concerned because there may be other examples exposed during the passage of this bill through Committee of the Whole. I am particularly interested in the apparent difference of opinion between one of those who is particularly affected by one of the clauses in this bill, and that is Devlin's, as against the announcements at the time by the Minister for Health that there had been consultation on the subject. We have the proprietor of Devlin's, whose business, whether members like it or not, depends on the manner in which this bill is passed, saying that no-one has talked to him about it. We do not know whether there has been any attempt to receive submissions from him, whether the government received submissions from him, whether they were weighed up and how they were dealt with.

Hon ALANNA CLOHESY: I am sorry, Deputy Chair, I was waiting for a question on that.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon MICHAEL MISCHIN: Let us start at the beginning. The parliamentary secretary mentioned that this is a response to a commitment to “get the bill done”. Can the parliamentary secretary tell us exactly what the Labor Party’s commitment was in March 2017?

Hon Sue Ellery: What has this got to do with the bill?

Hon MICHAEL MISCHIN: We are going to have to do this the hard way, leader.

Hon Sue Ellery: You’re so scary, mate—so scary.

Hon MICHAEL MISCHIN: I am not trying to scare anyone; I am simply trying to go through the process of Parliament.

The DEPUTY CHAIR: Members!

Hon ALANNA CLOHESY: I do not have a copy of the election commitment with me.

Hon NICK GOIRAN: This is fast descending into a debacle. The parliamentary secretary tabled a document a little earlier entitled “Differences between 2016 and 2017 Tobacco Products Control Amendment Bill”. If members have not had an opportunity to have a look at this document, it will not take them very long to recognise that it is not worth the paper it has been printed on. If we just turn over to page 2, what do we find? We find that the parliamentary secretary tells us that clauses 3, 4, 5 and 6 —

Hon Michael Mischin: That is not page 2; that is page 3.

Hon NICK GOIRAN: That is a very good point, my learned friend. What would apparently be page 2 to the ordinary person is page 3 in this document, but let us not worry about that. The point is that it states to the house —

Clauses 3, 4, 5 & 6

No change between 2016 and 2017 Bill.

That is great if it is true, but I would encourage members, and in particular the parliamentary secretary, just to have a look at clause 4 of this bill and clause 4 of the 2016 bill and then stand and seriously tell the house that there has been no change between the two bills. If we are asking for a paper to be tabled by the government, with all the resources of government and all the advisers and so on and so forth to assist the efficient passage of this legislation, and it takes us to page 2—or 3 depending on what type of numerical system a person uses—to work out that the document is really a piece of junk, what is the point of it? No wonder the parliamentary secretary resisted tabling the document for half an hour, because we turn over the cover page and it is already wrong. I do not know what we are supposed to do with this substantial document that ends on page 31; who knows how many pages there actually are in it? It says 31 at the end. What is the point of us even having this document?

As much as the parliamentary secretary said that she was going to try to table it on the conditional basis that it would facilitate the passage of the bill, I do not think we will have efficient passage of the bill at all. It seems to me we will have to go clause by clause through the bill and I am going to have to ask at each clause the difference between the clause in this bill and the corresponding clause in the previous bill.

It has been quite rightly pointed out by members, including Hon Michael Mischin and Hon Aaron Stonehouse, that it is important for us to understand the differences between the two bills because the parliamentary secretary went to great lengths to explain to us that there has been—let me get the quote right—something along the lines of “very little consultation”. The actual phrase was there has been no further “detailed” consultation since. I know the parliamentary secretary wanted to play games with Hon Aaron Stonehouse about whether there had been consultation or not with respect to the draft bill and then, funnily enough, we find out that the bill was there for public information and discussion. I am not too sure what the distinction is between “public information and discussion” and “consultation” unless, as has been identified by Hon Michael Mischin, the purpose of public information and discussion is to have it in a vacuum. Maybe that is the distinction between the two, but it is a mystery to me, as a student of the ordinary English language. Maybe a different language is being used by government; it clearly has a different numerical system, and accuracy is a standard that has not been adhered to.

I am not too sure how much progress we are going to make at this point, but I can say to members, including the Leader of the House, that I have no interest in this document. This document was tabled supposedly to assist us and I have no confidence in it whatsoever. For the remainder of this debate, I am not even going to bother. In fact, I have a wonderful bin here, and that is where the document is going, because it is disgraceful to table a document here supposedly to assist members on a reconciliation of the bill, and we turn to page 2 or 3 to find it is already flawed.

How about we look at each clause in the bill and I will simply ask the parliamentary secretary to indicate whether the government received any submissions after the tabling of the draft bill in November 2016.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon ALANNA CLOHESY: Prior to tabling the document I said that the member may not find it of assistance, which is why I considered not —

Hon Nick Goiran interjected.

The DEPUTY CHAIR (Hon Robin Chapple): Member! The parliamentary secretary is responding.

Hon ALANNA CLOHESY: It seems to upset the member a bit! I did say that he would not find it that helpful —
Several members interjected.

The DEPUTY CHAIR: Members! The parliamentary secretary has the call.

Hon ALANNA CLOHESY: I would be interested to hear how the member considers that there are differences between clause 4 in this bill and clause 4 in the other bill. I would be interested to hear from him on that topic. The third item raised over that 10 minutes was whether there had been any submissions. There has been correspondence. I do not have that correspondence with me. There have been discussions with key stakeholders.

The DEPUTY CHAIR: I would remind members that we are dealing with clause 1 of the Tobacco Products Control Amendment Bill 2017.

Hon NICK GOIRAN: For that reason, I will resist the temptation to accept the invitation that was extended to me by the parliamentary secretary to comment on the differences in clause 4 between the two bills. We will deal with that when we get to clause 4. The parliamentary secretary has indicated that there has been correspondence that she does not have available to her at the moment. Is she in a position to inform the house of how many stakeholders provided correspondence to the government?

Hon ALANNA CLOHESY: I think the original question was in relation to the 2016 bill and I do not have that information.

Hon NICK GOIRAN: The question to the parliamentary secretary then, is: if she does not have the information, is she going to get the information?

Hon Sue Ellery: How does that help?

Hon ALANNA CLOHESY: As I said, there was substantial consultation in relation to the discussion paper undertaken in 2011. This bill is largely in response to that discussion and the final report that was tabled in Parliament in August 2011. That is the consultation I am referring to. The substance of this bill came from that consultation.

Hon NICK GOIRAN: The Leader of the House helpfully interjected by asking how this was going to help us. As has already been outlined by Hon Michael Mischin, it helps the opposition and the chamber to facilitate the passage of this legislation if we can conveniently understand the differences between the draft bill from November 2016 and the bill before the house. We all know that there are differences, including clause 4, between the two bills. People have provided some correspondence to government in respect of the draft bill. Would it not be helpful for members to know if some of that correspondence said, “Red alert, members of Parliament! Red alert, government! There are some problems in the draft bill from 2016. Please don’t proceed with these particular provisions”? Then we find out that the bill is the same as the bill before us. Would we not want to know that? That is the whole purpose of there being submissions and consultation or, to use the more shifty language that has been used tonight, not consultation but public information and discussion. That is the point of us —

Hon Sue Ellery: That was the language of Hon John Day that Hon Michael Mischin read out from *Hansard*.

Hon Michael Mischin: It’s also the language of the second reading speech.

Hon NICK GOIRAN: Yes, and there has been a suggestion tonight that that is somehow different from consultation, and I find that shifty.

The DEPUTY CHAIR: Members, we are in the Committee of the Whole, on clause 1 of the Tobacco Products Control Amendment Bill 2017. I would like people to focus on that and move forward.

Hon NICK GOIRAN: Before the Leader of the House decided to engage, we were trying to find out whether the parliamentary secretary is going to obtain information as to how much correspondence was received in response to the draft bill.

Hon ALANNA CLOHESY: I am advised that the Department of Health indicates that it received maybe two items of correspondence in relation to the 2016 bill.

Hon NICK GOIRAN: To the extent that the parliamentary secretary can obtain this information this evening, is she willing to source those approximately two pieces of correspondence with a view to tabling them tomorrow?

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon ALANNA CLOHESY: I do not think I can because that was the previous government and I am not sure what information was provided, whether it was addressed to the minister or whether it is on file. I am not sure where it is, so I cannot give the member a commitment about that.

Hon NICK GOIRAN: But the parliamentary secretary has not seen the correspondence, so the correspondence might have been received after March 2017. It might have been sent to the new government.

Hon Alanna Clohesy: You were asking about the 2016 bill.

Hon NICK GOIRAN: So that we are very clear about what I am asking for here, the previous government tabled a bill, which is being referred to as a draft bill, in the Legislative Assembly. Yes, it was a bill under the previous government. There were approximately two pieces of correspondence as a result of that draft bill. Nobody knows the date of that correspondence. It could be December 2016, but, equally, it could be April 2017. We do not know. Can the parliamentary secretary ascertain whether she can source those approximately two pieces of correspondence and table them in the house?

Hon ALANNA CLOHESY: I cannot give that commitment on behalf of the current minister. If the member is asking about the 2016 bill, we are relying on the memory of a departmental officer. As I said, that correspondence may have been to the former minister or it may have been to the department. It is unlikely that the former minister would have shared information about those letters with the current minister, so I do not know about that. With the 2017 bill, I will check with the minister to see what correspondence has been received. It seems unlikely that correspondence could be tabled, because I do not know the status of the correspondence. I would want to go back to the writers of the correspondence and get their approval for tabling that in Parliament if it were substantial. I am not sure whether the member is talking about emails or substantial letters to the current bill.

Hon AARON STONEHOUSE: Two pieces of correspondence were received in response to the tabling of the bill in 2016. Was any correspondence received as a result of the introduction of the 2017 bill? Was any further correspondence received between 2016 and when the 2017 bill was introduced?

Hon ALANNA CLOHESY: I do not know.

Hon AARON STONEHOUSE: I hazard a guess that no correspondence was received after the introduction of the 2016 bill. I make that assumption because I imagine that the parliamentary secretary would probably know of the correspondence if it supported the government's position. I base that assumption on the fact that, by the parliamentary secretary's own words, no detailed consultation was done between the tabling of the 2016 bill—the draft bill—and the introduction of the 2017 bill because there was no substantial change in the policy outcome of the bills. What I am getting at here is that two pieces of correspondence were received as a result of a draft bill in 2016, no detailed consultation was done between then and the introduction of this bill, and presumably no correspondence was received over that time. Maybe the parliamentary secretary will correct me, but as far as we know no correspondence has been received so far as a result of the introduction of the 2017 bill. Since I made public the implications of this bill, all members of this chamber and the other place have been inundated with emails from customers of Devlin's and other people in the tobacco retail space. Is this the standard of consultation that we should expect from the McGowan government: "Don't worry about it, the previous government introduced a draft bill. We got two letters, or two emails, presumably, but we do not know who they are from"? I can tell members that they are not from Simon Devlin. He did not know anything about this legislation. He did not submit any correspondence and he is a principal stakeholder who will be impacted by the proposed changes in clause 6. There was no correspondence from him. It was not until I spoke on the phone to Simon Devlin and we started blitzing radio and TV that anyone even knew what this legislation would do. No-one had any idea of the implications of this bill. Perhaps we would have figured it out through the interrogation provided by Hon Michael Mischin and Hon Nick Goiran in Committee of the Whole, but I suspect that if we had not figured it out until now, it would be far too late to introduce any amendments. Again, I stress that this level of consultation is unacceptable. No-one knows what will happen. Now that people know about this legislation, we can clearly see correspondence flowing through and that many people are concerned about this issue.

Hon NICK GOIRAN: I share the concerns outlined by Hon Aaron Stonehouse. I understand from the answer to my last question to the parliamentary secretary that she will check with the minister what can be provided to the house on the 2017 matter, but she does not intend to check with the minister what can be done on the 2016 matter. That is fine. It is not really fine, but that is the parliamentary secretary's position and there is no point pursuing that any further. Tomorrow, we will see what transpires from the government that is very open to transparency, would not want to keep anything secret and would like to facilitate the speedy passage of this legislation. We will see what happens tomorrow.

On behalf of the opposition, in my contribution to the second reading debate, I asked the parliamentary secretary a question that she did not respond to in reply. I observed that the second reading speech states —

Most of these proposals will continue to strengthen longstanding legislation.

I indicated that the first matter the opposition would ask the government to clarify is: which of its proposals will weaken the legislation?

Hon ALANNA CLOHESY: The clause is worded like that because most of the provisions strengthen protecting children from smoking but some of them are housekeeping-type amendments. The housekeeping amendments are not included in the “most provisions” that are the protective measures, if you like.

Hon NICK GOIRAN: That answers that question very expediently and we do not need to pursue it any further. Basically, the position is that most of the proposals strengthen longstanding legislation and those that do not necessarily strengthen longstanding legislation are mere housekeeping matters so it would be an exaggeration to call them provisions that strengthen longstanding legislation. That is entirely reasonable and I thank the parliamentary secretary for her assistance. I note that only some of the issues identified during the 2011 review are being addressed by this bill. Are any of the issues being addressed by way of amendments to the regulations?

Hon ALANNA CLOHESY: If this bill successfully passes through this place and the other place, some provisions will require regulations, and they will be dealt with in the usual manner. Currently, there are no draft regulations because the bill and the amendment need to be considered by this place and, if they pass successfully, that will lead to the drafting of regulations.

Hon NICK GOIRAN: That answer seems to indicate that the parliamentary secretary is talking about regulations that are consequential to the legislation before the house. I was more interested to know whether there were issues that arose from the 2011 review. A range of issues—recommendations, if one likes—were identified during the 2011 review. I understand that some of them had to be addressed by way of legislation and some had to be dealt with by subsidiary legislation in regulations. I could be wrong about that, but that is what I understood pursuant to some notes I recorded after a briefing. Perhaps the parliamentary secretary can clarify that.

Hon ALANNA CLOHESY: There may be regulations from the 2011 review, but they have not been considered; the focus has been on the bill.

Hon NICK GOIRAN: That is surprising given my earlier comments about problems with the statutory review mechanism. There has been one review in 12 years and now certain aspects of the 2011 review that potentially deal with regulations have not been given any thought or consideration because we are busy dealing with this legislation. When people say that law reform moves at a snail’s pace, they are not kidding, especially when it comes to the Tobacco Products Control Amendment Bill 2017.

Hon Alanna Clohesy: I think it has been seven years, member, not 11.

Hon NICK GOIRAN: You must be so proud!

Hon Alanna Clohesy: Particularly as we have been in government for one year.

Hon NICK GOIRAN: Yes. I say this with great trepidation: I wonder whether the parliamentary secretary or the government has at its disposal a list of the recommendations that flowed from the 2011 review and can she say which of those recommendations are being implemented by this bill and which ones will need to be dealt with by regulation at a later date?

Hon ALANNA CLOHESY: No.

Hon NICK GOIRAN: How does it work? How do we get to a point at which the government picks out these things from the 2011 review to be dealt with in this legislation? We do not have a comprehensive reconciliation. Someone in government has spent, presumably, a substantial period undertaking a statutory review. The person who has done that statutory review has been paid by the taxpayer of Western Australia and they have invested time to put together a report. That was the first of the quadrennial reviews. As I identified earlier, there was no second review and we are about due for the third. Someone spent all that time preparing a review—a series of recommendations. Why would the government not look at all those recommendations and determine its position on those things and then determine what will be actioned by way of this legislation, what will be actioned by way of regulation and what will need to be actioned in some other forum, policy or otherwise? It does not ring as true to me that it is possible that with all the resources of government no-one has access to a list that says, “This is our plan as a result of the statutory review.” It seems so improbable. Can I get clarification from the parliamentary secretary that there is no document within government that sets out the government’s position on all the issues outlined in the 2011 review and the government’s plan to action those issues?

Hon ALANNA CLOHESY: Cabinet may have considered a document but I do not have it as it would be cabinet-in-confidence.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Hon NICK GOIRAN: Usefully, I have in front of me the “Review of the WA *Tobacco Products Control Act 2006*”. It is the final report, from August 2011. I encourage the parliamentary secretary, who I assume also has a copy of this document —

Hon Alanna Clohesy: I do have a copy; I offered to table it before.

Hon NICK GOIRAN: That is okay. I have one. Pages 2 and 3 of the report, under part 2, outline the results of the consultation and set out 15 options. Is the parliamentary secretary in a position to indicate to the house which of the 15 options are not being addressed by this legislation?

Hon ALANNA CLOHESY: I am advised, 2.3, 2.4, 2.11, 2.12—does the member want me to continue, or to talk about the options? I am going through them. The focus of this bill has been on the options that were in the 2016 bill—options 1, 2, 9, 10, 11, 12 and 13.

Hon NICK GOIRAN: Which provision of the current bill implements option 10?

Hon ALANNA CLOHESY: Clause 7, which amends section 25(3)(a).

Hon NICK GOIRAN: Why does the legislation not deal with options 3, 4, 5, 6, 7, 8, 14 and 15?

Point of Order

Hon ADELE FARINA: I believe that question goes to the policy of the bill. The policy of the bill is determined at the second reading stage, and the purpose of clause 1 is to give members the opportunity to range over the clauses of the bill, foreshadow amendments and indicate, consistent with the policy of the bill, how its form and content might be improved. It is not a vehicle for continuing debate on the policy of the bill, which was decided at the second reading stage.

Hon NICK GOIRAN: My response on the point of order is that it is remarkable that Hon Adele Farina is so familiar with options 3, 4, 5, 6, 7, 8, 14 and 15 that she is able to categorically state that they go to the policy of the bill. It might assist you, Mr Deputy Chair, if the honourable member could indicate why those options are part of the policy of the bill.

The DEPUTY CHAIR (Hon Matthew Swinbourn): There is no debate on a point of order. As I understand it, we are not debating what is not in the bill. I think your question went to why those matters were not being dealt with by the bill. Perhaps you could reconsider the way you put the question or consider a different line of questioning.

Committee Resumed

Hon NICK GOIRAN: Are there any provisions in the bill before the house that would enable us to enact options 3, 4, 5, 6, 7, 8, 14 and 15?

Hon ALANNA CLOHESY: No.

Hon NICK GOIRAN: Were any of the 15 options outlined in the review that are being implemented by the government in this legislation—the Tobacco Products Control Amendment Bill 2017—not implemented by the draft 2016 bill?

Hon ALANNA CLOHESY: No.

Hon NICK GOIRAN: I assume that that is a real no. I have this document here that I have retrieved from the wastepaper basket. It was tabled in the house earlier, and it states that there was no change between the 2016 and 2017 bills to clauses 3, 5 and 6. That was a pretend no, but this one, I presume, is a real no, but let us just check before we move off clause 1, because if we move too speedily off clause 1, we do not want the parliamentary secretary to have to recommit the bill, as nearly happened last time. The parliamentary secretary says that there is no difference between the 2016 and 2017 bills in those options. Option 1 is to ban the sale of fruit and confectionery-flavoured cigarettes and splittable packs. I think Hon Simon O'Brien, who is away on urgent parliamentary business, had quite a bit to say about the ban on the sale of fruit and confectionery-flavoured cigarettes and splittable packs. It might assist members to know that, as I understand, it is addressed by clause 5 of this bill, and was also addressed in the 2016 bill in clause 5. There is, of course, a heading change on clause 5, but I wonder whether that is one of the offensive parts of the thing in the wastepaper basket. Yes, sure enough, it states that in clauses 3, 4, 5 and 6 there is no change between the 2016 and 2017 bill. It appears that that is not true.

Hold your horses there, parliamentary secretary. When we get to clause 5, I will ask the parliamentary secretary why the government decided to insert “retail”; so the parliamentary secretary has a question on notice to work on between now and then. Clause 8 seems to implement option 2, which is to prevent tobacco purchases from being included in reward schemes. I think I was here for the whole of Hon Simon O'Brien’s contribution, but I do not know that we have really touched on the prevention of tobacco purchases being included in reward schemes. Nevertheless, it strikes me that clause 8 is indeed the same in both the 2016 and 2017 bills.

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

Let us move to option 9, which is to amend the defence provision permitting the display of tobacco products by specialist tobacco retailers. That will be implemented by clause 6, which is a very important clause. The parliamentary secretary wants to amend clause 6 a little later. Supplementary notice paper 28, issue 1, gives us a bit of advance notice that the Parliamentary Secretary to the Minister for Health would like to make some changes to the bill before the chamber with regard to clause 6. Perhaps the parliamentary secretary could assist us by indicating whether her proposed amendment to clause 6 will implement option 9.

Hon ALANNA CLOHESY: Yes.

Hon NICK GOIRAN: My question was whether it would or would not implement option 9. I assume “yes” means that, yes, it will implement option 9.

Hon ALANNA CLOHESY: It will partially implement option 9.

Hon NICK GOIRAN: So now we are changing things to “partially”. Will the Tobacco Products Control Amendment Bill 2017 before the chamber, without the amendment that the parliamentary secretary has foreshadowed, fully implement option 9 or partially implement option 9, or is it the parliamentary secretary’s amendment that will shift it from full to partial?

Hon ALANNA CLOHESY: The amendment, if successful, will partially implement that option. I look forward to getting to that amendment in the near future. The removal of the exemption in proposed amended section 23(4) will not be implemented. The removal of the exemption that allows specialist retailers to publicly display up to one square metre of tobacco products, to bring them more closely into alignment with the complete ban on product displays for all other tobacco retailers, will be implemented. The option that requires specialist retailers to provide evidence of 2004–05 financial information will stay. The part of that proposal that will not be implemented is the inclusion of an additional requirement to provide financial records for the most recently completed financial year to show that 80 per cent or more of the current business is still derived from tobacco products.

Hon NICK GOIRAN: The trouble I have is that I earlier asked the parliamentary secretary which of the options will be implemented by legislation. The parliamentary secretary categorically told the chamber that it would be options 1, 2, 9, 10, 11, 12 and 13. After spending a little time looking at it, we have only now found out that it will be only partially option 9; it will not actually be implemented. These half-baked responses and inaccurate tabled documents do not help the speedy passage of legislation. They only make me more suspicious and want to ask more questions. We now know that option 9 will be partially implemented by this legislation. Parliamentary secretary, is the reason the government has shifted its position from full implementation of option 9 to partial implementation of option 9 the correspondence it received from people?

Hon ALANNA CLOHESY: A number of factors led to the amendment. I was accurate in my first reply—it is the bill as it stands. Only if the amendment goes through will it be partially implemented. I think the next part of the member’s question was something about correspondence. The concerns have been discussed with a range of people. Some of them were highlighted during the briefings that members were given. I am not sure whether Hon Nick Goiran was one of those who raised concerns about the impact on cigar retailers. That was one of the sources of information that led the government to consider an amendment to that section.

Hon NICK GOIRAN: What were the other sources, parliamentary secretary?

Hon ALANNA CLOHESY: I am aware that the minister’s office consulted with interested stakeholders.

Hon NICK GOIRAN: Parliamentary secretary, who were those interested stakeholders?

Hon ALANNA CLOHESY: I do not have that information.

Hon NICK GOIRAN: How can the parliamentary secretary know that the minister consulted with interested stakeholders but she does not know who the interested stakeholders are? It seems odd, to put it politely. Could the parliamentary secretary find out from the minister who these interested stakeholders are?

Hon ALANNA CLOHESY: I can find that out, yes.

Hon NICK GOIRAN: We will wait for that further information as to who these interested stakeholders were that the minister’s office consulted with and which shifted the government’s approach from fully implementing option 9 from the 2011 review to partially implementing it. Let us move ahead. It strikes me that option 11 is being implemented by clause 4 of the bill. Clause 4, according to my reconciliation—because I am no longer relying on that tabled document—appears to be substantially similar but is certainly not identical, and certainly it would be false, should anyone want a tabled document, to suggest that there has been no change to clause 4 in the two bills. Nevertheless, it appears that both versions seek to implement option 11. Looking at option 12, which is one of the options that the parliamentary secretary tells us will be implemented by this legislation, it appears to me that that is being done by clauses 10 and 11 of the bill. However, parliamentary secretary, there are some differences between clauses 10 and 11 in the two bills, are there not? Because there are changes in clauses 10 and 11, does the

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

2016 version more fully implement option 12 or is it the changes that the government has brought in to clauses 10 and 11 that will more fully implement option 12? I am keen to know, of the two bills, which one better implements option 12?

Hon ALANNA CLOHESY: Both bills give effect to option 12 in that they clarify and streamline the administrative and reporting arrangements for tobacco licences; they remove the ability to issue a licence for temporary premises, for example at music festivals; and they provide a limited period of grace for expired licences and transition into a new licence. They do not take the last point of the proposal of option 12 because it actually says “if required”. At the time of drafting, it was considered that it was not required. There may be minor differences between the language in the bills. Let me just compare them. The difference is clause 10, which amends section 39. The 2017 bill adds four more words— “sporting, cultural or other”.

Hon NICK GOIRAN: What has brought about the addition of those four extra words— “sporting, cultural or other? Was it some form of special consultation with interested stakeholders?

Hon ALANNA CLOHESY: I am advised that there was some discussion around including a context to what event it might be. The words “sporting” and “cultural” were added to provide the context.

Hon NICK GOIRAN: Who was that discussion with?

Hon ALANNA CLOHESY: It was with government officers.

Hon NICK GOIRAN: There are a number of differences between the 2016 and 2017 bill, but at this point we are just looking at the implementation of option 12 of the review, and there have been some discussions internally within government in which was decided that the insertion of the words “sporting, cultural or other” was important. I respect that, but what was the basis for forming that decision? Presumably some departmental person spoke to someone else who was going to make a decision and said, “It is very important that we insert these extra words. The bill cannot simply say ‘an event’; instead, we have to say ‘sporting, cultural or other’ event.” What was the basis for that?

Hon ALANNA CLOHESY: It was part of a reflection by government officers in order to provide context to provide a better understanding of what an event might include.

Hon NICK GOIRAN: Would that have been in the form of a briefing note to the minister or somebody?

Hon ALANNA CLOHESY: As it is usual process to provide a briefing note on the development of the bill, I am sure there may have been a briefing note; I am fairly confident that there would have been a briefing note, but it may not have been about the housekeeping-type amendments or changes in this bill from the 2016 bill. Is that what the member is asking? I cannot answer until I am clear about what the member needs from the information. Then maybe I can be clearer about the process. Until I understand what the member is looking for, that is the best answer I can provide.

Hon NICK GOIRAN: For the benefit of the parliamentary secretary, I think it is best that we pursue that further when we get to clause 10. Perhaps to assist the speedy passage of clause 10, it would be helpful when we get there if some substantive explanation can be provided about why the government chose to change the 2016 bill at clause 10 to what we have before us in the 2017 bill and thought it was sufficiently important to add that extra explanation about the language of an event. At first blush, it is not clear why it would be important to change a provision that in the 2016 bill has “an event”, to a “sporting, cultural or other event” in this bill. If the government had just chosen to use the words “sporting or cultural event”, it would be quite explicable, but it is the fact that it chose to then continue by using “or other event”, which captures it all anyway. There must have been some very important reason that the government thought to change the 2016 bill at clause 10, which, as I have identified, implements option 12 of the 2011 review. Perhaps we will pursue that further at clause 10, but it would be great if the parliamentary secretary could give that some consideration before we get there.

The parliamentary secretary will be pleased to know that I just have one further issue to raise on clause 1 and that is in respect of her indication to the house that option 13 will be implemented by this bill. My reading of this bill is that option 13 will indeed be implemented by way of clauses 12, 13, 14 and 15. However, I note that clauses 13, 14 and 15 in their current form in the 2017 bill did not exist in the 2016 version. In effect, the government has inserted into what was the 2016 bill new clauses 13, 14 and 15, and then renumbered everything else after that.

Hon Alanna Clohesy: Yes, that is what I said in the second reading reply.

Hon NICK GOIRAN: The parliamentary secretary did. It would be of assistance to understand what was the cause of the government saying that the 2016 bill seeks to implement option 13 and why it now needs to add an extra three clauses to more properly implement it.

Hon ALANNA CLOHESY: Clause 13 amends section 78, and I think the question was: how does it amend and why? The act sets out the functions of restricted investigators, and it was done because if proposed new section

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

77 is passed, other bodies like local government authorities will appoint restricted investigators. It was done to make sure that they are appointed with the same functions. Clauses 14 and 15 are about making sure that the restricted investigators have identity cards.

Hon NICK GOIRAN: Yes, that is not really what I wanted to know. I want to know what caused the government to decide that the 2016 bill was deficient and that therefore there was a necessity to insert what I am referring to as new clauses 13, 14 and 15. When Hon John Day tabled the draft bill in November 2016, it did not have clauses 13, 14 and 15 as they stand in this legislation, so in the time between Hon John Day tabling his draft bill and the government tabling its bill in this place, someone decided that it was very important to insert these new clauses 13, 14 and 15. What was the genesis of that? What was the cause for somebody to say that? Was it by way of a briefing paper or was there some form of correspondence or consultation? When I last asked about this, the parliamentary secretary will recall that it was on clause 6 and she indicated that in that instance the cause was that the minister had consulted with interested stakeholders. Maybe it is the same reason here. She talked a little about local government. Was there some kind of interaction with local government or the Western Australian Local Government Association, and somebody alerted the government to the fact that clause 12 would be deficient unless clauses 13, 14 and 15 were inserted? There must have been some substantive reason for inserting these extra clauses. In terms of the comparison between the two bills, this is probably the main area where there is a difference. Someone has obviously given a lot of considered thought to this; it is not a mere four words, like the sporting and cultural example we had earlier. This is somebody spending quite a bit of time and presumably instructing parliamentary counsel and saying, "Parliamentary counsel, we would like you to insert an extra three clauses in what was otherwise a 17-clause bill." Of course, a further one has been implemented later, which is why we get to 21 clauses. I am just keen to know what was the genesis behind clauses 13, 14 and 15 being inserted.

Hon ALANNA CLOHESY: I am advised that it was reflection on the part of government officers about sensible amendments to improve the efficiency of the work of restricted investigators. I am aware that a range of options are provided to the minister and cabinet and it would have been in that context that cabinet made a decision about what to include in the bill.

Hon NICK GOIRAN: When the parliamentary secretary says reflection by government officers, I assume that government officers do not sit around and one day suddenly say, "Oh, I've had a dream. I've had this vision and all of a sudden I've thought overnight that the insertion of three extra clauses would be wonderful!" I cannot imagine that that is what happens. There must have been something that occurred. Maybe it was a conference and it was found out from an interstate jurisdiction that it is dealing with this issue of restricted investigators in a different fashion, and then the government officer said, "Well, on the basis of what I've learnt, some professional development, this would be a good provision for us to insert in our tobacco legislation here", or maybe there has been some round of consultation with interested stakeholders and someone has brought this to the attention of the government officers and, upon reflection, they have then recommended some changes. There must have been some cause. It does not strike me as the kind of thing one just dreams up overnight. There has been a lot of consideration. If I can ask the parliamentary secretary to ever so briefly cast her eye over clauses 13, 14 and 15, she can see that they are substantial provisions and cover the better part of two full pages of legislation. Someone has given a lot of thought to them. This is not a mere housekeeping matter or anything like that. When the parliamentary secretary says that it has been a reflection by government officers, what caused them to suddenly decide to reflect on this matter?

Hon ALANNA CLOHESY: It was because, on reflecting on the act, it appeared to make it clearer and make more sense, reflecting on the activities of investigators. I am advised that government officers also considered other legislation and reflected on the effect of the implementation of the act.

Hon NICK GOIRAN: Perhaps we will conclude on this point. Maybe I will not even ask the parliamentary secretary to answer this; maybe she can take this on notice and we can come back to it when we get to clauses 13, 14 and 15. When the parliamentary secretary said that government officers have reflected on other legislation, that immediately made me want to ask: what was that other legislation that the government officers were reflecting on? Perhaps I can give the parliamentary secretary due notice that when we get to clauses 13, 14 and 15, we really want a concrete explanation of why the government felt it was so necessary to shift from the 2016 version of the bill to the 2017 version and to insert these extra provisions. I indicate that at this point I have no further questions on clause 1.

Hon MICHAEL MISCHIN: I am conscious that we are getting to the time this evening when the committee is going to have to report progress. I just want to pick up on a couple of points regarding consultation. Perhaps the parliamentary secretary could take these on notice and, when we resume debate on the bill, provide the information to which she was not able to have access today. Just in short form, it is apparent from both the second reading speech and what Hon John Day said back on, I think, 22 November 2016 that there was a draft bill for public information and discussion. We have had a bit of debate about what discussion involves and whether it means

Hon Simon O'Brien; Hon Alanna Clohesy; Hon Nick Goiran; Hon Michael Mischin; Hon Aaron Stonehouse;
Hon Adele Farina; Deputy Chair

consultation or what. I ask the parliamentary secretary whether, by the next time we deal with this bill, she could ascertain what submissions or suggestions were received by the government, whether by way of consultation, correspondence or otherwise, between the tabling of the draft bill for information and discussion in November 2016 and the introduction of this bill into this place.

Secondly, could the parliamentary secretary offer some information as to the exact election commitment made to the people of Western Australia in February? As a matter of sequence, the draft bill was tabled for information and discussion, presumably to excite some input from others, and then there was an election commitment, of which the best the parliamentary secretary could say was that it was a commitment to get the bill done. If the parliamentary secretary could get the precise wording of that election commitment, it would be helpful. I also seek some specifics about what the government has received—I do not care whether it was by the last minister, the current minister or whatever. If there is a problem with revealing it, perhaps we can be told what it might be. What submissions were received by the government so that it could decide how to present a bill to this place for its passage?

Hon Nick Goiran pointed out some deficiencies with the document the parliamentary secretary tabled on the differences between the 2016 and 2017 Tobacco Products Control Amendment Bill. I will not get into those, but I would like an explanation of why, from the page numbering, we have page 1, no page 2, pages 3 and 4, no page 5, pages 6 and 7, no page 8, pages 9 and 10, no page 11, page 12, no page 13, pages 14 and 15, no page 16, page 17, no page 18, page 19, no page 20, page 21, no page 22, pages 23 and 24, no page 25, page 26, no page 27, pages 28 and 29, no page 30, and it finishes at page 31—I do not know if there were any after that. There may be a good, clear, simple explanation for that, but perhaps we could be provided with that.

Progress reported and leave granted to sit again, pursuant to standing orders.