INTEGRITY (LOBBYISTS) BILL 2011

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 3: Terms used —

Debate was interrupted after the amendment moved by Dr E. Constable had been partly considered.

The SPEAKER: Members, if you are going to have other conversations in here, I suggest that you take them outside. There will be members, member for Balcatta, who will be interested in this process, and not other processes that are occurring.

Mr J.C. KOBELKE: Prior to question time, I was speaking to the amendment to clause 3, which was to delete "government representative" and substitute "public official". I think the actual terminology of whether to use "government representative" or "public official" is not of itself that significant, because it is what is contained within the clause that then provides the definition of that term, whether it be "government representative" or "public official". I think the intent of the member for Churchlands is to include members of Parliament, and it would not be appropriate that they be caught under a term such as "government representative". That is the basis for the amendment that is currently before the house.

The consequential issues contained within the clause have been debated, because they therefore have some relevance to which term is used. When we have dealt with this amendment, I assume that we will deal with the other parts of the clause. At this stage my understanding is that we are simply dealing with the deletion to change the term that we use to head up this definition.

Mr C.J. BARNETT: I remind members that I do not agree with the intent of where the member for Churchlands appears to be going. I acknowledge that maybe "government representative" is not an ideal title. "Public official", however, is also far from ideal because it could convey a range of people, from local government to members of the judiciary to dog catchers. Anyone else could probably regard themselves as a public official. If it gives greater comfort to members, I would accept an amendment to change "government representative" to "government official" which may in fact be a clearer term to describe the categories below.

Dr E. CONSTABLE: I thank all members who have commented on my proposed amendment, and also the Premier in his response, but it is still in my mind that this is a very weak way to proceed with lobbying legislation. This has illustrated it. As I said earlier, one of the worst examples of what can happen and what can go wrong with lobbying affected a parliamentary committee of this chamber. I do not agree with the Premier that that is for another time. If we went to Canada or the United States of America, that would not be the case. Under this legislation, lobbyists should have to report their contacts with members of Parliament when they are lobbying them on a particular issue, otherwise we leave ourselves open to those events of 2007 and a parliamentary committee and suchlike happening again. If we are to have lobbying legislation, we have to make the situation better so that things like that do not happen again. I do not think "government representative" is clear enough. Clearly, the Premier is not going to accept "public official" because it brings into play members of Parliament and others. Members of Parliament are lobbied before they go to their party rooms. Members of Parliament are lobbied when they are on committees to report on certain things. Members of Parliament are really important in the whole scheme of lobbying. We have to be very careful not to leave ourselves open to future incidents such as the one in 2007. Premier, perhaps we can come up with a better term than "government representative". I hope that we can do that. It is a very narrow piece of legislation that restricts us to the sorts of people in the public sector that the Premier has referred to.

Amendment put and negatived.

The SPEAKER: I believe the member for Churchlands has another proposed amendment.

Dr E. CONSTABLE: I withdraw the second proposed amendment relating to page 2, after line 25.

Mr C.J. TALLENTIRE: Clause 3 provides definitions of a number of very important terms. One that is critical to this legislation is the definition of a "non-profit organisation". I first draw the Premier's attention to some curious grammar, namely —

> ***non-profit organisation*** means an organisation that is not carried on for the purposes of profit or gain …

There is something not quite right with the grammar. That aside, I would like the Premier to clarify his understanding of a non-profit organisation. Is it an organisation that is a service provider; therefore the sort of organisation that this government has contracted to do a lot of work in the social welfare sector—organisations

that receive very large sums of money and therefore have a vested interest in acquiring those contracts? Or is the Premier's understanding of a non-profit organisation an organisation that is purely focused on, say, advocacy work? We need some clarification around it because there is a world of difference. As the not-for-profit sector develops, we are seeing this government's desire to outsource a lot of work that was previously done by government. Now it is outsourcing that work to the community sector. These organisations do not endeavour to make a profit but they have enormous cash turnover based on the contracting out of their work. It is important to how we use this definition further on. Bear in mind that defining a "non-profit organisation" in this bill will be critical not only to this legislation but also in understanding how that sector is evolving in a number of other places as well.

Mr C.J. BARNETT: The key to the definition is how any proceeds are distributed. A not-for-profit organisation, for the purposes of this legislation, cannot be paying dividends or returns to individual members. I take the member's point: when most of us think of "not for profit", we think of organisations such as charitable groups in the community. There are also other not-for-profit organisations, including sporting clubs, art societies and environmental groups. As the member said, some not-for-profit organisations are large organisations. An example has just been given to me, which I will repeat. The RAC is a very large organisation. The RAC's road activities are certainly not for profit. The organisation is not for profit; however, it has a business, RAC Insurance, which is for profit. RAC, in its road safety role and its not-for-profit role, would be treated as such, but if the RAC Insurance business employed a lobbyist, it would be captured by this; that is, that part of it would be treated as "for profit". Some organisations, although notionally not for profit, do have profit subsidiaries. RAC Insurance would be a profit-based subsidiary of a not-for-profit organisation.

Mr C.J. TALLENTIRE: The definition goes on to state "by the terms of the organisation's constitution". Perhaps it would be helpful, if an organisation has a constitution, to be able to see it. I am sure the RAC has a constitution. Some other prominent organisations style themselves as being non-profit organisations. The Chamber of Minerals and Energy would say it is a non-profit organisation as it does not seek to make a profit, although I think it would be caught by this definition further on because it operates for the wealth-generating capacity of its members. Thinking more broadly of the need to have a good definition of what a non-profit organisation is, that becomes difficult when dealing with organisations that do not necessarily have published constitutions. It also becomes difficult when it comes to accessing reports on financial statements. My understanding is that organisations such as the Chamber of Commerce and Industry and the Chamber of Minerals and Energy do not have to follow any prescribed means of publishing their financial statements at the end of the year. Acknowledging the Premier's previous experience with the Chamber of Commerce and Industry, that might mean he has knowledge on its requirements to publish financial statements. It is an important point because if this state had some requirement that all non-profit organisations have a constitution, then we could be sure of the nature of the financial reporting requirements. We would be able to test whether the organisation was making profit for its members or if it was simply representing the broader interests of the community.

Mr C.J. BARNETT: For the purposes of this legislation, not-for-profit organisations are incorporated under the Associations Incorporation Act, which requires them to do that—they must have a constitution. If they are incorporated under the associations act, by definition they cannot distribute returns or dividends to their members. That is the interpretation I have been given.

Mr J.C. KOBELKE: I seek clarification on that very same point because I thought that in the example the Premier used of the RAC, the elements that make the RAC money would not be considered not for profit but that the service to members would be. That is not how I see it, if that is what the Premier said. Perhaps I did not clearly understand what he said. The definition of "non-profit organisation" before us is —

> … an organisation that is not carried on for the purposes of profit or gain to its individual members —

Mr C.J. Barnett: I am advised that in that example RAC Insurance is incorporated separately from RAC.

Mr J.C. KOBELKE: But RAC Insurance, as I understand it, is owned by RAC, which is a non-profit organisation.

Mr C.J. Barnett: It is a separately incorporated body.

Mr J.C. KOBELKE: It is fully owned by RACWA.

Mr C.J. Barnett: But its corporate structure is separately incorporated. It is incorporated in its own right, so it is not claiming to be a not-for-profit organisation.

Mr J.C. KOBELKE: Using the RAC as an example, not for any particular reason—it is a fantastic organisation—the fact is that the decision making at the highest level relating to RAC Insurance will be made in a body that would qualify as a non-profit organisation.

Mr C.J. Barnett: I doubt that.

Mr J.C. KOBELKE: It is fully owned by RAC.

Mr C.J. Barnett: No. It is incorporated separately so the directors will have a responsibility under that incorporation.

Mr J.C. KOBELKE: Who is the owner of RAC Insurance?

Mr C.J. Barnett: The directors of RAC Insurance would have all the rights and responsibilities of directors.

Mr J.C. KOBELKE: But who is the owner of RAC Insurance?

Mr C.J. Barnett: It doesn't matter. The directors have the responsibility of running the business.

Mr J.C. KOBELKE: But they have a responsibility also to the owner, and the owner is RAC. I do not want to labour the point. All I am saying is that I do not necessarily think that it is as clear-cut as the Premier says it is, but I accept the definition in the bill. My colleague has raised some very good points about that but I accept the definition and do not have a problem with it. However, I do not think that the explanation the Premier gave necessarily reflects the way it would work because a not-for-profit organisation can have a quite substantial business arm that is turning over large amounts of money but would continue to be considered a not-for-profit organisation if it meets the criteria in this bill; that is, it is an organisation that was not set up to distribute profit or gains to its individual members. It does not do that and its rules do not allow that. If that is the case, it will be called a not-for-profit organisation. Health insurance not-for-profit organisations that have turned over hundreds of millions of dollars would still meet this definition. I do not have a problem with that but I think we need to be clear about what is covered by this definition.

Mr W.J. JOHNSTON: I want to seek some clarification. In answer to a question asked earlier by the member for Gosnells, the Premier said that a non-profit organisation would have to be registered under the Associations Incorporation Act. I think this definition is broader than that. An unincorporated organisation with a constitution that complies with the terms of this clause would also be covered by this definition. Indeed, a company limited by guarantee that is registered under the Corporations Act of the commonwealth would also meet the definition.

Mr C.J. Barnett: I am advised that you are correct.

Mr W.J. JOHNSTON: Are both of those covered?

Mr C.J. Barnett: Yes.

Mr W.J. JOHNSTON: I thank the Premier.

Dr E. CONSTABLE: I move —

Page 3, line 19 – To insert after "***lobbying***" —

activity

If my amendment is accepted, it will better describe what this legislation is about. It is also consistent with the long title of the bill in which the term "lobbying activities" is used, and it certainly is consistent with the government's policy and commitment upon coming to government where, in just a few short lines, lobbying activities, or the word "activities" relating to what lobbyists do, is mentioned four times. The very first line of that commitment is to introduce legislation to create a public register for lobbyists and require the regular reporting of lobbying activities. It goes on to say that over the past few years the reports of the Corruption and Crime Commission have been littered with the activities of a few high-profile consultant lobbyists. Further down, it says that the Liberal Party believes that consultants should be registered and their activities monitored and reported on a regular basis. In the last line, the word "activities" is used again. We must be absolutely clear and concise about what we are talking about here. "Lobbying" is a much more general wishy-washy word. If we put the word "activity" in there, it is the activities of these lobbyists, or perhaps advocates to government, that we are interested in. What are they doing? Who do they talk to? What general area are they talking to them about? The term "lobbying activity" is far more consistent with what the Premier is trying to do with this legislation. It is consistent with the long title of the bill and with the government's election commitment. Adding the word "activity" enables us to more accurately understand what lobbying is and what the activities of lobbyists are. This comes up again further on.

Mr C.J. BARNETT: I think the member for Churchlands is heading towards focusing on the activities of lobbyists later in the bill. We may or may not agree to that. I do not have any objection to the word "activity" being added at this stage, but that means it will have to be added at other stages. If the member believes that it gives a greater sense of explanation for the activities of lobbyists, I am happy to accept that.

Amendment put and passed.

Mr J.C. KOBELKE: I started on this matter earlier but was out of order because we were dealing with an amendment rather than the specific issue. I refer to the bottom of page 3 of the bill and request a clearer understanding of why we have to define a ministerial officer and non-executive ministerial officer when they appear, on the surface, to be the same thing. I assume that the Premier's legal advisers will say that they are not the same. I would like an explanation of the difference between a ministerial officer and non-executive ministerial officer and why they must be designated as different and specific definitions when both of them are appointed under section 3(1) of the Public Sector Management Act. Clearly, by the wording of that definition, both officers work in ministerial offices. It is not clear to me what distinguishes one from the other.

Mr C.J. BARNETT: The purpose of the distinction is that ministerial officers, as the member said, are defined under the Public Sector Management Act. A non-executive ministerial officer is also defined in the Public Sector Management Act, but they are ministerial officers who are covered by the Public Sector Management Act and are public servants but are not in executive government. Specifically, they are public servants who work in the Leader of the Opposition's office or who are working for the Greens (WA), for example, if they are given staffing. We are not applying the lobbyist bill to the Leader of the Opposition's office. Some might say that we should, but I am not one of those. That is the distinction. It is to distinguish between ministerial staff. As the member knows, the Leader of the Opposition's office is effectively equivalent to a ministerial office. The only difference is that the Leader of the Opposition is not a member of the executive office and therefore the staff who work in it are non-executive in the sense that they are non-executive government staff. They are still the same. There are people in the Leader of the Opposition's office who have exactly the same status as people in my office; they are public servants working in a ministerial office. The one distinction is that the officers in my office are part of the executive government and those in the Leader of the Opposition's office are not. That is the distinction and that is why the distinction is made in this clause.

Mr J.C. KOBELKE: I thank the Premier. I accept the intention but I am trying to get to the technical underpinnings that will deliver what the Premier has just explained. Can the Premier refer me to the specific section in the Public Sector Management Act that differentiates between someone working in a minister's office as opposed to someone working in the office of the Leader of the Opposition? There is another distinction. What is the distinction between working in a minister's office and working in the Leader of the Opposition's office? I accept that they are both appointed under section 3(1) of the Public Sector Management Act, but where is that distinction delineated, because I cannot see it?

Mr C.J. BARNETT: Section 3 of the Public Sector Management Act defines a political office holder as a minister, parliamentary secretary of the cabinet or parliamentary secretary. They are included. The others who are not included—in other words, those who are not caught by this legislation—are the government Whip, the Leader of the Opposition in the Legislative Council, the Leader of the Opposition in the Legislative Assembly and a person, who not being a minister, is the leader of the party in the Legislative Assembly with at least five members. So it is taking out those people who have the status of, and are, public servants basically but who are not working in executive government because they have been allocated to opposition or, if you like, Independent parties.

Mr W.J. JOHNSTON: On that issue, I understand the section that the Premier has read out. I just want an assurance because the terms in this bill in respect of "parliamentary secretary" are different from the terms used in that section of the Public Sector Management Act. Can the Premier give us some assurance that he has checked this and that it is satisfactory to not name the office of parliamentary secretary in this bill in the same form as in the Public Sector Management Act, and we are still happy that that is the definition?

Mr C.J. BARNETT: It has the same effect. I think the one difference is that the position of cabinet secretary, which is referred to in the Public Sector Management Act, is not referred to in this bill. I do not think it is relevant, because in successive governments cabinet secretaries have been public servants, and I think that is probably the way it will continue to be.

Mr W.J. JOHNSTON: On a fresh topic, the definition of "government representative" states in paragraph (a) —

> means any of the following —
>
> (i) a Minister;
>
> (ii) a Parliamentary Secretary;

I want to focus on the term "public sector employee". I have in front of me section 3(1) of the Public Sector Management Act. It does not seem to have a specific definition for public sector employee. It does define the

public sector, but I am interested in this: does this term "public sector employee" include employees of ours in our electorate offices, who, as I understand, are public sector employees? If that is true, is there some mechanism to exclude them; and, if that is not true, can the Premier explain how that is structured?

Mr C.J. BARNETT: I am advised that electorate office staff are not public servants. They are not employed under the Public Sector Management Act; they are employed under the Parliamentary and Electorate Staff (Employment) Act.

Mr W.J. Johnston: Okay; but it says "public sector employee" in the bill. It does not say "public servant". That is why I am drawing the Premier's attention to this issue.

Mr C.J. BARNETT: The definition is under the Public Sector Management Act, so people employed under that act are captured by this legislation. Electorate office staff are not employed under the Public Sector Management Act, so my understanding is that they are not captured by this legislation, nor should they be.

Mr W.J. JOHNSTON: No, I do not think they should be either. I am sorry; I do not want to labour this point, but I am not certain how they are excluded. The bill states —

> ***government representative*** —
>
> (a) means any of the following —
>
> …
>
> (iii) a public sector employee;

I have no reason to doubt that they are not employees under the Public Sector Management Act but, as I see it, they are public sector employees. I know that the Premier is not intending to cover them, and I am not suggesting he is. I am just making sure, because I do not want something to happen inadvertently, that they are not covered by the bill in front of us. I have no doubt about what the Premier says. Why are they not covered by that term "public sector employee" in that definition?

Mr C.J. BARNETT: On page 4, at line 18, it defines that a "public sector employee" means an employee as defined in the Public Sector Management Act.

Mr W.J. Johnston: Okay. Thank you.

Dr E. CONSTABLE: I move —

> Page 4, lines 23 and 24 — To delete the lines and substitute —
>
> ***registered lobbyist*** means a person who is a lobbyist listed in the register;

The lines that I propose to delete are —

> ***registered advocate to government*** means a person who is listed in the register in respect of a registrant;

We had already touched on this subject in our previous discussions before question time. The bill contains a term that is really just a euphemism for "registered lobbyist"; instead, we have "registered advocate to government", and no-one will know what that is. This person might telephone a public servant and say, "I am so and so. I am a registered advocate to government. I'd like to come and see you." If people do not know what that is, it sounds almost like someone who works for the government and is doing the government's bidding. It does not clearly let people know that he or she is a lobbyist. We are talking about lobbyists here. The Premier wants to raise the status of lobbyists. It is not for this Parliament to raise the status of lobbyists; it is for lobbyists to do that for themselves. We need to be absolutely clear who we are talking about and who these people are. I have no problem with the fact that many people out there are lobbying. There are about four or five times as many lobbyists as there are members of Parliament in this state. It is a really important part of what happens in government, in putting together legislation and so on. But it is a euphemistic term. We need to be absolutely clear what we are talking about, and we are talking about lobbyists.

This is a very straightforward amendment to make sure that we use the term "lobbyist" instead of "advocate to government". "Lobbyist" is used in the long title; it is used in the short title. "Advocate to government" is not used in the short title or the long title. Therefore, if the Premier were really serious, he would change "Lobbyists" in the long title to "Advocates to Government". We need to make sure that everybody knows what this legislation is about. Let the lobbyists do something about their status, if it needs to be raised. It is not for us to do that. Just as it is for teachers and other people and for doctors and other professionals to make sure that their status in the community is well regarded, let the lobbyists go out and do that. Let them go out and make sure that people think that they are an important part of the process, which I think they are. Let others see them for that. Just because there have been two or three really rotten eggs in the process in the last decade or more

does not mean to say that we have to bend over backwards and say that one of the main purposes of this legislation is to raise the status of lobbyists. It is not. It is to register them and it is to record their activities, and no more than that. I urge the Premier to seriously consider changing this term to what it really is and calling it for what it really is.

Mr C.J. BARNETT: I do not support that suggestion. I make the point that the Parliament does a lot to raise the status of various groups and professions. The debate we had about registration of teachers was about raising the status of teaching, so we do —

Dr E. Constable: But we didn't change their name.

Mr C.J. BARNETT: No, but we do proactive things in Parliament to raise the status of professional groups and other groups in our community. The term "registered advocate to government" is something that was considered. A lot of names were thrown around. We want to raise the status of this occupation—this profession, if we like. The term "lobbyist" is seen by many as insulting and denigrating, and I do not think that is a healthy way of progressing at all. The Public Relations Institute of Australia has strongly supported the terminology adopted in this bill. I note, for the benefit of members in the house, that the European Parliament and the European Commission use similar terms. They talk about registrants; they do not use the term "lobbying". I think we need to move beyond what have been some bad experiences and adopt a more positive approach. I am all for being positive in what we legislate, and I think this is an example of being positive and raising standards in an industry that has been damaged in reputation by, I agree, the activities of a few. I do not agree with the amendment. The government wishes to retain the name "registered advocate to government".

Mr W.J. JOHNSTON: The member for Churchlands makes a very strong point. I particularly draw the chamber's attention to the long title, because it goes through in detail that the purpose of the bill is —

- providing for the registration of lobbyists; and
- providing for the issuing of a code of conduct for registered lobbyists in their dealings with government; and
- prohibiting registered lobbyists from agreeing to receive payments —

Et cetera. It is a little unusual. If the term that people generally use for people who lobby is "lobbyist", it is a strong argument to say that that word is really what we are talking about. I bet the Premier $100—a proverbial $100 that is—that regardless of the legislation and the terms we use in the legislation, everyone will still call people with this occupation "lobbyists" because that is the term in general use.

There is a long history of where the word came from. The terms comes from the idea of buttonholing members of Parliament in London and getting them to do what people wanted them to do. It will not be a surprise that regardless of what is included as a definition in this bill, "lobbyist" will be the term that people continue to use because that is what they are—lobbyists. I know many lobbyists. I have friends who are lobbyists. They always use the term "consultant", but they use it with a laugh because they know that what they are doing is lobbying. I do not think that changing the name in one part of a bill when the bill refers to lobbyists as its intention and its purpose will achieve what the Premier hopes it will achieve.

Dr J.M. WOOLLARD: I agree with the member for Churchlands that people know lobbyists as lobbyists. I have no problem with the Premier's statements that in the past we have introduced legislation that has helped to improve the professional status of various professions. He gave the example of teachers. The changes in that legislation were good changes. Although "lobbyists" may be seen by some as a dirty word because of problems in the past, the intent of this legislation is to raise the bar for lobbyists. I believe that people who are paid to work as lobbyists should be called lobbyists because that is who they are and what they do. Some of them may have a bad name because of the activities of other lobbyists in the past, but that is why the Premier is introducing this legislation. This amendment will ensure that if a lobbyist approaches someone, they will identify themselves as a lobbyist. People in the community will understand when someone says that they are a lobbyist. However, if someone were to say that they are a registered advocate to government, people would think that is someone helping the government, but they are not necessarily helping the government; they are helping the people who are paying them to go in and lobby the government for whatever changes that company or whatever is after. I believe that this amendment would give greater clarity to the community. I support this amendment.

Mr C.J. BARNETT: I note to the member that I understand the point she makes, but the term "lobbyists" is in brackets in the title of the bill. A lot of lobbyists would describe themselves as public relations consultants, and I expect that they will probably add "registered advocate to government" on their business cards and stationery. Despite the events of past times, I am at least, in the sense of fair go, willing to give this industry or

profession, if we like, a chance to get on its feet and be properly established in an ethical way. The term "lobbyist" is derogatory in many respects, particularly in Western Australia. I want to get this up to a high level of public relations and relations with government on a professional basis. That is part of the objectives of this legislation.

Amendment put and a division taken with the following result —

Ayes (28)

Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire
Dr A.D. Buti	Mr J.C. Kobelke	Mr J.R. Quigley	Mr P.C. Tinley
Ms A.S. Carles	Mr F.M. Logan	Ms M.M. Quirk	Mr A.J. Waddell
Dr E. Constable	Mrs C.A. Martin	Mr E.S. Ripper	Mr P.B. Watson
Mr R.H. Cook	Mr M. McGowan	Mrs M.H. Roberts	Dr J.M. Woollard
Ms J.M. Freeman	Mr M.P. Murray	Ms R. Saffioti	Mr B.S. Wyatt
Mr J.N. Hyde	Mr A.P. O'Gorman	Mr T.G. Stephens	Mr D.A. Templeman *(Teller)*

Noes (28)

Mr P. Abetz	Mr G.M. Castrilli	Mr A.P. Jacob	Ms A.R. Mitchell
Mr F.A. Alban	Mr V.A. Catania	Dr G.G. Jacobs	Dr M.D. Nahan
Mr C.J. Barnett	Mr J.H.D. Day	Mr R.F. Johnson	Mr C.C. Porter
Mr I.C. Blayney	Mr J.M. Francis	Mr A. Krsticevic	Mr D.T. Redman
Mr J.J.M. Bowler	Mr B.J. Grylls	Mr W.R. Marmion	Mr M.W. Sutherland
Mr I.M. Britza	Dr K.D. Hames	Mr J.E. McGrath	Mr T.K. Waldron
Mr T.R. Buswell	Mrs L.M. Harvey	Mr P.T. Miles	Mr A.J. Simpson *(Teller)*

Pair

Mr M.P. Whitely	Mr M.J. Cowper

The voting being equal, the Speaker cast his vote with the noes.

Amendment thus negatived.

Mr J.C. KOBELKE: The definition of "registered advocate to government", which is now to be retained in the Integrity (Lobbyists) Bill 2011, is clearly trying to force a public perception that simply will not exist. These people are known as lobbyists, and in television coverage of political stories coming out of the United States and Britain they are called lobbyists, but now we have the Premier saying that they will be called RAGs—that is, registered advocates to government. We will now have RAGs instead of lobbyists. To me, it is an absolute nonsense. Nonetheless, that decision has been made.

The ACTING SPEAKER (Ms L.L. Baker): Members, would you please keep the noise down and take your conversations outside?

Mr J.C. KOBELKE: Thank you, Madam Acting Speaker.

I would like some technical explanation so that I can properly understand why we have a definition of "registered advocate to government", and then we have a definition for "registrant". I think the intent is that one may be the corporate body and the other may be the actual individuals. If that is the case, one would have hoped it could have been set out so that it was actually more intelligible to someone who is not a lawyer. This is actually quite important; that is, when we later come to some elements, particularly if some later amendments are accepted, getting the correct title—whether "registered advocate to government" or "registrant"—to capture people for those provisions becomes quite important. That is the point of getting the difference between a "registered advocate to government" and a "registrant" technically clear.

Mr C.J. BARNETT: We will get to that. Quite recently, in chatting to a few people who work as lobbyists, the point has been made to me that probably now a large—even the majority—part of their business is actually not government-related. All we are doing here is regulating their activities with respect to work they may do for clients in advocacy to government. The reality is that lobbyists today, particularly under this government, have probably not had much success; their major field of work is probably outside government in lobbying other companies and trying to do commercial deals and the like. For example, it is very rare indeed that a lobbyist would come into my office—very rare.

Mr J.C. Kobelke: So you would meet them at the leaders' forum. Is that where you have engaged with them recently?

Mr C.J. BARNETT: No, I am just making the point—I do not know what previous Premiers have done—that it is extremely rare that a lobbyist would come to my office.

Several members interjected.

Mr C.J. BARNETT: The leaders' forum is not a lobbyist —

Mr J.C. Kobelke: But you said you were recently talking to lobbyists, and I wondered what forum that was in.

Mr C.J. BARNETT: It is impossible talking to some members opposite. I am trying to make the point that the world has moved on. Most of the people who work in this area are not lobbying government these days; they are doing other work for their clients. It may be business to business; that is the type of work. They are not, as in the spirit of Brian Burke and Julian Grill, selling their services as lobbyists to government; that is not a big part of their work these days, and they have very limited access under this government. That is a reality. It is no great secret that occasionally a lobbyist might come with a client to my office, but it would happen, I would say—I cannot actually remember the last time.

Mr P. Papalia: That is not true.

Mr C.J. BARNETT: I cannot remember the last time a lobbyist has been inside my office.

Mr P. Papalia: So how come you actually tabled a list of how often a lobbyist had been in your office?

Mr C.J. BARNETT: No, they are contacts; they may ring staff.

Mr P. Papalia: They were there so frequently, it was shocking!

Mr C.J. BARNETT: No, I am telling the member for Warnbro that they may ring and seek appointments, and all they get is recorded. But in terms of lobbyists actually coming into my office with a client to meet me, it is extremely rare; it hardly ever happens. I know it happened under previous Labor governments, but it does not happen under this one.

Mr W.J. Johnston interjected.

Mr C.J. BARNETT: I am sorry, my friend, it is the truth! I am telling the member for Cannington right now that lobbyists do not get access into my office, except on very rare occasions—on very rare occasions—because that is the standard of the Liberal–National government; they do not walk in the door like they did under the former Labor government!

Several members interjected.

The ACTING SPEAKER: Members, Hansard is trying to record this debate; it is a bit difficult when three parties are yelling across the floor of the chamber. The Premier was on his feet; he is the only person we need to hear from.

Mr C.J. BARNETT: Thank you, Madam Acting Chair.

The point about —

Ms M.M. Quirk: You can't help yourself.

Mr C.J. BARNETT: I missed it—what was that?

Ms M.M. Quirk: You can't help yourself.

Mr C.J. BARNETT: "Can't help myself"—what an incisive comment! I cannot call the member for Girrawheen names now—I cannot call her —

Ms M.M. Quirk: You're saying that this makes you a government of integrity —

Mr C.J. BARNETT: Because this is a government of integrity!

Ms M.M. Quirk: — but you can't bring legislation in like this without crawling around in the gutter!

Mr C.J. BARNETT: This is not a corrupt government of the Labor Party! This is a government of integrity!

Mr W.J. Johnston: You're the Premier—it can't have integrity! You're the Premier—you're holding the place back!

Mr C.J. BARNETT: This is a government of integrity!

Mr W.J. Johnston: No, it isn't—you're the Premier! How can it have integrity when you are the Premier?

Mr C.J. BARNETT: Well, aren't they good on the other side? Why is it that the Labor Party is so resisting this legislation?

Mr W.J. Johnston: Who's resisting it?

Mr C.J. BARNETT: Why is the member for Cannington resisting it? He was the administrative head of the Labor Party when these disgraceful behaviours were taking place—maybe that is why he is defending it.

Mr W.J. JOHNSTON: There is very good advice, if the Premier reads the literature, about public policy and integrity: never bring a law to Parliament claiming to improve integrity if it is intended to be used for party political purposes. Everywhere in the world that has happened, it has failed. Very good issues have come up in Canada, and people should look at some of the integrity issues in Canada to see how one of the fundamental bases was that they were done on a bipartisan basis. The moment any government tries to claim the ascendency on the basis of legislation, it fails—it fails every single time. We have another demonstration of that with the Premier in this state. He comes into this place and says, "Oh, things are different now" —

Mr C.J. Barnett: They are.

Mr W.J. JOHNSTON: — and "I don't meet with lobbyists." Tell me how many times Geoff Gallop met with a lobbyist—tell me! The Premier does not have a clue! He does not know! So he does not know whether there has been any change. Tell me how many times Alan Carpenter met with a lobbyist. The Premier does not know. He does not know whether there has been any change.

Mr C.J. Barnett: Just look at the Labor record in government; it was disgraceful.

Mr W.J. JOHNSTON: Do not come into this place and lie to the chamber that this government is better than the past government. The Premier cannot do that! The Premier cannot come into this chamber and not tell the truth. There is an obligation on the Premier as the leader of this state to be truthful in this chamber, and he cannot come into this place throwing accusations about the past when he has no clue—no clue!

The ACTING SPEAKER: Member, I am sorry to interrupt you, but I think we have lost the thread of the debate here. We are on clause 3, and I would just like to bring you back to that, please.

Mr W.J. JOHNSTON: Thank you very much, Madam Acting Speaker.

When we are looking at the definitions in this clause, do not come into this place and lecture because the lecturing is wasted. That is because the current Premier is no different from the Premiers who have sat in this place before. The only difference is that they were people of integrity with the interests of the state at heart; that is what put them apart from this Premier. They did not vote in favour of getting rid of native title, they did not vote in favour of workplace agreements in this state, and they did not vote for all these things that the Liberal Party has stood for during its entire life, so do not come into this place with these weasel words.

The Premier raised the Corruption and Crime Commission investigations. I was the secretary of the Labor Party during that period of that time.

Mr C.J. Barnett: Yes, during a disgraceful period!

Mr W.J. JOHNSTON: And does the Premier know what that CCC investigation found? It found not one skerrick of criticism of the Australian Labor Party in this state.

Mr P.T. Miles interjected.

The ACTING SPEAKER: Thank you very much. Member, I have warned you that we need to keep on clause 3 in this debate. The question is whether clause 3, as amended, should be agreed to.

Mr W.J. JOHNSTON: Thank you very much.

When we are considering whether we should accept this idea of trying to hide the term "lobbyist" by giving these people who are lobbying the government a new title of "registered advocate to government", we should consider the fact that the CCC went right through the Labor Party and found no error, no problem or no difficulty with any of the activities of the Labor Party. We got a 100 per cent clean bill of health. That is what happened when the CCC went through the operations of the state Australian Labor Party.

Mr C.J. Barnett: What has that got to do with it?

Mr W.J. JOHNSTON: When the Premier stands in this place and pontificates in the way he loves to, but does not come to the facts, does not come to the issues involved, and tries to get some quasi-political advantage out of this sort of lobbying legislation, it is ridiculous. As I said, the Premier needs to think about the simple fact that right around the world, every time a Premier —

Point of Order

Mr C.J. BARNETT: Members, including the member on his feet, have made a second reading debate speech. There is another opportunity, I guess to some extent, in the third reading debate if we get to that point; this is consideration in detail, and that is what we should be doing.

The ACTING SPEAKER (Ms L.L. Baker): Member, I have now warned you twice about this. Please refer to the clause that is being debated.

Debate Resumed

Mr W.J. JOHNSTON: As the Premier explained, he is trying to cover up the term "lobbyist". He is trying to expunge it so that his government does not have to deal with lobbyists anymore. It will not be dealing with lobbyists, like the last Labor government did; it will be dealing with registered advocates to government. What a huge change. Who was the first Premier in this state to regulate lobbying? It was Geoff Gallop. Does the Premier come into this house and say that? Does he say that the first Premier ever to regulate lobbying, not to hide the term behind "registered advocate to government" but to admit what was happening, was Geoff Gallop? Does he say that? Is that what he comes in here and tells us? We know what type of Premier this guy is. The backbench over there know it and we know it. The Premier should not come in here and try to lecture us, because it will not work.

Mr P. PAPALIA: I was not inclined to participate in this part of the debate. However, the Premier suggested that lobbyists seldom visit his office. He implied that, by contrast, under the previous Labor government lobbyists were frequently in the Premier's office, which I do not think is true at all. I do know that the Premier tabled a response to questions on notice in this place on Tuesday, 21 February 2012 in reply to a question about lobbyists getting into his office and how frequently Paul Everingham, in particular, met with his office and visited staff in his office.

Mr C.J. Barnett: And me.

Mr P. PAPALIA: The Premier did not say they visited him; he said they visited his office. Does the Premier know how many times in 2011 Mr Everingham visited his office for a recorded visit? He was there on 46 occasions. The Liberal Party lobbyist, Paul Everingham, went to the Premier's office on 46 occasions according to the actual visits that were recorded.

Ms M.M. Quirk: He didn't need to meet him because they sorted it out at a lower level.

Mr P. PAPALIA: That is right. He is not going to be called a lobbyist anymore so that will solve the problem, I guess. I share the member for Cannington's concerns with regard to the Premier's pontification in this place and his suggestion that somehow he is above lobbying. The Premier and his government are vulnerable to the behaviour of lobbyists, should they behave in an inappropriate fashion, in the same way that any other government is.

Mr C.J. Barnett: No, we're not.

Mr P. PAPALIA: Why—because it is the Liberal Party?

Mr C.J. Barnett: Because we're ethical.

Mr P. PAPALIA: The sad thing about that is that it does suggest that the Premier is very vulnerable.

Mr C.J. Barnett: Give me an example.

Mr P. PAPALIA: If the Premier and his ministers were subjected to the same degree of scrutiny that had been placed on the previous government, I would suggest that there might very well be similar outcomes—that is, were the CCC to turn its capacity on him in the same way it did on the previous government.

Mr C.J. Barnett: Give me an example. Have you got an example?

Mr P. PAPALIA: How would I know? I do not have the ability to record telephone conversations. I do know that former Liberal Party member lobbyists were in the Premier's office on 46 occasions in 2011. I know that because he had to record it and table that information in response to a question on notice. To suggest that his government is not as vulnerable as any other government because he somehow possesses a degree of integrity that was denied people such as Geoff Gallop is just extraordinary and really quite ridiculous. There is no point in the Premier making points in that fashion. He should just stick to the point and acknowledge the very valid point that was made by the member for Churchlands—that we are talking about lobbyists and no-one else. Any change to the name will only serve to muddy the waters, deflect attention and undermine the intent of the legislation. The Premier supported the idea of the legislation in the first place. It does not make any sense at all to make it any less clear than it could be if the people referred to in this bill were named as lobbyists, which they are and they always will be. The Premier's suggestion as to why he does not want to do that does not make any sense to me.

Mr J.C. KOBELKE: Before we headed off on that tangent, I asked the Premier a question and he then got on his hobbyhorse about integrity. The Premier is a Premier of integrity; he has a bill to prove it. He does not have the behaviour but he has a bill to prove it. That is fair enough. I asked the Premier a question, which I would like to return to. The definition of "registered advocate to government" means a person who is listed in the register in respect of a registrant. The definition under that one is —

> registrant means a person who is registered in the register;

I sought some technical clarity of those two definitions. It would appear that one is to be like the person in charge or the body corporate, so a person can cover an incorporation, and the other is the individual. It is not clear to a non-legal person exactly what is intended by these two definitions.

Mr C.J. BARNETT: I am advised that the distinction is that the registrant could be the company and the registered advocate to government is more likely to be the individual. The registrant, a company, "Such and Such Consulting", may have several advocates employed within that company.

Mr J.C. KOBELKE: This is adding clarity because a court may take the Premier's statement as part of defining what is meant if something should turn on that matter. I am still seeking a bit more detail on that. The Premier is telling the house that that is how he intends it to be interpreted. I am wondering, with the assistance of his advisers, whether he can tell me whether there is some legal precedent or another statute that contains these terms. On the straight reading of them, that distinction is not clear. What happens if a person is a registrant and therefore does the lobbying but they then engage someone? Does that person cease to be a registrant? Will it be left up to the regulations as to how it will be set up when the system is run? I am looking for the legal basis for this, or is that still partly to be developed as we move into implementing the provisions within the bill?

Mr C.J. BARNETT: There could be a one-person operation, so, therefore, the registered advocate to government, say, Mr James, is also the registrant Mr James, the company. However, a more typical case is that these are consultancy businesses which would have several advocates within them. On the current information, as of July 2012, there are 102 organisations that would be regarded as registrants, so 102 businesses, if you like. Within them there are 260 individual lobbyists or what will be called registered advocates to government. Basically, it is three to one.

Mr J.C. Kobelke: The registrant can register as an individual person or as a corporate. Is there no distinction there?

Mr C.J. BARNETT: The registrant is the business but it could be a one-person business. Therefore, the advocate would be Mr James and the business might be called Mr James Consultancy. In most occasions, these are public relations businesses of various sorts. As I said, 260 individuals fit within 102 company profiles.

Clause 3, as amended, put and passed.

Clause 4: Term used: lobbying —

Dr A.D. BUTI: I want to refer to subclause (1) and subclause (3) of clause 4. Subclause (1) states, in part—

> … lobbying means communicating with a government representative for the purpose of influencing, whether directly or indirectly, State government decision-making.

Then we have a definition of "government representative" under clause 3. Presumably if they come within the definition of "government representative", that is what we are referring to in subclause (1). Subclause (3) states —

> The following are not lobbying —
>
> …
>
> (c) communicating with a committee of the Legislative Council or the Legislative Assembly, or a joint committee of both Houses;

However, will that not become a bit blurred, because lobbyists could communicate with a member of a Legislative Council committee who may then indirectly communicate with a minister or a parliamentary secretary? I know what the Premier is trying to do, but I do not think it really guards against what he says this legislation is trying to do. Members of a committee are members of the government, even though they are not part of the executive government. I feel that if lobbying of members of committees is allowed, it could defeat the purpose of the Premier's legislation.

Mr C.J. BARNETT: I think paragraphs (c) and (d) of subclause (3) try to make the point. A minister will not be a member of a parliamentary committee; I do not think that is permitted under standing orders. Lobbying a minister in his capacity as a member of Parliament is not lobbying. If the Cottesloe surf club came to me, as the member for Cottesloe, and said that it thought that building a pool on Cottesloe beach was a great idea, but I happened to be a minister and the Premier, that would not be lobbying under the terms of this legislation. If a

lobbyist or a registered advocate to government came to me as the Premier or a minister, that would be lobbying. If there were some sort of lobbying activity of a parliamentary secretary as a member of a committee—this is a case in which someone could be wearing two hats—that would not be lobbying. However, if a lobbyist came to the member in his capacity as a parliamentary secretary, that would be lobbying. We wear different hats in this house. I am an example. I am the member for Cottesloe, I am the Leader of the Liberal Party, I am a minister and I am the Premier. Many of us wear multiple hats. That is the nature of the parliamentary system.

Mr C.J. TALLENTIRE: Clause 4(3)(e) refers to "communicating as part of an activity of a grassroots campaign nature", but that is not lobbying. I would like clarification from the Premier on this issue. Will this open up the opportunity for these lobbyists—registered advocates to government—to do pro bono work? The Premier mentioned that presently the reputation of lobbyists is very low; they are not held in high esteem. Will this mean that a Paul Everingham–type organisation could work pro bono for a community group which has another view but which would not normally have the capacity to pay for a registered advocate to government? Will it mean that those sorts of organisations could then work on a pro bono basis for the other side of the argument, so that we achieve some balance? The Premier may recall from my contribution to the second reading debate that that was my major concern with this legislation: it was focused on just one aspect of the whole problem. The real problem is the lack of balance in our system. People can hire someone; if they are rich enough, they might even have the person on their staff payroll to get their view across. But if people want to put another view that does not generate big dollars, they will probably not have the capacity to hire a lobbyist. Will this provision enable people to work as pro bono lobbyists?

Mr C.J. BARNETT: A grassroots campaign might just involve interested people campaigning on an issue. That will not be captured by this legislation. Even if it is a formalised group, incorporated as an association and not for profit, it will not be caught by this legislation. This will not affect them. As I said in my comment to the member for Alfred Cove, if a former member of Parliament joins a campaign to save an animal, protect a forest or whatever it might be, that will not be caught by this provision; that is not paid lobbying. In any case, it would be a not-for-profit organisation.

Mr C.J. Tallentire: Yes, but if it is a group that normally does paid lobbying work and it chooses to work for someone else —

Mr C.J. BARNETT: Pro bono? No, that will not be caught.

Mr C.J. Tallentire: So long as they can say that it is pro bono, they will be able to do it.

Mr C.J. BARNETT: Yes; if it is pro bono, that is fine.

Mr J.C. KOBELKE: I would like to get a better understanding of where the line is being drawn between lobbying and just making representations to a member of Parliament who happens to be a minister. Clearly, there will be cases that are in that grey area. The more we can hear about the Premier's understanding of where the line is to be drawn, the better. The Premier just made a comment about whether lobbyists get paid for the work. Subclause (2) states —

> For an activity to be lobbying, it is not essential that the activity be undertaken for any commission, payment or other reward (whether pecuniary or otherwise).

That is not part of the judgement. I am not differing from that; I am trying to understand where the line is being drawn. The Premier was talking about lobbyists getting paid for this work. That is irrelevant to this provision in the legislation. If someone is a problem and should be caught by the legislation, we want to know that the words of the legislation will capture them—that there is a line that they will cross and therefore they will be seen to be lobbying when they should not be or there will be some consequence for that. For that to work, we need to understand what the words in black and white mean. But the Premier is saying that there is no money involved. That is irrelevant to this provision in the legislation.

I come back to the example that the Premier used a moment ago. If the member for Cottesloe was approached by the Cottesloe surf club, where would the line be drawn? If the surf club came to the local member and asked for a pool and he wrote a letter quite openly to the Minister for Local Government, the Minister for Planning or whomever it might be on behalf of the surf club and asked that minister to look at the issue as the local member thought it had some merit, would that not be lobbying because the member would be doing it only in his capacity as the member for Cottesloe? What would happen if the swimming pool were part of a corporate deal and the company working with the surf club had some you-beaut idea that involved tens of millions of dollars and it wanted to create a business with ongoing interests out of it? It could employ people, along with the surf club, to put the case to the member for Cottesloe. Would they be captured as lobbyists? I think the Premier will say that they should be. I want to know whether the words in this provision will capture them. That is my concern. Can

the Premier go back to where he was a while ago with these examples and try to tie them directly to the legislation now before us about where these boundaries will be drawn?

Mr C.J. BARNETT: I preface my answer by saying that, inevitably, there will be some grey areas in the boundaries. If it is not clear from the legislation and there is a grey area, that is the process of registration and that is when the Public Sector Commission can agree to register or not or adjudicate on a breach. There may be some subjectivity about that in individual cases. After listening to the member's comments, there is a grey area that I was just chatting to my advisers about, which I think has some merit and maybe could be tidied up at the legislative stage. If a not-for-profit organisation advocates for a cause—it might be on health or education—that would not be lobbying. It would not be lobbying if it was a grassroots campaign by individuals on whatever the issue might be. If a not-for-profit organisation or a grassroots campaign has a lobbyist who works pro bono because he or she agrees with the cause, that would not be lobbying. The one grey area that I think has some substance is if a not-for-profit organisation employs and pays a lobbyist to advocate on its behalf. That may be lobbying, and I think there would be a case there. We will look at whether we may need to make that clear in the legislation. It is pretty rare, but members could imagine a well-resourced not-for-profit group that employs a lobbyist to promote their cause. If they are paying a lobbyist to do that, in my view that should be explicit. Maybe there is a case. I would imagine the Public Sector Commissioner would rule that way in that grey area, but maybe that could be made more explicit in the legislation. It is something we will consider as we go along.

Mr C.J. Tallentire: But you would still have a pecuniary interest test.

Mr C.J. BARNETT: I would imagine that the Public Sector Commissioner, if there is a cause—say, save the whales—and it employs a professional lobbyist to run their campaign to save the whales and to advocate to government, I would think the Public Sector Commissioner would rule that to be a lobbying activity.

Ms M.M. QUIRK: In relation to clause 4 and the definition of "lobbying", in a way it is a very broad definition and does not have a level of precision. Subclause (3) is much more comprehensive; it refers to what is not lobbying. I put a scenario to the Premier. The definition in the bill is —

> ***lobbying*** means communicating with a government representative for the purpose of influencing, whether directly or indirectly, State government decision-making.

Does the Premier concede that, given that it can include indirectly influencing state government decision making, we could have a situation in which a lobbyist goes to a member of Parliament who has been excluded from this legislation, who then on the lobbyist's behalf—as the agent, if you like—lobbies someone who is included, and that secondary transaction would not be covered by this legislation—or would it?

Mr C.J. BARNETT: I think that could be covered. If a lobbyist, in advocating a cause, did that indirectly by influencing a member of Parliament who then went on to approach a minister, I think that would captured, yes.

Ms M.M. Quirk: Is there not then some problems as to how the minister records that, given that it is a parliamentary colleague who is not included in the legislation?

Mr C.J. BARNETT: That could be ruled in breach if the lobbyist has not made that clear, and they could be at risk of losing their registration. That is not an ethical way of going about it. That is how members of Parliament could get into trouble if they were to do that.

Dr E. CONSTABLE: I have an amendment to this clause, but before I move it, I want to raise some issues given the discussion of the last 15 or 20 minutes. One of the examples the Premier gave was when a minister is lobbied and that minister is lobbied as a member of Parliament. It seems to me that this is a very difficult area, because a minister might be lobbied as a member of Parliament on an issue outside of their portfolio, but that issue may well be raised in cabinet at some time. In fact, a way for lobbyists to influence decision making at the cabinet level might be to speak to 16 ministers about an issue outside their portfolio that they know is coming up. To me, that is lobbying government—and it is quite possible. The more I listen to this discussion, the more I find myself wondering about the fuzziness of this, about the amount of discretion that is left to the commissioner and how unclear it is. I do not really know what a grassroots campaign is. It is a very strange term to be using in the legislation. What it is needs to be clearly identified.

I took the time to go through the entire Register of Lobbyists about two weeks ago to see who was registered and which companies they represent. It is not unusual in a list of clients to see a not-for-profit organisation and "pro bono" written next to it. When that lobbyist goes out to lobby on behalf of that client who is listed in the register as a client, and when they do something pro bono on behalf of a person or group, is that lobbying? Up front, they are being absolutely open and saying , "We lobby on behalf of these people but we do not charge them." I think that is lobbying and is trying to influence the decision making of government. But this has now become very grey and wishy-washy. Under certain circumstances, it would be pro bono and that is not lobbying. Lobbying is

lobbying. We should be really clear in everything we do here that we will not make this more difficult for lobbyists. They are up for $10 000 fines and all sorts of things if they get it wrong, but we will leave certain decisions up to the discretion of the Public Sector Commissioner. I do not think it is good enough to be as fuzzy as that in our thinking about it. This is the opportunity to get it right, to get it clear and to make sure that we do it properly.

Mr C.J. BARNETT: If a lobbyist does work pro bono for a not-for-profit organisation, that not-for-profit organisation is not caught in the legislation; therefore, that is not lobbying. However, if a lobbyist does pro bono work for a for-profit company, that is caught and that is lobbying. With respect to talking to other ministers about an area, that was caught by "indirectly". Obviously, when that came to light, advice would be sought and a ruling would be made by the Public Sector Commissioner. If people try to get to a minister or a point of view indirectly, that would be the case.

As I have said, and as I think the member for Gosnells made the point in his speech at the second reading stage, we are not going to cover every opportunity; the member for Kwinana certainly made the same point. Members from both sides who have been ministers know that people from their electorate will come and see them and they will raise issues. It seems to me pretty clear. When that happens, I will say, "You're not now raising an issue as a constituent. You are raising an issue about your company. If you want to see me about that, you make a formal appointment with me or the minister." Ministers need to be able to walk and chew gum at the same time to make that distinction. It comes down to the ethics and integrity of the individual concerned. The greatest levels of responsibility in this is not only in the registered advocates or the lobbyists; the greatest responsibility is actually on ministers to be able to make the distinction and to have proper procedures in their office.

Mr J.C. KOBELKE: We do not want to stop people making representations to their member of Parliament if he or she happens to be a minister. We do not want to stop people being able to sign petitions and to respond to government requests for input on legislation or policy decisions. There is a whole range of communications that no-one here wants to see captured as lobbying. But when this provision tries to exclude them, the concern is that we will actually allow lobbyists to use those exclusions to go full bore on lobbying, and then they will say that they were not lobbying and give some reason in these conditions here. It is not an easy job to tie this down. We clearly want to capture lobbying, but we do not want to stop members of Parliament taking representations from their constituents as members of Parliament. The talk about what money is involved seems not to be what is actually in the legislation before us. As we have already seen, just to put it clearly and hopefully in one package —

> ***lobbying*** means communicating with a government representative —

In this case, it could be a member of Parliament who is a minister —

> for the purpose of influencing, whether directly or indirectly, State government decision-making …

That is quite wide open. Subclause (2) states that it does not matter whether they get paid or not. Whether it is pro bono or paid is irrelevant to this provision of the bill. Subclause (3)(d) states —

Mr C.J. Barnett: If it is lobbying, paid or unpaid, for a not-for-profit organisation, the current criteria in the bill is that the not-for-profit means it is not caught. What I suggested —

Mr J.C. KOBELKE: Hang on—that is not caught by another clause.

Mr C.J. Barnett: What I am saying is that what maybe should be caught—we are going to consider this—is if a not-for-profit group pays a lobbyist. In listening to some of this discussion, I actually think that should be caught.

Mr J.C. KOBELKE: The Premier is moving totally contrary to what is in this provision we are now dealing with. The way this is structured does not allow for that at all.

Mr C.J. Barnett: Yes, it would mean a change to that provision.

Mr J.C. KOBELKE: The point is, though, that if someone tries to influence a member of Parliament who is a minister on an issue outside the area of the minister's responsibility, this clause suggests that that is not lobbying. I think the public generally would say that that is lobbying. The issue is: what lobbying do we want to be caught by the bill, and what is lobbying or representation that we would say is standard and accepted by the community? That is a hard line to draw.

I am aware of one lobbyist, who does not have a particularly good reputation, who was paid a lot of money to get people to march down the street because a company wanted a certain outcome. That was a grassroots campaign. A lobbyist was paid by that company to set it up—to help engineer the people to do the signs and make sure there were the appropriate clearances for a street march et cetera. That would be seen as grassroots campaigning, but it was very much an orchestrated campaign by a lobbyist.

Mr C.J. Barnett: I am agreeing with you; that is why we will look at an amendment. In that scenario, or the scenario I painted, if there was a paid lobbyist involved, I think it should be caught, and it should be under the Public Sector Commission.

Debate adjourned, pursuant to standing orders.