

LEGISLATIVE COUNCIL — SOUTH METROPOLITAN REGION

Member Disqualification — Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [1.02 pm]: I have been advised by the District Court of Western Australia that on 28 August 2023, a judgement of conviction was entered against James Hayward for two offences on indictment under section 320(4) of the Criminal Code. A person convicted of these offences is subject to a penalty of up to 10 years' imprisonment. Section 32 of the Constitution Acts Amendment Act 1899 provides for the disqualification of a member of the Parliament of Western Australia in the event that the member is convicted on indictment of an offence for which the indictable penalty is or includes imprisonment for life or imprisonment for more than five years. Accordingly, I advise that James Hayward is disqualified from membership of the Legislative Council. Furthermore, section 38 of the Constitution Acts Amendment Act 1899 provides that the seat of a member disqualified for membership of a house of the Parliament of Western Australia under section 32 shall thereupon become vacant.

Vacancy — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.03 pm] — without notice: I move —

That a vacancy in the membership of the Legislative Council is declared by reason of Mr James Hayward being disqualified as a member for the South West Region pursuant to sections 32 and 38 of the Constitution Acts Amendment Act 1899, following his being convicted for indictable offences in the District Court of Western Australia on Monday, 28 August 2023 for which the indictable penalty includes imprisonment for more than five years.

I advise that this motion provides a means that sets in motion a number of procedures that have to occur to fill the vacancy in the Council. The President will write to the Governor advising that a vacancy has occurred in the membership of the Legislative Council. The Electoral Commissioner will follow a re-count procedure for the filling of vacancies in the Council and advise the Governor and the President of the outcome. Following that advice, the Clerk will organise the member-elect's swearing-in and induction to the Council.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [1.04 pm]: Simply, the opposition and I, personally, support the motion moved by the Leader of the House today.

Question put and passed.