

**COVID-19 RESPONSE LEGISLATION AMENDMENT
(EXTENSION OF EXPIRING PROVISIONS) BILL (NO. 2) 2021**

Third Reading

Resumed from an earlier stage of the sitting.

HON NICK GOIRAN (South Metropolitan) [5.05 pm]: We are on the third reading of the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) (No. 2) Bill 2021. Some members will be aware that this bill has a number of cousins that have made their passage through either the forty-first Parliament or, if not, certainly the fortieth Parliament. That has occurred because of the COVID-19 pandemic. As I was saying prior to the interruption of the debate for the taking of questions without notice, it is the case that there are a number of pieces of misinformation within the community about what this bill actually does. With the benefit of what occurred during the Committee of the Whole House process, it is useful to quickly summarise those things.

One thing that this bill does not do is allow the government to declare a state of emergency. Those powers already exist in laws that do not have a sunset clause. There has been some misinformation in the community that suggests that this bill facilitates the government to be able to maintain a state of emergency. That is not true. As the Leader of the House indicated during the Committee of the Whole House process, those powers already exist under the Emergency Management Act. At the moment, those powers, which will separate from the powers in this bill, are being actioned by way of fortnightly meetings occurring between the State Emergency Coordinator and the Minister for Emergency Services. If people in the community are concerned that the government continues to maintain a state of emergency, any concern that they have about that should not be directed to this bill, but it can be directed to the government with respect to those fortnightly meetings. It has been worthwhile to find out from the Leader of the House that those fortnightly meetings always consist of verbal briefings provided by the State Emergency Coordinator to the Minister for Emergency Services. We understand that those meetings may take up to 30 minutes. Generally speaking, they are held in person and when they are not held in person, some form of verbal briefing is still provided by some other mode of communication.

It was also indicated during the Committee of the Whole House process that during some of the briefings that have occurred on a fortnightly basis over approximately the last two years, on occasions written documentation has been provided that has supplemented the verbal briefings that have been provided. I am grateful that the Leader of the House gave an undertaking to see whether that information could be provided to the house. She indicated that she could not guarantee that the information would be provided, but that she would seek to establish whether it could.

If the information cannot be provided, I remind the McGowan government and its ministers of their obligations under section 82 of the Financial Management Act 2006, which require the minister to provide a notice to this chamber and the Auditor General so the Auditor General can give an opinion as to whether it is reasonable for the written information that we know has been provided on occasion from the State Emergency Coordinator to the Minister for Emergency Services not to be provided to the Parliament. I remind the McGowan government about that because it appears to me that section 82 notices have been a forgotten concept by the McGowan government in the forty-first Parliament. This is particularly relevant in light of the Auditor General's report that was provided to the Parliament earlier today, essentially during the course of the Committee of the Whole House process. After the second reading occurred, we were in the Committee of the Whole House stage and in the intervening period the Auditor General tabled a report that was relevant to the matters before us. I remind the minister of the obligations under section 82. Of course, that will not be required to be complied with if the information is simply provided to the house in one way or another. Unfortunately, we are not due to sit again until Tuesday, 30 November. Nevertheless, on that occasion we will see whether the information has been provided. I give the government due and fair warning that this matter will be pursued in the event that the information or a section 82 notice is not provided to the house.

It is regrettable that this is another one of those bills that the government insists on dealing with in this fashion. The fashion to which I refer is the temporary order that was made on 24 May 2021. Members may not be aware that the bill before us simply seeks to extend the current sunset clause, which I believe expires on 4 January next year. The bill will extend that for a further six months. There is absolutely no need for a third reading contribution to be given within 15 minutes. That applies to the entire chamber. I accept that the Leader of the House has consulted with members and that is what has been provided, but it is absolutely unnecessary to invoke that provision when we still have two full sitting weeks to pass this legislation prior to the sunset date of 4 January. That said, it is also clear that there are criteria by which the government is prepared to be held to account if it decides to bring to this place such bills into the future. According to the government, that criteria includes whether the State Emergency Coordinator has articulated to the government what has been described as a requirement—that is, that the provisions are still required. That is said to be the trigger upon which cabinet will then consider whether the extensions are required in the future. I have expressed qualified concern about that process. It ought not to be the case that one Western Australian, whether eminently qualified or incredibly experienced or otherwise, simply is the sole determiner on whether these particular provisions will continue. When they were brought in the government was at pains to explain to the house

and to the people of Western Australia that these would be temporary measures. Its word could be believed at the time because its word was accompanied with a sunset clause. But since that time, the sunset clause has been repeatedly deferred, including in the bill currently before us. It seeks to extend the life of section 72A of the Emergency Management Act 2005 and also extend penalties associated with two provisions in the Criminal Code to increase the penalties that might be applicable if it is, if you like, an assault of a frontline officer associated with COVID-19.

Interestingly, the Deputy President will be aware that during the Committee of the Whole House he uncovered that there had been one occasion on which data had been breached and which led to a charge by the WA Police Force. The outcome of that was a spent conviction. Of course, I encourage members to continue to monitor this, because we know that in Western Australia earlier this year significant breaches of contact registers were undertaken by none other than Western Australian police officers. It is important that that information uncovered in the Committee of the Whole House process continues to be monitored by members, because I very much anticipate that we will see another one of these bills next year in which the government will seek to extend this by another six months. The information provided by the Auditor General today to the Parliament and the people of Western Australia seems to indicate that, notwithstanding what the McGowan government might tell us about its so-called safe transition plan, the relevant vaccination rates are unlikely to be achieved until the middle of next year. That is, of course, a further six months from where we are now. That being so, I anticipate the government will come along and say that the State Emergency Coordinator has expressed to the Minister for Emergency Services a requirement for the provisions to continue. I have already indicated to the government that on the next occasion, there is an expectation that the government will be in a better position to provide a justification for the continuation of increased penalties under the Criminal Code, because continuation of the section 72A provisions under the Emergency Management Act need not always continue at the same time and pace as the provisions of the Criminal Code. Although a process has been articulated by government on the first matter, there is not one on the second. No-one is able to tell us, really, what the process is for the Criminal Code provisions other than to simply say that a risk assessment needs to be undertaken. When we have asked the government when the last time a risk assessment was undertaken, it has been unable to provide any form of response.

I indicate to the government that I hope that in time we will be able to properly assess whether the provisions that we are extending in this bill will prove to be vital, as the government says they are, to the government's safe transition plan. The government is certainly aware that the opposition supports a safe transition, but as expressed by members in the community, we expect that at least no double standards will apply, or are at least be perceived to apply, and that if they are seen to apply in certain circumstances, the government will be able to provide an explanation. Explanations provided by the Premier to date have not been satisfactory. As indicated by this process that we have undertaken over the course of today, interestingly, the Premier does not have all of the powers that he thinks he has, least of all to direct members of Parliament, whether they be commonwealth ones or members of the state Parliament; and, for that, I am certainly very grateful.

Question put and passed.

Bill read a third time and passed.